

## Computation of income

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## Ascertain residential status

An individual/HUF can be either a –

- Resident and ordinarily resident
- Resident but not ordinarily resident
- Non-resident

Persons, other than an individual and HUF, can be either resident or

- non-resident.

## Exclude income which do not form part of total income

- Section 10 of the Income-tax Act, 1961 provides for the exclusions from total income.
- income are wholly exempt from tax
- Certain income are excluded from total income subject to limits

## Identify & Group income under the respective head

**Income from salary**

**Income from house property**

**Profits and gains of business or profession**

**Capital gains**

**Income from other sources**

## Compute the income under each head

Assess the income under each head by -

- applying the charging and deeming provisions,
- excluding the specific exemptions provided for in section 10
- relating to that head, subject to the limits specified therein,
- allowing the permissible deductions under that head, and
- disallowing the non-permissible deductions.

## Apply clubbing provisions

- Minor Children
- Other persons on specific cases

**Give effect to the set-off and carry forward and set-off of losses**

- Inter-source set-off of losses
- Inter-head set-off of losses
- Carry forward and set-off of losses

**Determine the gross total income**

## Allow deductions permissible from gross total income

- Chapter VI-A

## Total income

- The gross total income as reduced by the above deductions under Chapter VI-A is the total income.

Total income = GTI – Deductions under Chapter VI-A

- Tax is calculated on the total income of the assessee.

## Calculate the tax liability

- The rates of tax have to be applied on the total income to compute the tax liability as
- specified in the Finance Act.
- For individuals and HUF, there is a basic exemption limit and slab rate of tax.
- Companies and firms are subject to a flat rate of tax, without any basic exemption limit.
- Rates of tax in respect of certain income are provided under the Income-tax Act, 1961 itself.
  - e.g
  - Casual income, like lottery income,
  - Long-term capital gains
  - Short term capital gains of Shares and securities.

- Rebates
- Surcharge
- Cess
- TDS Credit
- Foreign Tax Credit/rebate
- Advance tax Credit
- Interest
- Self Assessment tax.

## Computation of total income and tax liability for the year

Particulars	Amount
Income from salary	XXXXX
Income from house property	XXXXX
Profits and gains of business or profession	XXXXX
Capital gains	XXXXX
Income from other sources	XXXXX
Gross Total Income	XXXXX
Less : Deductions under Chapter VI-A (i.e., under section 80C to 80U)	(XXXXX)
Total Income (i.e., taxable income)	XXXXX
Tax on total income to be computed at the applicable rates (for rates of tax, refer "Tax Rate" section)	XXXXX

## Contd...

Less : Rebate	(XXXXXX)
Tax Liability After Rebate	XXXXXX
Add: Surcharge	XXXXXX
Tax Liability After Surcharge	XXXXXX
Add: Education cess @ 2% on tax liability after surcharge	XXXXXX
Add: Secondary and higher education cess @ 1% on tax liability after surcharge	XXXXXX
Tax liability before rebate under sections 86, section 89, sections 90, 90A and 91 (if any) (*)	XXXXXX
Less : Rebate under sections 86, section 89, sections 90, 90A and 91 (if any) (*)	(XXXXXX)
Tax liability for the year before pre-paid taxes	XXXXXX
Less: Prepaid taxes in the form of TDS, TCS and advance tax	(XXXXXX)
Tax payable/Refundable	XXXXXX

**SHAMBHU INVESTMENT (P) LTD. vs.  
CIT(2003) 263 ITR 0143**

- *Merely because income is attached to any immovable property cannot be the sole factor for assessment of such income as income from property. What has to be seen is what was the primary object of the assessee while exploiting the property. If it is found applying such test that main intention is for letting out the property or any portion thereof the same must be considered as rental income or income from property. In case it is found that the main intention is to exploit the immovable property by way of complex commercial activities in that event it must be held as business income*

**CIT vs. SUTLEJ COTTON MILLS SUPPLY  
AGENCY LTD. (1975) 100 ITR 0706**

- *It is not necessary to constitute trade that there should be a series of transactions, both of purchase and of sale. A single transaction of purchase and sale outside the assessee's line of business may constitute an **adventure in the nature of trade.***
- **DALMIA CEMENT LTD. vs. COMMISSIONER OF INCOME TAX (1976) 105 ITR 0633**



## **CIT vs. NATIONAL STORAGE PVT. LTD.**

### **(1967)66 ITR 0596**

- *The assessee not only constructed vaults of special design and special doors and electric fittings, but also rendered other services to the vault-holders. It installed fire alarm and was incurring expenditure for the maintenance of fire alarm by paying charges to the municipality. Two railway booking offices were opened in the premises for the despatch and receipt of film parcels. This is a valuable service. It also maintained a regular staff consisting of a secretary, a peon, a watchman and a sweeper, and apart from that it paid for the entire staff of the Indian Motion Picture Distributors' Association an amount of Rs. 800 per month for services rendered to the licensees.....*

## **Capital gain Vs Business income**

CIT vs. Rewashanker A. Kothari, (2006) 283 ITR 338 (Guj.)

laid down several parameters/tests which have to be applied to find out when income from transactions in shares/securities should be treated as "income from business" or the gain which has to be taxed under the head "capital gains". The parameters/tests are as under: -

- "(a) the intention of dealing in the item, or with a view to finding an investment.
- (b) why and how and for what purpose the sale was effected subsequently.
- (c) how the assessee dealt with the subject-matter of transaction during the time the asset was with the assessee. stock-in-trade or an investment.
- (d) how the assessee himself has returned the income from such activities and how the Department has dealt with the same in the course of preceding and succeeding assessments.
- (e) the deed of partnership or the memorandum of association, as the case may be, authorises such an activity.
- (f) the volume, frequency, continuity and regularity of transactions

**COMMISSIONER OF INCOME TAX vs. SAHARA  
INDIA HOUSING CORPORATION LTD (2012) 81  
CCH 063 DelHC**

- CBDT in the Circular No.4/2007 dated 15<sup>th</sup> June, 2007 has elucidated and explained the tests which are to be applied.

**COMMISSIONER OF INCOME TAX vs. VINAY  
MITTAL (2012) 81 CCH 239 DelHC**

The ratio of sales and purchase may be relevant in a particular case but when an assessee liquidates any investment, the said ratio will always be in favour of sales.

**COMMISSIONER OF INCOME TAX vs. GOPAL PUROHIT**  
(2010) 228 CTR (Bom) 582 : (2011) 336 ITR 287 : (2010)  
188 TAXMAN 140 : (2010) 34 DTR 52

- the assessee is engaged in two different types of transactions namely, investment in shares and dealing in shares for the purposes of business and held that the delivery based transactions are to be treated as investment transactions and the profit received therefrom is to be treated as short-term or long-term capital gain depending on the period of holding of shares and that there ought to be uniformity in treatment and consistency in various years when the facts and circumstances are identical, no substantial question of law arises.

**COMMISSIONER OF INCOME TAX vs. Suresh R. Shah**

(2012) 82 CCH 036 MumHC, (2012) 76 DTR (Bom)  
32 : (2013) 258 CTR (Bom) 376

- There is no bar for an assessee to maintain two separate portfolios, one relating to investment in shares and another relating to business activities involving dealing in shares and hence, a view that the assessee was not an investor in shares but dealer in shares on the basis that the assessee had also returned speculation loss is not sustainable.

**COMMISSIONER OF INCOME TAX vs. VAIBHAV J SHAH (HUF) (2012) 82 CCH 095 GujHC**

The most important test to determine whether the income arising from transactions of shares would fall in capital gain or income from business is the volume, frequency, continuity and regularity of transactions of purchase and sale of the shares. However, where there is repetition and continuity, coupled with magnitude of the transaction, bearing reasonable proportion to the strength of holding, then an inference can be drawn that activity is in the nature of business.

**Commissioner Of Income Tax-Vii vs. Avinash Jain (2013) 84 CCH 018 DelHC (2013) 214 TAXMAN 260 (Delhi) : (2014) 362 ITR 441 (Delhi)**

- the intent and purport of the CBDT circular was to demonstrate that a tax payer could have two portfolios, namely, an investment portfolio and a trading portfolio.

**COMMISSIONER OF INCOME TAX vs. DARIUS PANDOLE**  
(2011) 330 ITR 485 (Bom)

- the very same issue during the course of the earlier two assessment years and that the assessments were finalized after considering the reply filed by the assessee specifically to the query raised by the AO. The principle of res judicata could not as an abstract principle apply to assessment proceedings since each year of assessment has to be considered separately, yet when a fundamental aspect was duly considered after a query was raised by the AO and was answered by the assessee on the same facts, a change in view was evidently not warranted for the assessment year in question.

Any more questions??

- Thank You
- CA Haridas Bhat