A STUDY ON THE INCOME TAX ASSESSMENT OF HINDU UNDIVIDED FAMILIES IN INDIA (WITH REFERENCE TO THE ASSESSMENT YEAR 2022-23)

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Abstract: Since the Income Tax Act, 1961 is the parent law in India for the purpose of computation of taxable income of an assessee, the computation of the taxable income and tax liability of an Hindu Undivided Family should also be done by following various provisions of Income Tax Act,1961. Hence the Hindu Undivided Families should also be well versed with various sections applicable for computing gross total income, claiming chapter VIA deductions from the gross total income and also for tax planning and tax saving purposes. The term Hindu Undivided Family includes Jain and Sikh Families but not Muslim and Christian Joint families. Generally the eldest member of the family will first pay the income tax on the income of the family and the remaining income will be distributed to all other members.

Key Words: Assessees, Person, Hindu Undivided Family(HUF), Kartha.

Introduction: As per Sec.2(31) of the Income Tax Act, 1961, the term person includes an individual, a Hindu Undivided Family, a company, an association or persons or body of individuals whether incorporate or not, a local authority and every artificial juridical. Hence, the Hindu Undivided Family(HUF) got a special status in the Income Tax Act and it is assessed to income tax as a separate unit of assessment. However, the term 'Hindu Undivided Family' is not defined in the Income Tax Act, but it is defined in Hindu Law as per which the concept of Hindu Undivided Family means a group of persons lineally descendent from a common ancestor and- includes their wives and unmarried daughters. A daughter is a member of her father's family till her marriage and on being married, she ceases to be a member of father's family and becomes a member of her husband's family as a daughter in law. The HUF comes into existence due to a certain relationship and it cannot come into existence by an agreement among strangers. In order to claim the status of a HUF the family must have common property(ie., the property inherited by a male ancestor, property acquired with the aid of ancestral property and property acquired by a member of HUF from his own source of income and converted such property into the family pool) and there should be a coparcener(ie., the member of the family who acquires by birth an interest in the joint family's property and has a right to enforce partition of such joint family's property). There are two schools of Hindu law. 1. Dayabhaga school which exists only in Assam and West Bengal states of India, according to this law a son acquires interest in the joint family only after the death of his father. 2. Mithakshara School which prevails over the rest of India, according to this law a son acquires interest in the ancestral property as soon as he born.

Partition of Hindu Undivided Family: Family partition is of two types it may be complete partition (ie., the partition as a result of which all the properties of the family are distributed among the members consequently the family ceases to exists) or it a partial partition which means only some of the constituents of the family go out and the fold and the family exists with the remaining members. Or in case of partial partition of the family only a part of the properties are divided among the members and the family will continue with the remaining properties. The partial partitions are not recognized from tax purposes with effect from 31st December, 1978.

Assessment of Hindu Undivided Family: The income of the joint family will be assessed in the hands of kartha who will be the father or manager of the family or any other junior member of the family can become the Kartha with the consent of all other members. Hence the procedure to assess the taxable income of the HUF is similar to the assessment of taxable income of the family. It involves the following steps.

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1. **Residential status has to be determined**: A Hindu Undivided Family(HUF) shall be said to be resident in India in a previous year if the control and management of its affairs are wholly or partially situated in India. Hence, if the control and management of its affairs are completely not situated in India, then such HUF will be considered as non-resident. Control and management refers to a place where the decisions related to the affairs of the HUF are taken place. Once the HUF is a resident in India, then it is to be further determined as resident and ordinarily resident and resident but not ordinarily resident like in case of an individual viz., if the Karta of the HUF has satisfied the both additional conditions (ie., a. He (Karta) must be resident in at least 2 out of 10 previous years immediately preceding the relevant previous year; and He must be in India for at least 730 days during 7 previous years immediately preceding the relevant previous year), he will be considered as resident and ordinarily resident of India during the previous year. However, if the Karta has not satisfied any one or both of the additional conditions, then such HUF will be considered as resident but not ordinarily resident of India for the previous year. We should remember here that for determining whether a HUF is resident or not in a previous year, the Kartha's residential status is not relevant but for determining whether a HUF is a ordinarily resident in India or not, the kartha's residential status for the previous year is relevant. It should also be remembered here that only individuals and HUFs will alone be classified further as ordinarily residents and not ordinarily residents but not other persons will be classified.
2. **Computation of Gross Total Income:** The gross total income of the HUF has to be computed like in case of any other person based on the residential status. However there will be no income chargeable to tax under the head income from salaries in case of HUFs. Hence the gross total income in their case comprises of only incomes chargeable to tax under the remaining four heads of income ie., income from house property, income business or profession, income from capital gains and income from other sources.
3. **Clubbing of Incomes:** transfer of incomes by HUFs to other persons as covered by section 60 to 63 of the Income Tax Act are also to be integrated with the income of the HUFs while computing the gross total incomes of the HUFs.
4. **Set Off and carry forward of losses:** While aggregating the incomes for computing the gross total incomes the current year's losses from one head can be adjusted against the incomes of other heads, in the same way brought forwarded losses of previous years can also be set off against the current year's incomes to the extent applicable. The unabsorbed losses can be carry forward to the subsequent years as per the income tax law. Deductions u/s.80C to 80U: From the gross total income, various deductions allowable u/s.80C to 80U for example deductions u/s.80C, 80D, 80G etc., have to be deducted to computed the Net taxable income. This net taxable income has to be rounded off to nearest Rs.10.
5. **Computation of tax liability**: On the net taxable income the tax liability has to be computed by applying the slab rates applicable to the previous year as under- **Income Tax Rates For HUF/AOP/BOI/Any other Artificial Juridical Person under the old tax regime (Table.1)**

Net income range	*Income-tax Rates*
Up to 2,50,000	*Nil*
Rs. 2,50,001- Rs. 5,00,000	*5%*
Rs. 5,00,001- Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

Plus:

a. Surcharge: –

- 10% of income tax where total income exceeds Rs. 50,00,000.
- 15% of income tax where total income exceeds Rs. 1,00,00,000.

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- 25% of income tax where total income exceeds Rs. 2,00,00,000
- 37% of income tax where total income exceeds Rs. 5,00,00,000.

b. Health and Education cess:– 4% of income tax and surcharge.

Source: https://www.taxmann.com/post/blog/income-tax-slab-rates-for-ay-2022-23

Income tax rates applicable to Individuals and HUF under new optional tax regime (Section 115BAC): A new tax regime for Individual and HUF under the Income Tax Act to tax the income of such assessees at lower tax rates if they agree to forego prescribed deductions and exemptions under the Act. Special provision for calculating income of assessees opting for this section is prescribed under the said section. **(Table.2)**

Total Income (Rs)	Rate
Up to 2,50,000	*Nil*
From 2,50,001 to 5,00,000	5%
From 5,00,001 to 7,50,000	10%
From 7,50,001 to 10,00,000	15%
From 10,00,001 to 12,50,000	20%
From 12,50,001 to 15,00,000	25%
Above 15,00,000	30%

Plus:

a. Surcharge: –

- 10% of income tax where total income exceeds Rs. 50,00,000.
- 15% of income tax where total income exceeds Rs. 1,00,00,000.
- 25% of income tax where total income exceeds Rs. 2,00,00,000
- 37% of income tax where total income exceeds Rs. 5,00,00,000.

b. Health and Education cess:– 4% of income tax and surcharge.

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After computing the tax payable as above the tax deducted at source and advance tax and the double taxation relief has to be deducted in order to know the net tax still payable or refund due from the department, both have to be rounded off to the nearest Rs.10. If the net tax still payable, it has to be paid as self assessment tax before filing the return of income, and a proof of payment must be disclosed in the return of income.

Conclusion: While computing the taxable income of the HUF, the following points are to be considered. If a company or a firm has paid any fee or remuneration to any of the members of a HUF being a director or partner, because of or as an exclusive reason of investing the joint family's funds in such company or firm, has to be treated as income of the HUF but not the income of HUF. However if the member of HUF has received such fee or remuneration from such company or firm because of the services rendered by such member in their personal capacity, then such fee or remuneration has to be treated as the individual income of such member. In the same way any genuine and reasonable remuneration paid to kartha for conducting the business of the HUF will be allowed as deduction while computing the income from such business of the family.

References:

Text books:

1. Vinod K. Singhania, Direct Taxes Law and Practices, Taxmann Publications, , New Delhi.
2. Bhaghavathi Prasad, Law and Practice of Income tax, New Age International Publisher New Delhi.

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Web sites:

1. https://incometaxmanagement.com
2. https://www.incometax.gov.in
3. https://www.taxmann.com

Research article:

Assessment of individual's income tax in India by Dr. K Udayakumar& M Rajakrishnan, International Journal of Advanced Educational Research, Volume 3; Issue 1; January 2018.

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