

FAQs on Income From House Property



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➤ Is rental income from sub-letting chargeable to tax under the head “income from house property”?

Rental income in the hands of owner is charged to tax under the head “Income from house property”. Rental income of a person other than the owner cannot be charged to tax under the head “Income from house property”. Hence, rental income received by a tenant from sub-letting cannot be charged to tax under the head “Income from house property”. Such income is taxable under the head “Income from other sources” or profits and gains from business or profession, as the case may be.

➤ Under which head is the rental income from a shop charged to tax?

To tax the rental income under the head “Income from house property”, the rented property should be building or land appurtenant thereto. Shop being a building, rental income will be charged to tax under the head “Income from house property”.

➤ Whether rental income could be charged to tax in the hands of a person who is not a registered owner of the property?

Rental income from property is charged to tax under the head "Income from house property in the hands of the owner of the property". If a person receiving the rent is not the owner of the property, then rental income is not charged to tax under the head "Income from house property" (*E.g.* Rent received by tenant from sub-letting). In the following cases a person may not be the registered owner of the property, but he will be treated as the owner (*i.e.*, deemed owner) of the property and rental income from property will be charged to tax in his hands:

- (1) If an individual transfers his or her house property to his/her spouse (not being a transfer in connection with an agreement to live apart) or to his/her minor child (not being married daughter) without adequate consideration, then the transferor will be deemed as owner of the property.
- (2) Holder of impartible estate is deemed as the owner of the property comprised in the estate
- (3) A member of co-operative society, company or other association of persons to whom a building (or part of it) is allotted or leased under house building scheme of the society, company or association, as the case may be, is treated as deemed owner of the property.
- (4) A person acquiring property by satisfying the conditions of section 53A of the Transfer of Property Act, will be treated as deemed owner (although he may not be the registered owner). Section 53A of said Act prescribes following conditions:
 - (a) There must be an agreement in writing.
 - (b) The purchase consideration is paid or the purchaser is willing to pay it.
 - (c) Purchaser has taken the possession of the property in pursuance of the agreement.
- (5) In case of lease of a property for a period exceeding 12 years (whether originally fixed or provision for extension exists), lessee is deemed to be the owner of the property. However, any right by way of lease from month-to-month or for a period not exceeding one year is not covered by this provision.

➤ What is the tax treatment of composite rent when the composite rent pertains to letting of building along with other assets?

Composite rent includes rent of building and rent towards other assets or facilities. The tax treatment of composite rent is as follows:-

- (a) In a case where letting out of building and letting out of other assets are inseparable (i.e., both the lettings are composite and not separable, e.g., letting of equipped theatre), entire rent (i.e. composite rent) will be charged to tax under the head “Profits and gains of business and profession” or “Income from other sources”, as the case may be. Nothing is charged to tax under the head “Income from house property”.
- (b) In a case where, letting out of building and letting out of other assets are separable (i.e., both the lettings are separable, e.g., letting out of refrigerator along with residential bungalow), rent of building will be charged to tax under the head “Income from house property” and rent of other assets will be charged to tax under the head “Profits and gains of business and profession” or “Income from other sources”, as the case may be. This rule is applicable, even if the owner receives composite rent for both the lettings. In other words, in such a case, the composite rent is to be allocated for letting out of building and for letting of other assets.

➤ What is the tax treatment of composite rent when the composite rent pertains to letting out of building along with charges for provision of services?

In such a case, composite rent includes rent of building and charges for different services (like lift, watchman, water supply, etc.): In this situation, the composite rent is to be bifurcated and the sum attributable to the use of property will be charged to tax under the head “Income from house property” and charges for various services will be charged to tax under the head “Profits and gains of business and profession” or “Income from other sources” (as the case may be).

➤ While computing income chargeable to tax under the head “income from house property” in the case of a let-out property, what are the expenses to be deducted from gross annual value?

While computing income chargeable to tax under the head "Income from house property" in the case of a let-out property, only following items can be claimed as deductions from gross annual value. In other words, deduction cannot be claimed for any expenditure incurred by the taxpayer other than following:

Deduction on account of municipal taxes paid by the taxpayer during the year (*).

Deduction under [section 24\(a\)](#) @ 30% of Net Annual Value.

Deduction under [section 24\(b\)](#) on account of interest on capital borrowed for the purpose of purchase, construction, repair, renewal or reconstruction of the property.

(*) Only municipal taxes paid by the owner during the year can be deducted, hence, municipal taxes due but not paid during the year cannot be deducted or taxes borne by the tenant cannot be deducted.

➤ Can interest paid on loans taken from friends and relatives be claimed as deduction while calculating house property income?

Yes, if the loan is taken for purchase, construction, repair, renewal or reconstruction of the house. If the loan is taken for personal or other purposes then the interest on such loan cannot be claimed as deduction.

➤ While computing income chargeable to tax under the head “income from house property” in the case of a let-out property, how much interest on housing loan can be claimed as deduction?

While computing income chargeable to tax under the head "Income from house property" in case of a let-out property, the taxpayer can claim deduction under [section 24\(b\)](#) on account of interest on loan taken for the purpose of purchase, construction, repair, renewal or reconstruction of the property.

In case of a let-out property, there is no limit on the quantum of interest which can be claimed as deduction under [section 24\(b\)](#). However, in case of a self occupied property, limit is Rs. 2,00,000 or Rs. 30,000, as the case may be

➤ What is pre-construction period?

While computing income chargeable to tax under the head "Income from house property" in case of a let-out property, the taxpayer can claim deduction under [section 24\(b\)](#) on account of interest on loan taken for the purpose of purchase, construction, repair, renewal or reconstruction of the property.

Deduction on account of interest is classified in two forms, *viz.*, interest pertaining to pre-construction period and interest pertaining to post-construction period.

Post-construction period interest is the interest pertaining to the relevant year (*i.e.*, the year for which income is being computed).

Pre-construction period is the period commencing from the date of borrowing of loan and ends on earlier of the following:

- Date of repayment of loan; or
- 31st March immediately prior to the date of completion of the construction/acquisition of the property.

Interest pertaining to pre-construction period is allowed as deduction in five equal annual instalments, commencing from the year in which the house property is acquired or constructed.

Thus, total deduction available to the taxpayer under [section 24\(b\)](#) on account of interest will be $\frac{1}{5}$ th of interest pertaining to pre-construction period (if any) + Interest pertaining to post construction period (if any).

➤ What will be the tax implications if a person occupies more than one property for his residence? Can he treat all the properties as self occupied (SOP) and claim gross annual value (GAV) as Nil?

The SOP benefit (*i.e.*, treating property as SOP and claiming GAV as Nil) is available only in respect of one property occupied by the owner for his residence.

If a person occupies more than one property for his residence, then the SOP benefit will be granted only in respect of any one property as selected by him and other property/properties will be treated as "Deemed to be let-out".

However w.e.f. Assessment Year 2020-21, a person can claim two properties as self-occupied house property.

➤ How to compute income from a property which is self-occupied for part of the year and let out for part of the year?

At times a property may be let-out for some time during the year and is self-occupied for the remaining period (*i.e.*, let-out as well as self occupied during the year). For the purpose of computation of income chargeable to tax under the head "Income from house property", such a property will be treated as let-out throughout the year and income will be computed accordingly.

However, while computing the taxable income in case of such a property, actual rent will be considered only for the let-out period.

➤ In case of a self-occupied property, how much of interest on housing loan can be claimed as deduction?

In the case of self-occupied property, deduction under [section 24\(b\)](#) cannot exceed Rs.2,00,000 or Rs. 30,000 (as the case may be). If all the following conditions are satisfied, then the limit in respect of interest on borrowed capital will be Rs.2,00,000:

- Capital is borrowed on or after 1-4-1999.
- Capital is borrowed for the purpose of acquisition or construction (*i.e.*, not for repair, renewal, reconstruction).
- Acquisition or construction is completed within 5 years from the end of the financial year in which the capital was borrowed.
- The person extending the loan certifies that such interest is payable in respect of the amount advanced for acquisition or construction of the house or as re-finance of the principal amount outstanding under an earlier loan taken for acquisition or construction of the property.

If any of the above condition is not satisfied, then the limit of Rs. 2,00,000 will be reduced to Rs. 30,000.

➤ Deduction from Assessment Year 2017-18

As per Section 80EE of the Income-tax Act, deduction of up to Rs. 50,000 is allowed to an Individual towards interest on loan taken for acquisition of a residential house property. However, the deduction is allowed subject to following conditions:

The deduction under section 80EE is allowed subject to following conditions:

- (a) the loan should be sanctioned by the financial institution during the period beginning on the 01-04-2016 and ending on 31-03-2017;
- (b) the amount of loan should not exceed Rs. 35 lakhs;
- (c) the value of residential house property should not exceed Rs. 50 lakh; and
- (d) the assessee should not own any residential house property on the date of sanction of loan.

➤ Deduction from Assessment Year 2020-21

With an objective to provide an impetus to the 'Housing for all' initiative of the Government and to enable the home buyer to have low-cost funds at his disposal, the Finance (No. 2) Act, 2019 has inserted a new Section 80EEA under the Income-tax Act for those individuals who are not eligible to claim deduction under Section 80EE. An individual can claim deduction up to Rs. 150,000 under section 80EEA subject to following conditions:

- (a) Loan should be sanctioned by the financial institution during the period beginning on 01-04-2019 and ending on the 31-03-2020;
- (b) Stamp duty value of residential house property should not exceed Rs. 45 lakhs;
- (c) The assessee should not own any residential house property on the date of sanction of loan; and
- (d) The assessee should not be eligible to claim deduction under Section 80EE.

Hence, an individual who does not meet the criteria of section 80EE shall now be eligible to claim deduction under section 80EEA of up to Rs. 150,000 in addition to deduction under section 24(b).

➤ How to compute income from a property when part of the property is self occupied and part is let out?

A house property may consist of two or more independent units, one of which is self-occupied and the remaining are/are used for any other purpose (*i.e.*, let-out or used for own business). Income from such property will be computed in the following manner:

- a) Part/unit which is occupied by the taxpayer for his residence throughout the year will be treated as an independent property and income from such a part/unit will be computed in the manner as discussed in case of a self-occupied property.
- b) Part/unit which is let out will be treated as an independent property and income from such a part/unit will be computed in the manner as discussed in case of let out property.

➤ What is the tax treatment of unrealized rent which is subsequently realized?

Any subsequent recovery of unrealized rent shall be deemed to be the income of taxpayer under the head “Income from house property” in the year in which such rent is realized (whether or not the assessee is the owner of that property in that year). It will be charged to tax after deducting a sum equal to 30% of unrealized rent.

➤ What is the tax treatment of arrears of rent?

The amount received on account of arrears of rent (not charged to tax earlier) will be charged to tax after deducting a sum equal to 30% of such arrears. It is charged to tax in the year in which it is received. Such amount is charged to tax whether or not the taxpayer owns the property in the year of receipt.