

INCOME FROM HOUSE PROPERTY

The income from houses, buildings, bungalows, godowns etc. is to be computed and assessed to tax under the head "Income from house property". The income under this head is not based upon the actual income from the property but upon the annual value of the property.

According to Section 22 of the Income tax Act, the annual value of property consisting of any buildings or lands appurtenant thereto, of which the assessee is the owner and which is not used for purposes of assessee's business or profession shall be chargeable to income tax under the head 'Income from house property'.

Some important points

1. **Building or lands appurtenant thereto.** The scope of this head of income is limited to the income from buildings or lands appurtenant (attached or situated in the vicinity of building) to buildings only. Income from the land which is not appurtenant to any building does not come within the scope of this section. Income from such land is taxable under the head 'Income from Other Sources'. Buildings include residential houses, bungalows, warehouses, docks, auditoriums, cinema halls, stadium, dance halls, music halls, lecture halls etc. But temporary hutments in the vacant land are not included in buildings. The lands appurtenant to building include compound, play-ground, kitchen-garden, courtyard etc. In case of non-residential building, car parking spaces, drying grounds, play grounds connecting roads in factory area etc.

EXCEPTIONS

(a) Building or staff quarters let out to employees and others. If the assessee lets out the building or staff quarters to the employees of business whose residence there is necessary for the efficient conduct of business, the rent collected from such employees is assessable as income from business and not as income from house property.

(b) If a building is let out to authorities for locating bank, post office, police station, etc., income from such building will be assessable as income from business and not as income from house property.

(c) Composite letting of building with other assets. Where the assessee lets on hire machinery, plant or furniture belonging to him and also buildings for a composite rent and the rent, of buildings is inseparable from the rent of the said machinery, plant or the furniture, the income from such letting is not chargeable to income tax under the head 'Income from House Property' but it is taxable under the head 'Income from Other Sources' or under the head "Business or Profession", of such letting is his business.

(d) An assessee company acquiring properties to earn income: If the main object of assessee company as MPA is to acquire properties and earn income by letting out of same property, said income is to be brought to tax as business income and not as income from house property.



(e) Paying-guest accommodation. It is assessable as business income.

2. **On its Annual Value :** The income is computed on the basis of annual value of building and land appurtenant thereto and not on its rental income.

3. **The assessee should be the owner of the property.** It is only the owner of the house property who can be taxed under this head of income. The tax under this section is in respect of the legal or beneficial owner and not the occupation or possession of house property. Therefore, income from subletting will be chargeable under the head 'Income from other sources' and not under house property. So only the owner may be legal or deemed owner, is liable to tax under this head of income, unless the house property is used by him for the purposes of his own business or profession.

The following are the owners of a house property :

a. The person in whose name the property is registered

b. In case of mortgage, it is the mortgagor and not mortgagee

4. **It is not used for purposes of Assessee's Business or Profession:** If the property or a portion of it is occupied by the assessee to tax, the annual value in respect of such property or portion of it is not taxable as income from house property and also nothing will be deductible as expenditure on rent of this premises in computing the profits of business or profession

Exemptions regarding Income from House Property:

There are two kinds of exemptions. They are: 1. Fully Exempted Incomes

2. Deductible from G.T.I.

1. Fully Exempted Incomes:

1. Income from farm house

2. Annual value of one palace of ex-Indian Ruler.

3. Income from property owned by:

(a) Local Authority;

(b) Scientific Research Association;

(c) Trade Union;

(d) Charitable Trust;

(e) Political Party;

(f) University or other educational institution existing for educational purposes

and

not for purposes of profits;

(g) Hospital or medical institution existing for philanthropic purposes and not

for

purposes of profits.

4. Income from property used for assessee's own business or profession.



5. Income from one self-occupied house.
6. Income from house meant for self-residence but could not be occupied throughout the previous year on account of his service business or profession at any other place.

2. Deductible from G.T.I

1. Income of a Co-operative society from the letting of godowns or warehouses for storage of commodities meant for sale.
2. Income of a co-operative society from house property provided its gross total income does not exceed Rs. 20,000 and the society is not a housing society, urban consumers' co-operative society, transport society or society manufacturing goods with the aid of power.

Income from house property of a mutual concern (club) is not assessable.

ANNUAL VALUE

The term annual value is very important as calculation of income from house property depends upon correctly calculated annual value. It takes into consideration not only the rent received but also the expected rent a house can fetch under the given situation and not only once but from year to year.

Definition of annual value [Sec.23 (1)]. The annual value of a house property let-out shall be deemed to be:

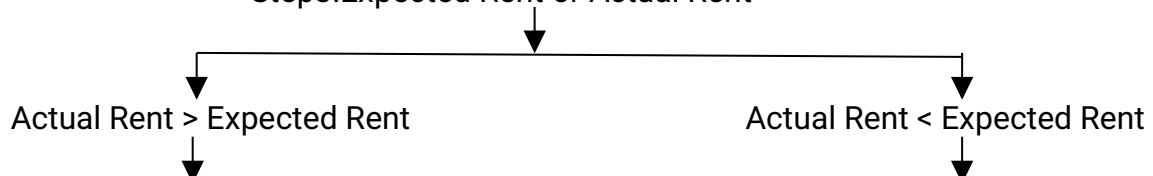
- (a) the sum for which the property might reasonably be expected to be let from year to year; or
- (b) where the property or any part of property is let and the actual rent received or receivable by the owner is in excess of the sum referred to in (a), the amount of rent received or receivable; or
- (c) where the property or any part of the property is let and was vacant during the where or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in (a), the amount so received or receivable.

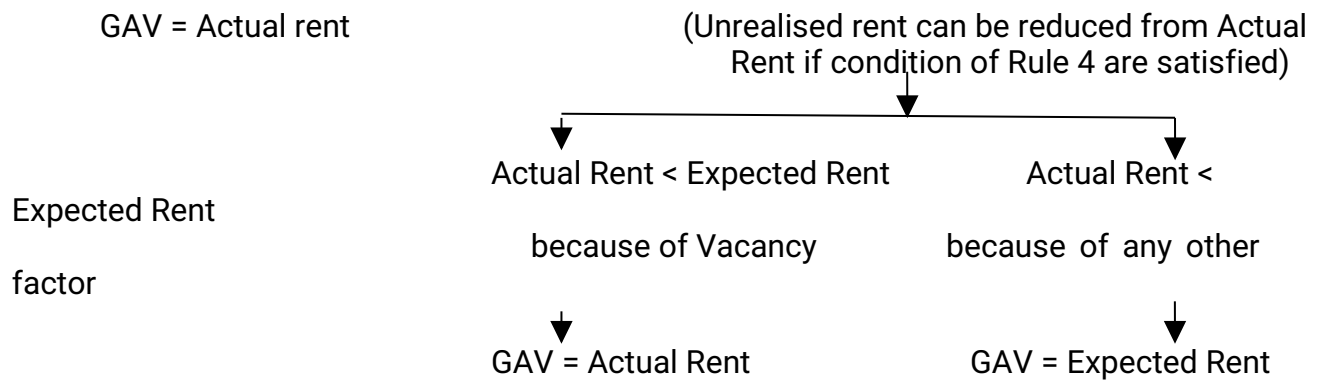
Determination of Gross Annual Value

Step1: Fair Rent or Municipal Value = (Whichever is higher)

Step2: Result of Step 1 or Standard Rent = whichever is lower (Expected Rent)

Step3: Expected Rent or Actual Rent





Provided that the taxes (including service taxes) levied by any local authority and paid by the owner during the previous year (irrespective of the previous year to which such taxes relate) shall be deducted in determining the annual value of the property. Generally, the service taxes include fire tax, water tax, conservancy tax, education cess, etc. Unrealised rent shall not form part of annual value if the following conditions are satisfied (Rule 4):

1. the tenancy is bonafide;
2. the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
3. the defaulting tenant is not in occupation of any other property of the assessee;
4. the assessee has taken all reasonable steps of instituting legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.

Determination of Expected Rent

(a) Where standard rent has not been fixed.

1. Municipal value determined by the local authority for charging house tax etc. or
2. Fair Rent – Rent of similar properties in the same locality.

Whichever is higher shall be treated as expected rent of the building.

(b) Where standard rent has been fixed.

1. the value determined under (a); or
2. the standard rent fixed under Rent Control Act of a State.

Whichever is less shall be treated as expected rent of the building.

In case standard rent has been fixed, the expected rent cannot exceed standard rent. So firstly compare Municipal rent and fair rent and find out the higher one and the amount so calculated cannot exceed amount of standard rent.

Computation of Annual Value of a house under different situations

1. **Computation of Annual Value in case of let-out house, which neither remains vacant during any part of previous year not there is any unrealized rent.**

Gross annual value shall be the expected rent or actual rent, whichever is greater.

From the gross annual value, the municipal tax paid by the owner during the previous year shall be deducted and the balance shall be the annual value of the property let-out.

2. **Computation of Annual Value in case of let-out house which remains vacant for whole or any part of the previous year.**

(A) House remains vacant for full year : In such a case gross annual value will be nil.



(B) House remains vacant for a part of the previous year:
(i) If the actual rent received/receivable for let-out period is more than the expected rent, the actual rent received/receivable will be the gross annual value.
(ii) If the actual rent received/receivable for let-out period is less than the expected rent owing to such vacancy the actual rent received/receivable will be the gross annual value.

3. Computation of Annual Value in case of let-out house, which does not remain vacant during any part of the previous year but there is unrealized rent.

The gross annual value of such a house will be determined as discussed in (1). From the Gross Annual Value the following deductions will be allowed and the balance will be the Annual value.

- (a) Taxes actually paid by the owner to local authority;
- (b) Unrealised rent (If conditions of Rule 4 are satisfied)

4. Computation of Annual Value in case of let-out house, which remains vacant during a part of previous year and there is unrealized rent.

Gross Annual Value shall be the expected rent or Actual rent whichever is greater. Here, Actual rental value is reduced by an amount of actual rent in proportion of vacancy.

From the Gross Annual Value the following deductions will allowed and the balance will be the Annual value.

- (a) Taxes actually paid by the owner to local authority;
- (b) Unrealised rent (If conditions of Rule 4 are satisfied).

Deductions from Annual Value

1. A sum of equal to 30% of annual value as standard deduction for expenses
2. Interest on loan taken in respect of house property.
Interest on loan taken for the purpose of purchasing, constructing, reconstructing or repairing the house property is allowable as a deduction on accrual basis.

- Note:**
1. Interest on unpaid interest is not deductible.
 2. Interest on a fresh loan raised merely to repay the original loan taken for the above purposes is allowable as a deduction under this section.
 3. Any brokerage or commission paid for raising the loan in not deductible
 4. Interest for pre-acquisition or pre-construction period shall be deducted in five equal annual instalments commencing from the previous year in which the house



was acquired or constructed.

Annual Value for self occupied House property

The buildings self-occupied by the owner (an individual or HUF) for residential purposes can be divided as under:

1. a) House or part of a house occupied by the owner for full previous year for the purposes of his own residence, or
b) Unoccupied house
2. House self-occupied for part of the previous year and let-out for part of the previous year
3. More than two houses in the occupation of the owner

