HINDU UNDIVIDED FAMILY

Meaning

A HUF is treated as a separate entity for the purpose of assessment. HUF has not been defined under the Income Tax Act. However it has been defined in Hindu law, as a family which consist of all persons lineally descended from a common ancestor and includes their wives and unmarried daughters. The relation of a Hindu undivided family does not arise from contract but by status

Hindu Coparcenary

A Hindu coparcenary included those persons who acquired by birth an interest in joint family property. Another test of coparcenary is that a coparcener enjoys right to enforce partition. The right to enforce partition is enjoyed by only male members of a Hindu undivided family. Female members do not enjoy the right to enforce partition though they are entitled for maintenance out of family property

Basic conditions for assessment as HUF

1. There should be coparcenership.
2. There is a joint family property which consists of ancestral property, property acquired with the aid of ancestral property and property transferred by its members. Ancestral property in this connection may be defined as the property which a man inherits from any of his three immediate male ancestors. Therefore the property inherited from any other relation is not ancestral property.

Note: once a joint family income is assessed as HUF, it continues to be assessed as such in subsequent assessment years till partition is claimed by its coparceners

Calculation of taxable income of HUF

1. If Funds of HUF are invested in a company or a firm, any fees or remuneration received by any member of HUF as being a director/partner in the company/firm shall be treated as income of Family, if such income is earned essentially as a result of investment of funds of HUF. However if the fees/remuneration is earned only for the services rendered by the member, then such income shall be treated as income of the member and not of the HUF.
2. Any remuneration paid to the Karta by the HUF, is deductable if
   - Remuneration is paid under a valid bonafied agreement,
   - In the interest of an expedient for the business of the family,
   - It should be genuine and not excessive.
3. Personal income of members cannot be taxed in the hands of HUF.
4. Stridhan is absolutely property of woman, income there from is not taxable in the hands of HUF.
5. While computing income of the HUF, clubbing provisions should also be taken into consideration.
6. Tax rates, surcharge and edu cess shall be same as applicable to individuals

Tax implication on partition of HUF

Partition means division of property. However mere share of income does not amount to partition. In case of property which cannot be physically divided, then partition means such division as the property may admit.

Who can claim share at the time of partition:

- All co parceners
- A son in the womb of his mother at the time of partition.
- Mother gets equal share if there is partition b/t sons after the death of father
- Wife gets equal share of a son at the time of partition b/t father and sons.

Partition

Total partition

When the entire joint family property is divided among all coparceners and the family ceases to exist as an undivided family.

Partial partition

- Partition is regarded as partial when one or more coparceners separate from other and the remaining coparceners continue to be joint. Therefore in partial partition only the share of the outgoing member/s in property is separated and rest of the property continue as joint Family property.
- In case if the partial partition has taken place after Dec 31, 1978 , then for the purpose of assessment, family shall be deemed to be continued as HUF as if no partition has been taken place.

Assessment after partition:
In case of partition, income of the HUF from the first day of PY till date of partition is assessed as income of HUF and thereafter income of the property is assessed as individual income of the recipient.