

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

What we would learn in this session

1. Identify the sources of incomes which are not taxable under the Act
2. Learn how exemptions could be unconditional, conditional, partial and both conditional & partial.
3. Apply what you have learnt in real examples

Section 10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall **not** be included—

(1) Agricultural income

What is agricultural income? [Section 2(1A)] - It means:

- a) Rent or revenue from land situated **in India** and is used for agricultural purposes
- b) Income derived from such land by i) agriculture ii) primary processing iii) sales of produce by cultivator subjected to primary processing as provided in (ii).
- c) Income derived from any farm building if the cultivator is engaged in primary processing or sales of primary processed agricultural produce.
 - i) Building is on or in the immediate vicinity and used for dwelling, store or out house **and**
 - ii) Land is either assessed to land revenue in India **or** is not situated in urban area

Population*	Distance
10,001 to 1 Lakhs	Within 2 Kms
1 Lakh to 10 Lakhs	Within 6 Kms
> 10 Lakhs	Within 8 Kms

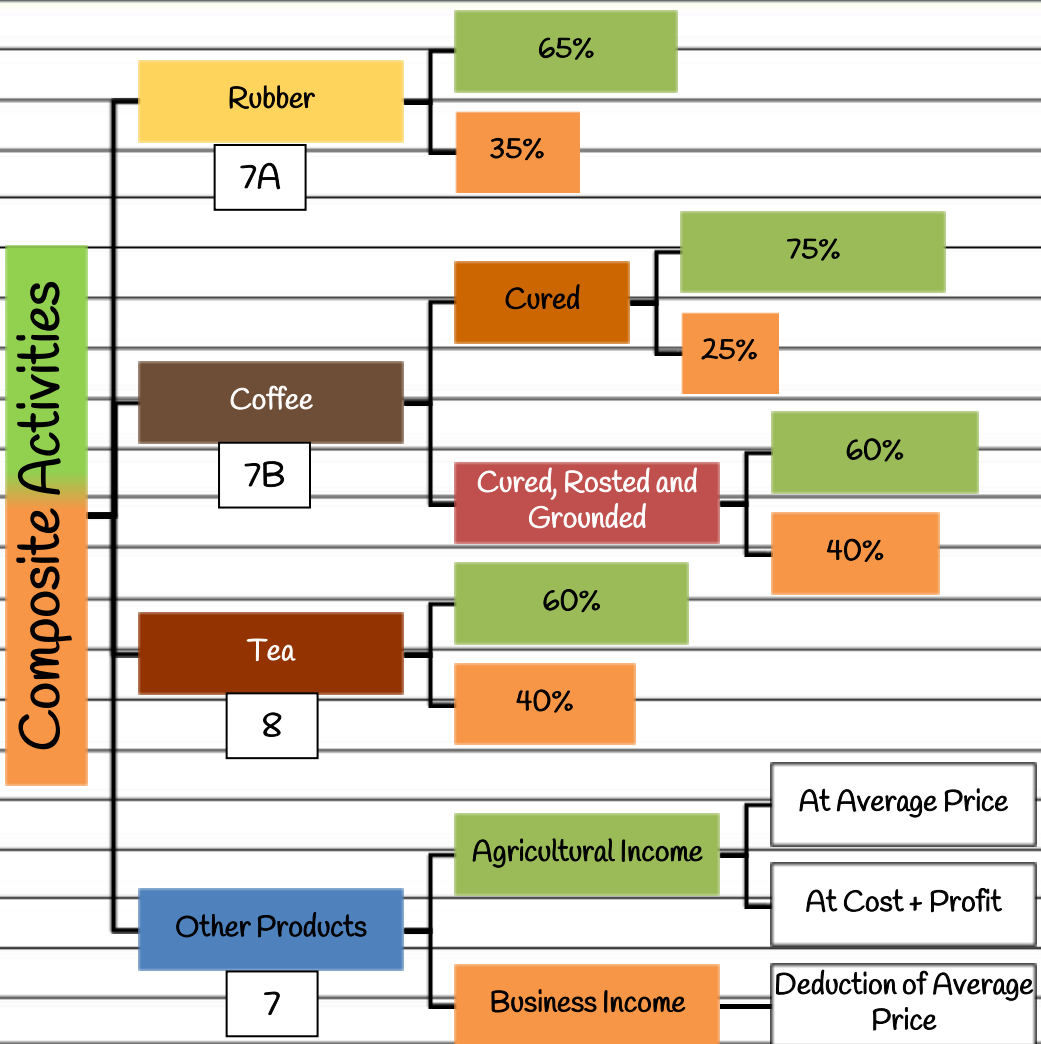
*As per last preceding published census

a. Area within the jurisdiction of municipality with population of 10,000 or more. or

b. In any area within the distance, measured aerially from the local limits of any municipality.

Remember

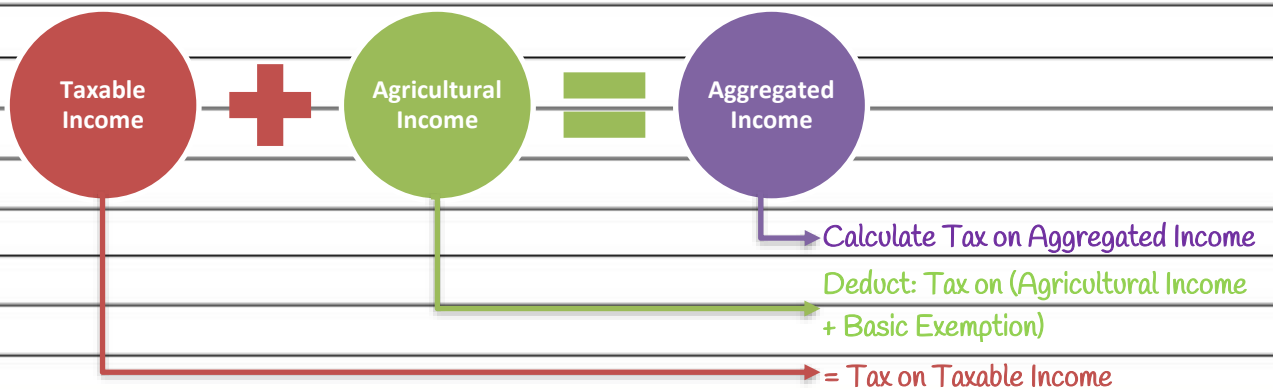
1. Revenue arising from transfer of land is not covered by this exemption. Ex. 1
2. Income derived from building or land used for non-agricultural purposes shall not be agricultural income, even if such building is located on agricultural land. Ex. 2
3. Income derived from sapling or seedling is agricultural income. Ex. 3
4. Secondary processes on agricultural produce done by cultivator would amount to partly agricultural income and partly non-agricultural income.



Concept of partial integration of agricultural income with non-agricultural income

The aggregation of income is done for rate purposes. Such aggregation is relevant only in case of progressive tax structure. Thus, it is done only in case of individuals, HUF, AOPs, BOIs and artificial juridical persons, if the following conditions are satisfied

1. Net Agricultural income is greater than ₹ 5,000 and
2. Non-agricultural income exceeds basic exemption limit



10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included –

(2) Subject to the provisions of sub-section (2) of section 64,

-> any sum received by an individual as a **member of a Hindu undivided family**,

-> where such sum has been paid out of the income of the family or impartible estate of the family.

(2A) **Partner's share** in the total income of a firm which is separately assessed.

(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** in any bank in India in accordance with the FEMA, 1999

(6) in the case of an individual who is **not a citizen** of India

(ii) the **remuneration** received by him as an **official of an embassy**, high commission, consulate etc. of a foreign State, or as a staff of any of these officials.

-> The exemption is available only if similar exemption is available to Indian official or their staff in the country concerned.

-> The member of staff shall not engage in any other business or profession in India

(vi) the **remuneration** received by him as an **employee of a foreign enterprise** for services rendered by him during his stay in India, provided the following conditions are fulfilled–

(a) the foreign enterprise is **not** engaged in any trade or business in India ;

(b) his stay in India does **not exceed** in the aggregate a period of **90 days** in such previous year ; and

(c) such remuneration is **not deductible** from the taxable income of the employer in India.

(viii) Salary of an individual being a **non-resident** for employment on a **foreign ship** if his total **stay in India** does not exceed **90 days** in the previous year ;

Q The process employed by Ms KR to render agricultural produce fit to be taken to market is exempt u/s. 10(1) as agricultural income if:

A Ms. KR is a cultivator herself

B Ms. KR received monetary rent from Mr. DD who used it for agriculture.

C Ms. KR received cultivated crops as rent from Mr. DD who used it for agriculture.

D Either (a) or (c)

(xi) the **remuneration** received by a foreigner as an **employee** of the Government of a foreign State during his stay in India in connection with **his training** in any establishments owned or controlled by central or state government or statutory corporations.

(6D) Income arising to a **non-resident**, not being a company, or a foreign company, by way of **royalty** from, or fees for **technical services** rendered in or outside India to, the National Technical Research Organization.

(10BC) Amount received from Government or a local authority by an **individual** or his **legal heir** by way of **compensation** on account of **any disaster**. No exemption is allowed if to the extent such individual or his legal heir has been allowed a deduction for the loss or damage caused by such disaster.

(11) Any payment from a **provident fund** to which the Provident Funds Act, 1925 applies or fund setup and notified by the Central Government.

(11A) any payment from an account opened in accordance with the **Sukanya Samriddhi Account Rules, 2014**.

(16) **Scholarships** granted to meet the cost of education

(17) any income by way of—

- i. **daily allowance** received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof;
- ii. any **constituency allowance** received by a MP;
- iii. any **constituency allowance** received by any person by reason of his membership of any State Legislature under any Act.

(17A) any **award or reward** approved by the central government in public interest.

(18) any income by way of—

- i. **pension** received by an individual who has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other notified gallantry award;

ii. **family pension** received by any member of the family of an individual referred to in sub-clause (i).

iii. Exemption is extended for **disability pension** granted to disabled personnel of armed forces vide Cir. No. 13/2019, dt. 24.6.2019

Explanation.—For the purposes of this clause, the expression "family" shall include spouse and children; dependent parents, brothers and sisters.

(26) **any income** which accrues or arises to a member of a scheduled tribe

residing in [area specified or certain states]

- a. from any source in the areas or states, or
- b. by way of dividend or interest on securities

- North Cachar Hills, Karbi Anglong, Bodoland, Khasi, Jaintia and Garo hill districts.
- States of Manipur, Tripura, Arunachal Pradesh, Mizoram and Nagaland. UT of Ladakh.

(26AAA) in case of a **Sikkimese individual**, any income which accrues or arises—

(a) from **any source** in the State of Sikkim; or

(b) by way of **dividend** or interest on securities:

Provided that nothing contained in this clause shall apply to a Sikkimese woman who marries a non-Sikkimese.

(30) The amount of any **subsidy** received from or through the [Tea Board] as notified by the central government, by an assessee who carries on the business of **growing and manufacturing tea** in India.

Provided that the assessee should furnish a certificate from the Tea Board certifying the amount of such subsidy along with its return.

(31) Subsidy from Rubber Board, Coffee Board, Spices Board or any [other Board] in respect of any other Commodity.

Remembers

1. Amount exempt is not includible in the total income of the assessee.
2. Exemptions related to specific head of income are discussed along with the respective head.

Special provisions in respect of newly established Units in Special Economic Zones

10AA. (1) Subject to the provisions of this section, in computing the total income of an assessee, from his Unit located in SEZ, the following **deduction** shall be allowed, if he begins to **manufacture** or provide any **services** before the 1st day of April, 2020.

(1) Deduction allowed

Cl	Period	Deduction	Condition
(i)	First 5 consecutive assessment years	100% of profits and gains derived from the export*	Unit begins to manufacture or provide services
(i)	Further 5 A.Y.	50% of profits from exports	Unconditional
(ii)	Next 5 Consecutive Assessment year	50% of amount credited to a reserve account.	SEZ-RRA to be utilized for purpose of business.

* (7) It shall be the amount which bears to the profits of the unit, the same **proportion** as the export turnover bears to the total turnover of the business of the unit.

Export Profits of Unit in SEZ =

$$\frac{\text{Total Profit of Unit in SEZ}}{\text{Total Turnover of Unit in SEZ}} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total Turnover of Unit in SEZ}}$$

(2) Conditions for deduction under clause (ii) of sub-section (1)

a. Utilize SEZ-RRA

i. Acquiring and put to use **machinery or plant** within **3 years** following the PY in which reserve is created.

ii. **For business** of undertaking till acquisition of machinery.

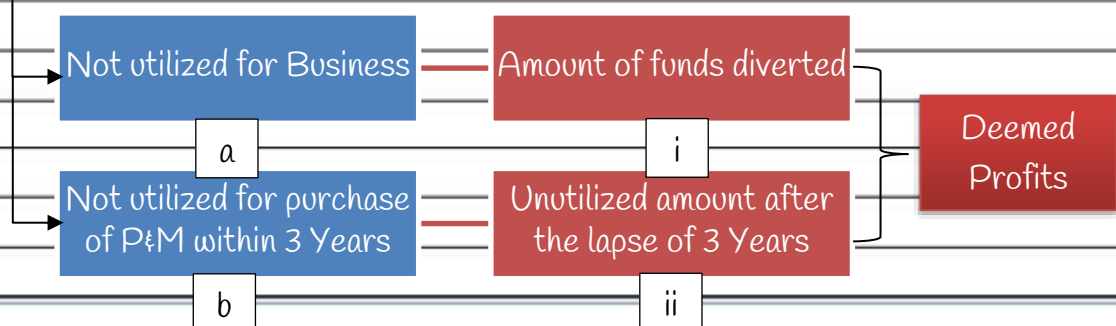
→ Don't distribute dividend out of SEZ-RRA

→ Don't remit outside India

→ Don't use to create asset outside India.

b. Furnish details of plant or machinery in **return of income** in it was put to use.

(3) **Non-fulfillment** of conditions of SEZ-RRA



(4) Unit level conditions

- i. Begins to **manufacture** or provide services in any Special Economic Zone after 01.04.2005 but before 01.04.2020.
- ii. **Not formed** by splitting up, or the reconstruction, of an existent business.
- iii. Not formed out of plant or machinery **previously used** for any purpose.

Deemed compliance of (iii)
Ex 1 and Ex 2 of 80IA(3)

- Outside India by another person
- Value does not exceed 20% of the total value of the machinery

(5) Special Situation: Amalgamation or demerger of a 10AA eligible unit, before the expiry of the period specified.

- a. Stop the claim of amalgamating or demerged unit
- b. Start claiming in the amalgamated or resulting unit, as if nothing has happened.

(6) The **business loss** under section 72(1) or loss under the head **Capital Gains** under section 74(1), in so far as such loss relates to the Unit shall be allowed to be **carried forward** or set off.

(8) Additional Conditions: Reference to Section 10A(5) and 10A(6).

10A(5) – No deduction without the **report of CA** in Form 56F certifying correctness of deduction due date under section 44AB

10A(6) –(i) **Depreciation** is deemed to be allowed. WDV reduced.

(ii) **No further deduction** under section 80-IA and 80-IB in relation to the profits and gains of the undertaking.

(9) Loopholes Plugged: Reference to Section 80IA(8) and 80IA(10)

80IA(8) – Transfer of goods and services **to and from** eligible business of assessee to and from other business of the assessee to be done at **market value**. AO empowered to compute profit of eligible business on **reasonable basis**.

80IB(10) – AO empowered to compute reasonable profit of eligible unit for the purposes of the deduction, if it appears that the assessee produces **extra-ordinary profits** out of specific arrangements with persons having close connections.

(10) **Double Deduction Plugged:** Where a deduction under this section is claimed and allowed in relation to any specified business eligible for investment-linked deduction under section 35AD, no deduction shall be allowed under section 35AD in relation to such specified business for the same or any other assessment year.

Explanation 1 (i): **Meaning of Export turnover:**

It means the consideration received **in India** or brought into India by the assessee in respect of export by the undertaking of goods or services.

However, it does not include -

- freight

- telecommunication charges

- insurance

attributable to the delivery of goods outside India

Or expenses incurred in **foreign exchange** in rendering of services outside India.

Remember

1. Deduction not to exceed the total income of the assessee.
2. Export in relation to the "Special Economic Zones" means taking goods or providing services **out of India** from a Special Economic Zone by land, sea, air, or by any other mode, whether **physical or otherwise**.

Optional Gyan

Computation of Net Agricultural Income is done as per Part IV of Schedule I to Finance Act as per the rules laid in the said part IV:

Rule 1 - Rent and revenue from land i.e. 2(1A)(i) income, is to be computed as Income from Other Sources.

Rule 2 - Income from agriculture, primary processing and sales i.e. 2(1A)(ii) income, would be broadly calculated as PGBP except for application of 40A(3) and 40A(4).

Rule 3 - Income from farm house i.e. 2(1A)(iii) income to be computed as if IFHP.

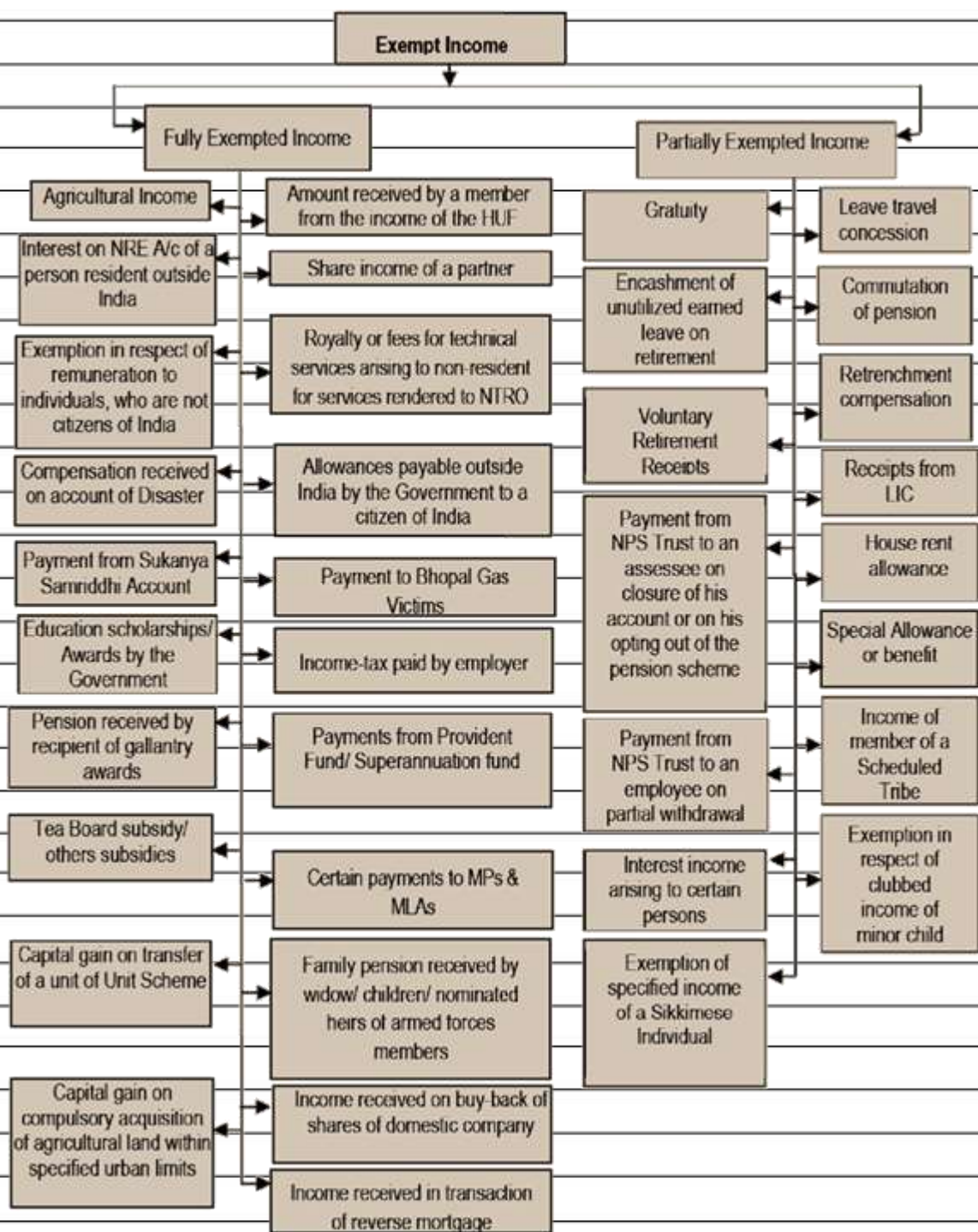
Rule 4 - Income from sales of tea grown and manufacture to be computed as per Rule 8.

Rule 5 - Share of income of member of AOP/BOI shall be treated as Agricultural Income/Loss of the Assessee. No set-off for share of loss of AOP/BOI

Rule 6 - Agricultural Loss would be allowed to set-off against Agricultural Income.

Rule 7 - Tax levied by state government to be allowed as deduction.

Rule 8 - Unabsorbed loss from AY 2013-14 to 2020-21 shall be allowed to be set-off.



14A: Expenditure incurred in relation to income not includible in total income

(1) For the purposes of computing the total income under this Chapter,

-> no deduction shall be allowed

-> in respect of expenditure incurred by the assessee

-> in relation to income which does not form part of the total income

(2) The Assessing Officer shall determine the amount of expenditure

-> incurred in relation to such income

-> in accordance with such method as may be prescribed,

-> if the Assessing Officer, having regard to the accounts

-> is not satisfied with the correctness of the claim of the assessee

(3) The provisions of sub-section (2) shall also apply

-> where an assessee claims that no expenditure has been incurred

-> in relation to exempt income.

8D. Method for determining amount of expenditure in relation to Exempt Income.

(1) Where the AO, is not satisfied with—

(a) the correctness of the claim of expenditure; or

(b) the claim that no expenditure has been incurred,

in relation to exempt income for such previous year,

-> he shall determine the amount of expenditure in relation to exempt income as per sub-rule (2).

2) The expenditure in relation to exempt income shall be

-> the aggregate of following amounts, namely:—

(i) the amount of expenditure **directly** relating to exempt income; **and**

(ii) an amount equal to 1% of the annual average of the monthly average of the opening and closing balances of the value of investment, income from which does not or shall not form part of total income:

Provided that the amount referred to in clause (i) and clause (ii) shall not exceed the total expenditure claimed by the assessee.