

Hyderabad Chapter

REFRESHER COURSE – INCOME
TAX- INCOME FROM HOUSE
PROPERTY

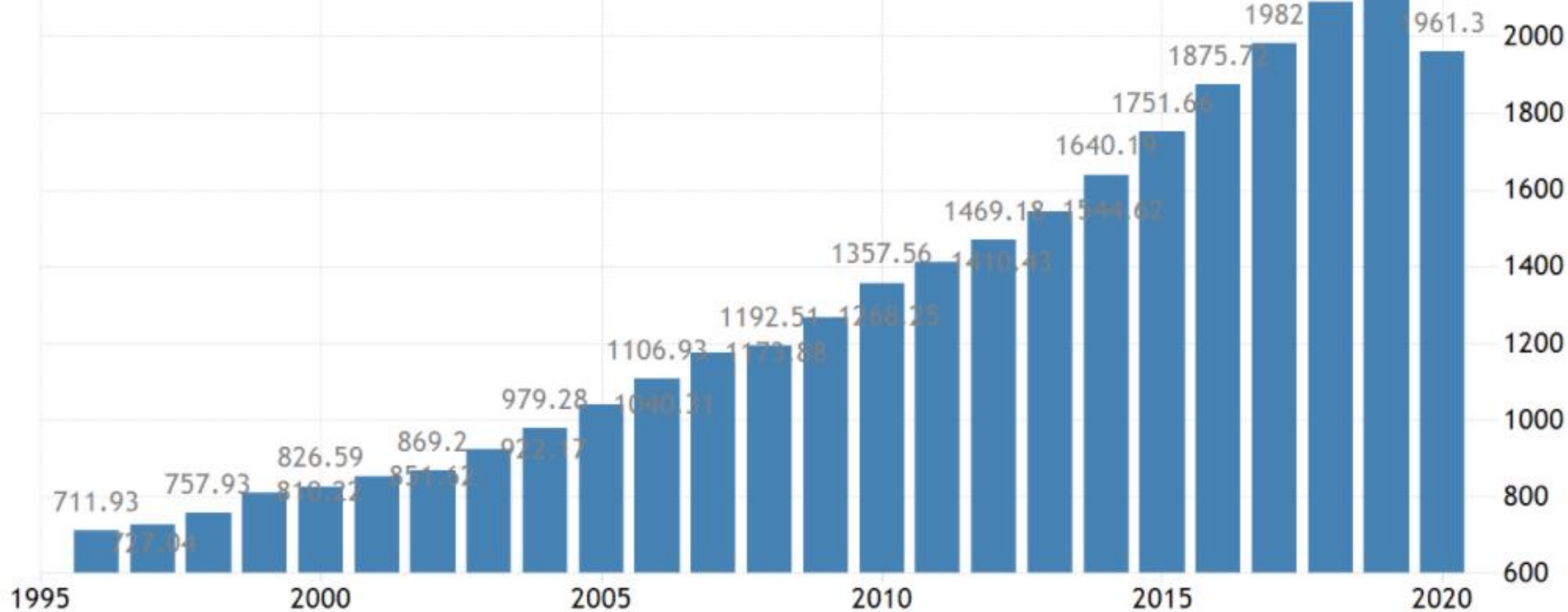
- CA S RATHNAKAR



The Institute of Cost Accountants of India
(Statutory body under an Act of Parliament)

"To purchase
a home is to
subconsciousl
y gain the
respect of
many in your
community."

HOMESTRATOSPHERE.COM



SOURCE: TRADINGECONOMICS.COM | WORLD BANK

INDIA GDP PERCAPITA

INCOME OF PEOPLE LIVING IN INDIA AND SOME OTHER COUNTRIES

Rank	Country	Median household income (\$)	Median per-capita income (\$)
1	Norway	51,489	19,308
2	Sweden	50,514	18,632
3	Luxembourg	52,493	18,418
42	Russia	11,724	4,129
59	Brazil	7,522	2,247
67	China	6,180	1,786
79	South Africa	5,217	1,217
99	India	3,168	616
129	Mali	1,983	165
130	Burundi	673	129
131	Liberia	781	118

Source: Gallup

India - Average Median House hold income stood as on 2020 USD 3168 i.e Equivalent to Rs. 231,264 (Converted @ Rs. 73)

I feel both GDP per capital and Median Household Income resulted our basic income tax Exempted @ Rs. 2,50,000 and overall tax exemption @ Rs. 5,00,000 under old tax regime

-> No of Houses in India as per Census ,2011

Total 30.5 crs houses (Permanent structures Rs. 19.1 crs ,
Temporary – Rs. 10.4 crs including semi-permanent structures).

Out of which

1. Rural India – 20.6 crs
2. Urban India- 9.9 crs

-> According to recent report from RICS- Knight Frank – More than 50% people in India live in there own house , while 30% live on rent and 13% in there parents house.

ONLY 6,500 INDIANS OWN MORE THAN ONE HOME



ANALYSIS OF 4.94 CRORE RETURNS FILED BY TAXPAYERS SHOWS THAT JUST 6,537 CLAIM TO OWN MORE THAN ONE SELF-OCCUPIED HOUSE



Source: Income tax return data (Assessment Year 2017-18)



Analysis of 4.94 crore returns filed by taxpayers in the assessment year 2017-18 shows that about one fourth (1.14 crore) people declared that they receive income from house property. Around 90 per cent of these taxpayers own only one house. In 65 per cent of cases, the house property reported was self-occupied. However, the number of taxpayers owning more than one self-occupied house was only 6,537, the official added.

Income Tax Act – Evolution of Tax on House property?

-> 1860- British Government Enacted and created a head – Income from Landed Property

-> 1961 – Income Tax Act ,1961 has been passed with 5 heads . One of the sources of incomes which was enacted from British Government resulted Income from house property

Income from House property – Basis of Charge [Section 22]:

The income arising out of a house property either in the form of a rental income or on its transfer is referred to as 'income from house property'. In essence, any property such as house, building, office, warehouse is treated as 'house property' under the Income Tax Act. The 'Income from House Property' is one of the five heads of income that is taken into account for calculating the gross total income (GTI) of an assessee during the year. However, there are several deductions allowed before the income from house property may be taxed.

For the income to be taxed under Income from House Property, the following three conditions need to be met

- Firstly, the house property should be a building, land or an apartment
- Secondly, the assessee should be the owner of the property, and
- Lastly, the house property should not be used for business and professional purposes.

Income from a house property shall be determined in the following manner:

Particulars	Amount
Gross Annual Value	—
<i>Less:</i> Municipal Taxes	—
Net Annual Value	****
<i>Less:</i> Standard deduction at 30% [Section 24(a)]	—
<i>Less:</i> Interest on borrowed capital [Section 24(b)]	—
Income from house property	****

Union Budget 2021 Outcome-

The deduction for interest on housing loans under section 80EEA is to be extended to loans taken up to 31st March 2022.

Union budget 2019 Outcome-

The taxpayers are allowed to declare the value of 'two houses' as self-occupied as against one house allowed previously.

New Tax Regime

Gross Annual value [Sec. 23(1)]



The Gross Annual Value of the house property shall be higher of following:



a) Expected rent, i.e., the sum for which the property might reasonably be expected to be let out from year to year. Expected rent shall be higher of municipal valuation or fair rent of the property, subject to maximum of standard rent;



b) Rent actually received or receivable after excluding unrealized rent but before deducting loss due to vacancy



Out of sum computed above, any loss incurred due to vacancy in the house property shall be deducted and the remaining sum so computed shall be deemed to be the gross annual value.

4. Deductions:

Description	Nature of Deductions
Municipal Taxes	Municipal taxes including service-taxes levied by any local authority in respect of house property is allowed as deduction, if: a) Taxes are borne by the owner; and b) Taxes are actually paid by him during the year.
Standard Deduction[Section 24(a)]	30% of net annual value of the house property is allowed as deduction if property is let-out during the previous year.
Interest on Borrowed Capital * [Section 24(b)]	a) In respect of let-out property, actual interest incurred on capital borrowed for the purpose of acquisition, construction, repairing, re-construction shall be allowed as deduction b) In respect of self-occupied residential house property, interest incurred on capital borrowed for the purpose of acquisition or construction of house property shall be allowed as deduction up to Rs. 2 lakhs. The deduction shall be allowed if capital is borrowed on or after 01-04-1999 and acquisition or construction of house property is completed within 5 years. c) In respect of self-occupied residential house property, interest incurred on capital borrowed for the purpose of reconstruction, repairs or renewals of a house property shall be allowed as deduction up to Rs. 30,000.

Conditions for Claiming Interest on Home Loan

- The loan has been taken after 1st April 1999 for purchase or construction
- The acquisition or construction is completed within 5 years (3 Years till FY 2015-16) from the end of the financial year in which the loan was taken
- Max interest can be availed is Rs. 2,00,000/-
- There is an interest certificate available for the interest payable on the loan.
- Note that your **interest deduction may be limited to Rs 30,000** if any one of these conditions is met –The loan is borrowed before 1st April 1999 for purchase, construction, repairs or reconstruction of house property

Pre Construction Interest

The total amount of pre-construction interest and interest on a housing loan that can be claimed in a year should not exceed Rs 2 lakh in any case. The deduction for this interest is allowed in 5 equal instalments starting from the year in which the house is purchased or the construction is completed.

Deduction for interest on housing loan [Section 80EE]

Deduction of up to Rs 50,000 shall be allowed to an Individual for interest payable on loan taken for the purpose of acquisition of a house property subject to following conditions:

- a) Loan has been sanctioned by Financial institution during the financial year 2016-17;
- b) The amount of loan sanctioned does not exceed Rs 35,00,000;
- c) The value of residential property does not exceed Rs 50,00,000;
- d) The assessee does not own any residential house property on the date of sanction of loan;
- e) Where deduction has been allowed under this section, no deduction shall be allowed in respect of such interest under any other provision.

Deduction for interest paid on housing loan taken for affordable housing [Section 80EEA]

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 of 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 31-03-2022;
- (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). This deduction is available from Assessment Year 2020-21.

S. N.	Property Type	Gross Annual Value of the property	Deduction for municipal taxes	Net Annual Value of the property	Standard Deduction	Interest on borrowed capital
1.	Self-occupied house property/ properties	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	Aggregate Deduction for interest on borrowed capital is allowed up to Rs. 30,000 or Rs. 2,00,000, as the case may be.
2.	House property could not be occupied by the owner due to employment or business carried on at any other place	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	Deduction for interest on borrowed capital is allowed up to Rs. 30,000 or Rs. 2,00,000, as the case may be.

3.	Let out property	To be computed as per provisions of Section 23(1)	Allowed on actual payment basis	Gross annual value <i>less</i> Municipal taxes	30% of Net Annual Value	Entire amount of interest paid or payable on borrowed capital shall be allowed as deduction. Pre-construction interest shall be allowed as deduction in 5 annual equal installments (Subject to certain conditions).
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4.	More than two-self occupied properties	Only two properties selected by the taxpayer will be considered as self-occupied house properties and all other properties shall be deemed to be let-out for the purpose of computation of income under the head house property.
5.	Self-occupied property/ properties let-out for the part of the year	The house will be taken as let-out property and no concession shall be available for the duration during which the property was self-occupied.
6.	One part of the property is let-out and other part is used for self-occupied purposes	Each part of the property shall be considered as separate property and income will be computed accordingly

Composite Rent:

If letting out of building along with movable assets i.e., machinery, plan, furniture or fixtures, etc. forms part of a single transaction and are inseparable, the composite rent shall be taxable under the head “Profits and gains from business or profession” or “Income from other sources”, as the case may be.

On the other hand, if the letting out of building is separable from letting of other assets, then income from letting out of building shall be taxable under the head “Income from house property” and income from letting out of other assets shall be taxable under the head “Profits and gains from business or profession” or “Income from other sources”, as the case may be.

Co-owner and Deemed Owner - Property owned by co-owners [Section 26]:

If house property is owned by co-owners and their share in house property is definite and ascertainable then the income of such house property will be assessed in the hands of each co-owner separately.

For the purpose of computing income from house property, the annual value of the property will be taken in proportion to their share in the property.

In such a case, each co-owner shall be entitled to claim benefit of self-occupied house property in respect of their share in the property (subject to prescribed conditions).

However, where the shares of co-owners are not definite, the income of the property shall be assessed as that of an Association of persons.

Treatment of unrealized rent [Explanation to section 23(1)]

Unrealized rent is that portion of rental income which the owner could not realize from the tenant. Unrealized rent is allowed to be deducted from actual rent received or receivable only if the following conditions are satisfied:

- a) The tenancy is bona fide;
- b) The defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
- c) The defaulting tenant is not in occupation of any other property of the assessee;
- d) The taxpayer has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.

**Arrears of rent or
recovery of
unrealized rent
[Section 25A]**

Amount received in respect of arrears of rent or 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 or received (whether or not the assessee is the owner of that property in that year).

Further, 30% of such rent shall be allowed as deduction.

Deemed owner [Section 27]:

1. An individual, who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred;

2. The holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate;

3. A member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme shall be deemed to be the owner of that building or part thereof;

4. A person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in Section 53A of the Transfer of Property Act, 1882 shall be deemed to be the owner of that building or part thereof;

5. A person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in section 269UA(f), shall be deemed to be the owner of that building or part thereof.



New Tax Regime

- For taxpayers who have an on-going home loan, the interest paid on such loans helps them lower tax liability in the existing income tax structure. However, under the new income tax regime proposed in Budget 2020, the interest paid on housing loan is not available for deduction for self-occupied houses. But for taxpayers who have rented out their house property, there is good news. Interest paid on housing loan taken for a rented-out property can be claimed as deduction under section 24(b) even even in the new proposed tax regime.

Budget 2020 has proposed a new tax regime with lower tax slab rates along with removal of almost all deductions, exemptions. A tax payer has been given the option of moving to this new regime for fiscal 2020-21 or continuing with the existing income tax structure. While most tax breaks are not available in the new tax regime, tax break on interest paid on housing loan for rental property can still be claimed.

Important Case laws – House property

Owner Meaning : Under common law ‘owner’ means a person who has got valid title generally conveyed to him after complying with the requirements of law such as the Transfer of Property Act, Registration Act etc. But in the context of Section 22 of the Income tax Act, having regard to the ground realities and further having regard to the object of the Income tax Act, namely, “to tax the income”, ‘owner’ is a person who is entitled to receive income from the property in his own right. The requirement of registration of the sale deed in the context of Section 22 is not warranted.

- CIT v. Podar Cement (P) Ltd. 226 ITR 625 (SC).

Advance received by builder from buyers of flat – Failure to deliver in time and interest paid – Capital not borrowed for construction of property – Not deductible from House Property income.

- Akash & Ambar Trust Vs CIT (Cal) 268 ITR 93

Important Case laws – House property

1. Assessee had shown rental income of Rs.1 lakh per annum for property having constructed area of 1,23,490 sq ft based on an lease agreement entered into with lessee - Besides that assessee had also received interest free deposits of Rs.67 crores which had been diverted interest-free to assessee's sister concerns. Approved valuer valued annual letting value of total constructed area at Rs.75,63,360 which was admitted by assessee as fair rental value of property under section 23 and on that basis, Assessing Officer, determined income from house property. Assessing Officer also imposed penalty under section 271(1)(c). Explanation offered by assessee was neither substantiated nor was shown to be bona fide, Explanation (1) to section 271(1)(c) came into play and penalty was rightly imposed upon assessee.

- PSB Industries India P ltd vs CIT 211 Taxman 173 (Delhi)

Real estate most preferred asset class for investment

Post Covid, real estate's popularity as an investment asset class increased perceptibly. A CII-Anarock Covid-19 Sentiment Survey showed that nearly 62% of respondents considered it expedient to buy homes right away. The work-from-home and online education culture resulted in buyers seeking larger homes, even if it entailed moving to peripheral areas. Also 48% of respondents favouring real estate as an asset class are millennials aged 25-35 years compared to 17% before Covid-19

Q & A

THANK YOU