

ASSESSMENT OF HUF

Computation of Tax-liability of an HUF :	Rs.
1. Gross income tax on its total income at the prescribed rates as aforesaid:	
(a) Gross income tax on winnings under [Sec. 115BB]	xxx
(b) Gross income tax on long-term capital gains [Sec. 112(1)]	xxx
(c) Gross income tax on short-term capital gain (Sec. 111A)	xxx
(d) Gross income tax on the balance of total income	xxx
Total gross income tax	xxx
2. Less: Rebate from gross income tax under Sec. 88E	xxx
Net income tax	xxx
3. Add: Surcharge on income tax	xxx
4. Add: Education surcharge @ 2% on the aggregate income tax and surcharge	xxx
5. Add: SHEC @ 1%	xxx
Total tax (3 + 4+ 5)	xxx
6. Less:	
(a) Rebate on share of profit from AOP under Sec. 86 where AOP (association of person) has been taxed at normal rate	xxx
(b) Relief under Sec. 89(1)	xxx
(c) Double taxation relief under Sec. 91	xxx
Tax due from an HUF	
Less: Prepaid taxes:	
(a) Tax deducted at source	xxx
(b) Advance payment of tax	xxx
(c) Tax paid on self-assessment under Sec. 140A	xxx
Tax payable/refund due to the assessee	
Tax payable is rounded off to the nearest multiple of Rs. 10 (Sec. 288B).	xxx

1. The following details have been supplied by the Karta of an HUF. You are required to compute its total income and tax liability for the assessment year 2009-2010.

Particulars	Rs
(i) Profits from business (after charging Rs 1,00,000 salary to Karta for managing the business).	15,00,000
(ii) Salary received by the member of a family.	60,000
(iii) Director's fee received by Karta from B Ltd where HUF holds 20% shares but he became director because of his qualifications,	40,000
(iv) Rental income from house property (after deduction of municipal taxes Rs 2,000).	78,000
(v) Dividends (gross) from Indian companies	15,000
(vi) Long-term capital gain	80,000
(vii) Short-term capital gain	30,000
(viii) Donation to a school, which is an approved institution,	1,00,000
(ix) Deposits in Public Provident Fund	20,000
(x) NSC-VIII issues purchased on 15.3.2009.	40,000

Solution: Computation of Total Income

Particulars	Rs	Rs
(i) Income from house property:		
Gross annual value (Rs 78,000 + Rs 12,000)	90,000	
Less: Municipal taxes paid	<u>12,000</u>	
Annual value	78,000	
Less: Statutory deduction: 30% × 78,000	<u>23,400</u>	54,600
(ii) Profits and gains from business		15,00,000
(iii) Capital gains (a) long-term + (b) short-term		1,10,000
(iv) Income from other sources—gross dividends from Indian companies: Exempt [Sec. 10(34)]		Nil
Gross total income		
Less:		
1. Contribution to approved savings (Sec. 80C)		
(i) Deposits in Public Provident Fund	20,000	
(ii) NSC-VIII Issue	<u>40,000</u>	
	60,000	
2. Donation to recognised school:		
(a) Actual donation: Rs 1,00,000 or		
(b) 10% of modified total income of		
Rs 15,24,600 (16,64,600 - 80,000 - 60,000)		
whichever is less, is qualifying amount.		
Amount of deduction: : 50% of Rs. 1,00,000	<u>50,000</u>	<u>1,10,000</u>
Total income		15,54,600

Computation of tax liability:

Particulars of total income	Rate of income tax		Rs
	Rs	Rs	
(a) Long-term capital gain	1,10,000	20%	22,000
(b) Balance of total income: Rs 14,44,600			
(i) First	1,10,000	Nil	—
(ii) Next	40,000	10%	4,000
(iii) Next	1,00,000	20%	20,000
(iv) Balance	11,94,600	30%	358,380
Gross income tax			3,80,380
Add: 1. Surcharge on income tax @ 10%			38,038
surcharge			4,18,418
2. Education cess @ 2% on the aggregate of income tax and			8,368
3. SHEC @ 1%			4,184
Tax payable			4,30,970

2. Prem was the Karta of HUF. He died leaving behind his major son Anand, his widow, his grandmother and brother's wife. Can the HUF retain its status as such or the surviving persons become co-owners?

Answer: Income-tax law does not require that there should be at least two male members to constitute an HUF [Gowli Buddanna CIT (1966) 60ITR 293 (SC)]. The expression "Hindu undivided family" used in the Act, should be understood in the sense in which it is understood under the Hindu personal law. The expression "Hindu undivided family" under the Income-tax Act is known as "joint Hindu family", under the Hindu personal law. A 'Joint family' may consist of a single male member and the widows of the deceased male members. The property of the Hindu joint family does not cease to be an HUF property merely because that the HUF, consist of one male member at a given point of time, exercising the proprietary rights over the property of HUF property.

3. J (HUF) was the owner of a house property, which was being used for the purposes of a business carried on by a partnership firm JC & Co. in which the Karta and other members of the HUF were partners in their individual capacity. The Assessing Officer proposes to assess the annual letting value of the said property as the HUF's income from house property. The HUF contends that the building was used for business purposes and, therefore, the annual letting value thereof was not taxable in its hands as income from house property under Sec. 22. Examine the rival contention.

Answer: Section 22 directs not to tax the annual value of a house property which is used by the owner for his business, profession, the profits of which are chargeable to tax. In the instant case, the HUF is not using its property for its business. The Karta of the Hindu undivided family and other members of the HUF are partners in the firm in their personal capacity. They have not joined the partnership on behalf of the HUF. Therefore, it cannot be said that the HUF property was being used by the HUF for its business. Hence, the Assessing Officer is justified to tax the income of the HUF property as income from "house property".

4. J. Hazra was the Karta of a Hindu undivided family which was assessed to income tax. He died in an air crash and his two sons received Rs 8 lakhs as compensation and Rs 6 lakhs from the insurance company. The said amount of Rs 14 lakhs was invested in units. The assessee claims that the income from these units is assessable as income of the Hindu undivided family composed of his sons and their families. Discuss.

Answer: The right to receive compensation and insurance claim did not vest in the assessee during his life-time. It came into existence only after his death. The income from investment and compensation would be personal income of the assessee [CIT v. L. Bansidhar & Sons (1980) 123 ITR 58 (Del.)].

5. C, the Karta of a Hindu undivided family, was appointed as the treasurer of a private sector bank on his furnishing security of the family property valued at Rs 3,00,000, as required by the service rules of the bank. C does not own any self-acquired property.

- (i) Discuss how the remuneration of C as the treasurer should be assessed.
- (ii) Will your answer be different if C had joined a partnership firm as a partner by contributing family funds of Rs 30,000.

Answer:

- (i) Remuneration from bank cannot be treated a return on the security of family property, pledged with the bank to secure the continuity of service. It cannot be treated as income of the HUF.

Remuneration is a compensation for services rendered by C, in his personal capacity on account of personal qualifications. C is assessable on remuneration as income from "salary". He can claim standard deduction under Sec. 16.

- (ii) Membership of partnership has been obtained because of HUF funds and not because of personal skill or qualification of C. Therefore, any income from partnership firm will be treated as income of the HUF.