Income from Profits & gains of business or profession

Under the Income Tax Act, 'Profits and Gains of Business or Profession' are also subjected to taxation. The term "business" includes any (a) trade, (b) commerce, (c) manufacture, or (d) any adventure or concern in the nature of trade, commerce or manufacture. The term "profession" implies professed attainments in special knowledge as distinguished from mere skill; "special knowledge" which is "to be acquired only after patient study and application". The words 'profits and gains' are defined as the surplus by which the receipts from the business or profession exceed the expenditure necessary for the purpose of earning those receipts. These words should be understood to include losses also, so that in one sense 'profit and gains' represent plus income while 'losses' represent minus income.

The following types of income are chargeable to tax under the heads profits and gains of business or profession:-

- **Profits and gains of any business or profession**
- **Any compensation or other payments due to or received by any person specified in section 28 of the Act**
- **Income derived by a trade, profession or similar association from specific services performed for its members**
- **Profit on sale of import entitlement licenses, incentives by way of cash compensatory support and drawback of duty**
- **The value of any benefit or perquisite, whether converted into money or not, arising from business**
- **Any interest, salary, bonus, commission, or remuneration received by a partner of a firm, from such a firm**
- **Any sum whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business or not to share any know-how, patent, copyright, franchise, or any other business or commercial right of similar nature or technique likely to assist in the manufacture or processing of good**
- **Any sum received under a key man insurance policy**
- **Income from speculative transactions.**

In the following cases, income from trading or business is not taxable under the head "profits and gains of business or profession":-

- **Rent of house property is taxable under the head “Income from house property". Even if the property constitutes stock in trade of recipient of rent or the recipient of rent is engaged in the business of letting properties on rent.**
- **Deemed dividends on shares are taxable under the head "Income from other sources".**

- Winnings from lotteries, races etc. are taxable under the head "Income from other sources".

Profits and gains of any other business are taxable, unless such profits are subjected to exemption.

General Principals governing the computation of taxable income under the head "profits and gains of business or profession:-

- **Business or profession should be carried on by the assesses. It is not the ownership of business which is important, but it is the person carrying on a business or profession, who is chargeable to tax.**

- **Income from business or profession is chargeable to tax under this head only if the business or profession is carried on by the assesses at any time during the previous year. This income is taxable during the following assessment year.**

- **Profits and gains of different business or profession carried on by the assessee are not separately chargeable to tax i.e. tax incidence arises on aggregate income from all businesses or professions carried on by the assessee. But, profits and loss of a speculative business are kept separately.**

- **It is not only the legal ownership but also the beneficial ownership that has to be considered.**

- **Profits made by an assessee in winding up of a business or profession are not taxable, as no business is carried on in that case. However, such profits may be taxable as capital gains or as business income, if the process of winding up is such as to involve the carrying on of a trade.**

- **Taxable profit is the profit accrued or arising in the accounting year. Anticipated or potential profits or losses, which may occur in future, are not considered for arriving at taxable income. Also, the profits, which are taxable, are the real profits and not notional profits. Real profits from the commercial point of view mean a gain to the person carrying on the business and not profits from narrow, technical or legalistic point of view.**

- **The yield of income by a commercial asset is the profit of the business irrespective of the manner in which that asset is exploited by the owner of the business.**

- **Any sum recovered by the assessee during the previous year, in respect of an amount or expenditure which was earlier allowed as deduction, is taxable as business income of the year in which it is recovered.**

- **Modes of book entries are generally not determinative of the question whether the assessee has earned any profit or loss.**

- **The Income tax act is not concerned with the legality or illegality of business or profession. Hence, income of illegal business or profession is not exempt from tax.**