

## Interest paid on Housing Loan under House Property under Income Tax Act :

### BARE ACT

#### Deductions from income from house property.

24. Income chargeable under the head "Income from house property" shall be computed after making the following deductions, namely:—

(a) a sum equal to thirty per cent of the annual value;

<sup>79</sup>(b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

**Provided** that in respect of property referred to in sub-section (2) of [section 23](#), the amount of deduction <sup>80</sup>[or, as the case may be, the aggregate of the amount of deduction] shall not exceed thirty thousand rupees :

**Provided** further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed within five years from the end of the financial year in which capital was borrowed, the amount of deduction <sup>81</sup>[or, as the case may be, the aggregate of the amounts of deduction] under this clause shall not exceed two lakh rupees.

*Explanation.*—Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years:

**Provided** also that no deduction shall be made under the second proviso unless the assessee furnishes a certificate, from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquisition or construction of the property, or, conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

*Explanation.*—For the purposes of this proviso, the expression "new loan" means the whole or any part of a loan taken by the assessee subsequent to the capital borrowed, for the purpose of repayment of such capital:

<sup>82</sup>**Provided** also that the aggregate of the amounts of deduction under the first and second provisos shall not exceed two lakh rupees.]

## **Important points to be considered while claiming deduction of interest paid on borrowed capital under the Head Income from House Property**

### **1. Deduction towards Interest not paid during the period of Covid:**

Taxpayers can claim deduction towards interest of the amount which has not been paid to the bank due to concessions announced by the Government during Covid-19. It may be noted that the interest is eligible for deduction on accrual basis and not on payment basis.

### **2. Interest paid on unpaid purchase price:**

There are situations where the purchaser doesn't pay the full amount of purchase to the seller but converts it into a loan. In some cases, the purchaser purchases the property in installment. In such cases, unpaid price can be treated as borrowed capital. Interest paid on unpaid purchase consideration is also eligible for deduction u/s 24(b). [CIT Vs. Sunilkumar Sharma (2002) 254 ITR 103 (P & H)]

### **3. Interest on Mortgage Loan:**

Deduction u/s 24(b) is available only if the loan is utilized for purchase, construction, repairs etc of the house property. If the purpose of the loan is one which specified u/s 24(b) then deduction will be available even if the loan is titled as 'Mortgage loan'. Similarly, if the purpose of loan is not one specified in section 24(b) then no deduction would be available even if the loan is titled as 'Housing Loan'.

#### 4. Interest on unpaid Interest:

Interest on housing loans is charged on a monthly basis by the bank. If the amount is not paid then interest is again charged on interest of earlier month debited to loan A/c. Deduction u/s 24(b) is available only on borrowed capital. Interest paid on such unpaid interest is not deductible as it is not "Interest on borrowed capital". This was held by Apex Court in Shew Kissen Bhattar Vs. CIT (1973) 89 ITR 61.

#### 5. Commission / processing fees:

Any amount of brokerage & commission paid for arranging the loan or processing fees / stamp duty charges paid for mortgage is not eligible for deduction.

#### 6. Takeover of Loan:

Very often, taxpayers shift housing loans from one bank to another bank to enjoy the benefit of lower interest rates. In such cases,

If the housing loan account is shifted from one bank to another bank then also the benefit of deduction can be claimed by taxpayers on new loans. CBDT vide circular No. 28 Dated 20.08.1969 has clarified that interest on fresh loan taken to repay the original loan is allowable as deduction.

Prepayment penalty paid at the time of takeover (or prepayment penalty paid for closing the loan at any time) is not admissible as deduction.

If the loan amount is shifted from one bank to another for availing some additional top-up loan for business/ personal purposes then deduction will be restricted to the extent of the original loan only. For example, a person has

availed a housing loan of Rs. 40 Lakh in 2020 & amount outstanding as on 30.09.2021 is Rs. 30 Lakh. Now, the taxpayer shifts the loan to some other bank to avail an additional top-up term loan of Rs. 20 Lakh for business i.e., total loan sanctioned by the new bank is Rs. 50 Lakh. In such a case, out of total loan of Rs. 50 Lakh, Rs. 30 Lakh can be treated as housing loan & Rs. 20 Lakh as business loan. Interest u/s 24(b) shall be restricted to 60% (i.e., in ratio of 3:2) of the total loan amount in such case.

#### 7. Interest paid outside India:

Interest payable outside India will also be eligible for deduction u/s 24(b) provided that interest is paid after deduction of tax at Source (TDS) or is paid to some person who can be treated as an agent in India of the recipient of interest.

#### 8. Deduction in respect of interest on loan taken for residential house property.

**80EE.** (1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential property.

(2) The deduction under sub-section (1) shall not exceed fifty thousand rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2017 and subsequent assessment years.

(3) The deduction under sub-section (1) shall be subject to the following conditions, namely:—

- (i) the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2016 and ending on the 31st day of March, 2017;
- (ii) the amount of loan sanctioned for acquisition of the residential house property does not exceed thirty-five lakh rupees;
- (iii) the value of residential house property does not exceed fifty lakh rupees;

(iv) the assessee does not own any residential house property on the date of sanction of loan.

## 9. Deduction in respect of interest on loan taken for certain house property.

**80EEA.** (1) In computing the total income of an assessee, being an individual not eligible to claim deduction under [section 80EE](#), there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property.

(2) The deduction under sub-section (1) shall not exceed one lakh and fifty thousand rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2020 and subsequent assessment years.

(3) The deduction under sub-section (1) shall be subject to the following conditions, namely:—

(i) the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2019 and ending on the 31st day of March, <sup>95</sup>[<sup>96</sup>[2021]];

(ii) the stamp duty value of residential house property does not exceed forty-five lakh rupees;

(iii) the assessee does not own any residential house property on the date of sanction of loan.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.

(5) For the purposes of this section,—

(a) the expression "financial institution" shall have the meaning assigned to it in clause (a) of sub-section (5) of [section 80EE](#);

(b) the expression "stamp duty value" means value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property.