SBS Hyderabad
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Section - 56 of The Income Tax Act, 1961
[Income from Other Sources]

By

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Introduction

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- Income that is taxable under the Income Tax Act 1961 (“Act”) shall fall under the Head “Income from Other Source” if it is not chargeable under any other heads of income.
- Heads of Income covered under the act are as below;

  Income from:
  - Salary (Sec. 15)
  - House property [HP] (Sec. 22)
  - Profits and gains of business of profession [PGBP] (Sec. 28)
  - Capital gains [CG] (Sec. 45)
  - Income from Other sources [OS] (Sec. 56)

  From the above, it was clear that income not falling under first four heads as above shall fall in Income from other sources. Provided that it should be taxable income.

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Gift (1/4)

- Gift refers to ***sum of money or value of property received without any consideration or inadequate consideration.*** It is chargeable to tax in hands of recipient subjected to following

S No	Nature	Taxability
1.	Money (Aggregate)	If aggregate value exceeds Rs. 50,000/- (F.Y)
2.	Movable Property (Aggregate)	**No consideration:** If aggregate fair market value exceeds Rs. 50,000/- (F.Y)
		Inadequate consideration: Where the difference of fair market value and the consideration exceeds Rs. 50,000/- is subject to tax under OS
3.	Immovable property (Individual)	**No consideration:** If stamp duty value of the property exceeds Rs. 50,000/-
		Inadequate: The difference between Stamp duty value and the consideration exceeds, Higher of the below: • Rs. 50,000/- • 5 percent of the consideration. W.e.f from 1-4-19 (Finance act 2018)

Determination of Value of Immovable Property:
No consideration: Stamp Duty Value as on date of registration (DOR) is to be considered
Inadequate consideration: If Date of agreement (DOA) and DOR are different and part (or) full consideration is paid on (or) before DOA then value as on DOA be considered. Otherwise DOR. Payment should be made by Account Payee cheque or account payee draft or any electronic mode.

Gift – Example (2/4)

<u>Case-1</u> *Mr. A transfer a Immovable property for 1 Crore consideration on 2nd June 2019. The stamp duty value ["SDV"] of property as on the day is 1.04 Crores. Is it taxable?*

<u>Ans:</u> No.

As per provision 50,000 (or) 5% of consideration, Whichever is higher.

Here 5 percent of the consideration is Rs. 5 lakhs, which is Higher than 50,000.

So, 5% of consideration is to be considered.

Difference between SDV and Consideration is 4 lakhs.

Since the difference does not exceed 5% of the consideration it is not Taxable.

<u>Case-2</u> *Mr. A transfer a Immovable property for 1 Crore consideration on 2nd June 2019. The stamp duty value of property as on the day is 1.06 Crores. Is it taxable?*

<u>Ans:</u> Yes.

As per provision 50,000 (or) 5% of consideration, Whichever is higher.

So, 5% of consideration is to be considered.

Difference between SDV and Consideration is 6 lakhs.

Since the difference exceeded 5% of the consideration whole difference amount is Taxable

Hence, Rs. 6 lakhs is taxable.

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Gift and Relative definition (3/4)

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<u>Property definition</u>:

A capital asset of the assessee:

- Immovable property being land and buildings
- Shares and securities, Jewellery, Archaeological collections, Drawings, Paintings, Sculptures, Any art of work, Bullion.

<u>Relatives definition</u>:

<u>In case of individual</u>:

- Spouse of the individual
- Brother or sister of the individual
- Brother or sister of the spouse of the individual
- Brother or sister of either of the parents of the individual
- Any lineal ascendant or descendant of the individual
- Any lineal ascendant or descendant of the spouse of the individual
- Spouse of the person referred to in above points
- ***<u>In case of HUF:</u>*** All the Members of HUF

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Gift (4/4)

Exceptions to taxability of Gift under the Act: If amount is received from

- Relatives
- On occasion of marriage of Individual
- Local authority
- Under any will document
- In contemplation to Death of Donor or Payer
- Trust or institution Registered under 12A or 12AA of the Act
- From any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to Section 10.
- From an individual by a trust created or established solely for the benefit of relative of the individual
- By way of transaction not regarded as transfer under section 47 of the Act

By any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to Section 10

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Winnings (1/2)

Income earned by way of:

- Winnings from
  - Lotteries
  - Cross word puzzles
  - Races including horse races
  - Card games
  - Gambling and betting
  - Entertainment shows

All the above incomes are chargeable to tax at flat rate of **30%** and Cess @ **4%**

Winnings (2/2)

- Deductions that can be claimed under sec 80 of the Act cannot be claimed from Winnings
- Basic exemption limit is not applicable

Example:

Mr. A has won the prize money of Rs 3 lakhs from a game show and he has an interest income of Rs 5 lakhs p.a. Then the tax liability would be calculated as per following:

Tax on Rs 3 lakhs @ 30% + 4% H and Ed cess = 93,600/-

Tax on Rs 5 lakhs as per income tax slab rates after claiming the relevant deductions =13000/-

Total Tax = 1,06,600.

If Prize money received in kind:

- Tax is paid on the fair market value of the Prize received in kind.

Example:

Mr. X won an Alto car in a contest whose market value is Rs 4 lakhs, then tax @ 30% + 4%cess is to be paid on 4 lakhs, which is equal to 1,24,800.

Share premium in excess of FMV (1/4)

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Subscriber of Shares is a resident

Company in which public are not substantially interested

Consideration received > Face Value of shares

Taxable amount= Consideration - FMV

Share premium in excess of FMV (2/4)

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Exemption:

- Where consideration is received by venture capital company or Venture capital fund
- By the company as notified by the Central Government

Determination of fair market value:

Fair Market Value of shares must be higher of the following:

- Determined In accordance with the prescribed methods (or)
- Substantiated by a company to the satisfaction of the assessing officer, based on value of its assets on the date of issue of the shares.

Value of assets include the value of assets include the value of intangible assets such as goodwill, know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature.

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Share premium in excess of FMV (4/4)

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- **Example:**

Company	No. of Shares	Face Value of share	F.M.V of Shares	Issue Price of Shares	Taxability
A (P) Limited	10000	100	120	130	Yes
B (P) Limited	10000	100	120	110	No
C (P) Limited	10000	100	90	98	No
D (P) Limited	10000	100	90	110	Yes

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Calculation of FMV

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Two methods are prescribed for calculating Fair Market Value.

1. Fair Market Value = $\dfrac{(A-L) * (PV)}{PE}$

   - A = Book value of assets – Net taxes paid during year under Act + unamortized amount of deferred expenditure which does not represent the value of any asset;
   - L = Book value of liabilities – Paid up equity share capital – Amount set apart for payment of dividend – Reserves and Surplus - Provisions made, if any – contingent liabilities
   - PV = Paid up value of equity shares
   - PE = Total amount of paid up equity share capital as shown in the balance sheet

2. The fair market value of the unquoted equity shares determined by a merchant banker as per the Discounted Free Cash Flow method.

Dividends (1/5)

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Taxability of Dividend:

- Dividend from foreign company
- Deemed Dividend
- Dividend U/s. 115BBDA (Taxability of certain dividends from domestic company)

Dividend from foreign company:

All the dividends received from foreign company are taxable under Sec. 56(2)(a)

Foreign company is a company other than Domestic company.

Domestic company:

"Domestic company" means an Indian company, or any other company which, in respect of its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income.

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Dividends (2/5)

Dividend U/s. 115BBDA:

Dividends received from the domestic company in excess of Rs.10 lakhs is taxable @ 10% on amount over and above Rs.10 lakhs.

- Set-off of losses is not applicable
- Income is taxable at flat rate of 10%

Example: If Mr A's total income is Rs. 20 lakh, which includes dividend income of Rs. 15 lakh during the financial year 2017-18, then he is liable to pay additional tax at 10 per cent on Rs. 5 lakh and under normal slab rated to the extent of Rs. 5 lakh.

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Dividends (3/5)

Deemed Dividend [2(22)]:

a) Distribution of assets

b) Distribution of debentures, deposits certificates to shareholders and bonus to Preference share holders

c) Distribution on liquidation to the extent of accumulated profit

d) Distribution on reduction of capital to its shareholders to the extent of accumulated profit

e) A company in which public are not substantially interested extends loans or an Advance to following persons out of accumulated profits

- Shareholders who has more than 10% of voting power or
- To any concern in which such shareholder is substantially interested or
- To individual benefit of such share holder or
- On behalf of such shareholder

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Dividends (4/5)

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Exceptions:

- Where loans are extended in Ordinary course of business
- Where such loan is adjusted against Dividend to be declared and distributed

Taxability:

- Taxable at the rate of 30% in case of Sec. 2(22)(e).
- Taxable at the rate of 15% in case of Sec. 2(22)(a) to Sec. 2(22)(d).

Example:

ABC Pvt Ltd. is a company, in which public are not substantially interested. Hari an individual being one of the shareholder having 15% voting power. The company has accumulated profits of Rs. 25 lakhs as on 31 March 2018. The company granted a loan of Rs. 100,000 to Hari, by way of an account payee cheque. He repaid the amount on 5 May 2018.

Ans: In this case, even if the loan has been repaid by Hari, the loan amount granted to the extent of accumulated profits are treated as deemed dividend.

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Dividends (5/5)

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Accumulated profits:

- All the profits of the company up to the date of distribution or payment of Dividends

In case of liquidation:

- Accumulated profits include all profits up to the date of liquidation.
- When liquidation is consequent to compulsory acquisition of government or any corporation owned by government, then accumulated profits does not include any profits prior to 3 years preceding the previous year in which such acquisition takes place.

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Interest on compensation & Advances forfeited

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Interest on compensation:

- Interest on compensation and enhanced compensation received on compulsory acquisition by government is chargeable to tax under the head Income from other source.
- 50% deduction can be claimed under Sec.57

Advance forfeited:

Any sum received by way of advance or any other course of negotiations for transfer of capital asset and

- Such amount is forfeited and
- Such negotiation did not result to transfer of such asset

These are chargeable to tax under income other source.

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Taxability on hire charges

- 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.
- If an assessee lets on hire plant or furniture, machinery and building and letting of that building is inseparable from such letting of plant or furniture, machinery then such income is taxable under IFOS.
- If there is letting of Building as well amenities but without any letting of Assets, then this section is not applicable & the whole of such Income earned will be taxed under Income from House Property.

<u>Example:</u> Theatre Building and its Furniture is taxable under the head Income from Other Sources, if not charged as Business Income

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Thank you!!!

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