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# Income from House Property vis-à-vis to Current Budget 2025

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## ABSTRACT

*Since Ancient times Taxes have been collected in various forms by the Kingdoms of the Country. Imposition and assemblage of taxes are the only sources of revenue generated by the Government for the strides of the Country. In the prevailing scenario, to regulate the taxation system in India the Indian Government has promulgated the Income Tax Act, 1961. It has undergone several amendments. This paper has explicated the Income generated from the house property along with its provisions stated in the Act and the prominent case laws. The Paper also highlights the alteration in the Current budget for 2025.*

**Keywords:** Income Tax, Revenue, Taxation System.

## I. INTRODUCTION

The core idea of Income Tax is to partisan the Government to generate revenue for the public welfare at large. The Taxation System is further bifurcated into Direct Tax and Indirect Tax imposed on goods and services. There are legions of Taxes that are mandated to the citizens of India to pay the government such as property tax, wealth tax, water tax, GST, and more in list. Being a vigilant responsible citizen of India it shall be the duty of every individual to pay tax to the government for the goodwill of the entire Nation. Among all this, there is a pivotal concept of Income from House Property covered under the heads of Income since the omission of the head interest on securities and its transference to the head 'Income from other sources' by the Finance Act, 1988. Sections 23 to 27 of the Income Tax Act, of 1961 deal with the computation of Income from the House property. This paper has provided an in-depth encapsulation of the Income from House property and its amendments in the current budget of 2025.<sup>2</sup>

## II. HISTORY

The cycle started in the era of the 19<sup>th</sup> century the establishment of the British Raj in India, the British Government faced an uprise financial crisis. In February 1860, the first Income Tax Act was introduced by James Wilson who became the British India First Finance Minister. The said

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<sup>2</sup> Vaibhav Kartikeya Agrawal, "Charge of Income from House Property: Disclosure with reference to the Income Tax Act", 2022, Volume 3 Issue 2, International Journal of Legal Research,

Act remained in force for 5 years and lapsed in 1865. After this, Act-II of 1886 was the prominent landmark it had a great impact and amendment on its predecessor. In 1918, the introduction of Act-VII re-casted the entire tax laws addressing the lacunae in the assessment of individual tax. In Furtherance, the Indian Income Tax Act, of 1922 which came into being as a result of the recommendations of the 'All India Income Tax Committee' is a milestone in the evolution of the Direct Tax laws in our country. The Act remained in force till 1981 in the middle of the same in 1956 the government had referred the Act to the Law Commission intending to simplify the same without altering the basic founding tax structure. Based on the Law Commission report the Income Tax bill giving its recommendations was submitted in the Lok Sabha in April 1961. The Bill received the assent of the president on 13<sup>th</sup> September 1961 and was enforced on 1<sup>st</sup> April 1962.<sup>3</sup>

### III. INCOME FROM HOUSE PROPERTY

1. Firstly, defining Assessee, according to Section 2(7)- In layman's language, an assessee is a person who is liable to pay tax.
2. Section 22 (Income from House Property)- The Assessee has to pay tax on the annual value of the property-
  - (1) Which consists of any building or land appurtenant thereto.
  - (2) Which is owned by the assessee.
  - (3) Which is not used for the purpose of assessing business or profession.

**Explanation-** 1. House Property means building or land appurtenant thereto and the income from such house property is chargeable under the head 'Income from House property.' The word 'Building' was not defined in the Income Tax Act, of 1961. In different leading cases, Building means a place surrounded by walls, including mud walls. The existence of a roof is not necessary to be regarded as a building. However, a residential house without a roof and door cannot be considered a building. Land that is not appurtenant to any building does not become house property for Income Tax. Any rental income from land that is vacant and not attached to the building is not chargeable.

Exceptions- 1. Buildings or staff quarters are let out to employees.

2. Building let out for locating bank, post office, police station, etc.

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<sup>3</sup> Dr. Prakash E. Humbad, "History of Income Tax in India," 2020, Volume 6 Issue 1, International Research Journal of Multidisciplinary Studies.

3. Composting letting out building with other assets.
4. Paying Guest Accommodation.
2. Assessee should be the owner of the House Property. Ownership means the legal ownership and not the beneficial ownership.
3. If a property or part of the property is used by the assessee for his business or profession and income from such business or profession is chargeable to tax. The annual Value of such property or part of the property will not be taxed under the head 'Income from House Property.'<sup>4</sup>
3. Section 23 (Calculation of Annual Property)- It is the annual value that is taxable. Annual Value shall be determined by taking into consideration the following-
  1. Municipal Value
  2. Actual Rent.
  3. Fair Rent.
  4. Standard Rent.

**Calculation**- Income from House Property = Gross Annual Value-Municipal Tax paid by the owner

= Net Annual Value

=NAV-30% deduction

=Value-Interest borrowed from HP.

=Income from House Property.

To find GAV= 1. Compare Fair Rent and Municipal Rent=Higher Value.

2. Higher Value and Standard Rent = Lower (Expected Rent).

3. Expected Rent and Annual Value = Higher Value. (Higher Value will be GAV).

Case 1- House Property is let out throughout the year.

- Compare Expected Rent (Yearly) and Actual Rent (Yearly) whichever will be higher, I that will be GAV.

Case 2- House Property let out partly (Rent) and Self Occupied Partly (Owner).

<sup>4</sup> Income from House Property, Unit 8,< [www.egyankosh.com](http://www.egyankosh.com) >, accessed on 11<sup>th</sup> April 2025.

- Compare the Expected Rent for the year and Rent Period for let out period whichever is higher will be GAV.

Case 3- Let out and Vacant.

- Compare Expected Rent (Yearly) and Actual Rent.

If  $AR > ER$  then AR becomes GAV.

If  $ER > AR$  the reason behind is seen, Reason is vacancy GAV is AR and Reason is not vacancy then GAV will be ER.

Case 4- Let out, Vacant and Self Occupied.

4. Section 24 (Deductions Income from House Property)- Income chargeable under the heads “Income from House Property” shall be computed after making the following deductions namely-

(1) A sum equal to 30% of the annual value.

(2) Where the property has been acquired, constructed, repaired, renewed, or reconstructed with borrowed capital the amount of any interest payable on such capital.

5. Section 25 (Amount not deductible from Income from House Property)- Any Interest chargeable under this Act which is payable outside India on which tax has not been paid or determined under Ch-XVII-B and in respect of which no person in India 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”.
6. Section 25A (Special Provisions for arrears of rent and unrealized rent subsequently)- The amount of arrears of rent received from a tenant or the unrealized rent realized from a tenant by an assessee shall be deemed to be the income from house property in respect of the financial year in which such rent is received including in the total income of the assessee under the head “Income from House Property”.
7. Section 26 (Property Owned by Co-owners)- Where Property consisting of buildings and lands appurtenant thereto is owned by two or more persons and their respective shares are definite and ascertainable, the share of each such person in the income from the property as computed in accordance with section 22 to 25 shall be included in his total income.
8. Section 27 deals with cases where a person though not the legal owner is considered the owner of a property.

#### IV. CURRENT BUDGET 2025

During the Budget Session 2025, Finance Minister Nirmala Sitharaman announced the relaxation of conditions for making any two houses Self-Occupied properties in Income tax rules. The simplification of rules will help taxpayers easily file their income tax returns without any calculations as the taxpayer can claim the value of any two houses as zero<sup>5</sup>. The deemed calculation of house property will only be applicable if the taxpayer has a third property. In the previous financial bill, Income up to two self-occupied properties is exempted, subject to certain conditions. These conditions are being removed and income from up to two self-occupied properties will now be considered as nil without any other conditions.<sup>6</sup>

#### V. CASE LAWS

##### 1. CIT VS MADRAS CRICKET CLUB<sup>7</sup>

The Court held that if an assessee takes the lease of a land and constructs a building thereon, he will be treated as the owner of the building during the period of the lease and liable to pay income tax in respect of the income derived from the building.

##### 2. BALLYGUNGE BANK LTD. VS CIT<sup>8</sup>

The Court held that a person may be assessed as the owner of the house property even if his right of ownership is subject to certain limitations (for example, he has no right to transfer the property).

##### 3. NEW COTTON & WOOL PRESSING FACTORY VS CIT<sup>9</sup>

The court held that it is notable that like a company, a firm can also own house property under the Income Tax Act and therefore the income derived from the house property owned by the firm is assessable in the hands of the firm and not in the hands of the respective partners of the firm.

##### 4. SHIVANI MADAN VS COMMISSIONER OF INCOME TAX, DELHI<sup>10</sup>

The Delhi High Court recently held that tax liability on income from house property should be

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<sup>5</sup> Income Tax Rules for house property simplified in budget 2025, < [www.economictimes.com](http://www.economictimes.com) > accessed on 12<sup>th</sup> April 2025.

<sup>6</sup> Reena Khair and Shampa Bhattacharya, “Decoding the Indian Union Budget 2025-2026- Sales Tax: VAT, GST, 2025, < [www.mondaq.com](http://www.mondaq.com) >, accessed on 11<sup>th</sup> April 2025.

<sup>7</sup> (1934) 2 ITR 209 Mad.

<sup>8</sup> (1946) 14 ITR 409 Cal.

<sup>9</sup> (1967) 65 ITR 662 Raj.

<sup>10</sup> 11384/ 2024 ITA HC (DELHI).

affixed to a person who derives the income and not a person who was merely a signatory to a conveyance deed.

## **VI. CONCLUSION**

The Income which is generated from the House Property is one of the crucial categories under the Heads of the Salaries under the Income Tax Act, of 1961. Collecting Income Tax from the citizens of the country is an imperative tool for the Government to flourish the development and progress of the country. Sections 22 to 27 of the Act highlight provisions related to income generated from the House Property and its deductions as per the Act. The current budget of 2025, has simplified that the income up to two self-occupied properties is considered as nil without any other conditions. The prominent case laws have widened the horizon of conceptual ideas. From the entire encapsulation, it is proven that as every coin has two faces likewise it is the right of the government to collect a licitium reasonable tax from the people of the country and they must file the tax return within a specified time.

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