TUTOR MARKED ASSIGNMENT

Course Code	:	**ECO - 11**
Course Title	:	**Element of Income Tax**
Assignment Code	:	**ECO – 11/TMA/2016-17**
Coverage	:	**All Blocks**

Maximum Marks: 100

Attempt all the questions.

1. How is residence of assesses determined for income tax purposes? Explain the incidence of residence status on tax liability.

(10+10)

2. (a) What are the provision of Income Tax Act 1961 regarding the provident fund?

(b) What do you understand by 'Annual Value of House Property'? How would you determine the annual value of a house which remained vacant for a part of the previous year?

(10+10)

3. Mr. Lalit an ordinarily resident in India earned the following incomes during the financial year 2015-16

Director's fee	Rs. 2,000
Income from agricultural land in Pakistan	Rs. 50,000
Interest on postal saving bank account	Rs. 1,000
Dividend from foreign company	Rs. 7,000
Rent from subletting a house	Rs. 2,62,500
Other expenses obtained on this sub let house	Rs. 10,000
Rent payable by Mr. Lalit for the sub let house	Rs. 1,20,000
Incoming from Race course	Rs. 1,23,000
Interest on securities	Rs. 40,000

You are required to calculate income from other sources of Mr. Lalit for the Assessment year 2016-17.

(20)

4. Mr. A earned GTI of Rs. 5,00,000 in the previous year 2015-16 and made the following donations during the year.
(i) Rs. 10,000 to CM's Earthquake relief fund, Maharashtra
(ii) Rs. 1,50,000 to National Foundation for Communal Harmony
(iii) Rs. 40,000 to Municipality for family planning
(iv) Rs. 25,000 to approved institutions

Compute the amount of deduction admissible u/s 80G for the assessment year 2016-17.

(20)

5. Write brief notes on the following:
(i) Agricultural Income
(ii) Previous year
(iii) Assesses
(iv) Taxable Income
(v) Casual Income

(4×5)

ASSIGNMENT SOLUTIONS GUIDE (2016-2017)

E.C.O.-11

Elements of Income Tax

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Attempt all the questions.

Q. 1. How is residence of assesses determined for income tax purposes? Explain the incidence of residence status on tax ability.

Ans. For an individual to be declared a resident of India for tax purposes, there are conditions in two parts. Any one condition of part I has to be satisfied and both the conditions of part II have to be fulfilled.

Part I conditions are:

(i) The individual must be present in India for at least 182 days in the previous year of which income is being assessed.

(ii) The individual must have been in India for at least 60 days in the previous year and 365 days in four years preceding the previous year. He may have stayed in India for these number of days either together or in parts, that is immaterial.

The part II conditions are the following:

(i) The individual must have been in India for 9 out of the ten years in the period preceding the previous year.

(ii) In the 7 years preceding the previous year, he must have been in India for at least 730 days in aggregate. He may have stayed at different places during this time period at either his own residence or rented place or anywhere else. All the time periods mentioned above may be in parts and not at one stretch.

There are certain exceptions to Part I. If the citizen of India leaves the country for employment outside, the 60 days' period will be extended to at least 182 days. An individual of Indian origin coming to visit India also has to be here for 182 days for him to be considered resident in the previous year. Individuals not satisfying the above conditions are considered non-residents for tax purposes.

A company is determined as Indian resident if it is an Indian company or during the year, the management of affairs of the company is situated in India.

A company is an Indian Company if it has been formed and registered under the Companies Act, 1956, including earlier established companies, a company declared such by Central Board of Direct Taxes, Companies formed in J&K and the Union Territories under laws prevalent at that time.

Secondly, A foreign company with its control and management taking place in India, such as the decision-making, financial planning, etc. will also be considered resident of India. Even if a company lies outside India and trading too takes place outside, but the management lies in India, the company shall be considered resident for tax purposes. If the above-mentioned conditions are not satisfied, the company will be declared a non-resident company.

For a Hindu Undivided Family to be declared resident for income tax purpose, there are two necessary conditions; one, the control and management of the affairs of the family must be happening either wholly or partly in India and two, the *karta* or the head of the family must satisfy the conditions of being a resident of India. In the above case, the first condition is satisfied but the second condition regarding the *karta* is not satisfied as he is a non-resident. Thus, the HUF is a Not Ordinarily Resident in India.

Firms, association of persons, body of individuals and other persons any either be resident or non-resident in the country for any previous year. They cannot be categorized as not ordinarily resident.

If the affairs and management of a firm are completely or partially situated in India, the firm will have resident status in any previous year. It is immaterial whether the partners stay in India or abroad.

For a firm and other association of persons, the firm would be non-resident only if its affairs and management are completely situated outside India during the previous year.

Control and management refers to the central controlling power and not to the day-to-day affairs of the company. Generally, the control and management of the company's affairs is said to be situated at a place where the board of director's meetings are held.

The residential status of the partners is immaterial except in cases where the residence of the partners affects the management of the firm.

Incidence of Tax

Incidence of tax refers to the burden of payment of tax. A person who pays the tax and cannot shift it further on anyone else is said to bear the incidence of tax. Different assessees have different tax liability on different incomes. The residential status of the assessee determines the tax liability. The following table will help us to get a summarized idea of tax incidence of income in different situations:

(Whether income is taxable)

S. No.	Particulars of Income	Resident and Ordinarily Resident	Not Ordinarily Resident	Non-Resident
1.	Income received or deemed to be received in India whether earned in India or anywhere else.	Yes	Yes	Yes
2.	Income which accrues or arises or is deemed to accrue or arise in India during the previous year, whether received in India or elsewhere.	Yes	Yes	Yes
3.	Income which accrues or arises outside India and received outside India from a business controlled from India.	Yes	Yes	No
4.	Income which accrues or arises outside India and received outside India in the previous year from any other source.	Yes	No	No
5.	Income which accrues or arises outside India and received outside India during the years preceding the previous year and remitted to India during the previous year.	No	No	No

Q. 2. ***(a)*** **What are the provision of Income Tax Act 1961 regarding the provident fund?**

Ans. Treatment of Provident Fund: Provident Fund Scheme is a welfare scheme for the benefit of the employees. Under this scheme, certain sum is deducted by the employer from the employer's salary as his contribution to the Provident Fund every month. The employer also contributes a certain percentage of the salary of the employee to the provident fund. These contributions are deposited/invested. The interest earned on these investments is also credited to the provident fund account of the employees. The Banks thus keeps accumulating year after year. At the time of retirement/ resignation, the accumulated amount is given to the employees if certain conditions are satisfied. In this regard it is pertinent to note the following 'Acts'

(a) The contribution made by the employees is out of their income and therefore there is no question of taxing any contribution made by the employees because the entire amount of the income has already been taxed. In fact, in such cases he is given a deduction from his gross total income on account of the amount contributed by him.

(b) The contribution made by the employer is over and above the salary of the employee and is therefore, an income deemed to be received by the employee though it is not immediately made available to him. However, it is exempt upto certain limits.

(c) The interest credited to the provident fund account of the employee is also an income of the employee over and above his salary income. However, it is also exempt upto certain limits.

Kinds of Provident Funds: At present there are 4 types of Provident Funds:

(1) Statutory Provident Fund (SPF): This fund is set up under the Provident Fund Act, 1925. The Scheme, under this Act, is mainly meant for Government employees/ semi-Government employees, university/ educational institutions affiliated to a university established by statute or other specified institutions.

(2) Recognized Provident Fund (RPF): Recognized Provident Fund Scheme is a scheme to which the Employee's Provident Funds and Miscellaneous Provisions Act, 1952 applies. According to this Act, any person who employs 20 or more employees, is under an obligation to register himself under the PF Act, 1952 and start a provident fund scheme for the employees in his organization. However, there is no restriction if the employer and the employees of the establishment wish to start a scheme even if the number of employees is less than 20. The establishment has a choice between the following two alternatives:

(a) They may Join the government scheme set up by the Provident Fund Commissioner under the Provident Fund Act, 1952; or

(b) They may state a PF scheme in their own organization and get the approval of the Provident Fund Commissioner The First Scheme i.e. the Government scheme is already recognized by the Commissioner of Income-tax but for scheme started by the employer and the employees themselves, they have to create a trust for running such scheme and besides taking the approval of Provident Fund Commissioner, they have to take the approval from the Commissioner of Income-tax. In this case, the funds of the Trust are required to be invested in a particular manner and the income of the Trust is to be claimed as exempt from income tax. If the CIT grants the approval, it is called a recognized provident fund scheme.

(3) Unrecognized Provident Fund (URPF): A scheme started by the employer and the employees in an establishment, whether approval by Commissioner of Provident Fund or not, but not approved by the Commissioner of Income-tax is called an unrecognized provident fund.

(4) Public Provident Fund (PPF): This is a scheme, which is covered under Public Provident Fund Act, 1968. Any member of the public, whether in employment or not, may contribute to this fund. Therefore, even self-employed persons may contribute to this fund. In other words, it is a scheme where there is assessor's own contribution only. The employee can deposit money under PPF account in addition to his contribution to other provident fund schemes. In this scheme there is no employer's contribution. The minimum contribution to this Fund is Rs 500 and maximum Rs.1,00,000 per year. The contributions made to the scheme along with interests are repayable after 15 years, unless extended. The rate of interest, at present under the scheme is 8.7% per annum w.e.f. 1-4-2013

Treatment of Provident Fund for Income-tax Purpose

Particulars	SPF	RPE	URPE	PPE
1. Employers' asseeess contribution.	Deduction u/s 80C is available from gross total income subject to the limit specified therein	Deduction u/s 80C is available from gross total incoem subject to the limit specified therein	No deduction u/s 80C available	Deduction u/s 80C is available from gross total income subject to the limit specified therein
2. Employer's contribution	Fully exempt from tax	Exempt upto 12% of salary. Amount in excess of 12% is included in gross salary	Not exempt but also not taxable every year.	Not applicable as there is only asseee's own contribution

Q. 2. *(b)* What do you understand by 'Annual Value of House Property? How would you determine the annual value of a house which remained vacant for a part of the previous year?

Ans. Annual Value: Under section 23 (1) *(a)* is found the definition of annual value of house property. The annual value is the amount which the property will earn if it is lent from year to year. The annual value may not be the actual rent that is being received but it is a notional value which could have been derived, if the property had been rented. The annual value is the actual rent that is received in excess of the reasonable rent.

The annual value of the property must be calculated after deducting any taxes that the local authorities have levied and have been paid by the owner.

The annual value of a house property would be its reasonable rent. But if the actual rent is higher, then it would be considered as the annual value. The calculation of annual value is not calculated just from actual or reasonable rent. The annual value cannot exceed the rent fixed by the rent controller. If the actual rent is more than the rent fixed by the controller, then annual value would be the actual rent. The owner of the land sometimes meet other obligations of the tenant as well like water and electricity bills. The *defacto* rent (what actually should be) will be calculated by deducting the value of these obligations. If these services are being paid for by the tenant, their cost has to be added to the rent. Municipal taxes and repairs paid by the tenant should not be added. Various factors that have to be considered for calculating annual value are:

Municipal Valuation: This is the value of the property estimated by the municipal authorities for the purpose of levying municipal tax.

Actual rent is the rent that has been received or is receivable from the tenant.

Reasonable rent refers to the rent of other similar properties in the locality.

Standard rent is the rent fixed under the Rent Control Act. No other type of rent can be considered if the standard rent has been fixed, even if they are higher than the standard rent because landlords cannot collect rent higher than the rent fixed by the authorities.

Self-occupied House Remaining Vacant: In this case it depends whether the house was let out at all or was used for any other purpose. If it wasn't, and it was lying vacant meant for self-occupation, the annual value of such house will be nil.

Q. 3. Mr. Lalit an ordinarily resident in India earned the following incomes during the financial year 2015-16.

Director's fee	**Rs. 2,000**
Income from agricultural land in Pakistan	**Rs. 50,000**
Interest on postal saving bank account	**Rs. 1,000**
Dividend from foreign company	**Rs. 7,000**
Rent from subletting a house	**Rs. 2,62,500**
Other expenses obtained on this sub let house	**Rs. 10,000**
Rent payable by Mr. Lalit for the sub let house	**Rs. 1,20,000**
Incoming from Race course	**Rs. 1,23,000**
Interest on securities	**Rs. 40,000**

You are required to calculate income from other sources of Mr. Lalit for the Assessment year 2016-17.

Ans. Computation of Income from other sources of Mr. Lalit for assessment year 2016-17.

	Particulars			**Amount**
1.	Director's fees			2,000
2.	Income from agricultural land in Pakistan			50,000
3.	Interest on Postal Solving Bank Account			1000
4.	Dividend from foreign company			7000
5.	**Rent from subletting house**			
	Rent received		2,62,500	
	(–) Rent paid by			
	Mr. Lalit			1,20,000
	(–) Expenses	10,000	1,30,000	1,32,500
	Income from Race course			
				1,23,000
	Interest on securities			40,000
	Income from other sources			3,55,500

Q. 4. Mr. A earned GTI of Rs. 5,00,000 in the previous year 2015-16 and made the following donations during the year.

(i) **Rs. 10,000 to CM's Earthquake relief fund, Maharashtra**

(ii) **Rs. 1,50,000 to National Foundation for Communal Harmony**

(iii) **Rs. 40,000 to Municipality for family planning**

(iv) **Rs. 25,000 to approved institutions**

Compute the amount of deduction admissible u/s 80G for the assessment year 2016-17.

Ans. Computation of the amount of deductions admissible U/s 80 G for the asessment year 2016-17

***(i)* Donations eligible for 100% devuetions without any qualifying limit.**

(i)	CM's Relief fund or Maharashtra	10,000
(ii)	National Foundation for communal Harmoney	1,50,000

***(ii)* Deductions eligible for deductions with qualifiying limit**

(i) 10% of Gross total income

$= \frac{10}{100} \times 500,000 =$ 50,000

(ii) 100 % Donations to Muncipality for Family

Planning =	40000
approved institutions	25000
	65,000

(iii) 50% of the aggreate Donations = $65000 \times \frac{50}{100}$ = 32,100

(least of *(i) (ii) (iii)*	35,000
Total Deductions admissible U/s 80 G	1,9,3000

Q. 5. Write brief notes on the following:

***(i)* Agricultural Income**

Ans. Income categorized as agricultural income is a tax free income, according to Section 10 (1) of the Income Tax Act. Agriculture is a state subject, hence only the state government can tax this income. Assessees are keen on getting their incomes classified as Agricultural Income even if there is a remote possibility. On the other hand, the Tax Department would find ways not to get it classified so. Hence, there is every chance of dispute arising. There is, thus a very exhaustive definition of Income Tax been given by the Income tax Act,1961 to avoid conflicts.

Definition of Agricultural Income

Agricultural income is defined as the income which is generated from land which is situated in India and is put to agricultural use: According to the Section 2(1)(a). The Income will be agricultural only if:

(a) It is rent or revenue derived from land

(b) It is earned on land situated in India

(c) The purpose of its use is agricultural

We have to understand the meaning of the word agricultural. Incomes are called agricultural incomes when they have been generated when the labour of man has worked on the land to cultivate it or for some other purpose. Tilling is not a part of agriculture, yet human labour and skill are put in for it, i.e. it has to be applied on the land, not only on the growth of the land.

The Supreme Court has explained the meaning of 'agriculture' and 'agricultural purposes' in CIT *vs.* Raja Benoy Kumar Sahas Roy.

(i) According to it agriculture in the most basic sense refers to the cultivation which is done on the land which includes the various processes during cultivation, i.e. tilling of land, sowing the seeds, irrigation, harvesting and all other processes. It also includes all processes that contribute to the growth of the crop, its storage and sale in the market. All crops and any kind of produce on land of any nature is included in it.

(ii) In order to ascertain whether a land has been put to agricultural use, the criteria are that there has to be some amount of cultivation and some extent of human labour and skill must have been used on it. According to this criteria, any income generated from forest resources is not agricultural income because they are found free in nature and sufficient amount of human labour has not been applied to earn the income.

Kinds of Agricultural Income

Agricultural Income has been classified into five types:

(i) Any rent or revenue derived from land.

(ii) Income derived from agriculture.

(iii) Any income derived from marketing process performed by cultivator or receiver of rent in kind.

(iv) Any income derived from the sale of product.

(v) Income from farm building.

***(i)* Any Rent or Revenue Derived from Land:** When the land situated in India is used for agricultural purposes, it will be termed as agricultural income. When one person gives the right of use of land to another person and receives money for it, it is a case of earning rent which may be in cash or in kind and the receiver may or may not be the owner of the land. An example of rent in kind is a person receiving some part of the produce in return for land use. If the receiver adds some value to this produce on this land or sells the produce in the market, the income he earns will be agricultural in nature even for the cultivator.

***(ii)* Income derived from such land by agriculture or from manufacturing process {Section 2(1A)(b)}:** (By combining point no. *(ii)*, *(iii)* and *(iv)* from the above) 'Such land' refers to the land situated in India used for agricultural purposes. Agricultural income is income generated from agriculture or the process a cultivator uses to make his produce marketable or by selling the produce without processing. When the cultivator uses some process to market the produce like removing husk from the rice, the income he earns from the sale of rice will be called agricultural income. But if sugarcane juice is extracted for sale, it is not income of agricultural nature because it is a case of complete change in the product and a higher value addition.

***(iii)* Income from agricultural house property and farm buildings:** There are certain buildings from which the rent generated amounts to agricultural income,which are discussed below:

(a) The building must be owned and occupied by the person who receives rent or revenue of any such land.
(b) The building must be situated immediately next to agricultural land.
(c) Since the agriculturalist is associated with this land and has used it as a dwelling house, storehouse or an outhouse.
(d) Land revenue or any local rate imposed by a local authority must be levied on the land on which the building has been constructed.
(e) If no land revenue is being collected from the land, it must not be situated in any urban area, which is defined by an area having a cantonment board or a municipal board, a notified area, a town area, a municipal corporation or the like and which has a population of 10,000 or more.
(f) The land must not be situated within 8 km of an urban area or as the central government notifies in the official gazette.

Partly Agricultural Income

There are many instances of incomes which are neither entirely agricultural nor otherwise and the task of classifying these incomes is an onerous task. It is difficult to ascertain whether these incomes are of taxable nature or not. For example, up to the harvesting stage, income from sugarcane is of agricultural nature but when it is converted to sugar in mills, it is not treated as agricultural income. Growing and selling fruits is a part of agricultural income but when they are converted to juice in mills and packaged and sold, they cease to be treated as agricultural incomes as they are partly agricultural in nature. Rules 7 and 8 of the Income tax rules, 1962 deals with these types of cases.

Taxation of Agricultural Income

For a long time, agricultural incomes were completely exempt from tax. But it was realized that there are many instances of persons who earn both agricultural and non-agricultural incomes. These persons have high tax-paying capacity. The government exempts their agricultural income but imposes higher rates of tax on their non-agricultural incomes, indirectly taxing the agricultural income. This called for a partial integration of agricultural income by taxing the non-agricultural incomes at a higher rate.

To do so, the agricultural and non-agricultural incomes are added to find out what rate of tax would apply to the non-agricultural income which would naturally be a higher rate and income tax department would get a higher income. Only companies, registered firms and cooperative societies need not club their agricultural and non-agricultural incomes, rest all assesses have to do it to decide the rate of tax applicable. This partial integration is done only when the non-agricultural income of the assessee is more than the minimum taxable limit of Rs. 2,00,000 for assessment year 2013-2014 and the net agricultural income is more than Rs. 5,000.

***(ii)* Previous year**

Ans. The year for which the salary is being calculated is the previous year and the year in which it is assessed is the assessment year. All government business is conducted in this previous year between April 1 of last year and March 31 of this year also known as the fiscal year. Before 1989-90, the assessee could consider any 12 months as the assessment year, it may be from a Diwali to the next Diwali or from one Dussehra to another Dussehra or any other year. From 1.4.1989. uniformity has been maintained and the assessment year is now from 1 April to March 31. The following provisions of Section 3 after amendment in 1989-90 are as follows:

1. The previous year refers to the year just preceding the assessment year.

2. Previous year means the 12 months which just ends on any day during the financial year immediately before 1 April of the assessment year.

If in the previous year the assessee had different sources of income, he has to make separate assessment for each source in the assessment year . He cannot club all the sources. The period for any source, would be a period of twelve months or less. The assessee cannot make a uniform accounting year. If the previous year exceeded 12 months, there could be changes in the monetary limit, depreciation allowance or rate of tax according to the tenth schedule.

If the assessee has set up a new business in the previous year before April 1, 2012 and after March 31, 2011, the assessment of his business would exceed twelve months extending up to March 31, 2013. The period of previous year would be from the starting date of the business in 2011-12 to March 31, 2013. For example:

(a) If Mr Das has founded a new business on 1.10.2011, and does not close his financial year on March 31, 2012 but continues up to March 31, 2013, his period of assessment would be 18 months.

(b) If Ritu Beri was adopting 1 January to December 31 as financial year before 1991, and then started following the uniform year of April 1-March 31, her year of assessment would be from January 1, 1991 to March 31, 1992, which would be 15 months.

The above period was referred to as the transitional period. Due to the transition, the previous year's duration became more than 12 months due to which the assessee might not get the benefit of exemptions, and other benefits. Such cases are dealt with in schedule 10 which allowed for the exemption limits to be increased.

Presently, the previous year cannot exceed 12 months. For example, if a new business has been set up on November 1, 2011 and assessment year is 2012-13, the previous year would be 1, 2011 to 31 March 2012, i.e. 5 months.

***(iii)* Assesses**

Ans. Who is an assessee? It has been defined in Section (7) of the Income Tax Act,1961."Assessee is the person who is supposed to pay tax or any other amount according to the Income Tax Act.

The following will be called an assessee:

(i) All those whose income is being assessed for tax purposes.

(ii) All those whose incomes can be assessed in respect of other people.

(iii) All those who are supposed to get income tax refund.

(iv) All people who are considered assessee under this Act.

(v) All people who have defaulted under some provision of this Act and are supposed to pay tax.

Who is a defaulter assessee? A person who is supposed to deduct tax at the source of income but has not done it; a person who has deducted the tax but has not paid it to the government; and a person who has not made timely payment of advanced income tax. Those people were supposed to pay taxes but have not paid them and are hence called defaulters.

This wide definition of income tax encompassed all those who have even slight chances of being called an assessee.

***(iv)* Taxable Income**

Ans. An Indian resident with taxable income in the previous year is supposed to pay income tax on his taxable income at the rate fixed by the Finance Act for that year. It is worth mentioning that as per the Finance Act, 2013, incomes upto Rs. 2,00,000 are not subject to taxation for those below 60 years of age. For individuals between 60 to 80 years of age, the tax slab is Rs. 2,50,000. The income of the individual or HUF or firm is calculated on the basis of the provisions laid down in the Income Tax Act, 1961. On the basis of the computed income, the individual either pays his tax or gets a refund from the tax department.

The calculation of taxable income is done for the individual who is an Indian resident. The first step is to calculate the taxable income from each source under each particular head. The different heads of income are *(a)* Income from salaries *(b)* Income from house property *(c)* Profits and Gains of Business or Profession *(d)* Income from Capital Gains *(e)* Income from other sources.

The taxable income under each head has to be calculated. In doing the same, allowances or disallowances have to be accounted for. The revenue expenses which have been incurred have to be deducted from the receipts or profits.

Total of income from all properties would make up the income from capital gains. The income from all businesses added up would be the income from business or profession.

Losses have to be adjusted. If there is loss under a particular head of income, it can be adjusted either from the same head of income or other heads but speculation loss can be set off against speculation gains only. If the loss is more than the gain, then the loss is carried forward to the next year. Certain losses can be carried forward for eight years or a period of four years. The aggregate of all the head of incomes would give us the Gross Total Income.

After calculating Gross Total Income the relevant deductions under the various Sections like 80C, 80D have to be made, which finally gives us the total Taxable Income.

***(v)* Casual Income**

Ans. Incomes which do not have regularity of occurrence or do not have expectation of some regularity are also found sometimes. These are not regular and do not arise from any source and are known as 'casual incomes' in income tax parlance.

Definition of Casual Income

The term casual income has not been defined in the Income Tax Act of 1961. The court decisions and meaning of word casual are used to explain this term. Incomes are considered casual when they occur suddenly or by chance and is uncertain and accidental. They are not reliable regular sources of income.

Examples of casual Income are winning from lotteries, crossword puzzles, races, card games, gambling or betting and such other incomes. Section 2(24) *(ix)* of the Income Tax Act includes these casual incomes within the scope of the term income. Lottery is defined to include winning from prizes awarded to any person by draw of lots or by chance or, in any other manner whatsoever, under any scheme or arrangement under any name. 'Card games and other games of any sort' is defined to include any game show, any entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game. Not in the year in which the prize is declared [CIT *vs* M. Ramachandran (2007)(Mad)]

Currently, such income is taxed at 30% rate education cess and surcharge, if any: Casual income is always taxable under Section 56 of the Income Tax Act, under head of income from other sources. The person does not get any deduction under Section 80A to 80 VV. Losses cannot be set-off against casual income. Where an assessee does not maintain any book of accounts, lottery prize won by him would accrue in the year in which it is received by the assessee and another criteria used to determine whether an income is casual or not is whether the receipt is an anticipated one or not or is paid as per an agreement. An anticipated expected income cannot be called casual income, even if it is one-time. Thus, casual receipts are unexpected ones and windfall gains.

When is income is not expected again at all, it is said to be non-recurring. The person receiving such income has to prove its being a casual income.

The following incomes are not considered casual incomes though they may be non-repeating:

(a) Capital Gains.

(b) Receipts arising from business, profession or occupation.

(c) A receipt like bonus which adds to the income of an employee.

Chargeability of Casual Income

Until 1974-75 gifts were considered as casual income and no tax was levied on them. But then it was found that persons tried to categorize even their genuine incomes as gifts to avoid paying tax. To stop misuse, an Exemption limit of Rs. 5,000 was fixed on casual incomes. At present casual income is taxed at 30% education cess and surcharge, if any. Casual income is always taxable under Section 56 of the Income Tax Act.

For calculation, the total amount of casual incomes have to be found under the head 'Income from other sources' and is always subject to taxation. When a person does not maintain any book of accounts lottery prize is taxed in the year in which it has been received and not in the year in which it was declared. {CIT *vs.* M Ramachandran (2007) (Mad)}.

A Few Examples

The following are classified as casual incomes:

(a) Amount won from Lucky Prize Schemes are not incomes from any business.

(b) Government grants to start businesses are casual incomes.

(c) When a company relieves its auditors with a golden handshake, i.e. by giving them compensation, the compensation is not to be regarded as income.

(d) A banking company levying entrance fees on its new shareholders.

(e) Any activity which is a hobby and not a business and which results in some earning is a casual income.

The following incomes, though appearing casual in nature, are not casual incomes:

(a) Any earning from an occupation, for example a donation for teaching yoga.
(b) Tips to taxi drivers.
(c) Gifts received from clients.
(d) Indirect benefits received out of professional conduct.