E-CONTENT

S.T.E.T WOMEN'S COLLEGE MANNARGUDI
PG AND RESEARCH DEPARTMENT OF COMMERCE

SUBJECT : INCOME TAX THEORY LAW & PRACTICE
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INCOME FROM BUSINESS OR PROFESSION

Business :

"Business" simply means any economic activity carried on for earning profits. Sec. 2(3) has defined the term as " any trade, commerce, manufacturing activity or any adventure or concern in the nature of trade, commerce and manufacture".

In this connection it is not necessary that there should be a series of transactions in a business and also it should be carried on permanently. Neither repetition nor continuity of similar transactions is necessary.

Profession :

"Profession" may be defined as a vacation, or a job requiring some thought, skill and special knowledge like that of C.A., Lawyer, Doctor, Engineer, Architect etc. So profession refers to those activities where the livelihood is earned by the persons through their intellectual or manual skill.

PROFITS & GAINS FROM BUSINESS OR PROFESSION

Net Profit as per Profit & Loss	xxx
(+) Inadmissible Expenses	
Personal Expense	
All Provisions and Taxes	
Fines & Penalty	xxx
	xxx
(-) Expenses allowed but not debited to P&L Account	xxx
	xxx
(-) Inadmissible Income	xxx
Business Income	**xxx**

Profession

Doctor

Lawyer

Chartered Accountant

Professional Receipt	xxx
(-) Professional Payment	xxx
Professional Income	**xxx**

Depreciation [Section – 32]

The method of depreciation accepted by the Income Tax Act is **Written Down Value Method**. In the case of assets of an undertaking engaged in **generation and distribution of power, straight line method** of depreciation may be claimed.

Depreciation is allowed **half the rate if the asset is used less than 180** days

Rates of Depreciation

1. Residential Building=5%
2. Non-Residential Building=10%
3. Furniture=10%
4. A.C., Surgical Equipment =15%
5. Ocean going ships, speed boats=20%
6. Buses, Lorries and taxies=30%
7. Aero planes=40%
8. Intangible Assets=25%
9. Books used for profession (other than annual publication) are eligible for 40% depreciation (From the A/Y 2018-2019)

Scientific Research Expenditure

Revenue Expenses are fully deductible

Amount donated for social science or statistical research is allowed @125%.

Amount donated to a company for scientific research is allowed @ 125%.

Amount donated for scientific research is allowed @175%.

Contribution made to National Lab, Indian Institute of Technology (IIT) and a university for scientific research is deductible @200%.

Section 44AA “Compulsory Maintenance of Books of Accounts and Audit of Accounts

Preliminary Expenses – Deductible in **5 equal** installments.

Expenditure on Patents, Copy rights and know-how – Depreciation **@25%**

Expenditure **exceeding Rs.20.000** – It shall be paid by an account payee cheque or an demand draft. If **paid by cash, 100% of the amount is disallowed.**

Income chargeable to the head ‘business or profession

The scope of income chargeable under the head ‘Profits and Gains from business or Profession’ is covered by Section 28 of the Act which lays down that the following items of income must be charged to tax under this head:

Income from business or profession: The profits and gains of any business or profession which was carried on by the assessee at any time during the previous year.

Compensations:

Received on termination of a managing agency of Indian company.

Received on termination of a managing agency of foreign company

Received on termination of any agency or on modification of terms of agency,

Received from government or a corporation on taking over of management of property or business.

Income from Trade associations: Any income derived by a trade or professional or other similar association from the specific services performed by it for its members.

Export Incentives

Profits on sale of a license granted under the Imports

Cash assistance (by whatever name called) received or receivable by any person against export sunder any scheme of the Government of India;

Any duty of customs or excise re-paid or re-payable as drawback to any person against exports.

The value of any benefit or perquisite, whether convertible into money or not, which arises from the carrying on of a business or the exercise of a profession.

Any interest, salary, bonus, commission or remuneration, by whatever name called, due to or received by a partner of a firm from such firm.

State the Expenses Disallowed. (Section 40)

The following amounts shall not be deducted in computing the income chargeable under the head "profits and gains of business or profession:

- Interest, royalty, fees for technical services payable outside India
- TDS not deducted on certain payments:
- Rate or Tax Paid on Profits:
- Wealth Tax [Section 40a(iia)]:
- Amount paid by way royalty, license fee, service fee, privilege fee, service charge by State Government undertaking to State Government.
- Salaries [Section 40a(iii)]: Any payment which is chargeable under the head "salaries" if it is payable –
  - outside India; or
  - to a non-resident
- Payment to Provident Funds etc: Any payment to a Provident Fund or other fund established for the benefit of employees of the assessee would be disallowed in cases where the assessee (employer) has not made effective arrangements to secure deduction of tax at source from any payment made from the fund which are chargeable to tax under the head 'salaries' in the hands of the employees.
- ayment of tax on non-monetary perquisites [Section 40a(v)]:
- Payment to Partners by a firm (Discussed under the chapter Assessment of firms).
- Payment by AOPs / BOIs (Discussed under the chapter assessment of AOP/BOI).

Sum:1

Net profit after charging the following is Rs.50,000 compute the income from business

Income tax Rs.10,000

Wealth tax Rs.5,000

And Sales tax Rs.7,000

Drawing Rs.15,000

Under valuation of opening stock 6,000

Under valuation of closing stock Rs.8,000

Answer

Particulars	Rs.	Rs.
Net profit as per P&L a/c		50,000
Add :Expenses not admissible Income tax Wealth tax Drawings Under valuation of closing stock	 10,000 5,000 15,000 8,000	 38,000
		88,000
Less:Transactions to be adjusted Under valuation of opening stock	 6,000	 6,000
Taxable income from business		**82,000**

Sum:2

From the following receipts and payment account of Narayanan of chartered accountant calculate his Income from Profession

Receipts	Rs.	Payment	Rs.
To balance b/d	6,000	By office expenses	28,000
To audit fees	1,80,0000	By printing & stationery	37,000
To Consultation fees	30,000	By subscription to CA institute	5,000
To appellate Tribunal appearance	15,000	By staff salary	48,000
To presents from client	4,000	By books	6,000
To rent from house property	35,000	By computer with software	60,000
		By balance c/d	86,000
Total	**2,70,000**	**Total**	**2,70,000**

Answer

Particulars	Rs.	Rs.
Professional Receipts:		
Audit fees	1,80,000	
Consultation fees	30,000	
Appellate Tribunal appearance	15,000	
Present from client	4,000	2,29,000
Less: Professional Expenses		
Office Expenses	28,000	
Printing & Stationery	37,000	
Subscription to CA Institute	5,000	
Staff salary	48,000	
Books – Depreciation @40%	2,400	
Computer – Depreciation @ 40%	24,000	1,44,400
Income from Profession		**84,600**

INCOME FROM CAPITAL GAIN

Any profit or gains arising from the transfer of a capital asset will be chargeable to income tax under the head capital gain. The terms '**Capital Asset**' and '**Transfer**' is discussed below; **'Capital asset**s' may be:-

- Any stock in trade, raw material or consumable stores held for the purpose of business or profession.
- Personal effects, ie. Movable properties held by the assesse, excluding the following)
  - jewellery,
  - archaeological collections,
  - drawings,
  - paintings
  - sculptures, or
  - any art work
- Rural agricultural land in India.
- National defense gold bonds, 7% gold bonds issued by central government.
- Special bearer bond 1991, issued by central government.
- Gold deposit bonds issued under gold deposit scheme.

The term transfer includes the following types of transactions:-

- The sale, exchange of asset,
- The extinguishment of any right therein,
- The compulsory acquisition under any law ,
- Conversion of capital asset to stock in trade,
- The maturity or redemption of zero coupon bond,
- Part performance of the contract,
- Transactions having the effect of transferring of an immovable property, eg. power of attorney transactions

Transactions which do not constitute transfer [Sections 46 and 47]

- any distribution of capital assets on the total or partial partition of a Hindu Undivided Family;
- any transfer of a capital asset under a gift or will or an irrevocable trust
- any transfer of a capital asset by a company to its subsidiary company, if–
  - the parent company or its nominees hold the whole of the share capital of the subsidiary company, and
  - the subsidiary company is an Indian company.
- any transfer of a capital asset by a subsidiary company to the holding company, if –
  - the whole of the share capital of the subsidiary company is held by the holding company, and
  - the holding company is an Indian company;
- any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company;

Transactions which do not constitute transfer [Sections 46and47]

- any transfer in a scheme of amalgamation of a capital asset being share or shares held in an Indian Company, by the amalgamating foreign company to the amalgamated foreign company, if –
  - at least twenty-five per cent of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and
  - such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated.

- any transfer by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company, if –
  - the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company except where the shareholders itself is the amalgamated company, and
  - the amalgamated company is an Indian company;

any transfer of agricultural land in India effected before the first day of March, 1970;

- any transfer of a capital asset being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting or photograph.

Short Term Capital Gain

capital gain arising as a result of transfer of a short-term capital asset is known as short-term capital gain. According to Section 2(42A) of the Income- tax Act:

"Short term" capital asset means a capital asset held by an assessee for not more than thirty-six months immediately preceding the date of its transfer. In the case of capital assets (being equity or preference share in a company) held by an assessee for not more than 12 months immediately prior to its , an unlisted security and a unit of a mutual fund

(other than an equity oriented mutual fund) shall be a short-term capital asset if it is held for not more than thirty six months.

Long Term Capital Gain is the gain arising from long term capital assets. And assets other than short-term capital assets are known as **'long-term capital assets'.**

Capital gains exempt from Tax

Under Sections 54, 54B, 54D, 54EC, 54F, 54G and 54H of the Act, capital gains arising from the transfer of certain capital assets are exempt from tax under certain circumstances. These provisions are dealt with section wise below.

Capital Gain on sale of residential house (sec 54)

Capital gain on transfer of agricultural land (sec 54B)

Capital gains on compulsory acquisition of land and building (Sec 54D)

INCOME FROM OTHER SOURCES

The incomes which are neither covered under the head salary, house property, business income or capital gains shall be taxable under head Income from other sources. This head of income is a residual head because it covers all other incomes which are uncovered and which are not exempt from tax. Income chargeable under Income-tax Act, which does not specifically fall for assessment under any of the heads discussed earlier, must be charged to tax as “income from other sources”.

In addition to the taxation of income not covered by the other heads, Section 56(2) specifically provides certain items of incomes as being chargeable to tax under the head in every case.

The following shall be chargeable to Income Tax under the head Income from other sources:

Dividends [Section 56(2)(i)]

Dividend income other than divided referred under section 10(34) shall be included under income from other sources.

Keyman Insurance policy

Amount received under a Keyman insurance Policy, including bonus on each Policy, if it is not taxable under any other head of income shall be chargeable under Income from other sources.

Winnings from lotteries [Section 56(2)(ib)]

Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature shall be chargeable to tax under Income from other sources.

Contribution to Provident fund

Income of the nature referred to in Section 2(24)(x) (relating to certain contributions to any provident fund or superannuation fund or any fund set up under the provisions) will be chargeable to income-tax under the head "income from other sources" if such income is not chargeable to income-tax under the head "profits and gains of business or profession".

Income by way of interest on securities

If the income by way of interest on securities is not chargeable to income-tax under the head 'Profits and gains of business or profession' than such income shall be taxable under Income from other sources.

Income from hiring of machinery etc.

Income from machinery, plant or furniture belonging to the assessee and let on hire if the income is not chargeable to income-tax under the head "profits and gains of business or profession" shall be taxable under Income from other sources.

Hiring out of building with machinery (composite letting) etc

Where an assessee lets on hire machinery, plant or furniture belonging to him and also building and the letting of the building is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head “Profits and gains of business or profession” shall be taxable under Income from other sources.

Money Gifts:

Where any sum of money, the aggregate value of which exceeds 50,000, is received without consideration the whole of the aggregate value of such sum shall be taxable under the head Income from other sources.

Provided that this clause shall not apply to any sum of money received

1. from any relative; or
2. on the occasion of the marriage of the individual; or
3. under a will or by way of inheritance; or
4. in contemplation of death of the payer; or
5. from any local authority
6. from any fund or foundation or university or other educational.

Casual income and its taxability

Casual income includes income by way of winnings from lotteries; crossword puzzles; races including horse races; gambling and betting of any nature or form; card games, game show or entertainment program on television or electronic mode and any other game of any sort. All these incomes are chargeable to tax under the head income from other sources

Deduction from Casual Income

No deduction or exemption is provided in respect of the casual income. No deduction can be claimed from such income even if such expenditure is incurred exclusively and wholly for earning such income. Further, deduction under section 80C to 80U is also not available from such income.

Taxation of Casual Income

Casual income is liable to TDS. The casual income is taxed at a flat rate of 30% plus surcharge (if any, plus education cess plus secondary and higher education cess). When the TDS has already been deducted from the income, then in order to calculate the tax liability on such income, the income is to be grossed up. However, the following incomes are not liable to TDS:

Winning from lottery up to amount .10,000

Winning from racing other than horse race

Winning from horse race upt o . 5,000

Dividend and its taxability

Dividend means the sum paid to or received by a shareholder proportionate to his shareholding in a company out of the total sum distributed. The definition of "Dividends" under Section 2(22) is an inclusive definition and it means dividend as normally understood and include in its connotation several other receipts set out in the definition(e.g. loan by a closely held company to its shareholder).

Taxation of dividend

Dividend declared/distributed/paid by domestic company including deemed dividend is exempt in the hands of shareholder.

Dividend from units of mutual fund is exempted.

Dividend from foreign company is taxable under the head other sources.

Interest on securities

Interest on securities is chargeable as Income from Other Sources if it is not chargeable as Profits and Gains of Business or Profession, i.e. when the securities are held as investment.

Taxability of interest

Interest is taxable under the head other sources and liable to TDS at 10%.Interest on Securities Exempt – The interest on securities of the

The following cases is exempt from tax

- Interest on notified securities, bonds or certificates issued by the Central Govt.
- Interest on Post Office Savings Bank Account will be exempted only to the extent of 3,500 in case of an individual and 7,000 in case of joint account w.e.f. AY 2012-13
- Interest to an individual or a HUF on 7% Capital Investment Bond or on notified Relief Bonds.
- Interest to non-resident Indians on notified bonds.

Sum 1

Mr. Raman own the following assets as on 1st April 2017 which comes under the 15% block of assets. Calculate capital gain.

Asset	Cost of Acquisition	WDV as on 01.04.2017
Machinery A	2,20,000	22,000
Machinery B	2,10,000	21,000
Machinery C	40,000	4,000

Mr. Raman acquired machinery D for Rs.13,000 on 25.04.2018. He also sold machinery B for Rs.90,000 on 27.05.2018

Answer

Particulars	Rs.	Rs.
Sale Consideration Less : WDV of Block of assets A+B+C=22,000 + 21,000 +4,000 Cost of Machinery – D	 47,000 13,000	90,000 60,000
Taxable STCG		**30,000**

Sum 1

Mr.Murugan acquired a residential house for Rs.1,00,000 during 2005-2006. He gifted the property to prabhu during 2015-2016. The fair market value of the house on the date of gifting it was Rs.3,00,000. He sold the house on 02.02.2019 for Rs.15,00,000. He paid a commission of 1%. Compute the capital gain for the previous year 2018-2019. (CII for 2005-06 -117; 2015-16-254; 2018-19-280)

Answer

Particulars	Rs.
Sale Consideration Less: Expenses on transfer @ 1 %	15,00,000 15,000
Net Consideration Less: Indexed cost of acquisition 1,00,000 X 280/117	14,85,000 2,39,316
Taxable LTCG	**12,45,684**

Sum 1

Priyarajan received the following gift during the previous year

Gift from a friend	27,000
Gift from his spouse	15,000
A Laptop from friend	40,000
Gift from his maternal uncle	10,000
Gift from his cousion	33,000

Compute the taxable income under the head income from other sources

Answer

Gift from a friend	27,000
Gift from his spouse	Exempted
A Laptop from friend (Note.!)	Exempted
Gift from his maternal uncle	Exempted
Gift from his cousion	33,000
Income from other sources	60,000

Gift of movable property which does not exceeding Rs.50,000 is not taxable. Cousion is not included in relative

THANK YOU