

## INCOME FROM HOUSE PROPERTY

### Section 22 – The charging Provision

- > The **annual value** of property
  - consisting of any **buildings** or lands appurtenant thereto
  - of which the assessee is the **owner**,
- > other than such portions 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".

### Section 27: "Owner of house property" defined

- (i) an individual who transfers for inadequate consideration any house property
  - > to his or her spouse,
    - not being a transfer under an agreement to live apart, or
  - > to a minor child
    - not being a married daughter,
  - > shall be deemed to be the owner of the

### Property held as stock-in-trade etc.

Annual value of house property will be charged under the head "Income from house property", where it is held by the assessee as stock-in-trade of a business

### Disputed ownership

The decision as to who will be the owner chargeable to income-tax under section 22 will be of the Income-tax Department till the court gives its decision to the suit filed in respect of such property.

**Section 23** – Annual value how determined.

(1) the annual value of any property shall be **deemed** to be—

- (a) the sum for which the property might **reasonably** be expected to let; or
- (b) where the property is let and

- > the actual rent received or receivable by the owner

- > is in excess of the sum referred to in clause (a),

the amount so received or receivable; or

- (c) where the property is let and

- > was vacant during the whole or any part of the previous year and

- > owing to such vacancy

- > the actual rent is less than the sum referred to in clause (a)

the amount so received or receivable.

**Provided** that

- > the taxes levied by any local authority shall be deducted

- > in determining the annual value of the property

- > of that previous year in which such taxes are **actually paid** by him.

→ **Explanation.** – For the purposes of clause (b) or clause (c),

- > the actual rent shall not include the rent which cannot be realised.

- > subject to such rules as may be made in this behalf

**Rule 4. Unrealised rent**

- > Amount of rent payable but not paid by a tenant **and**

- > so proved to be lost and irrecoverable where, –

- (a) the tenancy is bona fide;

- (b) the tenant has vacated, or steps have been taken;

- (c) the tenant is not in occupation of any other property of the assessee;

- (d) the assessee has steps to institute legal proceedings or

satisfies the AO that legal proceedings would be useless.

(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

o his employment,

o 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; or

(b) any other benefit therefrom is derived by the owner.

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

(a) the provisions of that sub-section shall apply

> only in respect of 2 of such houses,

> which the assessee may, at his option, specify in this behalf

(b) the annual value of other houses,

> shall be determined under sub-section (1)

> as if such house or houses had been let.

(5) Where any building or land appurtenant is stock-in-trade and is **not** let

> the annual value of such property

> for the period up to **two years**

> from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority,

> shall be taken to be nil.

## Section 24 Deductions from income from house property.

(a) a sum equal to 30% 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 section 23(2),  
the aggregate amount of deduction shall **not exceed ₹ 30,000**

→ Provided further that

- > in respect of property referred to in section 23(2)
- > is acquired or constructed
- > with capital borrowed on or after 01.04.1999 and
- > such acquisition or construction is completed within 5 years
- > from the end of the financial year in which capital was borrowed

the aggregate amounts of deduction shall **not exceed ₹ 200,000**

→ Explanation.— Property acquired or constructed with borrowed capital

- > the interest payable on such capital borrowed
- > for the period prior to the previous year in which the property has been acquired or constructed,
- > shall be deducted in **equal instalments** for the said previous year **and** for each of the **four** immediately succeeding previous years.

→ Provided also that

- > no deduction shall be made under the second proviso unless
- > the assessee furnishes a **certificate**
- > specifying the amount of interest payable by the assessee
- > for the purpose of
  - such acquisition or construction of the property, **or**,
  - conversion of any part of the capital borrowed as a new loan.

Provided also that

- > the aggregate of the amounts of deduction under the 1<sup>st</sup> and 2<sup>nd</sup> provisos shall **not exceed ₹ 200,000**.

Ganesh has three houses, all of which are self-occupied. The particulars of the houses for the P.Y. 2020-21 are as under:

Particulars	House I	House II	House III
Municipal valuation p.a.	₹ 3,00,000	₹ 3,60,000	₹ 3,30,000
Fair rent p.a.	₹ 3,75,000	₹ 2,75,000	₹ 3,80,000
Standard rent p.a.	₹ 3,50,000	₹ 3,70,000	₹ 3,75,000
Date of completion/purchase	31.3.1999	31.3.2001	01.4.2014
Municipal taxes paid during the year	12%	8%	6%
Interest on money borrowed for repair of property during the current year	-	55,000	
Interest for current year on money borrowed in July 2014 for purchase of property			1,75,000

Compute Ganesh's income from house property for A.Y.2021-22 and suggest which houses should be opted by Ganesh to be assessed as self-occupied so that his tax liability is minimum.

Particulars	Amount in ₹		
	House I	House II	House III
<b>Gross Annual Value (GAV)</b>			
ER is the GAV of house property ER = Higher of MV and FR, but restricted to SR	3,50,000	3,60,000	3,75,000
<b>Less:</b> Municipal taxes (paid by the owner during the previous year)	36,000	28,800	19,800
<b>Net Annual Value (NAV)</b>	<b>3,14,000</b>	<b>3,31,200</b>	<b>3,55,200</b>
<b>Less: Deductions under section 24</b>			
(a) 30% of NAV	94,200	99,360	1,06,560
(b) Interest on borrowed capital	-	55,000	1,75,000
<b>Income from house property</b>	<b>2,19,800</b>	<b>1,76,840</b>	<b>73,640</b>

H1	H2	H3	H1	H2	H3
SO	SO	DLO	0	0	219800
SO	DLO	SO	-30000	-176840	-30000
DLO	SO	SO	73640	175000	-175000
			43640	-1840	14800

**Section 25:** Amounts not deductible from income from house property.

Notwithstanding anything contained in section 24,

- > any interest chargeable under this Act
- > which is payable outside India
- > on which tax has **not** been paid or deducted under Chapter XVII-B **and**
- > in respect of which there is no person in India who may be treated as an agent under section 163

shall **not** be deducted in computing the income chargeable under the head "Income from house property".

**Section 25A:** Arrears of rent and unrealised rent received subsequently.

(1) The amount received from a tenant

- > of arrears of rent or
- > the unrealised rent realised subsequently
- > shall be **deemed** to be the income from house property
- > in respect of the financial year in which such rent is received, **and**
- > shall be included in the total income of the assessee under the head IFHP
- > whether the assessee is the owner of the property or not in that financial year.

(2) A sum equal to 30% of the arrears of rent or the unrealised rent referred to in sub-section (1) shall be allowed as deduction.

**Q** Mr. Needy had to pay Mr. Greedy Rs. 60000 as arrears of rent. The property was already sold by Mr. G. How to tax?

- A IFHP 18000
- B IFOS 60000
- C IFHP 42000
- D IFHP 60000

**Section 26 -** Property owned by co-owners.

- > Where buildings and lands appurtenant thereto
- > is owned by two or more persons **and**
- > their respective shares are definite and ascertainable,
  - o such persons shall **not** in respect of such property be assessed as an AOP,
  - o but the share of each such person in the income from the property
    - shall be included in his total income
    - as computed in accordance with sections 22 to 25

**Section 27: "Owner of house property" defined.**

For the purposes of sections 22 to 26—

- (i) an individual who transfers for inadequate consideration any house property
  - > to his or her spouse,
    - o not being a transfer under an agreement to live apart, or
  - > to a minor child
    - o not being a married daughter,
  - > shall be deemed to be the owner of the house property so transferred;
- (ii) the holder of an impartible estate
  - > shall be **deemed** to be the individual owner
  - > of all the properties comprised in the estate;
- (iii) a member of a co-operative society, company or other AOP
  - > to whom a building is allotted or leased
  - > under a house building scheme of the society, company or AOP
  - > shall be deemed to be the owner of that building
- (iiia) a person who is allowed to take or retain possession of any building
  - > in part performance of a contract
  - > of the nature referred to in Section 53A of the TPA, 1882
  - > shall be deemed to be the owner of that building
- (iiib) a person who acquires any rights in or with respect to any building
  - > by virtue of any such transaction as is referred to in section 269UA(f)
  - > i.e. transfer by way of lease for not less than 12 years
  - > shall be deemed to be the owner of that building