

BANSI S. MEHTA & co.

Chartered Accountants



The Chamber of
Tax Consultants

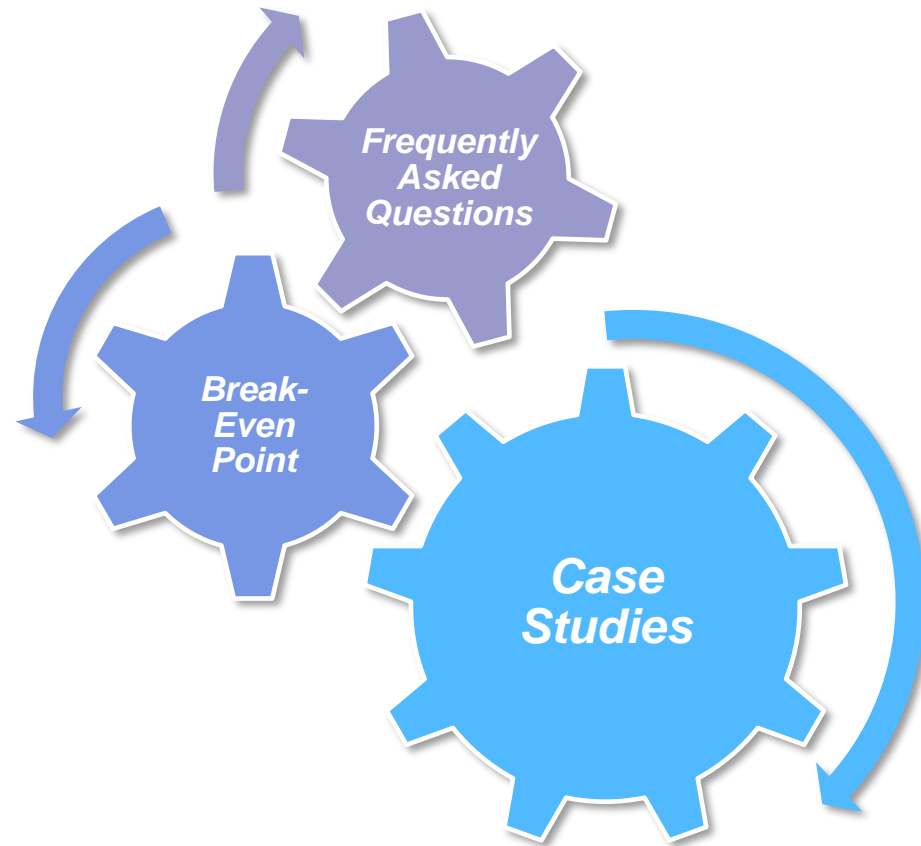
OLD TAX REGIME

— VS —

NEW TAX REGIME

RONAK G. DOSHI | MAY 22, 2023

CONTENT





FREQUENTLY ASKED QUESTIONS



Q1. What is Old Tax Regime?

- In FA 2020, an alternative tax regime was introduced u/s 115BAC for Individual and HUF which has been further extended to AOP, BOI and AJP by FA 2023.
- Computation of total income and income-tax under the normal provisions of the IT Act (plus Alternate Minimum Tax provisions) without giving effect to Sec. 115BAC is commonly referred to as the Old Tax Regime (OTR).
- Under the OTR, income-tax on total income is calculated at the rates prescribed under Sec. 2 of the applicable Finance Act r.w. First Schedule, unless specific rates are prescribed in the IT Act (e.g., Secs 111A, 112, 112A for Capital Gains).

Q2. What is New Tax Regime?

- The FM in her budget speech of 2020 exclaimed that OTR is “**riddled with various exemptions and deductions which make compliance by the taxpayer and administration of the Income Tax Act by the tax authorities a burdensome process. It is almost impossible for a taxpayer to comply with the Income-tax law without taking help from professionals.**”
- In order to provide “**significant relief to the individual taxpayers and to simplify the Income-tax law**”, a “**new and simplified personal income tax regime**” was introduced under FA 2020 by insertion of a new provision Sec. 115BAC. FA 2023 further expanded the coverage of Sec. 115BAC. This is commonly referred to as the New Tax Regime (NTR).

Q2. What is New Tax Regime? (cont'd...)

- Under NTR, income tax rates are reduced for the concerned taxpayers provided certain deductions, exemptions and set-off of losses are forgone
- **NTR 1.0** – Introduced by FA 2020 as an **alternative tax regime** for Individual and HUF taxpayers
 - NTR 1.0 is **applicable from AY 2021-22 to AY 2023-24**
 - Under NTR 1.0, the taxpayer can elect to **“Opt-In”** the new tax regime
- **NTR 2.0** – FA 2023 made NTR as the **default tax regime** for Individual, HUF, AOP, BOI (other than co-op society) and AJP
 - NTR 2.0 is **applicable from AY 2024-25 onwards**
 - Under NTR 2.0, the taxpayer can elect to **“Opt-Out”** from the new tax regime

Q3. Which Financial Year is NTR applicable from?

- **NTR 1.0** – Begins from **April 1, 2020** which is **FY 2020-21 (i.e., AY 2021-22)** and sunsets on **March 31, 2023** which is **FY 2023-23 (i.e., AY 2023-24)**
- **NTR 2.0** applies from **April 1, 2023** which is **FY 2023-24 (i.e., AY 2024-25)** and onwards

Q4. NTR is applicable to which taxpayers?

- **NTR 1.0** – applies to Individual and HUF
- **NTR 2.0** – applies to:
 - Individual and HUF –
 - Association of Persons (AOP) (other than a co-operative society), or
 - Body of Individuals (BOI), whether incorporated or not, or
 - Artificial Juridical Person (AJP)

Q5. What do you mean by NTR 2.0 is the Default Tax Regime?

- From FY 2023-24 relevant to Asst Year 2024-45 onwards, the taxpayers referred in Q4 above are **mandated to compute** total income and income-tax thereon in accordance with Sec. 115BAC(1A), unless they Opt-out of NTR 2.0. Thus, Sec. 115BAC is referred to as the Default Tax Regime.

Q6. Does the OTR become redundant now?

- No. Under NTR 1.0, one has to Opt-In the new tax regime. Those who don't Opt-In will follow OTR.
- Under NTR 2.0, one can Opt-Out of the new tax regime. Those who Opt-Out will follow OTR.

FM in
Budget
Speech



FB – 2020

“The new tax regime shall be optional for the taxpayers. An individual who is currently availing more deductions & exemption under the Income Tax Act may choose to avail them and continue to pay tax in the old regime.”

FB – 2023

“We are also making the new income tax regime as the default tax regime. However, citizens will continue to have the option to avail the benefit of the old tax regime.”

Q7. What are the Slab Rates under NTR vis-a-viz OTR for Individual, HUF, AOP, BOI & AJP?

OTR

Individual (< 60 years),
HUF, AOP, BOI, AJP

Slabs (in Rs.)	Rates
Up to 2.5 lakh	Nil
2.5 lakh to 5 lakh	5%
5 lakh to 10 lakh	20%
Above 10 lakh	30%

Individual
(≥ 60 years < 80 years)

Slabs (in Rs.)	Rates
Up to 3 lakh	Nil
3 lakh to 5 lakh	5%
5 lakh to 10 lakh	20%
Above 10 lakh	30%

Individual
(≥ 80 years)

Slabs (in Rs.)	Rates
Up to 5 lakh	Nil
5 lakh to 10 lakh	20%
Above 10 lakh	30%

NTR

NTR 1.0

Slabs (in Rs.)	Rates
Up to 2.5 lakh	Nil
2.5 lakh to 5 lakh	5%
5 lakh to 7.5 lakh	10%
7.5 lakh to 10 lakh	15%
10 lakh to 12.5 lakh	20%
12.5 lakh to 15 lakh	25%
Above 15 lakh	30%

NTR 2.0

Slabs (in Rs.)	Rates
Up to 3 lakh	Nil
3 lakh to 6 lakh	5%
6 lakh to 9 lakh	10%
9 lakh to 12 lakh	15%
12 lakh to 15 lakh	20%
Above 15 lakh	30%

- Unlike OTR which provides different slab rates for Individuals below 60 years, Senior and Super Senior citizens, NTR provides blanket slab rates for all age groups



What will be the “*maximum amount which is not chargeable to income-tax*” if a person follows NTR?

Q8. Is there a difference in the Rates of Surcharge and Cess under NTR viz-a-viz OTR?

Surcharge Rates (AY 2023-24 and AY 2024-25)

Individual, HUF, AOP, BOI and AJP

Total Income	STCG (Sec. 111A), LTCG (Sec. 112, 112A) & Dividend	Unexplained Income (Sec. 115BBE)	Any other Income
Upto Rs. 50 lakh	Nil	25%	Nil
> Rs. 50 lakh ≤ Rs. 1 crore	10%		10%
> Rs. 1 crore ≤ Rs. 2 crore	15%		15%
> Rs. 2 crore ≤ Rs. 5 crore	15%		25%*
> Rs. 5 crore	15%		37%*

Reduced to
25%
in case of
NTR 2.0

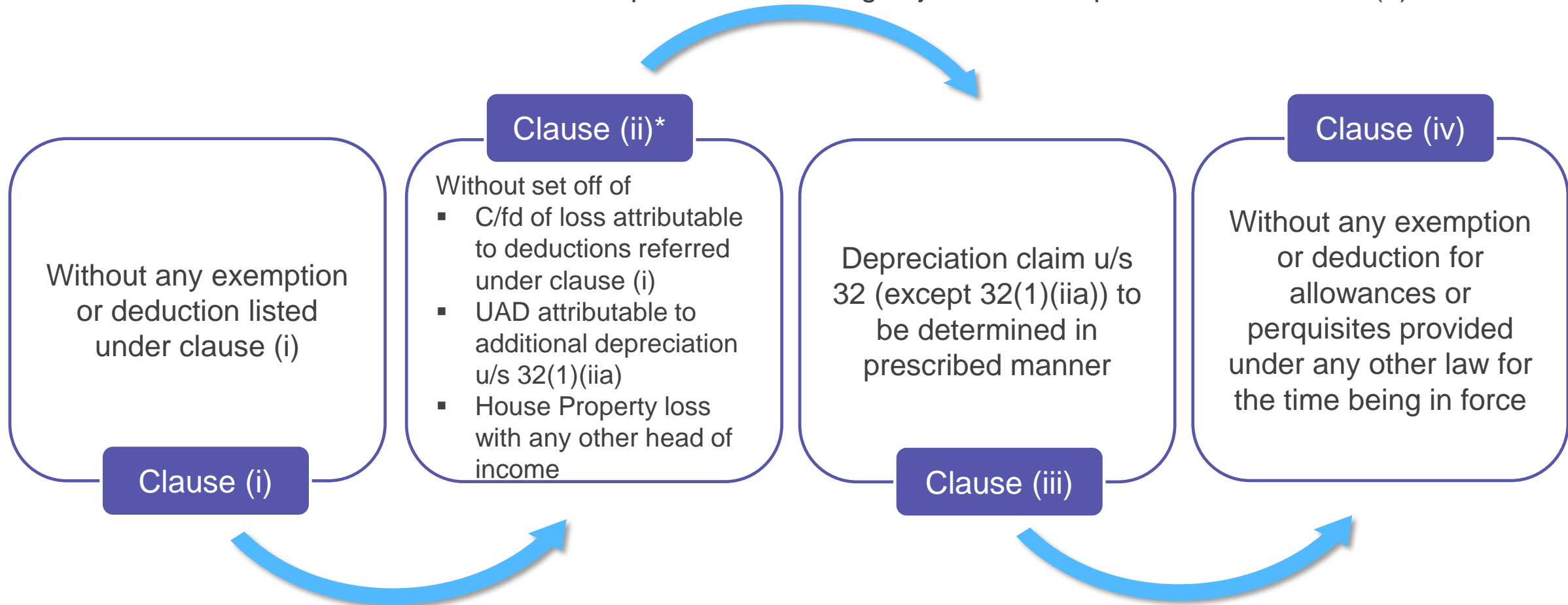
* In case of AOP (with all members as Company), surcharge rate shall not exceed 15%

Cess (AY 2023-24 and AY 2024-25)

Health and Education Cess shall be charged @ 4%

Q9. How is total income to be computed under NTR?

- Total Income under NTR shall be computed after making adjustments as provided u/s 115BAC(2) –



** The loss and depreciation referred to in clause (ii) above shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year*

Q9. How is total income to be computed under NTR? (cont'd...)

Particulars/ Heads	Exemption/Deduction NOT ALLOWED under NTR	Exemption/Deduction ALLOWED under NTR (Illustrative)
Salary	<ul style="list-style-type: none"> ▪ LTA u/s 10(5) ▪ HRA u/s 10(13A) ▪ Certain Special allowances u/s 10(14) r.w. – Helper Allowance, Research Allowance, etc. ▪ Standard Deduction of Rs. 50,000 (<i>not allowed only under NTR 1.0</i>) ▪ Daily allowance to a member of Parliament or State Legislature ▪ Deduction of Entertainment Allowance from salary received from Govt. ▪ Deduction of Professional Tax ▪ Meal Vouchers* 	<ul style="list-style-type: none"> ▪ Standard deduction of Rs. 50,000 (allowed only under NTR 2.0) ▪ Transport allowance granted to divyang employee to meet expenditure for commuting between place of resident and place of duty* ▪ Conveyance allowance to meet the expenditure in performance of duties of an office* ▪ Any allowance granted to meet cost of travel on tour or transfer* ▪ Daily allowance to meet the ordinary daily on account of absence from regular place of duty* ▪ Exemption on VRS u/s 10(10C), Gratuity u/s 10(10) and Leave encashment u/s S.10(10AA), etc.
House Property	<ul style="list-style-type: none"> ▪ Interest deduction u/s 24(b) on housing loan in respect of Self-Occupied Property (SOP) 	<ul style="list-style-type: none"> ▪ Interest deduction u/s 24(b) on housing loan in respect of Let Out/Deemed Let Out Property (LOP/DLOP)

* Yet to be denied/prescribed for NTR 2.0

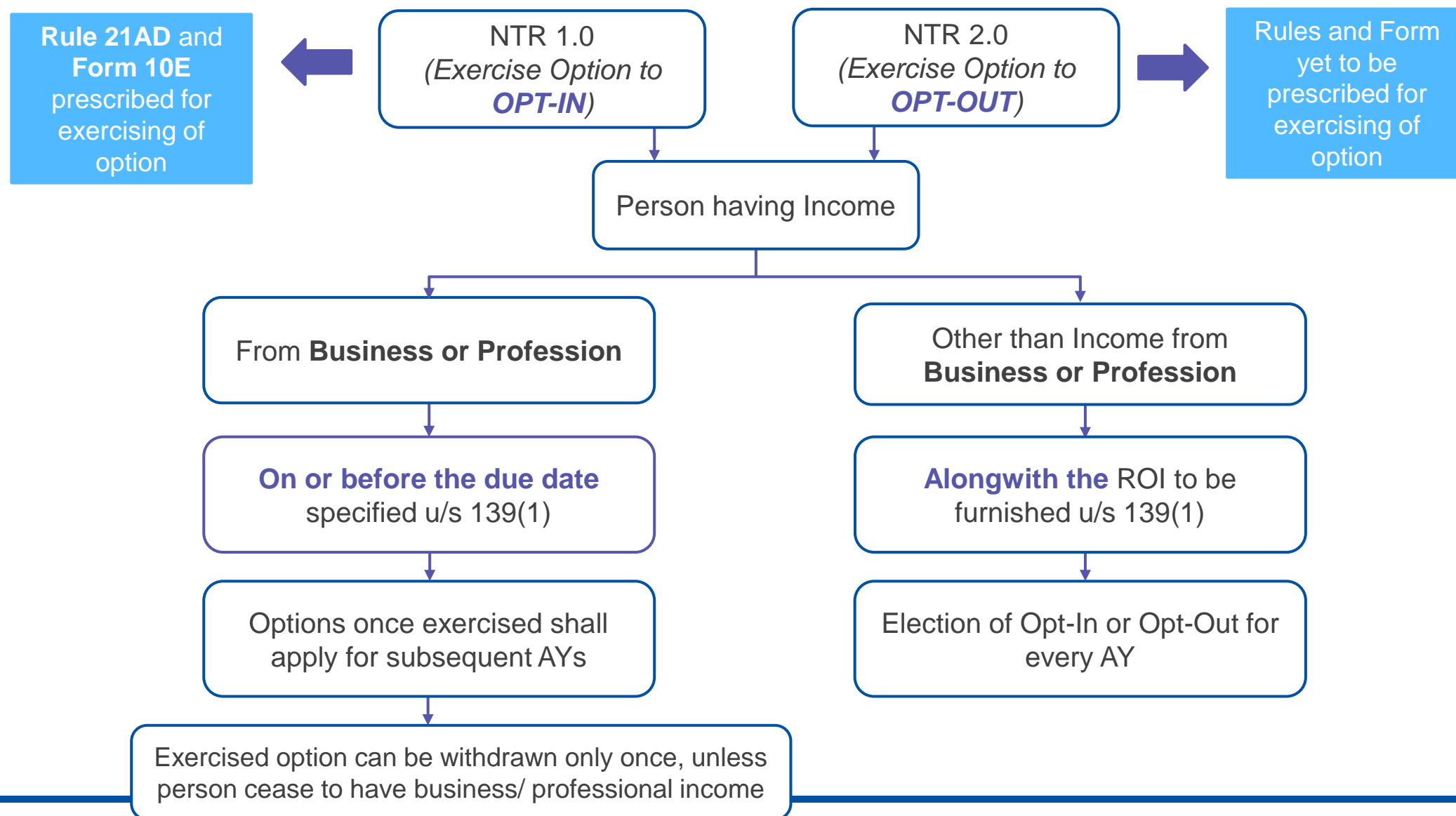
Q9. How is total income to be computed under NTR? (cont'd...)

Particulars/ Heads	Exemption/Deduction NOT ALLOWED under NTR	Exemption/Deduction ALLOWED under NTR (Illustrative)
Income from other sources	<ul style="list-style-type: none"> Deduction upto Rs. 15,000 from family pension u/s 57(iia) <i>(not allowed only under NTR 1.0)</i> 	<ul style="list-style-type: none"> Deductions permissible u/s 57 (except related to family pension) Deduction upto Rs. 15,000 from family pension u/s 57(iia) <i>(allowed only under NTR 2.0)</i>
Clubbing of Income	<ul style="list-style-type: none"> Exemption u/s 10(32) of Rs. 1,500 in respect of each Minor child in case of clubbing of income 	
Business and Profession	<ul style="list-style-type: none"> S.10AA – SEZ Exemption S.32(1)(ia) – Additional Depreciation S.32AD – Specified Investment in Plant & Machinery in backward area S.33AB – Tea, coffee, rubber development S.33ABA – Site Restoration Fund S.35(1)(ii)/(ia)(iii) & 35(2AA) – R&D S.35CCC – Agricultural Extension project 	<ul style="list-style-type: none"> All other permissible deductions u/s S.30 to 44 Depreciation claim restricted to 40% of WDV <i>(yet to be extended to NTR 2.0)</i>
Chapter VI-A	<ul style="list-style-type: none"> Deductions other than those specifically allowed 	Deductions: <ul style="list-style-type: none"> S. 80JJAA – Additional employee cost u/s 80JJAA S. 80CCD(2) – Employer's contribution to NPS S. 80CCH(2) – Contribution to Agniveer Corpus Fund

Q10. Whether carry forward and set-off of losses are not permitted under the NTR?

- NTR has casted certain restrictions on carry forward and set-off of losses
- Following losses are not allowed –
 - Carry forward of loss attributable to any exemptions or deductions referred u/s 115BAC(2)(i)
 - Inter-head set-off of House Property Loss is not allowed (anyways allowed only upto Rs.2 lac against other heads of income).
- No further restrictions casted on set-off of brought forward loss from House Property, Capital Gains, Profit and Gains from Business or Profession
- Loss not allowed under NTR shall be deemed to be given full effect to

Q11. What is the time limit and procedure to exercise the option?



Q11. What is the time limit and procedure to exercise the option? (cont'd...)

?

on or before the due date specified u/s 139(1) for furnishing the ROI

?

along with the ROI to be furnished u/s 139(1)

- Can option be exercised if Belated Return is filed u/s 139(4)?
 - **CIT vs. Ms. Jagriti Aggarwal [2011] 339 ITR 610 (P&H HC):** In the context of Sec 54, it is observed that Sec. 139(4) is not an independent provision but related to a time contemplated u/s Sec. 139(1). Due date for furnishing the ROI as per section 139(1) is subject to the extended period u/s 139(4)
 - **Suolificio Linea Italia (India) (P.) Ltd. vs. JCIT [2018] 407 ITR 16 (Cal HC):** Where assessee failed to file return within period prescribed under section 139(1), its claim for deduction under section 80-IB could not be allowed even though return had been filed at a belated stage in term of section 139(4)
- Can option be exercised in the Revised Return filed u/s 139(5)?
 - Revised return can be filed if a person “*discovers any omission or any wrong statement*” in the ROI filed u/s 139(1) or 139(4)
 - **PCIT vs. Wipro Ltd. [2022] 446 ITR 1 (SC):** Where assessee claimed benefit under section 10B(8) by furnishing declaration in revised return much after due date prescribed under section 139(1), same was to be denied as requirement of furnishing declaration before AO before due date of filing original return under section 139(1) was a mandatory condition not directory
- Extension of due date provided u/s 139(1) – Can option be exercised in such extended due date?

Q11. What is the time limit and procedure to exercise the option? (cont'd...)

?

on or before the due date specified u/s 139(1) for furnishing the ROI

?

along with the ROI to be furnished u/s 139(1)

- Filing of Form to exercise option within the time limit prescribed in Mandatory or Directory?
 - **CIT vs. G. M. Knitting Industries (P.) Ltd. [2015] 376 ITR 456 (SC):** Even though necessary certificate in Form 10CCB along with return of income had not been filed but same was filed before final order of the assessment was made, the assessee was entitled to claim deduction under section 80-IB.
 - **Bholanath Precision Engineering (P.) Ltd. vs. CIT [2023] 198 ITD 211 (Mum Trib.):** Where assessee-company had failed to file Form 10-IC, which was a mandatory requirement for claiming option available under section 115BAA, Assessing Officer rightly computed tax liability at rate of 30 per cent as against 22 per cent sought by assessee under concessional taxation scheme
 - **CBDT Circular No. 6 of 2022, dt. Mar 17, 2022:** CBDT condoned the delay in filing of Form No. 10-IC for AY 2020-21 (being first year for filing the form to claim concessional tax rate u/s 115BAA) where not filed before the due date of filing of return subject to following conditions – (i) ITR is filed on or before the due date under Section 139(1), (ii) Assessee opted for taxation under Section 115BAA in “Filing Status” in “Part A-Gen” of ITR-6, and (iii) Form 10-IC is filed electronically on or before Jun 30, 20

Q12. Can an eligible person switch between NTR 2.0 and OTR for different assessment years?

- A person having business/professional income can Opt-Out of NTR 2.0 only once and such exercised option shall be deemed to be applied for subsequent AYs as well, unless such person ceases to have business/professional income
- A person not having business/professional income can select between NTR 2.0 and OTR every year. If he elects to Opt-Out of NTR 2.0 then option will have to be exercised on a year-on-year basis.

Q13. If a person fails to compute total income as per Q11 above, what will be the implications?

- NTR 1.0 is an Optional provision (Opt-In). If a person fails to compute total income in accordance with the NTR, then the exercised option of NTR shall become invalid in respect of that AY, and provisions of OTR shall apply.
 - In case of person having business income, NTR shall become invalid for subsequent AYs as well (second proviso to section 115BAC (1))
- Since NTR 2.0 is a default tax regime, in case of failure to compute total income as per Q11, the total income would perhaps be recomputed as per NTR 2.

Q14. Can a person claim presumptive taxation under the NTR?

- The IT Act provides for presumptive taxation for persons carrying out certain eligible business or profession. Presumptive taxation provisions includes Sec. 44AD, 44ADA, 44AE, etc.
- These provisions generally lay down the manner of computation of income from the eligible business/profession.
- NTR starts with a non-obstante clause. However, the overriding effect is only *qua* “*the income-tax payable in respect of total income*”. If NTR are applicable, total income is to be computed as per Sec. 115BAC(2).
- Sec. 115BAC(2) does not bar computation of income applying presumptive taxation provisions.
- The presumptive tax provisions *per se* do not provide tax rates. Thus, NTR may not have overriding effect
- Accordingly, having computed business/professional income under presumptive taxation provisions, the tax rate provided under NTR can be applied.

Q15. What will be the applicable tax rates on capital gains under NTR?

- NTR contained u/s 115BAC falls under Chapter XII of the IT Act
- Tax rates on certain Short Term and Long Term Capital Gains are provided u/s 111A, 112, 112A, which also fall under Chapter XII
- While NTR ***starts with a non-obstante clause***, the same is “***subject to the provisions of this Chapter***” (i.e. Chapter XII). Thus, the tax rates provided u/s 111A, 112 and 112A will override tax rates provided u/s 115BAC.

Q16. Is the NTR applicable to a non-resident?

- Sec.115BAC does not expressly exclude a non-resident person from its purview. Thus, the NTR will apply to non-residents

Q17. Will the special tax rates provided u/s 115A apply in case of a non-resident following NTR?

- Both, NTR and Sec. 115A fall under Chapter XII.
- Since Sec. 115BAC is “subject to the provisions of this Chapter” (i.e. Chapter XII), the tax rates provided u/s 115A will override tax rates provided u/s 115BAC.

Q18. Can a non-resident claim treaty benefit under the NTR?

- As per Sec. 90(2), an assessee can claim treaty benefit, to the extent it is more beneficial to that assessee
- A tax treaty determines the taxing rights between the Residence State and Source State and also, provides for lower tax rates on certain incomes (like interest, dividend, royalty, FTS, etc.)
- Sec. 115BAC starts with a non-obstante clause *qua income-tax* rate on total income.
- Will Sec. 115BAC override Sec. 90(2)?
- **UOI vs. Azadi Bachao Andolan [2003] 263 ITR 706 (SC); Engineering Analysis Centre of Excellence (P.) Ltd. vs. CIT [2021] 432 ITR 471 (SC):** DTAA operates even if inconsistent with the Income-tax Act.
- **Sec. 90(2A):** “*Notwithstanding anything contained in sub-section (2), the provisions of Chapter X-A of the Act shall apply to the assessee **even if such provisions are not beneficial to him.***”

Q18. Can a non-resident claim treaty benefit under the NTR? (cont'd...)

- **Circular No. 333 [F. No. 506/42/81-FTD] dated 2-4-1982:** Specific provisions made in the DTAA will prevail over general provisions contained in the IT Act.
- **Article 26 of VCLT:** *Pacta Sun Servanda* – Every treaty in force is binding upon the parties to it and must be performed by them in good faith
- **Article 51(1)(c) of the Constitution of India:** The State shall endeavour to foster respect for international law and treaty obligations.
- **Bank of Tokyo Mitsubishi UF Ltd vs. ADIT (ITA No 5364/Delhi/2010) upheld by Delhi HC in ITA 604/2015; ACIT vs. Credit Suisse AG [2022] 197 ITD 209 (Mum Trib.):** Provisions of Sec. 115JB are subordinate to Sec. 90(2) and have no overriding effect on the said section.

Q19. Is any rebate u/s 87A available to a resident individual?

- **OTR & NTR 1.0** – Tax rebate of Rs. 12,500 is available for a total income upto Rs.5 lakh
- **NTR 2.0** – A higher rebate of Rs. 25,000 is available for total income upto Rs. 7 lakh to the resident individual opting for NTR 2.0

Q20. Will Alternative Minimum Tax (AMT) provisions apply under NTR ?

- As per Sec. 115JC(5), AMT provisions will not apply under NTR. Also, any carried forward AMT credit will lapse under NTR as per Sec. 115JD(7).

Q21. Is there any relaxation accorded under the New Tax Regime to a person having a unit in IFSC?

- Deduction u/s 80LA is extended under the NTR as well to a person having a unit in IFSC

Q22. Will NTR 2.0 apply to a Trust?

- Status of the Trust – Individual? AOP? BOI? AJP?
 - A trust is not a juristic person or a corporate person: **Thanthi Trust vs. WTO [1989] 178 ITR 1 (Mad HC)**
 - Trust not regarded as Body of Individuals: **Lalchand Tikamdas Makhija vs. J.K. Kuriyan [1991] 188 ITR 253 (Bom HC)**
 - Private Trust is not an Association of Persons when beneficiaries do not come together with common purpose of earning income: **CIT vs. Marsons Beneficiary Trust [1991] 188 ITR 224 (Bom HC)**
 - Trust in which all beneficiaries are individuals would be assessed as an individual: **CWT vs. Trustees of H.E.Z. Nizam's Family Trust [1977] 108 ITR 555(SC)**

Q22. Will NTR 2.0 apply to a Trust? (cont'd...)



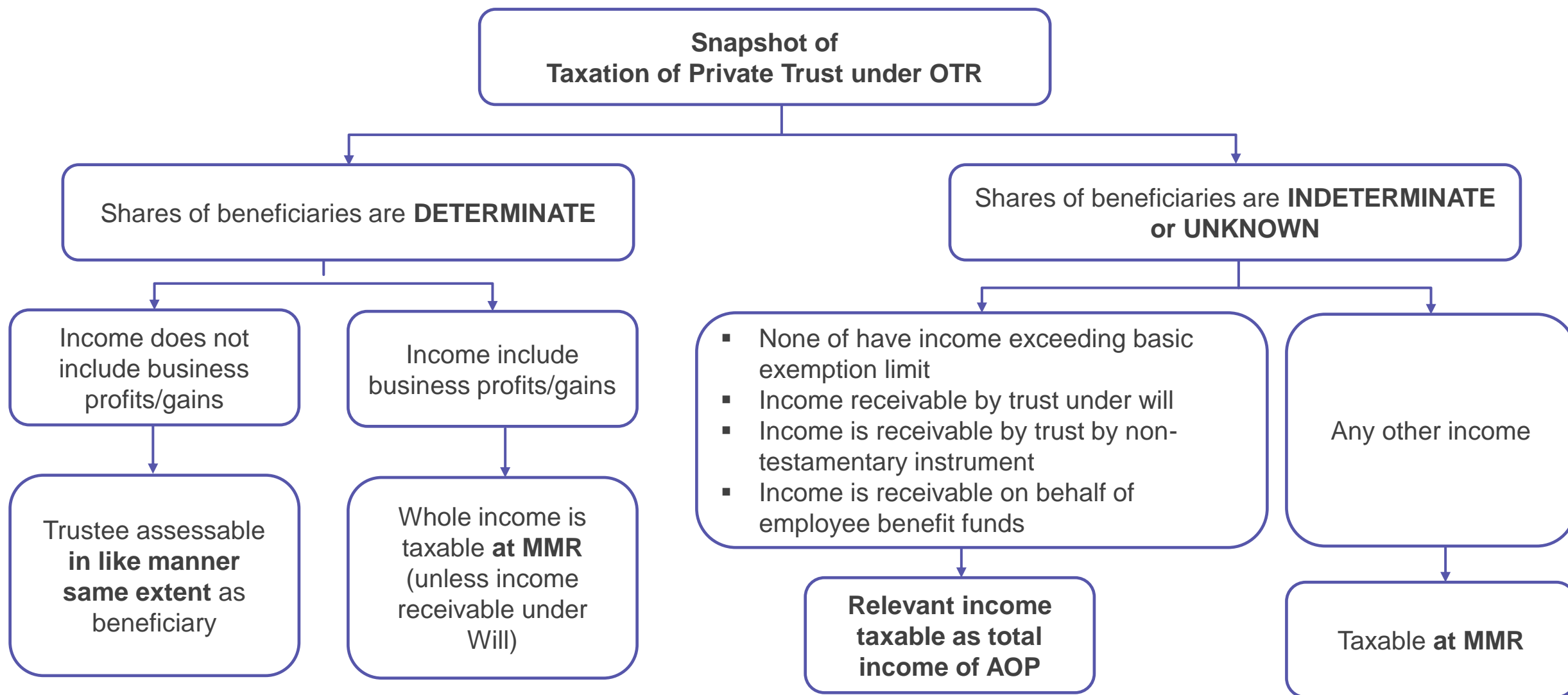
Status of the Trust – Individual? AOP? BOI? AJP?

- **CBDT Circular No. 6/2012 dated August 3, 2012:** Status of a private discretionary trust has been held in law as that of an 'individual'. Dispensation was accorded for non-filing of electronic return for AY 2012-13.
- **Instruction to ITR 5 (AY 2022-23):** Status of Trust other than those eligible to file return in ITR 7 is regarded as AOP/BOI

■ Association of Persons

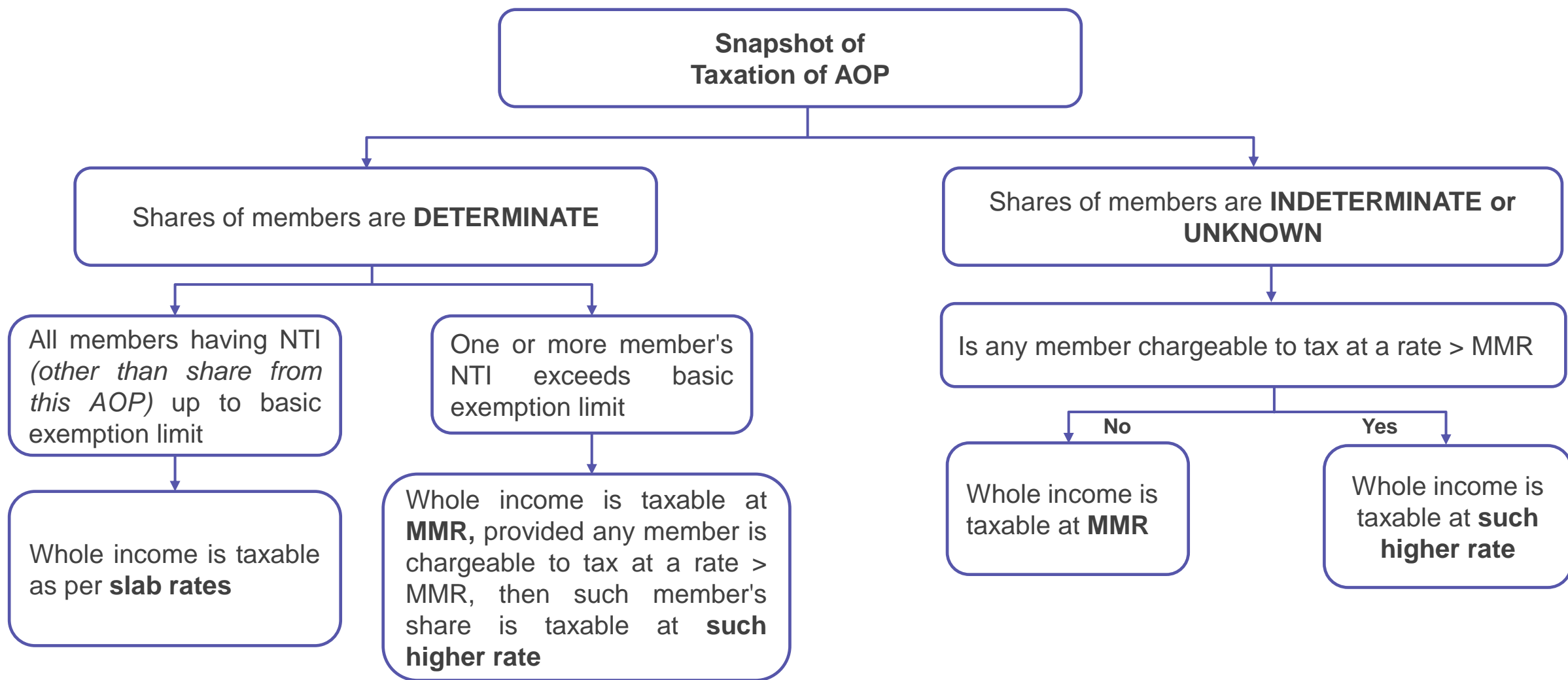
- **CIT vs. Indira Balkrishna [1960] 39 ITR 546 (SC):** AOP must be one in which two or more persons join in a common purpose or common action. the association must be one the object of which is to produce income, profits or gains
- **Proviso to Sec 2(31) defining 'persons':** *"For the purposes of this clause, an association of persons.....shall be deemed to be a person, whether or not such person.....was formed or established or incorporated with the object of deriving income, profits or gains;"*

Q22. Will NTR 2.0 apply to a Trust? (cont'd...)



Q22. Will NTR 2.0 apply to a Trust? (cont'd...)

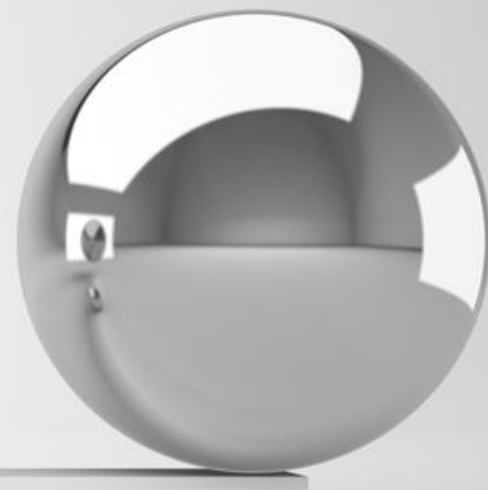
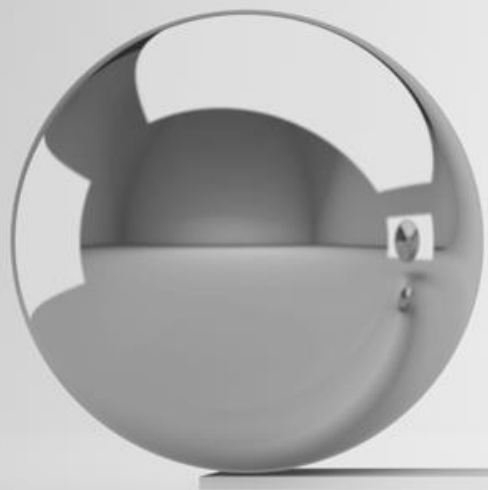
- Interplay between Sec. 115BAC and Sec. 161 & 164
- **CWT vs. Trustees of H.E.Z. Nizam's Family Trust [1977] 108 ITR 555(SC):** There would have to be as many assessments on the trustee as there are beneficiaries with determinate and known shares, though, for the sake of convenience, there may be only assessment order specifying separately the tax due in respect of the wealth of each beneficiary.
- In case of a determinate Trust (say, all beneficiaries are individuals), who has to exercise the Opt-In/Out-Out option – Trust/Trustee or the Beneficiaries?
- Will NTR 2.0 apply to a discretionary trust where all beneficiaries are corporate persons?
- Is the NTR 2.0 workable in case of a discretionary trust having combination of Individual and Corporates as beneficiaries?
- Will NTR 2.0 apply to a Charitable Trust?



Q23. An employer will have to deduct TDS u/s 192 on Salary (from FY 2023-24 onwards) under NTR 2.0 or OTR?

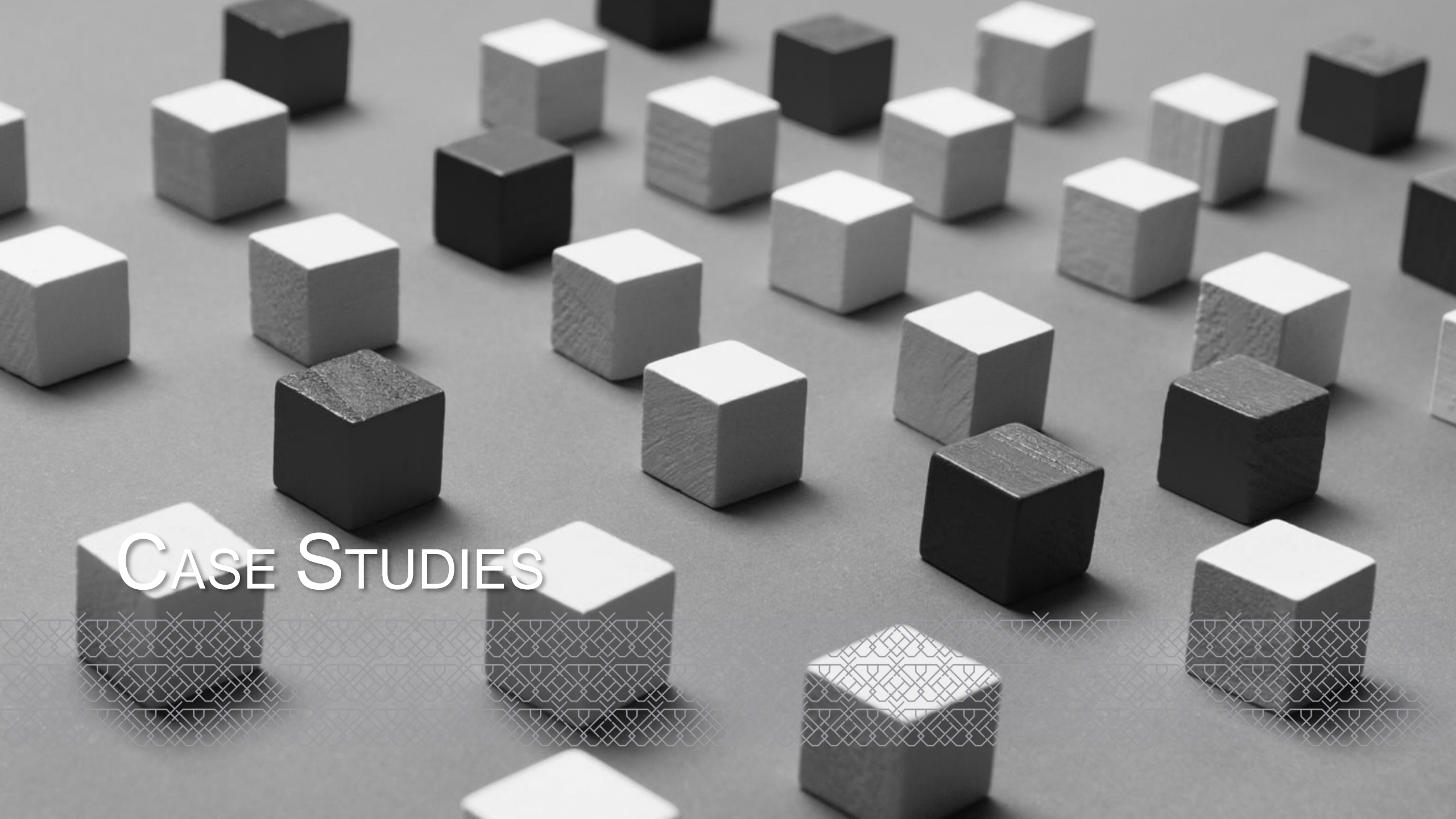
- CBDT has issued clarification in Circular No. 04 of 2023 dated April 05, 2023 on TDS u/s 192 after insertion of NTR 2.0
- Employee has to intimate his Employers regarding the intended tax regime for each year. The Employer shall compute the total income of the employee and TDS thereon accordingly.
- In the absence of such intimation, the Employer can presume that Employee is under NTR 2.0, being the default tax regime.
- Such intimation shall not amount to exercise of option under NTR 2.0. The Employee will have to separately comply with the requisite procedure.

BREAK-EVEN POINT



Break-Even Analysis for Individual (other than Senior and Super Senior citizens), HUF, AOP, BOI, and AJP

Deductions Total Income	Zero	1,00,000	2,00,000	2,37,500	2,62,500	3,12,500	3,75,000
5,00,000	Same	Same	Same	Same	Same	Same	Same
6,00,000	NTR	Same	Same	Same	Same	Same	Same
7,00,000	NTR	NTR	Same	OTR	OTR	OTR	OTR
9,00,000	NTR	NTR	NTR	Same	OTR	OTR	OTR
10,00,000	NTR	NTR	NTR	NTR	Same	OTR	OTR
12,00,000	NTR	NTR	NTR	NTR	NTR	Same	OTR
15,00,000	NTR	NTR	NTR	NTR	NTR	NTR	Same
50,00,000	NTR	NTR	NTR	NTR	NTR	NTR	Same
1,00,00,000	NTR	NTR	NTR	NTR	NTR	NTR	Same
2,00,00,000	NTR	NTR	NTR	NTR	NTR	NTR	Same
5,00,00,000	NTR	NTR	NTR	NTR	NTR	NTR	Same



CASE STUDIES



OTR V/S NTR 2.0 | SALARIED INCOME

Mr. Ram is 62 years old executive director employed with B Ltd. His income and incentives for FY 2023-24 are tabulated below:

Salaries	Amount
Gross Salary (<i>Other than Car Perq. & ER NPS Contr.</i>)	6,50,00,000
Allowable House Rent Allowance	75,00,000
Allowable Leave Travel Concession	2,00,000
Company has given a leased car of 1200cc Hire – Rs. 1,25,000 & Driver & Fuel Salary – Rs. 75,000 (used partly)	-
Allowable Conveyance allowance	2,50,000
Allowable Helper Allowance	3,60,000
Contribution to NPS by B Ltd	14,50,000
Interest NPS – Rs.2,25,000 as on March 31, 2023. Taxable Rs. 1,00,000	2,25,000
Payment of Professional Tax	2,500

Other Sources	Amount
Interest earned on Saving and Fixed Deposit	1,30,000
Receipt of Family Pension	1,25,000
Interest on PPF – Rs. 2,50,000 credited on March 31, 2023	2,50,000

Deductions	Amount
Contribution to PPF by Mr. Ram	50,000
Contribution to NPS by Mr. Ram	14,50,000
Payment of Mediclaim	50,000
Interest on loan for purchase of an electric vehicle	2,00,000
Donation eligible for 50% deduction	1,20,000



Mr. Ram wishes to know whether he should Opt-Out of NTR?

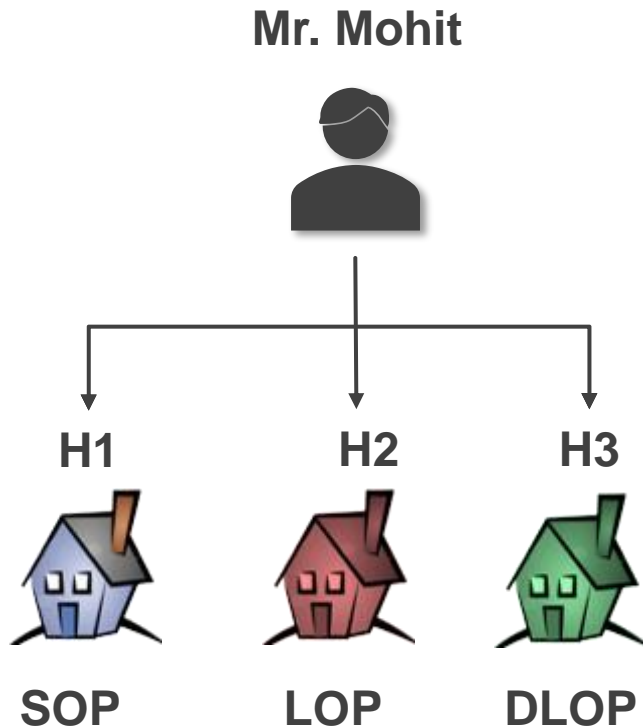
Particulars	OTR (Amount in Rs.)	NTR 2.0 (Amount in Rs.)
Gross Salary	6,50,00,000	6,50,00,000
Add: Car Perquisite (1800*12 + 900*12)	32,400	32,400
Add: Employer's Contri to NPS	14,50,000	14,50,000
Add: Perquisite u/s 17(2)(vii) – Employer's Contri to NPS in excess of 7.5 lacs	7,00,000	7,00,000
Add: Perquisite u/s 7(2)(viia) – Accreted Interest on excess contribution to NPS	1,00,000	1,00,000
Less: Allowances		
LTC under S.10(5)	-2,00,000	-
HRA under S. 10(13A)	-75,00,000	-
Conveyance in performance of duties u/s 10(14)	-2,50,000	-2,50,000
Helper Allowance u/s 10(14)	-3,60,000	-
Less: Standard deduction u/s 16(ia)	-50,000	-50,000
Less: PT under S.16(iii)	-2,500	-
Income from Salary	5,89,19,900	6,69,82,400
Interest earned on Saving and Fixed Deposit	1,30,000	1,30,000
Receipt of Family Pension	1,25,000	1,25,000
Less: Deduction u/s 57(iia)	-15,000	-15,000
Interest on PPF	2,50,000	2,50,000
Less: Exempt u/s 10(11)	-2,50,000	-2,50,000
Income from Other Sources	2,40,000	2,40,000
Gross Total Income	5,91,59,900	6,72,22,400

Particulars	OTR (Amount in Rs.)	NTR 2.0 (Amount in Rs.)
Gross Total Income	5,91,59,900	6,72,22,400
Mediclaime u/s 80D	-50,000	-
Interest on electric vehicle u/s 80EEB (Max.)	-1,50,000	-
Donation u/s 80G	-72,000	-
Interest u/s 80TTB	-50,000	-
S.80CCD(1) & S.80C - Max up to 1,50,000 (Contri to PPF - 50,000 & Employee Contri to NPS -14,50,000)	-1,50,000	-
S.80CCD(1B) – Additional deduction for Employee Contri to NPS	-50,000	-
S.80CCD(2) – Employer's Contri to NPS	-14,50,000	-14,50,000
Chapter VIA Deductions	-19,72,000	-14,50,000
Net Total Income	6,11,31,900	6,86,72,400
Basic Tax	1,81,49,570	2,03,01,720
Surcharge (OTR - 37% and NTR 2.0 - 25%)	67,15,341	50,75,430
SHEC @ 4%	9,94,596	10,15,086
Total Tax Payable	2,58,59,507	2,63,92,236



OTR is beneficial

OTR V/S. NTR | HOUSE PROPERTY



- Mr. Mohit aged 45 years has income from Salary of Rs. 1.5 crore in FY 2023-34
- He owns two house properties –
 - H1 is Self occupied by Mr. Mohit
 - H2 is Let Out on Rent of Rs. 4,50,000 p.a.
- H1 & H2 were acquired from borrowed capital. The loans are still outstanding
- During the year, Mohit has acquired H3 from borrowed capital. H3 remains unoccupied ('DLOP'). Notional NAV 1,50,000 p.a.
- House Property Loss from SOP brought forward from earlier years is Rs. 4,00,000



Basis the above Mr. Mohit is evaluating NTR and OTR

OTR V/S. NTR 2.0 | HOUSE PROPERTY (CONT'D...)

Particulars	OTR	NTR
Income from Salary	1,50,00,000	1,50,00,000
House Property		
H1	-2,00,000	Nil
H2	1,15,000	1,15,000
H3	-4,45,000	-4,45,000
Income from House Property	-5,30,000	-3,30,000
Inter – Head Set off of House Property Loss upto Rs. 2 lakh u/s S.71(3A)	-2,00,000	Nil
Gross Total Income	1,48,00,000	1,50,00,000
C/Fd of HP Loss u/s 71B	-3,30,000	
B/fd HP Loss (SOP) to be carried forward	-4,00,000	?

House Property Calculation

Particulars	H1 (SOP)	H2 (LOP)	H3 (DLOP)
Net Annual Value	Nil	4,50,000	1,50,000
Less: Deduction u/s. 24			
a. 30% of NAV	Nil	-1,35,000	-45,000
b. Interest on borrowed capital	-5,20,000	-2,00,000	-5,50,000
Allowable Interest	-2,00,000	-200,000	-5,50,000
Income from House Property	-2,00,000	1,15,000	-4.45,000

Zero
Or
1,30,000?

What amount should be deemed to be given full effect to u/s 115BAC(3)?

3,30,00
Or
2,00,000?

OTR V/S. NTR 2.0 | HOUSE PROPERTY (CONT'D...)

- ? Can post acquisition interest on capital borrowed for SOP (which is not allowed as deduction under OTR or NTR) be capitalised?
- ? Can brought forward HP property loss on SOP not allowed to be set-off under NTR be added to the cost?
- **Proviso to Sec 48(ii):** *Provided that the cost of acquisition of the asset or the cost of improvement thereto shall not include the deductions claimed on the amount of interest under clause (b) of section 24 or under the provisions of Chapter VIA.*
- **Challapalli Sugars Ltd vs. CIT [1975] 98 ITR 167 (SC):** 'Actual cost' should be construed in the sense which no commercial man would misunderstand. The accepted accountancy rule for determining the cost of fixed assets is to include all expenditure necessary to bring such assets into existence and to put them in working condition.
- **CIT vs. Mithlesh Kumari [1973] 92 ITR 9 (Delhi HC):** The principal loan amount plus the interest paid on funds borrowed was held to constitute the actual cost of the land. It will not also make any difference whether the interest was paid on the date of the purchase or whether it is paid subsequently.
- **CIT vs. Maithreyi Pai [1985] 152 ITR 247:** Interest paid on borrowings for acquisition of capital asset has been allowed to be deducted in the computation of capital gains u/s 48, subject to examination that the interest has not been already deducted under other heads like section 57

DEPRECIATION UNDER NTR

Mr. Shyam is a sole proprietor engaged in the business of manufacturing boxes. Following are few particulars provided by him

Particulars	AY 2023-24 (Amount in Rs.)	AY 2024-25 (Amount in Rs.)
Net Profit before depreciation	50,00,000	65,00,000
Opening WDV of Plant and Machinery Block	7,50,000	
Unabsorbed Depreciation		
- Normal Depreciation	1,25,000	
- Additional Depreciation of AY 2019-20	3,75,000	

- For AY 2023-24, Mr. Shyam is deciding to opt for NTR 1.0
 - Further, he proposes to purchase and put to use a new plant and machinery on July 1, 2023 for Rs. 8,50,000
- ?** Mr. Shyam wishes to understand the impact of NTR 1.0 and NTR 2.0 on depreciation

DEPRECIATION UNDER NTR (CONT'D...)

Particulars	AY 2023-24 (NTR 1.0)	AY 2024-25 (NTR 2.0)
Net profit before depreciation	50,00,000	65,00,000
Less: Normal depreciation	-1,68,750	-2,70,938
Less- Additional Depreciation u/s 32(1)(iia) (Refer adjacent table)	-	-
Net profit	48,31,250	62,29,062
Less: Set off of UAD (Normal Depreciation)	-1,25,000	-
Net Taxable Income (Rounded off)	47,06,250	62,29,060

Depreciation Calculation

Particulars	AY 2023-24 (NTR 1.0)	AY 2024-25 (NTR 2.0)
Opening WDV	7,50,000	9,56,250
Add: Purchase of new plant & machinery	-	8,50,000
Add: Additional Depreciation of AY 2019-20 to be added to block u/s 115BAC(3)	3,75,000	-
WDV available for depreciation	11,25,000	18,06,250
Less- Normal depreciation (15%)*	-1,68,750	-2,70,938
Less- Additional Depreciation u/s 32(1)(iia)	-	-
Closing WDV	9,56,250	15,35,312

* Maximum depreciation capped at 40% of WDV as per Notification no. 82/2020 dated October 1, 2020 in case of NTR 1.0. Similar notification is expected for NTR 2.0

OTR V/S NTR 2.0 | ADJUSTMENT OF LOSSES



Mr. Anand wants to determine whether he should Opt-Out of NTR in AY 2024-25.

The relevant details for computation of income and income-tax are as under

Income	Amount (in Rs)
Income from House Property (computed)	16,00,000
Profit and Gains from Business or Profession	10,00,000
Long Term Capital Gains on Sale of Flats	23,00,000

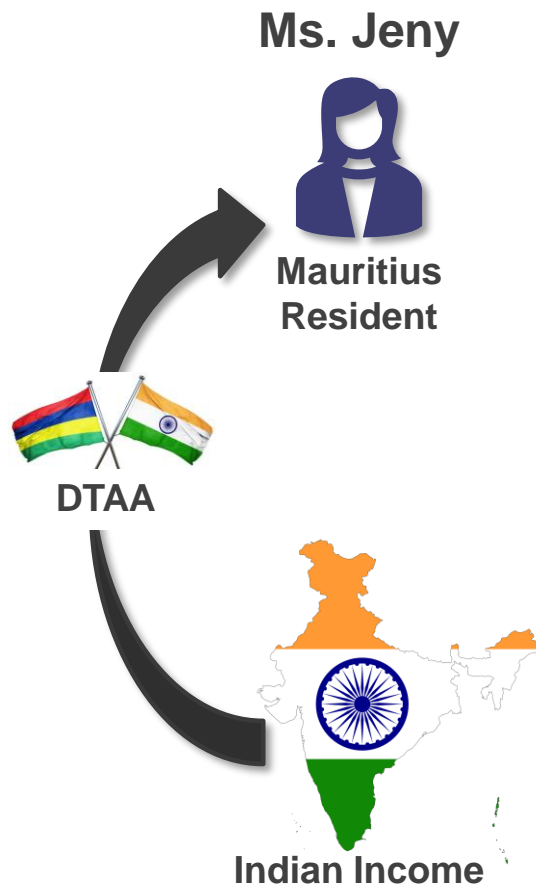
B/fd Losses and Unabsorbed Depreciation	Amount
House Property Loss (SOP)	1,85,000
House Property Loss (LOP)	75,000
Business Loss (not attributable to Sec. 115BAC(2)(i))	1,25,000
Business Loss (attributable to Sec. 35(1)(ii))	2,00,000
Unabsorbed Depreciation (UAD) – Additional Depreciation u/s 32(1)(iia)	50,000
UAD – Normal Depreciation	80,000
Long Term Capital Loss	4,00,000

Particulars	OTR (Amount in Rs.)	NTR 2.0 (Amount in Rs.)
Income from House Property	16,00,000	16,00,000
Profits or Gains from Business or Profession	10,00,000	10,00,000
Long Term Capital Gains	23,00,000	23,00,000
Gross total income	49,00,000	49,00,000
Less – Set off of the losses		
▪ House Property Loss (SOP) <i>(Allowed against house property income)</i>	-1,85,000	-
▪ House Property Loss (LOP) <i>(Allowed against house property income)</i>	-75,000	-75,000
▪ Business Loss (not attributable to Sec. 115BAC(2)(i)) <i>(Allowed against business income)</i>	-1,25,000	-,1,25,000
▪ Business Loss (attributable to Sec. 35(1)(ii)) <i>(Allowed against business income)</i>	-2,00,000	-
▪ UAD – Normal Depreciation <i>(Claimed against business income)</i>	-80,000	-80,000
▪ UAD – Additional Depreciation <i>(Claimed against business income)</i>	-50,000	-
▪ Long Term Capital Loss <i>(Allowed against Long Term Capital Gain)</i>	-4,00,000	-4,00,000
Total losses eligible for set off	-11,15,000	-6,80,000
Net taxable income	37,85,000	42,20,000
Total Tax Liability (LTCG – 20%) (Income other than LTCG- slab rates)	788,320	807,040

Losses
lapse

Add to
block

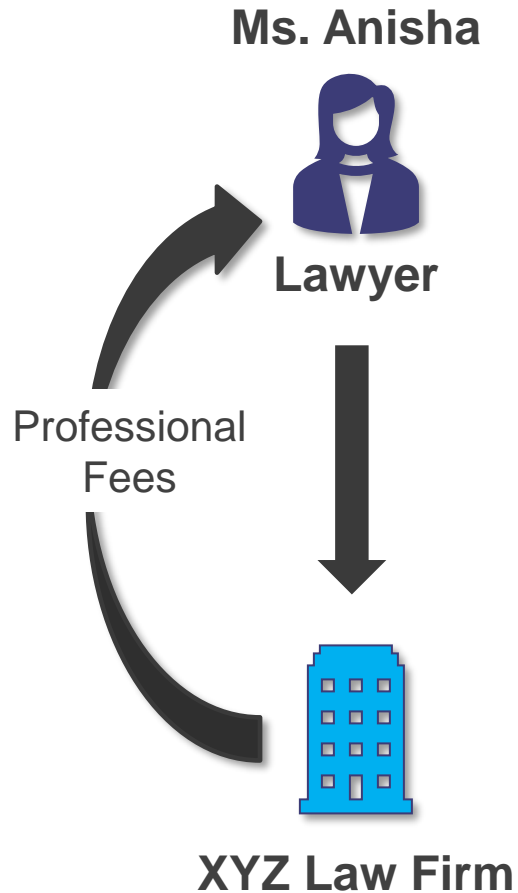
OTR V/S NTR 2.0 | NON - RESIDENT



Ms. Jeny, a resident of Mauritius and non-resident in India, has the following income which accrue or arises in India during FY 2023-24:

Particulars	Amount	Under IT Act	Under India –Mauritius DTAA
Dividend Income			
From India Co.	6,70,000	S.115A – at the rate of 20%	Article 10 – 15%
LTCG on sale of listed equity share			
- Acquired before 01.04.2017	13,50,000	S. 112A – LTCG exceeding Rs.1,00,000 taxed at the rate of 10%	Article 13 – Nil
- Acquired 01.04.2019	10,55,000		Article 13 - As per IT Act (S. 112A)
ECB Loan interest income from I Co.			
- In foreign currency	9,00,000	S.115A – at the rate of 20%	Article 11 – 7.5%
- In India currency	7,50,000	Slab Rates	Article 11 – 7.5%

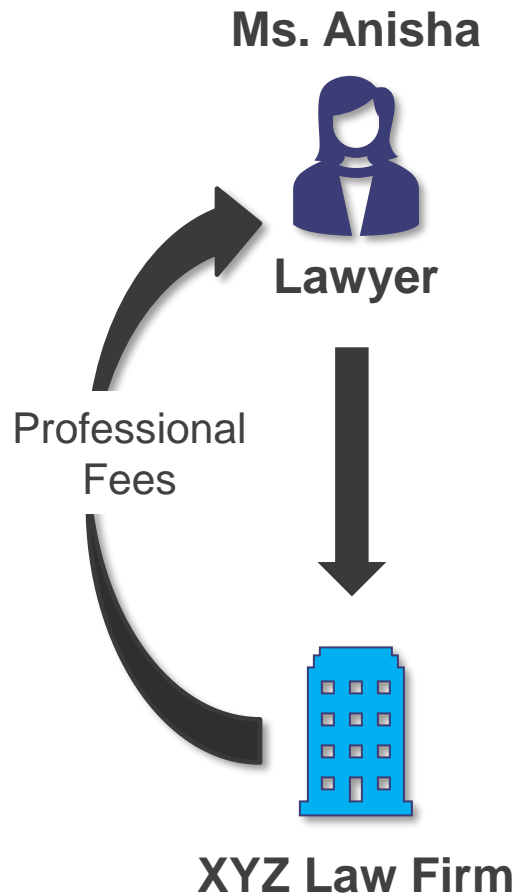
SWITCH-OUT & SWITCH-IN OPTION | INCOME FROM PROFESSION



- Ms. Anisha is a lawyer. She is associated with a Law Firm XYZ.
 - She earns professional fees from XYZ
 - Anisha also earns income from other sources and has Chapter VI-A deductions
 - Anisha is considering to opt-out of NTR 2.0 from AY 2024-25 (Year 1) itself.
 - Say, for AY 2026-27 (Year 3), Anisha elects to opt-in NTR 2.0.
- ?** Can Anisha again opt-out from NTR 2.0 in future years assuming that she continues to earn professional income from XYZ?

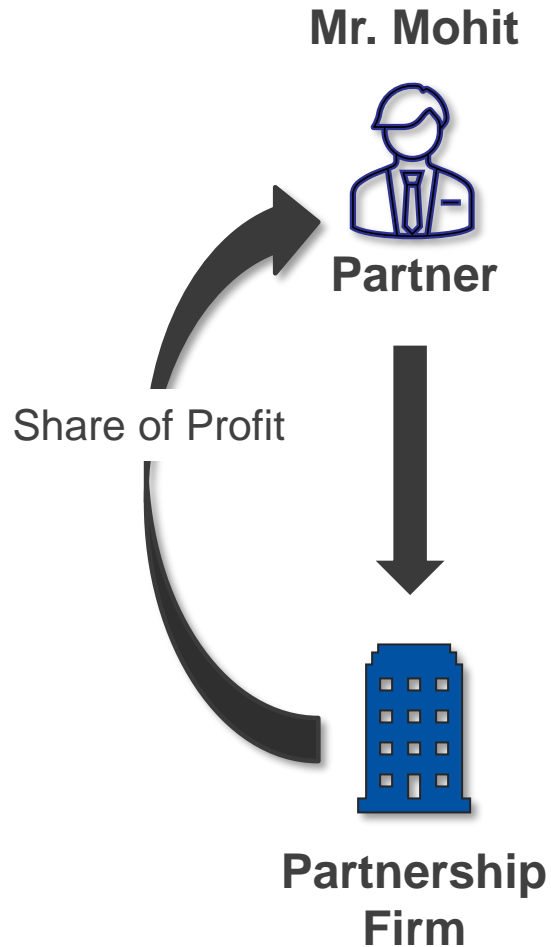
SWITCH-OUT & SWITCH-IN OPTION | INCOME FROM PROFESSION

(CONT'D...)



- Pursuant to a restructuring, XYZ shifts to Salary Model w.e.f. April 1, 2026. Thus, Anisha receives salary income in AY 2027-28 (Year 4) and has no income from business or profession.
 - ? For Year 4 does Anisha have an option to select between OTR and NTR 2.0.?
- Anisha joins another Law Firm in the next year, where she again earns professional income.
 - ? In AY 2028-29 (Year 5), can Anisha apply OTR?

SWITCH-OUT & SWITCH-IN OPTION | EXEMPT INCOME



- Mr. Mohit is a Partner in a Firm. He earns share of profit from the Firm which is exempt u/s 10(2A).
 - He does not earn any additional remuneration from the Firm and has no other income from business or profession.
 - Further, he earns Income from other sources.
 - In AY 2024-25, Mr. Mohit elected for OTR.
- ?** Whether in subsequent years, Mr. Mohit will have an option to elect between OTR and NTR 2.0 or OTR will be applied as default until NTR 2.0 is opted-in.

S. 115BAC(6) – PERSON **HAVING** INCOME FROM BUSINESS/ PROFESSION

- Ms. Sneha **has an income from business and profession** for FY 2023-24. She is under default tax regime i.e., NTR 2.0 Due date to file ROI u/s 139(1) is July 31, 2024. Exercising of Option u/s 115BAC(6)
 - **Scenario 1:** Opted out of NTR 2.0 on July 1, 2024 and return filed u/s 139(1) on July 1, 2024.
 - **Scenario 2:** Opted out of NTR 2.0 July 1, 2024 and belated return filed u/s 139(4) on August 14, 2024.
 - **Scenario 3:** Filed ROI u/s 139(1) on July 1, 2024. Opted out on July 15, 2024 and then filed revised return u/s 139(5) on August 3, 2024.
 - **Scenario 4:** Filed ROI u/s 139(1) on July 1, 2024. Opted out on August 3, 2023 and filed revised return u/s 139(5) on August 3, 2024.
 - **Scenario 5:** Opted out at the time of filing return in response to S. 148 notice.

S. 115BAC(6) – PERSON NOT HAVING INCOME FROM BUSINESS/PROFESSION

- Mr. Mehul does **not have income from business/profession** for FY 2023-24. He is under default tax regime i.e., NTR 2.0 Due date to file ROI is July 31, 2024. Exercising of Option u/s 115BAC(6)
 - **Scenario 1:** Opted out of NTR 2.0 on July 1, 2024 and return filed u/s 139(1) on July 1, 2024.
 - **Scenario 2:** Opted out on August 14, 2024 and belated return filed u/s 139(4) on August 14, 2024.
 - **Scenario 3:** Opted out on July 15, 2024 and then filed belated return u/s 139(4) on August 3, 2024.
 - **Scenario 4:** Filed ROI u/s 139(1) on July 1, 2024. Opted out on July 15, 2024 and then filed revised return u/s 139(5) on August 3, 2024.
 - **Scenario 5:** Opted out at the time of filing return in response to S. 148 notice.

ANY
QUESTIONS





THANK YOU!

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