

2.1. Assessee [Sec. 2(7)] :

According to section 2(7) of the Income-tax Act, 'assessee' means the following persons :

- (a) a person by whom any tax or any other sum of money (*i.e.* interest or penalty) is payable under this Act ;
- (b) a person in respect of whom any proceeding under the Act has been taken—
 - (i) either for the assessment of his own income or assessment of fringe benefits or assessment of loss ; or
 - (ii) for the assessment of the income or loss of any other person in respect of which he is assessable [*e.g.* income or loss of the minor is assessable in the hands of either parents as per section 64(1A)]; or
 - (iii) for the assessment of the amount of refund due to him or to such other person;
- (c) a person who is deemed to be an assessee under any provision of this Act (legal representative of a deceased assessee as per section 159, representative assessee as defined in section 160 *i.e.*, agent of a non-resident, guardian or manager of an infant and lunatic, etc. are some instances of deemed assessee);
- (d) a person who is deemed to be an assessee in default under any provision of this Act [for instance, a person, who is required to deduct tax at source under the relevant provisions of this Act but fails to do so or after deducting the tax fails to deposit the same, is deemed to be an assessee in default under section 201(1)].

2.2. Person [Sec. 2(31)] :

The term 'person' includes the following :

- (i) an individual;
- (ii) a Hindu undivided family;
- (iii) a company;
- (iv) a firm;
- (v) an association of persons or a body of individuals, whether incorporated or not ;
- (vi) a local authority ; and
- (vii) every artificial juridical person not falling within any of the preceding categories.

An *Explanation* has been inserted by the Finance Act, 2002 to provide that an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains.

The above definition is, however, not exhaustive. Any person not falling in any of the seven categories as mentioned above may still be considered as 'person' and liable to pay tax accordingly.

A short description of each category of person as defined above is given below:

- **An individual** : It means a human being and includes a minor or a person of unsound mind.
- **A Hindu undivided family (HUF)** : A Hindu undivided family is a separate unit of assessment under this Act distinct and separate from its members. It consists of all persons lineally descended from a common ancestor and includes their wives and unmarried daughters.
- **A company** : It includes a public or a private limited company incorporated in or outside India and is a separate taxable entity distinct from its shareholders.
- **A firm** : It is a taxable entity separate and distinct from its partners. From the assessment year 1993-94 onwards there is no distinction between registered and unregistered firms.
- **An association of persons (AOP) or a body of individuals (BOI)** : There is a thin difference between AOP and BOI. An AOP means a combination of persons formed for the promotion of a joint enterprise, banded together as co-venturers with mutual rights and obligations. On the other hand, common design or common will may not exist in case of BOI. An AOP must associate themselves in an income-producing activity while a BOI may form an association without doing anything immediately but wait for something. One more distinctive feature is that a BOI cannot have any non-individuals as its members.

● **A local authority** : According to section 3(31) of the General Clauses Act, 1897, it means 'municipal committee, district board, body of port commissioners or other authorities legally entitled to or entrusted by the Government with the control and management of municipal or local fund'.

● **Artificial juridical person** : It includes an idol or deity, a charitable institution or an endowment for religious purposes. It also includes all artificial persons with a juristic personality *i.e.*, a company, a Bar Council, a University or any other incorporated body 'not falling within any of the preceding sub-clauses'.

Example : Determination of status of assesseees

Determine the legal status of the following assesseees :

- (a) Mr. X, an employee of a private limited company.
- (b) Netaji Sangha.
- (c) Mr. R, a partner of a firm.
- (d) Mr. A, a managing director of A Ltd.
- (e) The University of Burdwan.
- (f) Roy Sen & Co., a partnership firm.
- (g) Bidhannagar Co-operative Society.
- (h) Kolkata Municipal Corporation.
- (i) The Life Insurance Corporation of India.
- (j) A joint family of X, Mrs. X and their two children.

Answers : (a) an individual; (b) Body of individuals; (c) an individual; (d) an individual; (e) Artificial juridical person; (f) a firm; (g) Association of persons; (h) a local authority; (i) a company; (j) a Hindu undivided family.

2.3. Assessment year [Sec. 2(9)] :

'Assessment year' means a period of twelve months commencing on 1st April of every year and ending on 31st March of the next year. Thus, the assessment year 2022-23 would commence on April 1, 2022 and would end on March 31, 2023. Total income of an assessee for a previous year is usually taxed in the following assessment year at the rates prescribed for such assessment year. Precisely, assessment year is the year in which the total income as well as tax liability of an assessee for the just preceding twelve months (known as previous year) is assessed.

2.3A. Charitable purpose [sec. 2(15)] :

According to section 2(15) 'charitable purpose' includes relief of the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility. However, the advancement of any other object of general public utility shall not be a charitable purpose,

(a) if it involves the carrying on of—

(i) any activity in the nature of trade, commerce or business, or

(ii) any activity of rendering any service in relation to any trade, commerce or business,

for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity,

(b) if such activity is not undertaken in the course of actual carrying out of such advancement of any other object of general public utility,

(c) if the aggregate receipts from such activity or activities during the previous year exceeds 25% of total receipts of the trust or institution undertaking such activity or activities of that previous year.

An association or institution engaged in the promotion of sports or games can claim exemption under section 11 even it is not approved under section 10(23) [Circular No. 395, dated 24th September, 1984].

2.3B. Business trust [Sec. 2(13A)] :

"Business trust" means a trust registered as—

(i) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or

(ii) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, and

the units of which are required to be listed on recognised stock exchange in accordance with the aforesaid regulations.

2.4. Previous year [Sec. 3] :

'Previous year' means the financial year immediately preceding the assessment year. In other words, previous year means a period of twelve months commencing on the 1st day of April every year and ending on 31st March next following just preceding the assessment year. Thus, previous year for the assessment year 2022-23 is 2021-22 which commenced on April 1, 2021 and will end on March 31, 2022.

Income earned in the previous year is usually assessed in the following assessment year and as such previous year is also known as 'income year'.

• *Uniform previous year from the assessment year 1989-90* : From the assessment year 1989-90 onwards all assesseees are required to follow the financial year as the previous year and are required to maintain the uniform previous years for all sources of income.

2.4.1. Previous year for a newly set up business or profession (Proviso to section 3) :

In the case of a business or profession newly set up or a source of income newly coming into existence during any financial year, the first previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the last date of the said financial year.

Example-1 : Previous year when a business has been newly started

Mr X has started a business on August 16, 2020. He does not have any other source of income. Specify the previous years for the assessment years 2021-22 and 2022-23.

Answer : The previous years for the assessment years 2021-22 and 2022-23 will be as under :

Assessment year	Previous year
2021-22	August 16, 2020 to March 31, 2021
2022-23	April 1, 2021 to March 31, 2022

Example-2 : Previous year when a new source is coming into existence

Mr. R is in employment since August 15, 2016. On December 5, 2021 he has started a new business. What will be his previous year for the assessment year 2022-23? How will his total income be computed for such assessment year ?

Answer : As Mr. R has one source of income (i.e. income from employment) throughout the previous year 2021-22, his previous year for the assessment year 2022-23 is April 1, 2021 to March 31, 2022, though a new source of income comes into existence from December 5, 2021.

Total income of R for the assessment year 2022-23 will be computed by taking into account the salary income and business income for the period stated below :

Assessment year	Salary income	Business income
2022-23	For the period from April 1, 2021 to March 31, 2022	For the period from December 5, 2021 to March 31, 2022

2.4.2. No compulsion to close accounts on March 31 :

It may be clarified that under the provisions of section 3, there is no compulsion on any assessee to close his accounts on March 31 every year. This section only requires that income has to be disclosed for the year-ending March 31 for the purpose of income-tax. Thus, an assessee may close his accounts on a date other than March 31 but in such a case, he is required to prepare another set of accounts closing the same on March 31 for the purpose of furnishing the return of income as per Income-tax Act.

2.4.3. Change of previous year :

Before the introduction of the new provisions in section 3 applicable from the assessment year

1989-90, an assessee was allowed to adopt different previous years (*e.g.*, Diwali year, English Calendar year, Financial year, *etc.*) for different sources of income for the same assessment year and was also allowed to change the previous year once adopted by the assessee with the consent of the Assessing Officer. But from the assessment year 1989-90 onwards, according to the new provisions of section 3 all assesseees are required to follow the financial year as the previous year and this uniform previous year has to be followed for all sources of income. Thus, from the said assessment year, under no circumstances an assessee can be permitted to change the previous year.

2.4.4. Shorter or longer previous year :

Normally a previous year is a period of twelve months. But it may be a period of less than or more than twelve months in certain cases which are mentioned below :

Shorter previous year : A shorter previous year may be contemplated under the following two cases :

- (a) first previous year for a newly set up business or profession or for a source of income newly coming into existence;
- (b) previous year for an existing business or profession or source of income when it ceases to exist.

Longer previous year : A previous year of more than twelve months is possible when it is in relation to the transitional assessment year 1989-90. For example, an assessee previously followed July 1 to June 30 as the previous year. Thus, his previous year relating to the assessment year 1988-89 was July 1, 1986 to June 30, 1987. For the transitional assessment year 1989-90 (from which the new provisions of section 3 came into force), his previous year was fixed starting from July 1, 1987 and ending on March 31, 1989 comprising a period of 21 months.

2.4.5. When income of the previous year is taxed in the same year :

The general rule is that the income of an assessee for a previous year is assessable to tax in the next following assessment year. But this rule has certain exceptions. In the following cases, income of the previous year is assessed in the same year :

2.4.5(1). Income from shipping business of non-resident [Sec. 172] : The income from a shipping business is assessable in the year in which income by way of fare, freight, *etc.*, from such business is accrued and not in the following assessment year if the following conditions are fulfilled :

- (a) A ship belongs to or chartered by a non-resident.
- (b) The ship carries passengers, livestock, mail or goods shipped at a port in India.

In the case of the above shipping business, 7.5% of the amount paid or payable (including the amount on account of demurrage charge or handling charge) in or out of India on account of such carriage to the owner or to the charterer or to any person on his behalf shall be deemed to be the income accruing in India to the owner or to the charterer and chargeable to tax at the rate applicable to a foreign company.

The master of the ship is required to furnish a return of such income to the Assessing Officer before the departure of the ship (or within 30 days of the departure if the Assessing Officer is satisfied that it is not possible to submit such return before the departure of the ship and satisfactory arrangements have been made for the filing of the return and payment of tax).

A port clearance shall not be granted to the ship until the Collector of Customs or other officer duly authorised to grant the same is satisfied that tax has been duly paid or that satisfactory arrangements have been made for the payment thereof.

2.4.5(2). Income of persons leaving India [Sec. 174] : This provision applies when it appears to the Assessing Officer that an individual may leave India during the current assessment year or shortly after its expiry and that he has no present intention of returning to India. In such a case, total income of such individual for the period from the first day of the assessment year up to the probable date of his departure shall be chargeable to tax in that assessment year.

However, in the above case, total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year and separate assessment shall be made in respect of each such completed previous year or part of any previous year. The Assessing Officer may estimate the income of such individual for such period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

Example : Assessment year in which income of a person likely to transfer property to avoid tax is to be assessed

On January 25, 2022 the Assessing Officer came to know that Mr. X will transfer a fixed deposit of ₹ 5,00,000 with SBI in the name of his brother in February, 2022 to avoid payment of income-tax on interest on such fixed deposit. The Assessing Officer may serve a notice to X requiring him to furnish a return of income for the period from April 1, 2021 to January 31, 2022. In such a case, assessment of the above income shall be made during the assessment year 2021-22. However, tax shall be chargeable at rates applicable for the assessment year 2022-23.

2.4.5(5). Income of a discontinued business or profession [Sec. 176] : The provisions of this section shall be applicable as follows :

(i) If any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year for that assessment year up to the date of such discontinuance may be charged to tax in that assessment year, at the discretion of the Assessing Officer.

(ii) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rates in force in that assessment year and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(iii) The Assessing Officer has the discretion to assess the income of the previous year in which the business or profession is discontinued in that year or he may assess the income in the normal assessment year (i.e. the assessment year relevant to the previous year in which the business or profession is discontinued).

Example : Assessment year in which income of a discontinued business is to be assessed

The business of X is discontinued on December 26, 2022. During the assessment year 2022-23, the Assessing Officer can make the following assessments in respect of income of X :

(a) Regular assessment of income for the previous year 2021-22.

(b) Assessment of income for the period from April 1, 2022 to December 26, 2022 (tax shall be chargeable at the rates applicable for the assessment year 2023-24). However, the Assessing Officer may assess the income for the above period in the assessment year 2023-24 at his discretion.

Important note : It appears that it is mandatory to assess the income mentioned in points 2.4.5(1) to 2.4.5(4) of a previous year in the same year. But assessment of income of a discontinued business or profession as mentioned in point 2.4.5(5) in the same year is at the discretion of the Assessing Officer.

2.5. Income [Sec. 2(24)] :

According to section 2(24) of the Income-tax Act, 'income' includes —

(i) profits and gains ;

(ii) dividend ;

(iii) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes or by an association or institution referred to in clause (21) or clause (23) or by a fund or trust or institution referred to in sub-clause (iv) or (v) or by any University or other educational institution referred to in sub-clause (vi) or by any other hospital or other institution referred to in sub-clause (via) of clause (23C) of section 10 or by an electoral trust* ;

(iv) the value of any perquisite or profit in lieu of salary taxable under sections 17(2) and 17(3) ;

(v) any special allowance or benefit, other than perquisite as mentioned above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of his duties ;

(vi) any allowance granted to the assessee either to meet his personal expenses at the place where he performs his duties or where he ordinarily resides or to compensate him for the increased cost of living ;

(vii) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company or by a relative of the director or such person and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid ;

* 'Electoral trust' means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government [Sec. 2(22AAA)].

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(viii) the value of any benefit or perquisite, whether convertible into money or not, obtained by a representative assessee mentioned in section 160(1) (iii) or 160(1) (vi) or by any person (beneficiary) on whose behalf or for whose benefit any income is receivable by the representative assessee and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;

- (ix) any sum chargeable to income-tax under section 28(ii) or 28(iii) or 41 or 59;
- (x) any sum chargeable to income-tax under sections 28(iii a), 28(iii b), 28(iii c) and 28(v);
- (xi) the value of any benefit or perquisite taxable under section 28(iv);
- (xii) any capital gains chargeable under section 45;
- (xiii) insurance profit under section 44;
- (xiv) profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;
- (xv) 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 whatsoever; 'Lottery' includes winnings, from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called. 'Card game and other game of any sort' includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;
- (xvi) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 or any other fund for the welfare of such employees;
- (xvii) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy. 'Keyman insurance policy' means a life insurance policy taken by a person on the life of another person who is or was the employee of the first mentioned person or is or was connected in any manner whatsoever with the business of the first mentioned person;
- (xviii) any sum received or receivable in cash or kind, referred to in section 28(va) (refer to point 7.2).
- (xix) the fair market value of inventory referred to in section 28(via) (applicable w.e.f. the assessment year 2019-20) (refer to point 7.2);
- (xx) any gift received by an individual or a HUF without consideration in certain cases as provided in section 56(2)(vi) / 56(2)(vii) / 56(2)(viii a);
- (xxi) any consideration received for issue of shares as exceeds the fair market value of the shares referred to in section 56(2) (viib);
- (xxii) any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset if— (a) such sum is forfeited and (b) the negotiations do not result in transfer of such capital asset as mentioned in section 56(2)(ix);
- (xxiii) any sum of money or value of property referred to in section 56(2)(x);
- (xxiv) any compensation or other payment referred to in section 56(2)(xi) (applicable w.e.f. the assessment year 2019-20);
- (xxv) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than—

- (a) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of *Explanation 10* to section 43(1); or
- (b) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government, as the case may be.

The definition of 'income' as given above is inclusive and not exhaustive. The Supreme Court in *CIT vs. Karthikeyan (GR)* has held that even if a receipt did not fall within the ambit of any of the clauses of section 2(24), it might still be income if it pertains to the nature of income. Thus, the general and natural meaning of the term 'income' is to be considered with due weightage apart from the legal provisions in order to get a clear understanding about the same.

■ Some important points relating to the concept of income :

The following points are considered important for understanding the concept of income and its chargeability under the Income-tax Act :

● **Taxability of illegal income :** Income-tax is levied both on legal and illegal incomes. This Act does not consider whether the income is accrued or earned from a legal source or an illegal source. Levy of Income-tax on illegal income, however, does not bar the assessee from being prosecuted under other laws of the country [*Mann vs. Nash (1932) 16 TC 523*].

● **Income accrues, arises or is received :** Incidence of tax arises on income which is received or deemed to be received by the assessee or on the income which accrues or arises or deemed to accrue or arise to him

● **Double taxation of income** : Unless otherwise expressly provided in the Act, no income can be taxed twice. As a result of this rule, the income which is taxed at the time of accrual cannot be taxed again when the same is received.

● **Tax-free income** : If an assessee receives any tax-free income from a person who actually pays tax on such income on behalf of the assessee, income is to be grossed up by aggregating the income actually received by the assessee and the tax paid thereon by other person to determine the actual income from that source.

● **Regular income or lumpsum receipt** : Tax incidence arises both on regular income and income received in lumpsum unless expressly provided it for exemption under this Act.

● **Application of income and diversion of income** : It is very hard to draw a line between the concept of an application of income and that of a diversion of income. This issue has been taken up for consideration in *CIT vs. Sitaldas Tirathdas* (1961) 41 ITR 367 (SC). The Supreme Court observed that there is a difference between an amount which a person is obliged to apply out of his income and an amount which by the nature of the obligation cannot be said to be a part of the income of the assessee. Where by virtue of the obligation, income is diverted before it reaches the assessee, it is deductible. But where the income is required to be applied to discharge an obligation (self-imposed and gratuitous) after such income reaches the assessee, the same consequence in law does not follow. It is the first kind of payment which can truly be excused and not the second. The second payment is merely an obligation to pay another a portion of one's own income which has been received and is since applied. The first is a case in which the income never reaches the assessee, who, even if he were to collect it, does so, not as part of his income but for and on behalf of the person to whom it is payable.

An obligation to apply the income in a particular way before it is received by the assessee or before it has accrued or has arisen to the assessee results in the diversion of income. An obligation to apply income which has accrued or arisen or has been received, amounts to the apportionment of income and the income so applied is not deductible.

2.6. Earned income and unearned income :

These terms may be defined as follows :

Earned income : 'Earned income' means any income which is earned by the person through the exercise of personal labour or merit. In other words, any income which accrues as a result of action or conduct by the person is treated as earned income. Incomes chargeable to tax under the following heads are usually incomes of such nature :

- (a) Salaries.
- (b) Profits and gains of business or profession.
- (c) Income from other sources (only those incomes included under this head which require personal labour or merit of the person concerned, e.g., royalty income, director's fee, etc.).

Unearned income : 'Unearned income' refers to the income which accrues to a person without any explicit application of his labour or merit. Incomes chargeable to tax under the following heads are usually incomes of such nature :

- (a) Income from house property.
- (b) Capital gains.
- (c) Income from other sources (only those incomes included under this head which do not require any personal labour or merit of the person concerned, e.g., dividend income, interest income, etc.).

2.7. Casual income :

A 'casual receipt' usually means a receipt which occurs almost accidentally or fortuitously. It is unanticipated and unforeseen. Such receipt is taxable if otherwise not provided for exemption under the Act.

2.8. Heads of income :

Section 14 of the Act provides that unless otherwise provided by this Act, all income shall, for the purposes of charge of income-tax and computation of total income, be classified under the following 'heads of income' :

<i>Different heads of income</i>	
1.	Salaries.
2.	Income from house property.
3.	Profits and gains of business or profession.
4.	Capital gains.
5.	Income from other sources.

Thus, it is clear that the charge of income-tax shall be on the basis of the five 'heads of income' enumerated above. To put it differently, all kinds of income which are statutorily liable to tax are to be assessed under the specific heads of income as provided by the Act. 'Income from other sources' is a residuary head of income. The incomes to be assessed under the first four heads as mentioned above are specific while the rest incomes are to be assessed under the residuary head 'Income from other sources'.

Separate sections are provided in the Act for the assessment of income under each head. These provisions are not overlapping in character. However, exemptions provided under section 10 are to be considered in order to assess the taxable income under each head. Income from each head is to be computed in accordance with the provisions of the relevant sections mentioned below :

- (a) Salaries — Sections 15 to 17.
- (b) Income from house property — Sections 22 to 27.
- (c) Profits and gains of business or profession — Sections 28 to 44.
- (d) Capital gains — Sections 45 to 55.
- (e) Income from other sources — Sections 56 to 59.

2.8.1. Heads of income and sources of income — distinction :

Section 14 of the Act categorically specifies that there are five heads of income under which all types of taxable income of an assessee are to be assessed. Thus, the Act provides an exhaustive list of heads of income though no such list is provided by the Act regarding the sources of income from which such income arises. The following are some of the points of distinction between the heads of income and sources of income :

(a) Heads of income are clearly specified in the Act, but no explicit and specific indication is made by the Act regarding the sources of income.

(b) Source of income usually implies the origin wherefrom the income accrues or arises, while heads of income indicate the statutory classification of income by the Act for the purpose of assessment.

(c) 'Heads of income' is a legal concept and distinctive in character. But the source means something which a practical man would regard as a real source of income, the ascertainment of the actual source is a practical hard matter of fact [*Rhodesia Metals Ltd. vs. Commissioner of Taxes* (1941) 9 IT 45 (Sup.)].

(d) There are innumerable sources of income but the number of heads is specific i.e., five. Income from different sources may be assembled together in one head for assessment purpose. For example, income from dividend, income from interest on bank deposit, income from lottery, etc., are the different sources of income but to be assembled in a single head 'Income from other sources' for assessment.

(e) Separate sections are provided by the Act for the assessment of income under each head. Income from a particular source is to be computed following the rules provided for the specific head in which said income is to be assessed.

(f) Total income is the aggregate of income assessed under each head (subject to deductions under Chapter VIA) while income from each head is to be computed after taking into consideration the specific sources of income to be assessed under the relevant head.

Example-1 : Identification of heads of income

State the particular head of income under which the following incomes are to be assessed under Income-tax Act :

- (i) Honorarium received by an author for writing an article in 'The Chartered Accountant'.
- (ii) Family pension received by the widow on the death of her husband who was employed as a technician in a public limited company.
- (iii) Salary received by a partner from the partnership firm for rendering a technical service to the concern.
- (iv) Dividend received by a dealer in shares held by him as stock-in-trade for his business.
- (v) Remuneration received by a practising Chartered Accountant from the University of Kota for serving there as a part-time lecturer.
- (vi) Fees received by a director of a company for attending Board meeting.
- (vii) Remuneration received by a professor for examining the answer-scripts of MBA Examination.

Solution :

- (i) Honorarium received by an author for writing an article in 'The Chartered Accountant' is assessable under the head 'Income from other sources' as there is no employer-employee relationship between the author and the Institute.
- (ii) Family pension received by the widow is assessable under the head 'Income from other sources' as the widow did not receive the pension as an employee.
- (iii) Salary received by a partner from the partnership firm is taxable under the head 'Profits and gains of business or profession' as per *Explanation 2* to section 15.
- (iv) Dividend received by a dealer in shares is assessable under the head 'Income from other sources' as per section 56(2) though the shares are held by the assessee as stock-in trade for his business.
- (v) Remuneration received by a practising Chartered Accountant from the University of Kolkata for serving there as a part-time lecturer is assessable under the head 'salaries' as he received the remuneration as an employee of the University.
- (vi) Fees received by a director of a company for attending Board meeting shall be assessable under the head 'Income from other sources' as he received such fees for discharging his duties as director and not as an employee of the company.
- (vii) Remuneration received by a professor for examining the answer-scripts of MBA Examination is assessable under the head 'Income from other sources' as examining the answer-scripts is another act apart from the terms of employment.

Example-2 : Identification of heads of income

Are the following incomes taxable ? If they are taxable what should be the head of income under which each will be taxed ? Explain with reasons.

- (a) 1st prize won in a lottery ₹ 2,00,000.
- (b) Remuneration received for valuation of answer-scripts from different universities ₹ 5,000.
- (c) Interest from Post Office Savings Bank Account (held in the name of the individual) ₹ 4,000.
- (d) Rent of a warehouse attached to his farm-house in a remote village ₹ 40,000.
- (e) A person bought a piece of land with trees. He sold the timbers of those trees for ₹ 10,000.

[C.U., B.Com. (Pass), 1992]

Solution :

(a) Income from lottery is treated as income and taxable in full. Therefore, lottery income of ₹ 2,00,000 is fully taxable and to be assessed under the head 'Income from other sources'.

(b) Remuneration received for valuation of answer-scripts from different universities is assessable under the head 'Income from other sources' as employer-employee relationship does not exist between the payer and the payee.

(c) Interest from Post Office Savings Bank Account is exempt from tax under section 10(15) up to ₹ 3,500 and the balance of ₹ 500 is assessable under the head 'Income from other sources'. Moreover, deduction under section 80TTA (or section 80TTB if the individual is a resident senior citizen) is available.

(d) Rent received from a warehouse attached to the farm-house in a remote village (assuming in India) is an agricultural income as per section 2(1A)(c) and such income is exempt from tax under section 10(1).

(e) Income from trees of spontaneous growth without any agricultural operations is not an agricultural income and is, therefore, fully taxable. It is assessable under the head 'Income from other sources'.

Example-3 : Identification of heads of income

State under which head the following incomes will be taxable :

- (a) Tarun received ₹ 7,200 as interest on fixed deposit with SBI.
- (b) Akash made a gain of ₹ 35,000 on sale of shares held by him.
- (c) ₹ 2,700 received by Atul as remuneration as an examiner from Calcutta University.
- (d) Barnali, a lawyer, earned an income of ₹ 1,45,000 from her profession.
- (e) Swarnali received rent of ₹ 84,000 by letting out of her flat to a tenant.

[C.U. B.Com. (Hons.), 2015—Adapted]