

Tax incentives for individuals & HUF under DTC



⚡ This write-up presents an overview of the provisions concerning tax incentives for individuals and HUF under the Direct Taxes Code. ⚡

Introduction

1. The Direct Taxes Code is set to replace the great old Income-tax Act, 1961. While the Code has already been tabled in the Parliament, one of the most talked upon issues is the tax incentives allowable under the new Code. The Code has allowed for deductions for certain payments as well as certain incomes under **Sub-Chapter IV 'Tax Incentives' of Chapter III 'Computation of Total Income'**. These deductions are covered under Chapter VI-A in the present Income-tax Act, 1961.

Source of allowability

2. A person's income is classified in the Code as '*Income from Ordinary sources*' and '*Income from special sources*'. Continuing with the practice as present, the Code will allow the deductions only from the *Income from Ordinary Sources*. Further, the aggregate amount of the deductions under this sub-chapter shall not exceed the *gross total income from ordinary sources* for the financial year.

Prohibition of deduction under other provisions

3. The Code further provides under clause 68 that any sum, which **qualifies** for a deduction under this sub-chapter in any financial year, shall not qualify for deduction under any other provision of this Code for the same or any other financial year, or in the case of any other person. This prohibition applies irrespective of the fact whether full deduction of the sum referred to therein has been allowed or not.

Deduction for contribution in approved fund

4. Clause 69 proposes to allow the deduction to **an individual** towards the amount paid or deposited as contribution towards any approved fund [which includes an approved provident fund, super-annuation fund, gratuity fund and pension fund, *taking guidance from sub-clause (18) of clause (314) of the Code*] in the name of **self, spouse or any child** of such individual. Further, any contribution towards Public Provident Fund (PPF) in the name of the above specified persons will also be eligible for deduction under the said clause as it has been deemed to be approved under Schedule XIX to the Code. The aggregate deduction in this clause would be restricted to ₹ 1,00,000.

This clause tends to replace section 80C of the present Act, except that for payment of life insurance premium and tuition fees of children, separate deduction has been provided for. All the other eligible deductions in the present Act like Equity-Linked Savings Schemes, 5-Year FDs with Banks, NSCs, repayment of housing loan have been proposed to be withdrawn.

5. Encouraging Life Insurance & Health Insurance

- (i) **Deduction for Life Insurance Premium** - Clause 70 of the Code provides for deduction to **an individual or HUF** for an amount paid or deposited towards effecting life insurance of the specified persons. Further, the deduction would be allowable only if the premium payable for any of the years during the policy term does not exceed **5% of the capital sum assured**, against 20% of the sum assured in the present Act.

The specified persons for the purposes of this clause shall be **the individual, spouse, or any child** of such individual; or in the case of HUF, **any member** of such HUF.

- (ii) **Deduction for Health Insurance Premium** - Continuing with the deduction prescribed under section 80D of the Income-tax Act, clause 71 shall allow a deduction to **an individual or HUF** in respect of amount paid during the financial year **towards health**

insurance of the specified persons, and in addition, an amount paid by an individual towards Central Government Health Scheme. The specified persons for the purposes of this clause shall be the **individual, spouse, or any dependent child or parents** of such individual; or in the case of HUF, **any member** of such HUF.

Clause 73 of the Code restricts the deduction allowable in respect of life insurance premia, health insurance Premia along with tuition fee of Children to ₹ 50,000.

Deduction on Interest on Loan Taken for House Property

6. Deduction shall be allowed to **an individual or HUF** under clause 74 of the Code in respect of any amount **paid or payable as interest** on loan taken for the purposes of acquisition, construction, repair or renovation of house property **not let out in the financial year**. For the house property let out during the year, the deduction for interest is allowed while calculating the income from house property itself as under the present Act. The aggregate deduction under this clause shall not exceed ₹ 1,50,000.

If the loan has been taken for acquisition or construction of a house property, such acquisition or construction should be completed **within 3 years from the end of the financial year** in which loan is taken. The house property is required to be **self-owned** by the person claiming the deduction.

The deduction in respect of interest pertaining to the financial years prior to the financial year, in which acquisition or completion of construction of the house property is completed, shall be allowable in five equal instalments beginning from such financial year.

7. Incentives for Education

- (i) **Deduction for Education of Children** - An individual shall be eligible for deduction under clause 72 of the Code in respect of the amount paid as **tuition fee** to any educational institution **situated in India** for the

purpose of **full-time education of any two children** of such individual. It is corresponding to the deduction allowed for tuition fees under section 80C of the Income-tax Act.

- (ii) **Deduction of Interest on Education Loan** - As per clause 75 of the Code, an individual shall be allowed a deduction equal to an amount paid towards interest on loan taken by him from any financial institution for the purposes of the higher education of the self, spouse or any child of such individual or a student for which such individual is the legal guardian. The deduction shall be allowed from the financial year in which such individual starts paying the interest on the loan and will be allowed for the subsequent seven financial years unless the loan has been adjusted in full earlier. This clause is corresponding to section 80E of the present Act.

For the purposes of this clause, higher education means any course of study pursued after passing the senior secondary examination or equivalent from an approved board or university.

Deductions in respect of prescribed diseases or disability

8. The Code has proposed to continue to provide tax deductions towards medical treatment for prescribed disease or disability as per the present provisions of sections 80DDB, 80U and 80DD of the Income-tax Act, respectively.

- (i) **Deduction for Medical Treatment of Prescribed Diseases** - A **resident individual or HUF** shall be allowed a deduction towards amount paid for medical treatment of the prescribed diseases/ailments of specified persons subject to maximum of ₹ 60,000 in case such specified person is a senior citizen or ₹ 40,000 in any other case under clause 76. Specified person for the purposes of this clause means **the individual, spouse, dependent child or dependent parent** of such individual, or in case of HUF, **any member** of such HUF.

Further, the deduction allowable under this clause shall be **reduced by the amount of reimbursement received** from an insurer or employer towards such treatment.

- (ii) **Deduction to Person with Disability** - Under clause 77, a **resident individual** will be allowed a deduction of ₹ 50,000 if he is a person with disability and this deduction is scaled up to ₹ 1,00,000 if such individual is suffering from severe disability.

- (iii) **Deduction for Medical Treatment & Maintenance of Disabled** - A **resident individual or HUF** will be allowed a deduction under clause 78 in respect of any expenditure incurred during the financial year for the medical treatment and/or maintenance of a dependent person with disability. Further, if any amount has been paid under an approved insurance scheme for purchase of an annuity for the maintenance of dependent person with disability in the event of death of such individual, such an amount shall also be eligible for deduction.

Deduction under this clause shall be limited to ₹ 50,000 if such dependent is a person with disability and ₹ 1,00,000 if such dependent is suffering from severe disability. For the purposes of this clause, dependent means **spouse, any child or parents** of such individual or **member** of such HUF if he is **mainly dependent** on such individual or HUF, **and** his income in financial year is less than ₹ 24,000.

Deduction in respect of donations

9. Under clause 79, a person will be allowed deduction equal to :

- ◆ 175% of the amount paid to any approved research association, national laboratory or university, college or other institution if it is engaged in carrying on **scientific research or development**.
- ◆ 125% of the amount paid to any approved research association or a university, college

or other institution if it is engaged in carrying on **statistical research or research in social science**.

- ◆ **100%** of the amount paid as donation to any person specified in **Part III of Schedule XVI** of the Code. The list corresponds to the entities presently specified for 100% deduction in section 80G of the Act.
- ◆ **50%** of the amount paid as donation to any person specified in **Part IV of Schedule XVI** of the Code. It contains the same entities as are presently specified for 50% deduction in section 80G of the Act.

Further, the amount of donation as eligible for 50% deduction specified above shall be limited to **10% of the gross total income from ordinary sources**. The deduction under this clause shall **not be allowed** in respect of any sum paid to specified persons if such amount is **expended** during the financial year **for any religious activity or for the benefit of any particular caste**, not being Scheduled Caste or Scheduled Tribe.

Clause 81 of the Code also prescribes for deduction in respect of any contribution made to a political party or an electoral trust. This clause is corresponding to sections 80GGB and 80GGC. However, such deduction shall be **limited to 5%** of (i) in case of a company, **the average of net profits** as calculated under sections 349 and 350 of the Companies Act for the immediately preceding three financial years, and (ii) the **gross total income from ordinary sources** in any other case.

Deduction in Respect of Rent Paid

10. An individual, not in receipt of house rent allowance, shall be allowed a deduction under clause 80, corresponding to section 80GG, in respect of the rent paid for his own residence in excess of **10% of his gross total income from ordinary sources**, limited to **₹ 2,000 per month**. Further, the deduction shall not be allowed if any residential accommodation is owned by such individual, his spouse or minor child in the place where he ordinarily resides or performs his employment duties or carries on his business.

Deduction in Respect of Royalties

11. Under clause 83, a resident individual, being an author of any book comprising of literary, artistic or scientific work shall be allowed deduction for an amount of lump sum consideration towards grant of copyright in respect of such work and royalty, whether received in lump sum or otherwise, subject to a maximum of **₹ 3,00,000**. This deduction is similar to section 80QQB in the present Act.

A **resident individual**, being a patentee shall be allowed a deduction under clause 84 of the Code for an amount received as royalty in respect of a patent registered on or after 1-4-2003, subject to a maximum of **₹ 3,00,000**. This deduction is corresponding to section 80RRB of the present Act.

Hence, the scope of deductions has been drastically reduced with a major setback in terms of withdrawing incentives from investments in the savings instruments in the proposed Direct Tax Code, presently allowable under section 80C of the Income-tax Act with a marginal **sugar-coated** increase in the total deductions allowable.

