

Chapter – Computation of Tax Liability and Special Provisions Relating to Avoidance of tax

Q1. Difference between exemption and deduction.

Ans. The exemption is derived from the word exempt which mean an amount which is not liable to something, in income tax exemption refers to those incomes which are not considered while calculating the total income. Exempted income means the income which is not taxable at all. In other words, the income which is fully exempted from the income tax point of view and the assessee has not to pay any amount of income tax. Such income is not to be included in the total income of the assessee.

DEDUCTION:- Deduction means subtraction i.e. an amount which is eligible to reduce taxable income. In other words, deduction means the amount that will be subtracted from the gross amount. As per income tax act, deductions are the payments or investments made by the assessee through which a specific amount or percentage is reduced from their GTI to arrive at total taxable income. If GTI is nil then no deduction is allowable or the amount of deduction cannot exceed GTI i.e. deduction is allowable only to extent of GTI.

The main differences between exemptions and deductions are as under:-

S.NO.	DEDUCTION	EXEMPTION
1.	Deduction means subtraction i.e. an amount that is eligible to reduced taxable income.	Exemption means exclusion i.e. if certain income is exempt from tax then it will not contribute to the total income of a person.
2.	Deduction is concession.	Exemption is relaxation.
3.	Deduction is allowed to specific person that qualifies the particular criteria.	On the other hands, exemption is allowed to all the persons.

Q2. Write short note on rebate u/s 87A.

Ans. The benefit of this section is made available to resident individual assessee only. In order to get the benefit of this rebate, the total income of the assessee must not be exceeded ₹ 3,50,000. The amount of rebate is upto ₹ 2,500. In other words, the taxpayer will first compute the total tax payable and then reduces ₹ 2,500 from this tax payable provided this total income is less than ₹ 3,50,000. If his total income is more than ₹ 3,50,000, the taxpayer won't be able to claim income tax rebate u/s 87A.

Key point of rebate u/s 87A

1	Rebate u/s 87A is available only to resident individuals and not available to non residents.
2	Rebate u/s 87A available to both male and female assessee.
3	If the total tax payable by is less than ₹ 2,500, rebate u.s 87A is restricted to total tax payable.
4	Rebate u/s 87A is allowed before levy of education cess, SHEC and surcharge.
5	Rebate benefit is available to all category of individuals but not to super senior citizen, since he is already fully exempted upto ₹ 3,50,000.
6	Rebate u/s 87A is made available to resident individual assessee only of the total income of the assessee must not be exceeded ₹ 3,50,000.
7	Total income of 3,50,000 is the sum total incomes under all heads i.e. salary, house property, business income, capital gains and other sources and after giving deductions u/s 80
8	Other types of assessee like HUF, companies, partnership firms, LLP etc. are not eligible to claim rebate u/s 87A.

Summary of section 87A

Eligible person	Resident individual assessee
Limit	Total income not exceed 3,50,000
Amount of rebate	Max upto ₹ 2,500

Q3. What is rebate u/s 86?

Ans. This rebate is allowed only if share from AOP is included in the total income of a person.

Procedure for rebate u/s 86 for share from AOP

1. Compute total income of AOP.
2. For computing tax on total income rates to be applied are to be determined in following manner:

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- A. For determining rates of tax we are to find out the individuals income of each member.
- If such individual income of all partners / members does not exceed maximum exempted limit, i.e., ₹ 2,50,000/3,00,000/5,00,000 each, the AOP shall pay tax at the rates applicable to an individual.
 - Share from such AOP is fully added in the individual income of each member and is fully taxable as part of individual member's total income.
 - Out of the tax a rebate of tax on share from AOP is allowed at average rate which is :
$$\frac{\text{Total Tax} \times 100}{\text{Total Income of Member}}$$
 - No rebate of tax if total income of such AOP does not exceed ₹ 2,50,000.

Q4. What is relief u/s 89?

Ans. Salary is taxable in the previous year in which they are due or received. But in case following incomes are included in the total income of an assessee, he may apply to the assessing officer for relief:

- Salary being received in arrears or in advance-
Where the payment is in the nature of gratuity in respect of past services extending over a period of not less than 5 years is received.
- Where the payment is in the nature of compensation received by an employee from his employer or former employer at or in connection with the termination of employment of the continuous service of not less than three years and where the unexpired portion of the term of employment is also not less than 3 years.
- Where the payment is in the nature of commutation of pension.
- Any other incomes pertain to the head salaries and in the first four cases, i.e., (1) to (3) relief is to be calculated by the income tax officer and in case (4) by the central board of direct taxes. Relief is to be worked out in accordance with mode prescribed in Rule 21A(2).

COMPUTATION OF RELIEF

(a) In case of salary received in arrears or in advance.

- Add the arrears of salary or advance in current previous year's income and compute tax on total income so computed.
- Exclude the amount of arrears from the current previous year's income and compute the tax on total income so computed. Calculate the difference between tax at (1) and computed tax at (2).
- In case arrears of salary or advance salary relate to one previous year – such amount is added in the total income of the previous year to which such arrears belong. On this revised total income tax is calculated.
- Calculate the difference between the tax paid in that year and tax payable on revised total income of that previous year.
- Compare the difference of taxes calculated in point (2) to be called (A) with the difference of taxes calculated in point (4) to be called (B). If tax at (A) is more than tax at (B) the excess shall be amount of relief to be allowed to such assessee.
- In case arrears belong to more than one previous year - the arrears should be got ascertained to different previous years and above mentioned procedure is to be adopted for each of these previous years and differences in each of these previous years are to be aggregated. Aggregated of these differences will be called figure. (B) and rest of the procedure is same to calculate the amount of relief.

Different methods are provided for calculation of relief in case any gratuity or compensation on termination of employment is included in the total income of the assessee.

(b) Arrears of family pension

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If arrears of family pension are received the assessee can apply for relief u/s 89 (1) in same manner as in case of arrears of salary.

Q5. (BOND WASHING SECURITIES) SECTION 94

Ans.

1. In case of person sells his securities to another person a few days before the accrual of interest and purchases them back after the date of accrual and assessing officer is satisfied that the transaction has been made with the intention of avoiding tax, such interest shall be deemed as income of the transferor and not transferee. (Section 94(1)).
2. In case a person has any beneficial interest in any securities and as a result of some arrangement either no income is received by such person or the income received by him is lower than the amount which he would have received, the interest, which would have accrued on such securities had there been no such arrangement, would be included in the income of person making such arrangement. {Section 94(2)}
3. The above provisions will not be applicable, if such person proves to the satisfaction of the assessing officer that the transaction has not resulted into any avoidance of tax or if at all there was some avoidance it was exceptional as there had not been any avoidance of tax in any of the three preceding previous years. {Section 94(3)}
4. In case of dealer of securities, if there is a transaction of sale or purchase of securities and as a result the interest becomes receivable by him but is not deemed to be his income due to the above provisions, no account shall be taken of the transaction in computing profits arising from or loss sustained in this business. {Section 94(4)}
5. The assessing officer may direct any person to furnish a detail of securities held by him by serving upon him a notice for not less than 28 days. {Section 94(6)}

Adjustments of loss from dividend accruing on shares acquired within 3 months from record date {Section 94(7)}

1. Any person purchasing any securities or units within a period of three months prior to record date.
2. Such securities are sold by such person within a period of three months after record date such units are sold within 9 months after such date.
3. Dividend or interest on such securities or units is exempted from tax.
4. The loss from sale of such securities or units arising to him shall not be adjusted or carried forward up to the amount of such dividend or interest.

For the above purposes:

- a. "Record date" means such date as may be fixed by the company, mutual fund or UTI for the purposes of entitlement of the holder of such security or units, to receive the dividend or interest on such securities or units.
- b. "Securities" shall include stock and shares.
- c. "Unit" shall have same meaning as is assigned to it u/s 115AB. (Clause (b) of explanation)

Adjustments of loss on sale of units acquired within a period of three months prior to record date {Section 94(8)}

- a. Any person buys or acquires any units within a period of three months prior to the record date;
- b. Such person is allotted additional units without any payment on the basis of holding of such units on such date;
- c. Such person sells or transfers all or any of the units referred to in clause (a) within a period of nine months after such date, while continuing to hold all or any of the additional units referred to in clause (b).

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Then, the loss, if any, arising to him on account of such purchase and sale of all or any of such units shall be ignored for the purposes of computing his income chargeable to tax and notwithstanding anything contained in any other provisions of this Act, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional units referred to in clause (b) as are held by him on the date of such sale or transfer.

“record date” means such date as may be fixed by:

- a. A company for the purposes of entitlement of the holder of the securities to receive dividend; or
- b. Mutual fund or the administrator of the specified undertaking or the specified company as referred to in the explanation to clause (35) of section 10, for the purposes of entitlement of the holder of the units to receive income, or additional unit without any consideration, as the case may be.

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