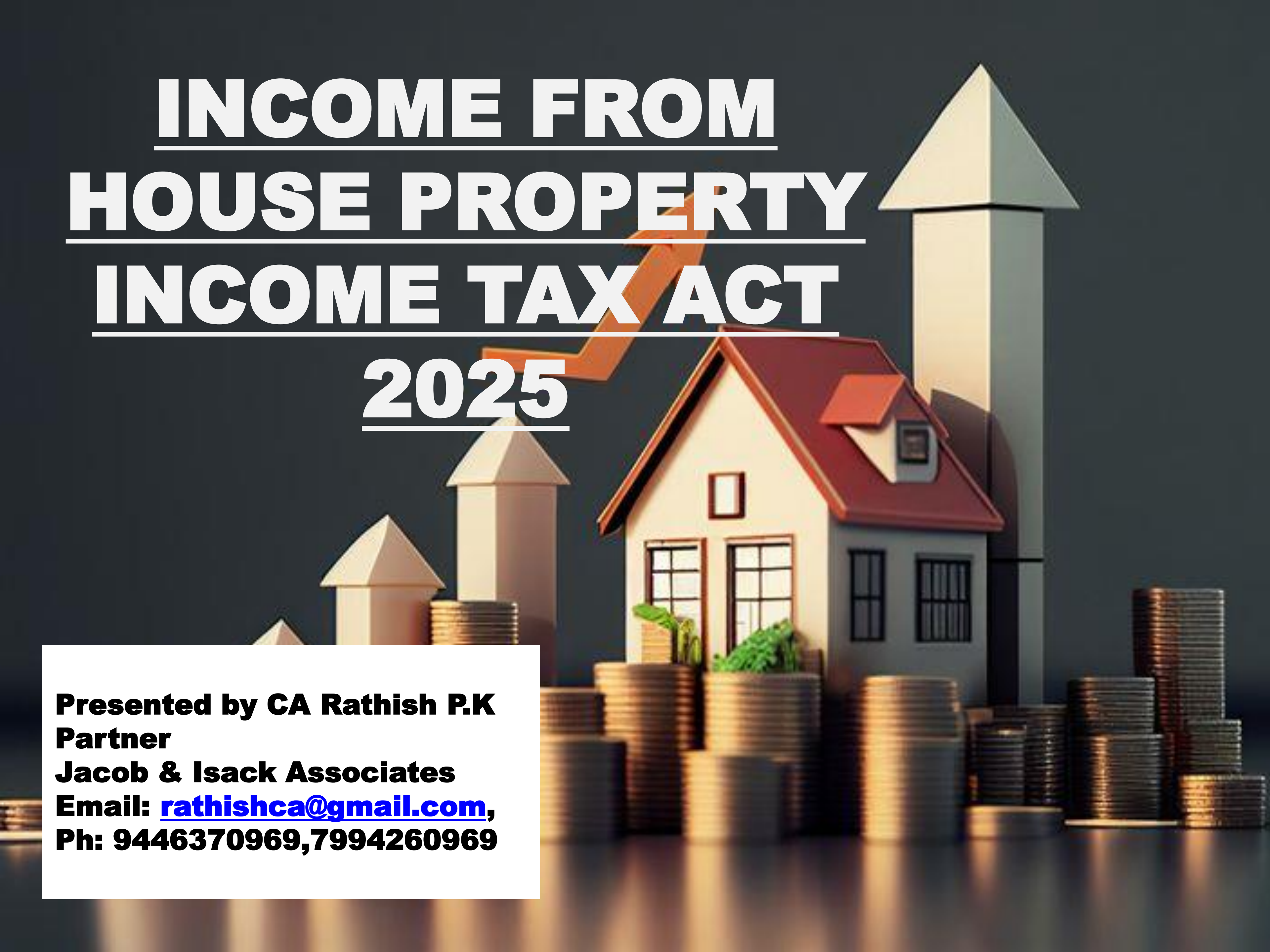

INCOME FROM HOUSE PROPERTY INCOME TAX ACT 2025

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Income From House Property (Section 20)(Old sec 22)

I. Annual Value

- On the basis of annual value of land or building owned by the assessee
- Does not applies to portion of property occupy for business or profession
- Vacant land rental income from other sources
- Club annual value mutuality principle not taxable income from house property

(Chelmsford Club V. CIT(2000) Tax 215(sc)

II. **Computation of house property**

Gross Annual Value (GAV)	XXX
Less: Municipal Taxes Paid	(XX)

Net Annual Value (NAV)	**XXX**
Less: Deductions under Section 22	
Standard Deduction	(XX)
Interest on Borrowed Capital	(XX)
Interest for Pre-construction Period	(XX)

Income from House Property	**XX**

III. Higher of

1) Reasonable expected rent

2) Rent actually received/receivable

Less

loss of vacancy

<u>Reasonable rent</u>

- Municipal valuation
- Fair rent of the property (similar property rent)
- Similar property
- Neighborhood valuation

(a) Municipal valuation

-Certain cities-net rateable value

(Gross rate valuable- 10%)

(**b)Standard rent**

Sheila Kaushik V. CIT

&

Amolak Ram Koshla V. CIT

Land lord cannot expect more than standard rent .

IV. Unrealised rent excluded

Condition

1. The tenancy is bona fide
2. The defaulting tenant has vacated or has taken steps to vacate
3. The defaulting tenant is not in occupation of any other property of the assessee

V. <u>Municipal taxes</u>

<u>Condition</u>

a) Actually paid by owner

b) Taxes are borne by the owner of property is in a foreign country where municipal taxes levied by foreign local authority is deductible

VI. <u>Deduction U/S Section 22(old sec 24)</u>

a) Standard deduction

b) Interest on borrowed capital

c) Interest pertaining to prior construction period

No other expenses allowable

Indian city Properties V. CIT

(cal.) ITR 262

a) Std deduction-30% of NAV

b) interest on borrowed capital

i. Accrual basis

ii. Allowable if not charged on property

iii. Interest on fresh loan to repay

iv. Not allowable if TDS not deducted outside India

(c) Interest on pre- construction period

i. Interest payable prior to construction
ii. 5 equal installments from house constructed year
iii. Construction should be completed within 5 years from capital borrowed financial year
iv. Certificate from loaner required

(d) Rs 30000 allowable

If above conditions are not satisfied for repairs etc

VII. Provisions

Self occupied property	Tax provisions
If such property is occupied by the owner for the purpose of carrying on business or profession	Not taxable under income from house property. Income and expenditure will be considered under business or profession u/s 26
If such property is used for the residence of the owner and his family members:- (2.1) If one property or two property is used for such purpose	

(2.1.1) If such property is used for own residential purpose (or lying vacant) but not let out put to any other use	Nothing is taxable only interest on borrowed capital up to Rs 30000/200000 is deductible
(2.1.2) If a part of property is (being independent residential units) is self occupied and other part is let out	Income from independent unit self occupied is not taxable. Interest on borrowed capital Rs 30000/200000 is deductible and income from let out property (normal calculation)

(2.1.3) when such property is self occupied for a part of a year and let out for other part of the year	-No concession is available. The house will be taken as let out property
(2.2) If more than two properties are used for own residential purpose	Only two houses according to the choice of owner are treated as self occupied property

VII. Other points

a) The aforesaid rules are applicable only in case of natural person. It is not applicable to company, BOP or partnership firms.

b) When owner occupies a house in some other capacity – D.R. Sunderray V. CIT (AP) tax man 458

c) When assessee let out his property to his employer – company which in turn allots the same to him as rent free quarter, the assessee is not entitled to benefits as he occupies the house not as owner but only as subtenant of employer company.

IX. <u>Selection of two house property</u>

Selection done on the basis of two properties beneficial to assessee.

X. <u>Unrealised Rent (Section 23) (Old Section 25A)</u>

The amount of rent received in arrears or the amount of unrealized rent subsequently by the assessee shall be charged to the income tax in the tax year in which such rent is received or realized. The point to be considered :

a) The arrear of rent will be taxable in the year of receipt regardless of the fact whether in the year of receipt, the house property is owned by him or not.

b) The recipient can claim 30% of the arrear of rent (or unrealized rent receive subsequently) a deduction.

XI. Tax planning points

1) If the person occupies more than two houses for own residence only two houses of his own choice is treated as self occupied and all other houses are deemed let out. The tax exemption applies two self occupied houses and not in case of deemed let out property.
2) Interest payable outside India is not deductible if TDS is not deducted and no person is treated as agent under section 306 (old section 163).
3) Municipal Tax should Be actually Paid.

4)Member of a co-operative society to whom building or part is allocated or leased as under house building scheme is deemed owner of the property it should be ensured that interest payable (even if not paid) on outstanding installment of cost of building is claimed as deduction.

5) If an individual makes cash gift to his wife and with that cash gift wife purchases a house property then that individual will not be a deemed owner of the property . Under section 25 (a) (old section 27 i) [K.D Thakal under CIT 1979 (Guj) 9tn 190].Taxable income of wife from property is however includible in the income of individual in terms of section 99 (1) (a) (ii)[old section 64 (1) (iv)] such income is to be computed under section 21 (6) (old section 23 (2)] if she uses the property for her own residential purpose.

6) If a person transfers house property to his son's wife without adequate consideration he will not be deemed to be the owner of the property under section 25 (a) but income earned from the property by the transferee will be included in the income of transferor under section 99 (1) (b) [old section 64 (1) (vi) [CIT under H.L Gulati ll-tax manual 167 (all). For the purpose of computation of income under income from house property, the transferee will be treated as the owner of the house property and income computed in her hands is included in the income of the transferor under section 99 (1) b. Annual value of such income will be nil if the transferee uses that property for self occupation. Therefore in some cases it is beneficial to transfer the house property without adequate consideration to son's wife.

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