


Income Tax Provisions & Startup

Brief Introduction of Income Tax


- ❖ **It is a direct tax.**
 - ❖ **Levied by the Central Government.**
 - ❖ **Generally not applicable on Agriculture Income.**
 - ❖ **It has the concept of 'gross total income' and 'total income' to derive taxable income of the assessee.**
 - ❖ **Income Tax Act 1961 not only collects tax revenues to the Government it also promotes development of economy in various ways.**
 - ❖ **Income Tax Department is the governing agency of this law in India.**
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Section 2(1A)

Agricultural Income

- ❖ Any rent or revenue derived from land which is situated in India and is used for agricultural purposes;
- ❖ The performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market;
- ❖ The sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause;
- ❖ Any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, requires as a dwelling house, or as a store-house, or other out-building;
- ❖ Any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.

Heads of Income

- ❖ **Income from Salaries**
 - ❖ **Income from House Property**
 - ❖ **Profits & Gains of Business & Profession**
 - ❖ **Capital Gains**
 - ❖ **Other Source Income**
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Profits & Gains of Business and Profession

- ❖ **What constitutes a business or profession**
- ❖ **Section 44AD Special provision for computing profits and gains of business on presumptive basis – 8% or 6%**
- ❖ **Section 40(A)(3) any expenditure incurred above Rs 10,000/- other than by account payee cheque or draft or use of electronic clearing system through a bank account shall not be allowed as a deduction**
- ❖ **As per Section 269ST, any person who enters into a transaction of Rs 2 Lakh or above in cash, will be liable to a penalty of an amount equivalent to the amount of transaction**
- ❖ **How to compute such income for the purposes of income tax**
- ❖ **Chargeability & Deductions**
- ❖ **Restriction on Deductions in Certain Cases Section 43B – Bonus, Commission, Tax, GST etc**
- ❖ **Maintenance of Books of Accounts / Documents and Tax Audit**

How to Compute the 'Total Income'

- ❖ **Head-wise Income**
- ❖ **Clubbing**
- ❖ **Adjustment of Losses**
- ❖ **Gross Total Income**
- ❖ **Deductions from Total Income**
- ❖ **Total Income**

1.15 Carry forward and Set off of Losses:

No.	Type of Loss	Set off Under/Against*	Carried Forward for
1.	House Property	All heads **	8 Years
2.	Speculation	Speculation	4 Years
3.	Unabsorbed Depreciation / Cap Exp on Scientific Research / Family Plan	Any Income (Other Than Salary)	No Limit
4.	Other Business Losses	All heads except "Salaries"	8 Years
5.	Short Term Capital Loss	Short Term and Long Term Capital Gains	8 Years
6.	Long Term Capital Loss	Long Term Capital Gain	8 Years
7.	Owning / Maintaining Horse races	Owning / Maintaining Horse races	4 Years
8.	Specified Business u/s. 35AD	Specified Business u/s. 35AD	No Limit

* No loss can be set off against winning from lotteries, crossword puzzles, races including horse race, card games and any sort of receipt from gambling or betting of any form or nature.

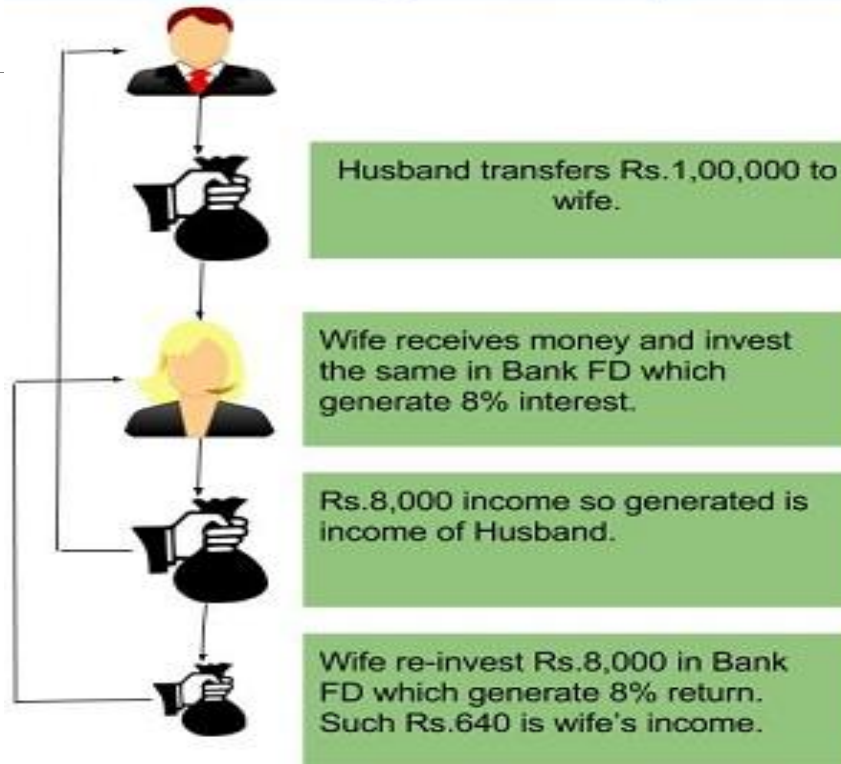
* For Loss to be carried forward for future periods, Return of loss must be filed in time.

** The maximum amount available for set off of loss from house property in the year will be restricted to ₹ 2,00,000 against the income of other head and the unabsorbed loss can be carry forward for set off in subsequent years

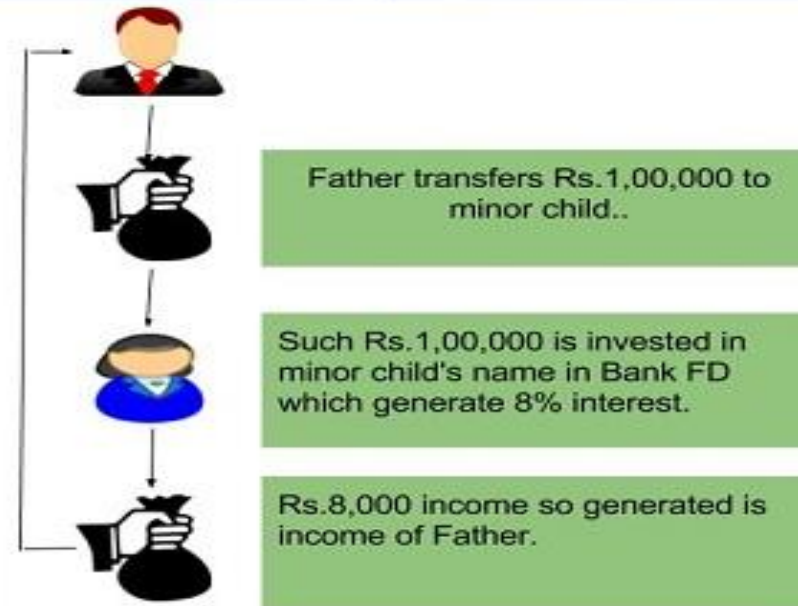
Clubbing of Income of Spouse and Child - Rules

(www.basnivesh.com)

Case 1) Clubbing of Income - Spouse



Case 2) Clubbing of Income - Child



Note:-

- 1) Income is clubbed with parent whose income is higher.
- 2) You can claim Rs. 1,500 tax exemption from such clubbed income per year per each minor child.

Special Deduction for Start-up u/s 80IAC

Key features/conditions of this section are:

- ❖ Assessee eligible for deduction should be a company or limited liability partnership and it should be engaged in 'eligible business'.
- ❖ Such company or LLP should be framed between **01.04.2016 to 31.03.2021** and it should not be formed by splitting up or the reconstruction, of a business already in existence.
- ❖ The company or LLP should also not be formed by the transfer to a new business of machinery or plant previously used for any purpose.
- ❖ **'Eligible business'** means a business which involves innovation, development, deployment or improvement of products or process or services or a scalable business model with a high potential of employment generation or wealth creation.
- ❖ Annual business turnover of the company or LLP does not exceed **Rs. 25 crores** in the previous years in which the deduction is claimed u/s 80IAC(1).

80IAC contd.....

- ❖ **Assessee** also needs to hold a certificate from Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.
- ❖ **Quantum of Deduction:** On satisfaction of the conditions mentioned above, **100% of profits and gains** derived from eligible business shall be deductible for **3 consecutive assessment years out of 7 years** beginning from the year in which the eligible start-up is formed.
- ❖ **Eligible business profits** shall be computed as if such business is the only source of income of the assessee.
- ❖ **Books of account** of the assessee are required to be audited and a report thereof should be submitted along with the return of income.
- ❖ Where an assessee **fails to claim** the deduction in his return of income the deduction shall not be permissible later.

Angel Tax: Section 56(2)(viib)

❖ What is angel tax and why it is there.

❖ Impact of angel tax on Start-ups

❖ Exception:

Consideration received by Venture Capital Undertaking from a Venture Capital Company or a Venture Capital Fund

The total of paid up share capital and share premium of start-up after issue of shares to eligible investor should not exceed Rs. 10 Crores. However a valuation report from the Merchant Banker needs to be obtained specifying the FMV of shares.

Note - Angel tax will not be levied for start-ups registered with DPIIT, Finance Minister Nirmala Sitharaman [announced](#) on August 23, 2019

Special Provision for Taxation of New Companies

As per section 115BA of the Income Tax Act 1961 a company having turnover upto Rs. 250 crores shall be chargeable to tax @ 25% (further enhanced by surcharge, education cess & shec).

- ❖ It should be engaged in the business of manufacture or production or any article or thing.**
- ❖ The Company should exercise such option before the expiry of time limit of filing ITR.**

Special Provision for Taxation of Patent in India

A new section 115BBF inserted in Income Tax Act to provide that:

Where the total income of an eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, the Income Tax payable shall be aggregate of-

- A. @10% on income by way of royalty in respect of such patent**
- B. The balance income shall be taxable at normal rates.**

Other Compliances / Provisions

- ❖ Annual Income Tax Return filing
- ❖ TDS Compliance
- ❖ Tax Audit
- ❖ Minimum Alternate Tax

Thanks

