ASSESSMENT OF AOP OR BOI (Sec. 86)

The assessment of the members of AOP or BOI depends on whether the AOP or BOI is chargeable to tax at the maximum marginal rate or at slab rate or is not chargeable to tax at all.

Tax-treatment in the three cases is discussed below:

(i) Where AOP or BOI is chargeable to tax at a maximum marginal rate or any higher rate, the share of profit of a member is exempt from tax. Thus, it is not to be included in the total income of the member [Sec. 86(a)]

(ii) Where AOP or BOI is not taxed at the maximum marginal rate but it is taxed at slab rates, the share of profit of a member from AOP or BOI is to be included in the total income of the member only for rate purposes. The member is entitled to a rebate of tax on the entire share of profit at the average rate of tax applicable to total income. [Sec. 86(b)].

(iii) Where AOP or BOI is not chargeable to tax at all, the share of profit of a member from AOP or BOI is included in his total income and he will pay tax on it. He is not entitled to any rebate of tax on such profits [Proviso to Sec. 86(b)].

1. A & B are members of AOP, sharing profit and losses in the ratio of 5 : 3 and they are allowed the following payments:

		A	B
		Rs	Rs
(i)	Salary	40,000	60,000
(ii)	Interest on capital or loan	20,000	10,000

You are required to compute taxable business profits of AOP and share of each member for the assessment year 2008-2009 in the following cases:

(a) AOP has earned profit of Rs 3,00,000 after making the above payments;

(b) AOP has earned profit of Rs 3,00,000 before making the above payments;

(c) AOP has suffered loss of Rs 3,00,000 after making the above payments; and

(d) AOP has suffered loss of Rs 3,00,000 before making the above payments.

Solution: Computation of income of AOP for the AY 2008-2009

Particulars	Case (a) Rs	Case(b) Rs	Case (c) Rs	Case (d) Rs
Profit/ loss	(+) 3,00,000	*(+)* 3,00,000	*(-)* 3,00,000	(-) 3,00,000
Add: Inadmissible payments [Sec. 40 (ba)]:				
(i) Salary to members (40,000 + 60,000)	(+) 1,00,000	-	(+) 1,00,000	-
(ii) Interest on capital/ loan to members: (20,000 + 10,000)	(+) 30,000	-	(+) 30,000	-
Profit/ loss as per income-tax law	(+) 4,30,000	(+) 3,00,000	(-) 1,70,000	(-) 3,00,000

Computation of member's share in the income/loss of the AOP

Particulars	Case (a)		Case (b)		Case (c)		Case (d)	
	A Rs	*B Rs*	*A Rs*	*B Rs*	*A Rs*	*B Rs*	*A Rs*	*B Rs*
Salary	40,000	60,000	40,000	60,000	40,000	60,000	40,000	60,000
Interest	20,000	10,000	20,000	10,000	20,000	10,000	20,000	10,000
Divisible profit:								
(a) 4,30,000-1,30,000	1,87,500	1,12,500	X	X	X	X	X	X
(b) 3,00,000 – 1,30,000	X	X	10,6250	63750	X	X	X	X
(c) (-) 1,40,000 + (-) 1,30,000 = (-) 2,70,000	X	X	X	X	(1,68,750)	(101250)	X	X
(d)(-) 3,00,000 + (-) 1,30,000 = (-) 4,30,000	X	X	X	X	X	X	(2,68,750)	(161250)
Share of profit/loss	2,47,500	1,82,500	1,66,250	1,33,750	(108750)	(31250)	(208750)	(91250)

(i) *Where assessed business income is a profit:* Beneficial payments (i.e. salary, bonus, commission and interest) made to partners should be deducted from assessed profit to arrive at divisible profit, which is to be apportioned among members.

(ii) *Where assessed business income is a loss:* Beneficial payments made to partners should be added to assessed loss to arrive at the divisible loss which is to be apportioned among members.

2. Anand and Aniket are equal members in AA & Associates. The profit and loss account of the AOP for the year ended 31 March 2008 is as follows:

Particulars	Rs	Particulars	Rs
Selling and administrative Expenses	8,00,000	Gross Profit	20,00,000
Interest to Anand @ 15%	60,000	Income from house property	3,60,000
Remuneration:			
Anand	1,50,000		
Aniket	1,50,000		
Net profit:			
Anand	6,00,000		
Aniket	6,00,000		
	23,60,000		**23,60,000**

Other information:

1. Selling and administrative expenses include Rs 60,000 paid to a consultant in cash.
2. The other income/investment details of the members are given as below:

Members	Income	Source of income	Investments
Anand	90,000	Interest on fixed deposit from bank	Purchase of NSC VIII Rs 30,000
Aniket	1,00,000	Interest on govt. securities	Contribution to PPF Rs 50,000

Compute the tax liability of the AOP and it members.

Computation of total income of AOP: AY 2008-2009

Particulars	Rs
Net profit	12,00,000
Add: Inadmissible payments.	
1. Fees paid to consultants in cash Sec. 40A (3)	60,000
2. Interest paid to members [Sec. 40(ba)]:	60,000
3. Remuneration paid to members Sec. 40(ba)	3,00,000
	16,20,000
Less: Income from house property	3,60,000
Business profits	**12,60,000**
Add: Income from house property	3,60,000
Total income	**16,20,000**
Tax liability of AOP on total income	
Tax on slabs rates	4,35,000
Add: Surcharge on income tax @ 10%	43,500
	4,78,500
Education cess 2%	9,570
SHEC @ 1%	4,785
Tax payable	**492855**
Tax payable rounded off to the nearest multiple of Rs 10 (Sec. 288B)	**4,92,860**

Allocation of income amongst the members:

Particulars	Anand Rs	Aniket Rs	Total Rs
Interest	60,000		60,000
Remuneration	1,50,000	1,50,000	3,00,000
Share of divisible profit (12,60,000-60,000-30,00,000)	450,000	4,50,000	9,00,000
Share of profit	6,60,000	6,00,000	12,60,000
Share of income from house	1,80,000	1,80,000	3,60,000
	8,40,000	7,80,000	16,20,000

Computation of total income of members:

Particulars	*Anand Rs*	*Aniket Rs*
Share income from AOP	8,40,000	7,80,000
Income from other sources:		
Interest on bank deposits	90,000	-
Interest on government securities	-	1,00,000
Gross total income	9,30,000	8,80,000
Less: Deduction under Sec. 80C	30,000	50,000
Total income	9,00,000	8,30,000
Tax liability of members:		
Tax on slab rates	2,19,000	1,98,000
Add: Surcharge on income tax	Nil	Nil

Add: Education cess @ 2% on income tax + surcharge on income tax	4,380	3,960
Add : SHEC @ 1%	2,190	1,980
Less: Rebate on share of profit at the average: (See Note below)	2,25,770	2,03,940
Tax payable	2,10,719	1,91,654
Tax payable rounded off to the nearest multiple of Rs 10 (See. 288B)	15,051	12,286
Note: Anand $\frac{2,25,770}{9,00,000}$ x 840,000 = 2,10,719	15,050	12,290
Aniket : $\frac{2,03,940}{8,30,000}$ x 78,00,000 = 1,91,654	2,10,719	1,91,654

3. A, B and C Ltd. are three members of an AOP, sharing profit and losses in the ratio 2:2:1. The AOP discloses its income for the AY 2008-2009 as below:

	Particulars	Rs
(i)	Long-term capital gains	4,00,000
(ii)	Business profits	6,00,000

Determine tax liability of AOP in the following cases:

(i) C Ltd. is an Indian company

(ii) C Ltd. is a foreign company

Solution: Allocation of income of AOP among partners

Particulars of income	A Rs	B Rs	CLtd. Rs
Long-term capital gains	1,60,000	1,60,000	80,000
Business profits	2,40,000	2,40,000	1,20,000
Share income of the members	4,00,000	4,00,000	2,00,000

Tax liability of AOP

Particulars	Case – I C Ltd. an Indian company Rs.	Case – II C. Ltd. as foreign company Rs.
Tax on the share of C Ltd.		
Case I : 1,20,000 x 33.99%	40,788	-
Case II: 1,20,000 x 42.23%	-	50,676
Tax on balance income at AOP:		
(i) Long-term capital gain 4,00,000 x 22.66%	90,640	90,640
(ii) Business profits 6,00,000 x 33.99%	2,03,940	2,03,940
Total tax payable	3,35,368	3,45,256
Total Tax (Rounded off a/c 288B)	3,35,370	3,45,260

4. R, S and T Ltd. (a widely held domestic company) are members in an AOP for the assessment year 2008-2009. They share profit and losses in the ratio 30%, 40% and 30%. Taxable business income of AOP is determined at Rs. 8,00,000. Personal income of the partners are given below:

	Rs
R - House property	90,000
S – Short-term capital gain	1,00,000

R deposites Rs 20,000 in CTDS-15-year account in Post Office in February 2008. S purchases NSC VIH-Issue for Rs 25,000 in December 2007.

Determine the tax liability of the AOP and its partners

Solution (a) Computation of tax liability of AOP for the assessment year 2008-2009

Allocation of AOP income among members:

Particulars	R Rs	Y	T Ltd. Rs
Business profit	2,40,000	320000	240000
Tax liability of AOP: 8,00,000 x 33.99%		2,71,920	

Tax liability of members:

Particulars	R Rs	Y Rs	T Ltd. Rs
Share income from AOP	2,40,000	320000	240000
AOP charged at maximum marginal rate	Exempt	Exempt	Exempt
Personal income of members	90,000	75,000	Nil
Personal income below taxable limit	Exempt	Exempt	x

5. GMK are partners in a firm assessed as an association of persons. They share profit and losses in the ratio of 4:3:3. The abridged profit and loss for the previous year 2007-2008 is as follows:

Particulars	*Rs*	*Particulars*	Rs
Business expenses	5,00,000	Gross profits	6,85,000
Salaries to partners		Short-term capital gain	2,80,000
G	60,000	Interest on drawings	
M	40,000	G	5,000
K	50,000	M	20,000
Bonus to partners:		K	10,000
G	30,000		
M	20,000		
Commission to K	40,000		
Interest to partners:			
G	20,000		
M	15,000		
K	25,000		
Net profit			
G	80,000		
M	60,000		
K	60,000		
	10,00,000		**10,00,000**

Business expenses include donation to Nalanda University Rs 50,000.

Compute the taxable income of AOP, its tax liability and tax liability of its members in the following

Personal income of members	Case-I Rs	Case-II Rs
G: Interest on bank deposits	40,000	1,00,000
M: Interest on government securities	65,000	1,20,100
K: Income from house property	50,000	1,10,000
LIP paid by every member on a policy of Rs 1,00,000.	20,000	. 20,000

Solution: (a) **Computation of taxable business profits**

Particulars	Rs
Net profit as per Profit & Loss A/c	2,00,000
Add: (i) Donation to Nalanda University	50,000
(ii) Salaries to partners {Sec. 40(ba)] (60,000 + 40,000 + 50,000)	1,50,000
(iii) Bonus to partners 30,000 + 20,000	50,000
(iv) Interest on capital (Net of Interest on Drawings)	
G 20,000 - 5,000 =	15,000
K 25,000-10,000 =	15,000
(v) Commission to K	40,000
	5,20,000
Less: Short-term capital gain	2,80,000
Taxable profits	**2,40,000**
(a) Computation of total income	
Add: (i) Business profits	2,40,000
(ii) Short-term capital gain	2,80,000
Gross total income	**5,20,000**
Less: Deduction for charitabe donation (Sec. 80G)	
(a) Actual donation Rs.50,000 or,	
(b) 10% of gross total income: $\frac{10}{100}$ x 5,20,000 = 52,000	
whichever is less, is qualifying amount. It is Rs 50,000.	
Amount of deduction 50% of qualifying amount	25,000
Total income	**4,95,000**

Tax liability of AOP:

Particulars	Case I	Case II
(a) Tax on total income at slab rates including Education Cess and SHEC	**1,00,425**	**-----**
(b) Tax on total income at maximum marginal rates including surcharge plus education cess plus SHEC	**-----**	**1,68,251**
Tax payable	**1,00,425**	**1,68,251**
Tax payable rounded off (u/s 288 B)	**1,00,420**	**1,68,250**

Tax liability of members:

Case:(a) where AOP is taxed at slab rates:

Share of income from AOP:	G (Rs)	M (Rs)	K (Rs)	Total (Rs)
(i) Salary	60,000	40,000	50,000	1,50,000
(ii) Bonus	30,000	20,000	-	50,000
(iii) Commission	.	-	40,000	40,000
(iv) Interest	15,000	-	15,000	30,000
	1,05,000	60,000	1,05,000	2,70,000
(v) Divisible loss : (2,40,000-25,000)-270,000 = (-) 55,000	(-) 22,400	(-) 16,500	(-) 16,500	(-) 55,000
Share of business profit	83,000	43,500	88,500	2,15,000
Share of short-term capital gain	112,000	84,000	84,000	2,80,000
Share of income from AOP	**1,95,000**	**1,27,500**	**1,72,500**	**4,95,000**

Total income and tax liability of members:

Particulars	G	M	K
Income from house property	-	—	50,000
Income from other sources	40,000	65,000	—
Share income from AOP:	1,95,000	1,27,500	1,72,500
Gross total income	**2,35,000**	**1,92,500**	**2,22,500**
Less: Deduction under Sec. 80C: LIP restricted to 20% of policy	20,000	20,000	20,000
Total income	**2,15,000**	**1,72,500**	**2,02,500**
Gross income tax at slab rate	17,000	8,500	10,500
Add: Surcharge	Nil	Nil	Nil
Add: Education Cess @ 2%	340	170	210
Add : SHEC @ 1%	170	85	105
	17,510	8,755	10,815
Less: Rebate on share of profit from firm at the average rate	15,881	6,471	9,213
Tax payable	1,629	2,284	1,602
Tax payable rounded off (u/s 288B)	**1,630**	**2,280**	**1,600**
Note 1: 17,510 ÷2,15,000 X 195000 = 15881			
Note 2: 8,755 ÷ 172500 X 1275000 = 6471			
Note 3: 10815 ÷ 202500 X 172500 = 9213			

Case (b) where AOP is taxed at maximum marginal rate:

	G	M	K
1. Share of profit from AOP; Since the AOP was assessed at the maximum marginal rate, share of income from AOP is exempt (Sec. 86)	-	-	-
2. Personal income:			
Income from other sources	1,00,000	1,20,100	1,10,000
Less: Deduction u/s 80C	(-) 20,00	(-) 20,000	(-) 20,000
Total Income	80,000	1,00,100	90,000
	Nil	Nil	Nil
Tax liability	Nil	Nil	Nil

6. T and Q are individuals, who constitute an association of persons, sharing profit and losses in the ratio of 2:1. For the accounting year ended 31 March 2008, the profit and loss account of the business was as under:

Particulars	*Rupees in thousand*	*Particulars*	*Rupees in thousands*
Cost of goods sold	6,250.00	Sales	9,900.00
Remuneration to:		Dividend from companies	25.00
T	130.00		
Q	170.00	Long-term Capital gains	1,640.00
Employees	256.00		
Interest to:			
T	48.30		
Q	35.70		
Other expenses	111.70		:
Sales-tax penalty due	39.00		
Net profit	4,524.30		
	11,565.00		11,565.00

Additional information furnished:

(i) Other expenses included:

(a) entertainment expenses of Rs 35,000;

(b) wristwatches costing Rs 2,500 each were given to 12 dealers, who had exceeded the sales quota prescribed under a sales promotion scheme;

(c) employer's contribution of Rs 6,000 to the Provident Fund was paid on 14 January 2008..

(d) Rs 30,000 was paid in cash to an advertising agency for publicity.

(ii) Outstanding sales tax penalty was paid on 15 October 2008. The penalty was imposed by the sales tax officer for non-filing of returns and statements by the due dates.

(iii) T and Q had, for this year, income from other sources of Rs 3,50,000 and Rs 2,10,000, respectively.

Required to:

(i) Compute the total income of the AOP for the assessment year 2008-2009.

(ii) Ascertain the tax liability of the Association for that year; and

(iii) Ascertain the tax liability for that year of the individual members.

Solution: (a)(i) *Computation of total income of the AOP for AY 2008-2009*

Particulars	Rs	Rs
Profit and gains of business (see Working Note below)		33,12,300
Long term capital gain		16,40,000
Income from other sources [dividend is exempt u/s 10(34), assuming it is from domestic companies]		
Total income		**49,52,300**
Computation of profits and gains of business*:*		
Net profit as per profit and loss account		45,24,300
Add: Inadmissible payments:		
Interest to members T & Q (Rs 48,300 + Rs 35,700)	84,000	
Advertising [disallowance u/s 40A(3)	30,000	
Remuneration to members T & Q (Rs 1,30,000 + Rs 1,70,000)	3,00,000	
Sales tax penalty due (See Note 3 below)	39,000	4,53,000
		49,77,300
Less : Income not taxable under this head		
Dividend from companies	25,000	
Long term capital gain	16,40,000	16,65,000
Profits and gains of business		**33,12,300**

(ii) Computation of tax liability of the AOP for AY 2008-2009

Particulars	Rs	Rs
Long-term capital gain (Rs. 16,40,000 x 20%)		3,28,000
Other income (Rs. 33,12,300 x 30%)		9,93,690
Tax on total income		13,21,690
Add : Surcharge @ 10%		1,32,169
		14,53,859
Add : Education cess @ 2%		29,077
Add : SHEC @ 1%		14,539
Total tax due		**14,97,445**
Total Tax Rounded off (u/s 288B)		**14,97,440**

Note: 1. Since one of the members has individual income more than the basic exemption limit, the AOP will be assessed at the maximum marginal rate. The maximum marginal rate includes the surcharge applicable in relation to the highest slab of income in case of an individual and as such surcharge shall be chargeable at the rate of 10%.

2. Since the employer's contribution to PF has been paid during the previous year 2007-2008 itself, it is allowable as deduction.

3. Penalty imposed for delay in filing sales tax return is not deductible since it is on account of infraction of the law requiring filing of the return within the specified period.

(iii) Computation of tax liability of members T & Q for the AY 2008-2009

Particulars	Rs	Particulars	Rs
Tax on Rs. 3,50,000	54,000	Tax on Rs. 2,10,000	16,000
Add : Surcharge	Nil		Nil
	54,000		16,000
Add : Education cess @ 2%	1,080		320
Add : SHEC @ 1%	540		160
Net Tax Payable	**55,620**		**16,480**