

Income from Other Sources

Lesson 8

KEY CONCEPTS

- Casual Income ■ Gifts ■ Relatives ■ Movable Property ■ Immovable Property ■ Deemed Income

Learning Objectives

To understand:

- Which are the income chargeable under the head income from other sources?
- What are admissible deductions?
- Which are the inadmissible deductions?
- Taxability of Gifts
- Taxability of Casual Income
- Deemed Incomes under the head other Sources

Lesson Outline

- Basis of Charge of Income from Other Sources
- Casual Income
- Income from family pension
- Taxation of Dividends
- Deductions allowable in computing income from other Sources
- Amounts not Deductible
- Deemed Income
- Computation of Income under the head “Other Sources”
- Case Law
- Lesson Round-Up
- Test Yourself
- List of Further Readings
- Other References

REGULATORY FRAMEWORK

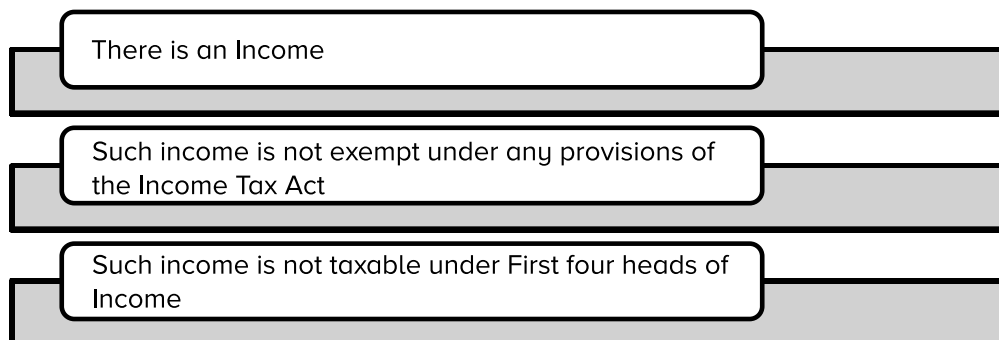
Sections	Income Tax Act, 1961
Section 56	Basis of Charge of Income from other Sources
Section 56(2)(IB)	Casual Income
Section 52 (iia)	Income from Family Pension
Section 57	Deduction allowable in computing Income from other Sources
Section 58	Inadmissible Deduction
Section 59	Deemed Income

BASIS OF CHARGE OF INCOME FROM OTHER SOURCES [SECTION 56]

Income which does not specifically fall for assessment under any of the heads of Income must be charged to tax as “income from other sources”. This head is thus a residuary head of income under which income can be computed only after deciding whether the particular item of income is otherwise assessable under any of the first four heads. Section 56(1) covers all the residual incomes which are not covered by first four heads of Income. Section 56(2) covers certain specific incomes which are chargeable under the head “Income from Other Sources”.

The incomes which are neither covered under the head salary, house property, business income or capital gains shall be taxable under the head Income from other sources. This head of income is a residual head because it covers all other incomes which are uncovered and which are not exempt from tax.

In other words any income is taxable under this head if following conditions are satisfied:



The following specific incomes are chargeable to Income Tax under the head “Income from other sources” under Section 56(2)

Nature of Income	Details
Dividends Section 56(2)(i)]	Dividend
Keyman Insurance policy	Amount received under a keyman insurance Policy, including bonus on such Policy, if it is not taxable under any other head of income.

Nature of Income	Details
Winnings from lotteries [Section 56(2)(ib)]	Any 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. The entire income of winnings, without any expenditure or allowance or deductions under Sections 80C to 80U, will be taxable. However, expenses relating to the activity of owning and maintaining race horses are allowable. Further, such income is taxable at a special rate of income-tax i.e., 30% + surcharge + cess @ 4% [Section 115BB]
Contribution to Provident fund	Income of the nature referred to in Section 2(24)(x) (relating to certain contributions to any provident fund or superannuation fund or any fund set up under the provisions of the ESI Act or any other fund for the welfare of such employees received by the assessee from his employees in his capacity as an employer) will be chargeable to income-tax under the head "income from other sources" if such income is not chargeable to income-tax under the head "profits and gains of business or profession". However, if the employer deposits such amount on or before due date of deposit applicable for such contribution, he will be allowed a deduction on account of the same. [Section 56(2)(ic)].
Income by way of interest on securities	If the income by way of interest on securities is not chargeable to income-tax under the head, "Profits and gains of business or profession", then such income shall be taxable under Income from other sources. It is chargeable on "receipt" basis if books of accounts are maintained on "Cash Basis", however if books are maintained on "Mercantile System" then interest is taxable on "accrual" basis.
Income from hiring of machinery, etc. [Section 56(2)(ii)]	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 "profit and gains of business or profession".
Hiring out of building with machinery etc. [Section 56(2)(iii)]	Where an assessee lets on hire machinery, plant or furniture belonging to him and also building and the letting of the building is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession".
Share premiums in excess of the fair market value to be treated as income [Section 56(2)(viib)]	<p>Where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be taxable under Income from other sources.</p> <p>However, this clause shall not apply where the consideration for issue of shares is received:</p> <ol style="list-style-type: none"> (a) by a venture capital undertaking from a venture capital company or a venture capital fund [or a specified fund having Category I or Category II Alternative Investment Fund Certificate (w.e.f. Assessment Year 20-21)] or (b) by a company from a class or classes of persons as may be notified by the Central Government in this behalf (for this purpose Govt. has notified that provisions of this section are not applicable in case consideration is received by a company for issue of shares of a "startup" company).

Nature of Income	Details
	<p>Provided where the class of companies notified by Central Government does not comply on account of fulfilment of conditions specified in the notification issued under clause (ii), then, any consideration received for issue of share that exceeds the face value of such share shall be deemed to be the income of that company chargeable to income-tax for the previous year in which such failure has taken place.</p> <p>The fair market value of the shares shall be the value:</p> <ul style="list-style-type: none"> (i) as may be determined in accordance with such method as may be prescribed (value is to be determined as per method given in rule 11UA); or (ii) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value, on the date of issue of shares, of its assets, including intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, whichever is higher. <p>Provided also that the provisions of this clause shall not apply on or after the 1st day of April, 2025. This is carried out to sun set the provisions of section 56 (2) from AY 2025-26.</p> <p><i>Explanation:</i> Purpose of provisions of this section was to tax excess money received upon issue of shares. These were introduced to prevent generation and circulation of accounted money through share premium received from resident and non-resident investors. Although, start-up companies registered with Department of Industrial Policy and Promotion (DIPP) were provided exemption from such angel tax subject fulfillment of thresholds and conditions prescribed. Since, start-up companies crossed the above thresholds, they were exposed to such angel tax provisions easily and leading to many legal controversies. Given this, start-up companies were founding difficult to attract foreign investments due to angel tax and uncertainty around it.</p> <p>To overcome all these controversies, Finance Act 2024 seeks to abolish the angel tax for all classes of investors with effect from 01st April 2024 i.e. FY 2024-25. This move will certainly act as breather for all start-up companies.</p>
Section 56(2) (viii)	Income by way of interest received on compensation or on enhanced compensation referred to in clause of section 145B.
Advance Money Section 56(2)(ix)	Advance money received- any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset is chargeable to income-tax under the head "Income from other sources", if such sum is forfeited and the negotiations do not result in transfer of such capital asset.
Gift Section 56(2)(x)]	Please refer below chart for understanding taxability of Gift.
Compensation Section 56(2) (xi)]	Any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto. If the same is not taxable under the head Salary.

Nature of Income	Details
Sum received by a unit holder from a business trust Section 56(2) (xii)	Any specified sum received by a unit holder from a business trust during the previous year, with respect to a unit held by him at any time during the previous year.
Receipt from life insurance policy Section 56(2) (xiii)	Where any sum is received, including the amount allocated by way of bonus, at any time during a previous year, under a life insurance policy, other than the sum: <ul style="list-style-type: none"> (a) received under a unit linked insurance policy; (b) being the income referred to in clause (iv), which is not to be excluded from the total income of the previous year in accordance with the provisions of clause (10D) of section 10, the sum so received as exceeds the aggregate of the premium paid, during the term of such life insurance policy, and not claimed as deduction under any other provision of this Act, computed in such manner as may be prescribed.

Receipt of Money or Property without consideration or without adequate consideration by any person [Section 56(2)(x)]

The following are chargeable under section 56(2)(x).

Nature of receipts	When taxable	What is taxable	Taxed individually or on aggregate
Any sum of money whether in cash or by cheque/draft/ pay order or any other mode	If received without consideration	If the aggregate value of such sum of money exceeds Rs 50000, then the entire amount	On aggregate basis. Money received on different dates or from different person to be clubbed to arrive at the amount of Rs. 50000
Any immovable property received without consideration	If received without consideration	If the stamp value of such property exceeds fifty thousand rupees, the stamp duty value of such property	Taxed individually. Each transaction will be separately assessed.
Any immovable property received for a consideration less than stamp duty value of property	The Finance Act 2018 provides that where any person receives, in any previous year, from any person or persons any immovable property as exceeds	* [Note 1] The difference between stamp duty value of such property and consideration shall be taxed as income from other sources	Taxed Individually. Each transaction will be separately taxed.

<i>Nature of receipts</i>	<i>When taxable</i>	<i>What is taxable</i>	<i>Taxed individually or on aggregate</i>
	such consideration, if the amount of such excess is more than the higher of the following amounts, namely:- (i) the amount of fifty thousand rupees; and (ii) the amount equal to ten per cent of the consideration		
Any property other than immovable property received without consideration	If received without consideration	If the aggregate fair market value of such property exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property	Taxed on aggregate basis. Value of property received on different dates or from different person to be clubbed to arrive at amount of Rs. 50000.
Any Property other than immoveable property, received for a consideration less than fair market value	If received for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees	Aggregate fair market value of such property as exceeds such consideration	Taxed on aggregate basis. Value of property received on different dates or from different person to be clubbed to arrive at amount of Rs. 50000.

*** Note 1:**

- where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause. This shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, or through such other electronic mode as may be prescribed [Inserted vide Finance Act, 2020] on or before the date of agreement for transfer of such immovable property.
- Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections.
- Provided also that in case of property being referred to in the second proviso to sub-section (1) of

section 43CA, the provisions of sub-item (ii) of item (B) shall have effect as if for the words “ten percent.”, the words “twenty percent.” had been substituted [Amendment by Finance Act, 2021].

Exclusions- Section 56(2)(x) shall not apply to any sum of money or any property received:

- i. from any relative; or
- ii. on occasion of the marriage of the individual; or
- iii. under a will or by way of inheritance; or
- iv. in contemplation of death of the payer or donor, as the case may be; or
- v. from any local authority as defined in the explanation to clause (20) of section 10; or
- vi. from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or
- vii. from or by any trust or institution registered under section 12A or section 12AA or section 12AB; or
- viii. by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10; or
- ix. by way of transaction not regarded as transfer under clause (i) or clause (iv) or clause (v) [from AY 2019-20] or clause (vi) or clause (via) or clause (viia) or clause (vib) or clause (vic) or clause (vicb) or clause (vid) or clause (vii) or clause (viiac) or (viid) or (viiae) or (viiaf) of section 47; or
- x. From an individual by a trust created or established solely for the benefit of relative of the individual;
- xi. any compensation or other payment, due to or received by any person, by whatever named called, in connection with the termination of his management or the modification of the terms and conditions relating thereto; [From AY 2019-20.]
- xii. From such class of persons and subject to prescribed condition [from AY 2020-21].”

Explanation – For the purposes of this clause:

- (a) “fair market value” of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;
- (b) “property” means the following capital asset of the assessee, namely:–
 - (i) immovable property being land or building or both;
 - (ii) shares and securities;
 - (iii) jewellery;
 - (iv) archaeological collections;
 - (v) drawings;
 - (vi) paintings;
 - (vii) sculptures;
 - (viii) any work of art; or
 - (ix) bullion
 - (x) virtual digital assets

- (c) “relative” means, –
- (i) in case of an individual –
 - (A) spouse of the individual;
 - (B) brother or sister of the individual;
 - (C) brother or sister of the spouse of the individual;
 - (D) brother or sister of either of the parents of the individual;
 - (E) any lineal ascendant or descendant of the individual;
 - (F) any lineal ascendant or descendant of the spouse of the individual;
 - (G) spouse of the person referred to in items (B) to (F); and
 - (ii) in case of a Hindu undivided family, any member thereof.
- (d) “Family” means, -
- (i) The spouse and children of the individual and
 - (ii) Parents, brothers, sisters of the individual or any of them dependent on the individual

CASUAL INCOME [SECTION 56(2)(ib)]

Casual income includes income by way of winnings from lotteries; crossword puzzles; races including horse races; gambling and betting of any nature or form; card games, game show or entertainment program on television or electronic mode and any other game of any sort. All these incomes are chargeable to tax under the head income from other sources. However, following incomes are not chargeable under the head “income from other sources”:

- (a) **Lottery held as stock in trade:** Winning from lottery to an agent or trader out of its unsold stock of lottery tickets shall be treated as incidental to business and taxed under the head “profit and gains of business or profession”.
- (b) **Income of jockey:** Income of jockey from such profession is not treated as winning from the horse races.
- (c) **Winning from a motor car rally:** Winning from a motor car rally is a return for skill and effort and cannot be treated as casual income, these are taxable as normal income.

Note: No deduction or exemption is provided in respect of the casual income. [Section 58 (4)]. Also, no deduction can be claimed from such income even if such expenditure is incurred exclusively and wholly for earning such income. Further, deduction under section 80C to 80U is also not available from such income.

Example of Income that will be taxable under the head Other Sources

If any income is neither covered by first Four Heads of Income nor it falls under Section 56(2) then it is taxable under Section 56(1).

- (1) Any fees or commission received by an employee from a person other than his employer.
- (2) Any annuity received under a Will. It does not include an annuity received by an employee from his employer.
- (3) All interest other than interest on securities, e.g. interest on bank deposits, interest on loan, etc.
- (4) Income of a tenant from sub-letting the whole or a part of the house property.

- (5) Remuneration received by a teacher or a lawyer for doing examination work.
- (6) Income of Royalty.
- (7) Director's fees.
- (8) Rent of land not appurtenant to any building.
- (9) Agricultural Income from land situated outside India.
- (10) Income from markets, ferries and fisheries, etc.
- (11) Income from leasehold property.
- (12) Remuneration received for writing articles in Journals.
- (13) Income from undisclosed sources.
- (14) Interest received by an employee on his own contributions to an unrecognised provident fund.
- (15) Casual income
- (16) Salary of a Member of Parliament, Member of Legislative Assembly or Council.
- (17) Interest received on securities of co-operative society.
- (18) Gratuity received by a director who is not an employee of the company.
- (19) Director's commission for giving guarantee to bank.
- (20) Director's commission for underwriting shares of a new company.

Further, under the provisions of Section 60 to 65 an assessee may be chargeable to tax in respect of income arising to other persons, e.g. spouse or minor children. In such cases, the income in question will be first computed under the appropriate head after allowing various deductions and includible in the total income of the assessee under the head "income from other sources". In other words, wherever the assessee is taxable in respect of income of somebody else, the income must be charged to tax in the hands of the assessee only under this head; even if the income is of a character which would otherwise fall for assessment under any other head of income.

INCOME FROM FAMILY PENSION

Family pension is a regular amount payable by the employer to a family member of a deceased employee. It is taxable under the head income from other sources. The income by way of family pension is eligible for a standard deduction under section 57(ii a) which is either 1/3rd of such pension or Rs. 15,000 whichever is lower.

If any assessee is filing return of income as per new tax regime u/s 115BAC and is in receipt of family pension, then a deduction is allowed as lower of 33.33% of pension income or INR 25,000. [w.e.f. 01st Oct 2024.]

Family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including paramilitary forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed, shall be exempt from tax u/s 10. Further, income by way of family pension received as family pension of an individual who has been in the service of Central/State Government and has been awarded Param Vir Chakra or Maha Vir Chakra or Vir Chakra or such other gallantry award as may be notified is also exempt from tax u/s 10.

TAXATION OF DIVIDENDS

Up to Assessment Year 2020-21, if a shareholder gets dividend from a domestic company then he shall not be liable to pay any tax on such dividend as it is exempt from tax under section 10(34) of the Act. However, in such cases, the domestic company is liable to pay a Dividend Distribution Tax (DDT) under section 115-O. The Finance Act, 2020 has abolished the DDT and move to the classical system of taxation wherein dividends are taxed in the hands of the investors.

Therefore, the provisions of Section 115-O shall not be applicable if the dividend is distributed on or after 01-04-2020. Thus, if the dividend is distributed on or after 01-04-2020 the domestic companies shall not liable to pay DDT and, consequently, shareholders shall be liable to pay tax on such dividend income. As dividend would now be taxable in the hands of the shareholder, various provisions of the Act have been revived such as allowability of expenses from dividend income, deductibility of tax from dividend income, treatment of inter-corporate dividend, etc.

Meaning of the term “Dividend” [Section 2(22)]: The term “dividend” is ordinarily used to refer to any distribution made by a company to its shareholders out of its profits in proportion to the number of shares held by the shareholder concerned in the company.

Apart from that dividend paid by a company to its shareholders, the definition of dividend includes deemed dividend as laid down under section 2(22) of the Act, which is inclusive but not exhaustive. Accordingly, the following payments or distribution made by a company to its shareholders are deemed as dividends to the extent of accumulated profits of the company whether capitalised or not (i.e. bonus shares issued is the capitalisation of profit). It may be noted that these payments may not be covered as dividend under Companies Act, 2013.

- (a) Any distribution if such distribution entails the release of all or any part of the assets of the company. Such accumulated profits are distributed in cash or in kind. For in kind distribution, the market value of assets shall be the deemed dividend in the hands of share-holders.
- (b) Any distribution of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest to Equity or Preference shareholders. Any distribution of bonus shares to its preference shareholders. However, bonus shares allotted to equity shareholders does not amount to deemed dividend.
- (c) Any distribution made on liquidation of a company.
- (d) Any distribution on the reduction of capital of a company.

Deemed dividend under clause (c) and clause (d) does not include:

- i. Any distribution by the company to shareholders on liquidation or reduction of capital of the company in respect of full cash consideration, where the shareholder is not entitled to participate in the surplus asset in the event of liquidation.
- ii. Any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act. However, this proviso has been deleted with effect from 01st October 24.
- iii. Any distribution of shares made in accordance with the scheme of demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).

- (e) Any payments in the form of loans or advances to the extent of accumulated profits (excluding capitalised profit) made by a closely-held company (i.e. a company in which public are not substantially interested) to:
- i. its shareholder who is the beneficial owner of shares holding not less than 10% of voting power in such company;
 - ii. to any concern (HUF, Firm, AOP, BOI or Company) in which such shareholder is a member or a;
 - iii. partner and in which he has a substantial interest (20% of voting power or share of profit) any person on behalf of such shareholder for his/her individual benefit.

Deemed dividend under clause (e) does not include:

- Any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off;
- Vide CBDT circular No. 19/2017, any trade advance in the nature of commercial transactions would not fall within the ambit of advance;
- In case of an amalgamated company, accumulated profit or loss shall be increased by the accumulated profit of amalgamating company (whether capitalized or not) on the date of amalgamation.
- Any advance or loan between two group entities, where,— (A) one of the group entity is a “Finance company” or a “Finance unit”; and (B) the parent entity or principal entity of such group is listed on stock exchange in a country or territory outside India other than the country or territory outside India as may be specified by the Board in this behalf.

It is further proposed to define the expressions “Finance company” or a “Finance unit”, and “group entity”, “parent entity” and “principal entity” in the Explanation to the said clause.

These amendments will take effect from 1st April, 2025. (As amended by Finance Act 2025)

- (f) Finance Act 2024 seeks to amend section 57 which provides that income chargeable under the head “Income from other sources” in the case of dividends, or interest on securities, shall be computed after making the deductions, of any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee. Dividend referred in section 2(22) (f) shall be excluded for purpose of this amendment. Section 2(22)(f) refers amount received by buy back of shares. With effect from 01st Oct 24, amount received on buy back of shares in accordance with the provisions of section 68 of the Companies Act, 2013 shall be taxable as per slab rate and any expense incurred in form of commission or interest for earning such income shall not be allowed a deduction.

Obligation of the Domestic Companies

The domestic companies shall not be liable to pay DDT on dividend distributed to shareholders on or after 01-04-2020. However, domestic companies shall be liable to deduct tax under Section 194. As per the Section 194, which shall be applicable to dividend distributed, declared or paid on or after 01-04-2020, an Indian company shall deduct tax at the rate of 10% from dividend distributed to the resident shareholders if the aggregate amount of dividend distributed or paid during the financial year to a shareholder exceeds Rs. 5,000. However, no tax shall be required to be deducted from the dividend paid or payable to Life Insurance Corporation of India (LIC), General Insurance Corporation of India (GIC) or any other insurer in respect of any shares owned by it or in which it has full beneficial interest. However, where the dividend is payable to a non-resident or a foreign company, the tax shall be deducted under Section 195 in accordance with relevant DTAA.

Taxability in hands of Shareholders

Section 10(34), which provides an exemption to the shareholders in respect of dividend income, is withdrawn from Assessment Year 2021-20. Thus, dividend received during the financial year 2020-21 and onwards shall now be taxable in the hands of the shareholders. Consequently, Section 115BBDA which provides for taxability of dividend in excess of Rs. 10 lakh has no relevance as the entire amount of dividend shall be taxable in the hands of the shareholder. The taxability of dividend and tax rate thereon shall depend upon many factors like residential status of the shareholders, relevant head of income. In case of a non-resident shareholder, the provisions of Double Taxation Avoidance Agreements (DTAAs) and Multilateral Instrument (MLI) shall also come into play.

Taxable in the hands of Resident Shareholder

A person can deal in securities either as a trader or as an investor. The income earned by him from the trading activities is taxable under the head business income. Thus, if shares are held for trading purposes then the dividend income shall be taxable under the head business or profession. Whereas, if shares are held as an investment then income arising in nature of dividend shall be taxable under the head other sources. The income, taxable under the head PGBP, is computed in accordance with the method of accounting regularly followed by the assessee. For the purpose of computation of business income, a taxpayer can follow either mercantile system of accounting or cash basis of accounting. However, the method of accounting employed by the assessee does not affect the basis of charge of dividend income as Section 8 of the Act provides that final dividend including deemed dividend shall be taxable in the year in which it is declared, distributed or paid by the company, whichever is earlier. Whereas, interim dividend is taxable in the previous year in which the amount of such dividend is unconditionally made available by the company to the shareholder. In other words, interim dividend is chargeable to tax on receipt basis.

Deductions from Dividend Income

Where dividend is assessable to tax as business income, the assessee can claim the deductions of all those expenditures which have been incurred to earn that dividend income such as collection charges, interest on loan etc. Whereas if dividend is taxable under the head other sources, the assessee can claim deduction of only interest expenditure which has been incurred to earn that dividend income to the extent of 20% of total dividend income.

No deduction shall be allowed for any other expenses including commission or remuneration paid to a banker or any other person for the purpose of realising such dividend.

Tax rate on Dividend Income

The dividend income shall be chargeable to tax at normal tax rates as applicable in case of an assessee except where a resident individual, being an employee of an Indian company or its subsidiary engaged in Information technology, entertainment, pharmaceutical or bio-technology industry, receives dividend in respect of GDRs issued by such company under an Employees' Stock Option Scheme. In such a case, dividend shall be taxable at concessional tax rate of 10% without providing for any deduction under the Income-tax Act. However, the GDRs should be purchased by the employee in foreign currency.

Taxability in case of non-resident shareholders including FPIs

A non-resident generally invests in India either directly as private equity investors or as Foreign Portfolio Investors (FPIs). A non-resident person can also be a promoter of an Indian Company. A non-resident person generally hold shares of an Indian company as an Investment and, therefore, any income derived by way of dividend is taxable under the head other sources except where such income is attributable to Permanent Establishment of such non-resident in India.

As regards FPIs, securities held by them are always treated as a capital asset and not as stock-in-trade. Thus, in case of FPIs also, the dividend income shall always be taxable under the head other sources.

Tax rate on dividend income

The dividend income, in the hands of a non-resident person (including FPIs and nonresident Indian citizens (NRIs), is taxable at the rate of 20% without providing for deduction under any provisions of the Income-tax Act. However, dividend income of an investment division of an offshore banking unit shall be taxable at the rate of 10%. Further, where the dividend is received in respect of GDRs of an Indian Company or Public Sector Company (PSU) purchased in foreign currency, the tax shall be charged at the rate of 10% without providing for any deductions.

Inter-corporate dividend

As the taxability of dividend is proposed to be shifted from companies to shareholders, the Government has introduced a new section 80M under the Act to remove the cascading effect where a domestic company receives a dividend from another domestic company. However, nothing has been prescribed where a domestic company receives dividend from a foreign company and further distribute the same to its shareholders. The taxability in such cases shall be as under:

(i) Domestic Company receives dividend from another Domestic Company

The provisions of section 80M removes the cascading effect by providing that inter-corporate dividend shall be reduced from total income of company receiving the dividend if same is further distributed to shareholders one month prior to the due date of filing of return.

(ii) Domestic Company receives dividend from a Foreign Company

Dividend received by a domestic company from a foreign company, in which such domestic company has 26% or more equity shareholding, is taxable at a rate of 15% plus Surcharge and Health and Education Cess under Section 115BBD. Such tax shall be computed on a gross basis without allowing deduction for any expenditure. Dividend received by a domestic company from a foreign company, in which equity shareholding of such domestic company is less than 26%, is taxable at normal tax rate. The domestic company can claim deduction for any expense incurred by it for the purposes of earning such dividend income.

Note: The Finance Act, 2022 has amended the Section 115BBD to provide that the provisions of this section shall not apply to any assessment year beginning on or after 01-04-2023.

Illustration 1:

ABC Ltd. declared a dividend of INR 200,00,000 for the FY 2025-26 and distributed the same on 15th Jul'26. Mr. A holds 10% shares and therefore receives INR 20,00,000 as dividend. Mr. B hold 4% shares and therefore receives INR 8,00,000 as dividend.

Solution:

The tax treatment would be as under:

- Mr. A would include full amount of Rs. 20,00, 000 as Income from other sources He will be liable to pay tax at applicable slab rates.
- Mr. B would include full amount of Rs. 8,00,000 as Income from other sources. He will be liable to pay tax at applicable slab rates.
- The company would not be liable to pay Dividend Distribution Tax on the dividend distributed u/s 115-O as the same would be taxable in the hands of shareholders.

Illustration 2:

X is holding 29% shares in a company and he took a loan of INR 20,00,000 from the Company on 15.07.2025 and on the date, the loan was granted, the accumulated profits stood at INR 12,00,000. Determine the tax treatment.

Solution :

In this case, the company is one, where the public is substantially interested, the loan would not be treated as deemed dividend. However, in case the company is a closely held company, X holds > 10% stake, this loan upto 12,00,000 would be as deemed dividend and company will not be liable to pay DDT u/s 115O.

X would pay tax on such deemed dividend at applicable slab rates and entire amount of 12 lakhs would be included as Income under the head Other sources.

Illustration 3:

ABC Ltd. a closely-held company has bonus share capital of Rs. 10 lakhs, General Reserves of Rs. 6 lakhs and current profits of Rs. 2 lakhs. The company has given a loan of Rs. 9 lakhs to one of the shareholders, who is beneficial owner of equity shares holding 10% of the voting power.

Compute amount of dividend in the hands of shareholder.

Solution:

In this case dividend under section 2(22)(e) shall be Rs. 8 lakhs, i.e., to the extent of the accumulated profits of the company excluding capitalized profits. It shall be taxable in hands of shareholder under Other Sources.

Illustration 4:

Mr. Rohit Aggarwal is beneficial owner of equity shares holding 10% of the voting power in ABC Ltd, a closely held company. He is partner in a partnership firm XY and has 20% share in the firm. The company has given a loan of Rs. 5 lakhs to the firm and company's accumulated profits are Rs. 6 lakhs.

Compute amount of dividend in the hands of shareholder and the firm.

Solution:

In this case deemed dividend is Rs. 5 lakhs as per section 2(22)(e). It shall be taxable in the hands of the receiver under Other Sources.

DEDUCTIONS ALLOWABLE IN COMPUTING INCOME FROM OTHER SOURCES [SECTION 57]

The following expenditures are allowed as deductions from income chargeable to tax under the head 'Income from Other Sources':

S. No.	Sections	Nature of Income	Deductions allowed
1.	57(i)	Dividend or Interest on securities	Any reasonable sum paid by way of commission or remuneration to banker or any other person for purpose of realizing dividend or interest on securities. With effect from 01st Oct 24. This means amount received from Buy Back of shares will be

S. No.	Sections	Nature of Income	Deductions allowed
			taxable under head income from other sources at applicable slab rate. However, expense in form of commission or interest for earning such income can not be claimed as deduction.
2.	57(ia)	Employee's contribution towards Provident Fund, Superannuation Fund, ESI Fund or any other fund setup for the welfare of such employees	If employees' contribution is credited to their account in relevant fund on or before the due date
3.	57(ii)	Rental income from letting of plant, machinery, furniture or building	Rent, rates, taxes, repairs, insurance and depreciation etc.
4.	57(iia)	Family Pension	1/3rd of family pension subject to maximum of Rs. 15,000. However, Rupees fifteen thousand shall be substituted by rupees twenty five thousand for the assessee paying tax u/s 115BAC.
5.	57(iii)	Any other income	Any other expenditure (not being capital expenditure) expended wholly and exclusively for earning such income
6.	57 (iv)	Interest on compensation or enhanced compensation	50% of such interest (subject to certain conditions)
7.	58(4) Proviso	Income from activity of owning and maintaining race horses	All expenditure relating to such activity

Illustration 5:

Mr. Goyal has one factory building along with machines and furniture in Mumbai which has been let out @ Rs. 50,000 p.m. Repair charges of the building is Rs. 7,000 and that of furniture fixtures are Rs. 4,000, insurance premium paid Rs. 3,000 and depreciation is Rs. 27,000.

Compute his income under the head other sources.

Solution:

Particulars	Rs.
Gross Rent (50,000 x 12)	6,00,000
Less: Repair of building	(7,000)

Less: Repair of Furniture and fixtures	(4,000)
Less: Insurance premium	(3,000)
Less: Depreciation	(27,000)
Income under the head Other Sources	5,59,000

Illustration 6:

Mr X working as salaried employee in a company received a car as gift from vendor of his company. The value of the car was estimated to be Rs 1,50,000. Is the value of car taxable as income in hands of Mr X.

Solution:

Since, there is no employer and employee relationship between Mr X and vendor of the company, the value of car can not be taxed as perquisite under head income from Salary.

Section 56(2) (x) considers value of any property received by a person. For this purpose, property means immovable property being land or building or both, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures, any work of art or bullion. Since car is not included within definition of property hence value of gifted car can not be taxed under income from other sources.

AMOUNTS NOT DEDUCTIBLE [SECTION 58]

The following amounts shall not be deducted in computing income chargeable under the head "Income from other Sources".

Section	Details
58(1)(a)(i)	Personal Expenses
58(1)(a)(ii)	Interest chargeable to tax which is payable outside India on which tax has not been paid or deducted at source
58(1)(a)(iii)	'Salaries' payable outside India on which no tax is paid or deducted at source
58(1A)	Wealth-tax 30% of the sum payable to a resident, on which no tax is paid or deducted at source.
58(2)	Expenditure of the nature specified in section 40A
58(4)	Expenditure in connection with winnings from lotteries, crossword puzzles, races, games, gambling or betting. The prohibition however will not apply in respect of income of an assessee who is owner of horses maintained for running in horse races [Section 58(4)]. Further, the amount spent in buying of infructuous tickets is not deductible as the gross amount will be taxed.

DEEMED INCOME [SECTION 59]

Where any allowance or deduction has been provided in the assessment of Income under the head “Income From Other Sources” in any Assessment Year in respect of loss or expenditure or trading liability incurred by the assessee and later on during any previous year any amount or any remission or any benefit is obtained by assessee (whether in cash or otherwise) then such amount or remission or benefit shall be taxable under the head “Income From Other Sources” in the previous year in which it is so obtained.

COMPUTATION OF INCOME UNDER THE HEAD “INCOME FROM OTHER SOURCES”

As per section 145 income taxable under this head is to be computed in accordance with the method of accounting regularly followed by assessee. In other words; if books of accounts are regularly maintained on “Cash system” then income shall be computed on “receipt basis” and if books are regularly maintained on “Mercantile system” then Income shall be computed on “accrual basis”.

COMPUTATION OF INCOME FROM OTHER SOURCES

Income taxable under Section 56 & 59	XXXX
Less: Expenditure allowed as deduction under Section 57	(XXXX)
Income taxable under the head “Income From Other Sources”	XXXX

Illustration 7:

Nikhil, a dealer in shares received from his friend Anshul, the following without any consideration:

- (a) Cash Gift INR 100,000 on his birthday (14th April).
- (b) Bullion, FMV INR 75,000 on his anniversary (22nd April).
- (c) Plot of land at Gurgaon on 1st Jun’25, stamp duty value INR 750,000 on that date.

Advise on tax treatment.

Solution:

- a) Cash Gift is > INR 50000, therefore, the entire amount of INR 100,000 is chargeable to tax as Income from Other Sources.
- b) Bullion received without consideration is taxable too in full as it is received without consideration, therefore, the entire amount of INR 75000 is chargeable to tax as Income from Other Sources.
- c) Plot of land received without consideration is taxable too in full as it is received without consideration, therefore, the entire amount of INR 750,000 is chargeable to tax as Income from Other Sources.

Illustration 8:

Nisha, on 1st Dec’25 took possession of a flat booked by her 2 years back, at INR 25,00,000. The Stamp Duty of the flat on the date of possession was INR 40,00,000 and on the date of booking was INR 32,00,000. She had paid INR 200,000 by account payee cheque, on date of booking.

Advise tax treatment.

Solution:

It is to be noted that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement (in this case booking) may be taken. However, this exception shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by any mode other than cash on or before the date of the agreement for the transfer of such immovable property.

Therefore, the difference between the Stamp Duty Value on date of booking (INR 32,00,000) and the actual consideration (INR 25,00,000); i.e., INR 700,000 would be taxable under the head "Income from Other Sources".

Illustration 9:

Discuss the taxability of the following transactions in the hands of the recipient:

1. An HUF received from the Karta's niece, INR 80,000 in cash.
2. Shruti, a member of her father's HUF, transferred to the HUF a property without any consideration. The Stamp Duty valuation was INR 12,00,000.
3. Robin received from his friend 100 shares of INR 200 each and jewellery worth INR 55,000 (FMV) from his nephew on the same day.
4. An HUF gifted a Car to the Karta's son, for brilliant performance in the board exams. The FMV of Car was 10,00,000.

Solution:

1. **Taxable:** Sum of money received exceeding INR 50,000 without consideration from a non-relative is taxable. Therefore INR 80,000 is taxable as his niece, not being a member of the HUF is not a relative of the HUF.
2. **Non-Taxable:** Immovable property received without consideration from a relative is non-taxable. Since Shruti is a member of the HUF, she is a relative of the HUF and hence the same is not taxable.
3. **Taxable:** In this case, the aggregate FMV of the property other than immovable property, received without consideration exceeds INR 50,000 (INR 75,000 actually for the shares & jewellery together). Hence, the entire amount would be taxable.
4. **Non-taxable:** Car is not a property for the purposes of Section 56 and hence the transaction is non-taxable.

Illustration 10:

Mr. A, a dealer in shares, received the following without consideration during the previous year 2025-26 from his friend Mr. B

- 1) Cash gift of Rs 75,000 on his anniversary on 15.4.2025.
- 2) Bullion, the FMV of which was Rs 60,000, on his birthday, 19th June, 2025

- 3) A plot of land at Faridabad on 1st July, 2025, the stamp value of which is Rs 5,00,000 on that date. Mr. B had purchased the land in April, 2009.
- 4) Mr. A purchased from his friend C, who is also a dealer in shares, 1000 shares of X Ltd. @ Rs 400 each on 19th June, 2025, the FMV of which was Rs 600 each on that date. Mr. A sold these shares in the course of his business on 23rd June, 2025.
- 5) Further on 1.11.2025, Mr. A took possession of property (building) booked by him two years back at Rs. 20 lakh. The stamp duty value of the property as on 1.11.2025 was Rs 32 lakh and on the date of booking was Rs 23 lakh. He had paid Rs 1 lakh by cheque as down payment on the date of booking. On 1st March, 2026, he sold the plot of land at Faridabad for Rs 7 lakh. Compute the income of Mr. A chargeable under the head Income from other sources and capital gain for AY 2026-27.

Solution:**Computation of Income from Other Sources of Mr. A for the AY 2026-27**

Particulars	Amount (Rs.)	Amount (Rs.)
1. Cash gift is taxable u/s 56(2)(vii), since it exceeds Rs 50,000	75,000	
2. Since bullion is included in the definition of capital assets, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds Rs 50,000	60,000	
3. Stamp duty value of plot of land at Faridabad, received without consideration, is taxable u/s 56(2)(x)	5,00,000	
4. Difference of Rs 2 lakh in the value of shares of X Ltd. purchased from Mr. C, a dealer in shares, is not taxable as it represents the stock in trade of Mr. A	NIL	
5. Difference between the stamp duty value of Rs 23 lakh on the date of booking and the actual consideration of Rs 20 lakh paid is taxable u/s 56(2)(x) since the difference exceeds Rs 1,00,000 being the higher of Rs 50,000 and 5% of consideration.	3,00,000	
6. Income from other sources		9,35,000
7. Sale consideration		7,00,000
8. Less: Cost of acquisition (deemed to be the stamp value charged to tax u/s 56(2)(x) as per section 49(4))		(5,00,000)
9. STCG		2,00,000

CASE LAWS

1.	27.08.2013	<i>Commissioner of Income Tax v. Smt. Swapna Roy</i>	<i>Allahabad High Court</i>
----	------------	--	-----------------------------

Disallowance of Deduction of interest under section 57(iii) of the Income tax Act, 1961

Facts of the Case: The assessee is a partner of M/s. Sahara India (Firm); and Director in various companies of M/s. Sahara Group. For the assessment year 1997-98, the assessee has filed loss return for Rs.36,48,09,550/-. While completing regular assessment, the Assessing Officer disallowed the interest of Rs.36,57,27,195/- claimed by the assessee as interest paid on loan for purchase of shares under the head "income from other sources". The Assessing Officer noticed that the assessee had obtained loan from M/s. Sahara India Mutual Benefit Co. Ltd., and the loan amount was invested in purchase of shares of closely held companies of Sahara Group which were incurring heavy losses and there was no possibility to get dividend on share capital of these companies. Further, the assessee was having a substantial interest in the companies of Sahara Group. So, the AO opined that by making investment of "borrowed interest bearing funds" for non productive purpose, the assessee had diverted his income and had adopted a colorable device to reduce tax liability. So, he has disallowed the claim made by the Assessee pertaining to the interest and made the addition in each case, which was deleted by the first appellate authority as well as the Tribunal. Not being satisfied, the Department filed an appeal before High Court.

Judgement: On a question whether the amount invested by the assessee in sister concerns running in loss since several years may be treated as investment or expenditure made exclusively for the purpose of making or earning such income, the Allahabad High Court held that the expenditure towards interest on loan cannot be said to have been laid out wholly and exclusively for the purpose of making earning income but was a colourable device, to utilize the funds of one company in the other sister concern and therefore, the interest on loan is not allowable deduction under section 57(iii).

Further on the principle of consistency, the High Court held that in case an assessee changes his or her stand repeatedly and does not come with a clean hand, then it shall be sufficient to depart from earlier practice and the principle of consistency shall not come in the way to assess the income on the basis of the material on record.

2.	04.01.2017	<i>Gopal & Sons (HUF) v.CIT</i>	<i>Supreme Court</i>
----	------------	-------------------------------------	----------------------

Is loan to HUF who is a shareholder in a closely held company chargeable to tax as deemed dividend?

Facts of the Case: The assessee is a Hindu Undivided Family (HUF). During the previous year to the Assessment Year, the assessee had received certain advances from one M/s. G.S. Fertilizers (P) Ltd. (hereinafter referred to as the 'Company'). The Company is the manufacturer and distributor of various grades of NPK Fertilizers and other agricultural inputs. In the audit report and annual return for the relevant period, which was filed by it before the Registrar of Companies (ROC), it was found that the subscribed share capital of the said Company was Rs. 1,05,75,000/- (i.e., 10,57,500 shares of Rs. 10/- each). Out of this, 3,92,500 number of shares were subscribed by the assessee which represented 37.12% of the total shareholding of the Company. From this fact, the AO concluded that the assessee was both the registered shareholder of the Company and also the beneficial owner of shares, as it was holding more than 10% of voting power. On this basis, after noticing that the audited accounts of the Company was showing a balance of Rs. 1,20,10,988/- as "Reserve & Surplus" as on 31st March, 2006, this amount was included in the income of the assessee as deemed dividend.

In the appeal filed by the assessee, the aforesaid addition was affirmed by the CIT(A). The Tribunal reversed the CIT(A). The High Court reversed the Tribunal. Before the Supreme Court, the assessee argued that being a HUF, it was neither the beneficial shareholder nor the registered shareholder. It was further argued that the Company had issued shares in the name of Shri Gopal Kumar Sanei, Karta of the HUF, and not in the name of the assessee/HUF as shares could not be directly allotted to a HUF. On that basis, it was submitted that provisions of Section 2(22)(e) of the Act cannot be attracted.

Judgement: The Supreme Court held as the shares are issued in the name of the Karta, the HUF is not the “registered shareholder” and so section 2(22)(e) will not apply to loans paid to the HUF is not correct because in the annual returns filed with the ROC, the HUF is shown as the registered and beneficial shareholder. In any case, the HUF is the beneficial shareholder. Even if it is assumed that the Karta is the registered shareholder and not the HUF, as per Explanation 3 to section 2(22), any payment to a concern (i.e. the HUF) in which the shareholder (i.e. the Karta) has a substantial interest is also covered.

3.	08.09.2010	<i>CIT v. Manjoo and Co</i>	<i>Kerala High Court</i>
----	------------	-----------------------------	--------------------------

Can winnings of prize money on unsold lottery tickets held by the distributor of lottery tickets be assessed as business income and be subject to normal rates of tax instead of the rates prescribed under section 115BB of the Income tax Act, 1961?

Facts of the Case: The respondent assessee is a wholesale distributor of lotteries organized by the State of Kerala and under the distribution agreement respondent is entitled to certain discount on the purchase of lottery tickets. If the tickets purchased are not fully sold out by the respondent before the draw date then loss will be to the account of the respondent. For the previous years relevant to the assessment years 2000-01 and 2001-02 certain unsold tickets held by the respondent assessee were the prize winning tickets and on production of those tickets the Lottery Directorate paid the prize money to the respondent after recovery of tax at source treating the payments as “winning from lottery”.

Even though respondent assessee accounted the receipt of income in the profit and loss account as prize won from lottery, in the income tax returns filed, the respondent claimed that the prize money received from the Lottery Department represents income not assessable under the special provisions contained in Section 115BB of the Income Tax Act but assessable as business income. The Income Tax Officer however rejected the claim holding that prize money received in lottery is assessable at the special rate provided under Section 115BB and so much so it cannot be treated as business income. The first appeal filed by the respondent was allowed and the Tribunal confirmed it on second appeal filed by the department against which these appeals are filed.

Judgement: In our view the decision should not influence interpretation on the scope of Section 115BB of the Act. In our view winnings from lotteries is assessable under this special provision irrespective as to under what head winnings from lottery falls. Therefore, assuming for argument sake the contention of the respondent that winnings from lotteries is received by him in the course of his business and is incidental to business and so it is his business income is right. Still, we feel in view of the specific provision contained in Section 115BB, the special rate of tax is applicable for all winnings from lottery. What is provided in the said Section is that where the total income includes any income by way of winnings from lottery or crossword puzzle etc, the income tax payable shall be calculated at the rate of 30%. Total income under Section 2(45) read with Section 5 of the Act includes income from all sources and necessarily all such incomes are computed under five heads referred to in A to F of Section 14 of the Act. In other words even after computation of income under various heads of income referred to in Section 14 in terms of specific provisions of the Act providing for computation of income under each head, Such of the incomes specifically covered by Chapter XII shall

be identified, separated and should be subject to tax at the special rate provided there. So, in our view the special rate of tax, i.e., 30% provided under Section 115BB of the Act is applicable even if winning from lottery is in the nature of business income as claimed by the respondent. We hold that the rate prescribed under Section 115BB is applicable for the winnings from lottery received by the respondent assessee irrespective of whether it is an income incidental to business or not.

4.	13.04.2021	<i>CIT v. Ozone India Limited</i>	<i>Ahmedabad ITAT</i>
----	------------	-----------------------------------	-----------------------

Angel tax provisions are not applicable when shares are issued pursuant to a scheme of amalgamation, especially when the same are issued at par value

Facts of the Case: Assessee, an amalgamated company, had issued its shares at par value to the shareholders of the amalgamating company, as consideration under scheme of amalgamation, approved by the Hon'ble Gujarat High Court. The difference between value of net assets received from the amalgamating company and the share consideration issued by the Taxpayer (i.e., par value of shares issued) was credited to "Capital Reserve" account in the books of the Taxpayer. The tax authority contended that the amount credited to "Capital Reserve" represented excess consideration received upon issue of shares and, hence, invoked the angel tax provisions in hands of the Taxpayer. Accordingly, the difference between net assets received on amalgamation and FMV of shares issued by the Taxpayer was brought to tax under the head of income from other sources.

Judgement: The Tribunal held that there is no income accruing /arising to the Taxpayer under the angel tax provisions and the same are not applicable in the facts of the case, principally on the following three propositions:

1. Intent and interpretation of angel tax provisions suggest that taxability is triggered only when shares are issued at premium and not otherwise: The angel tax provisions were introduced to target excessive share premium received unjustifiably on issue of shares without carrying underlying value to support such uncalled for premium and to curb practice of subscribing to shares issued at substantial premium to supposedly convert unaccounted money. Considering the text of the provisions and the intent thereof, as there is no premium charged or received by the Taxpayer on issue of shares carried out at par value, the present case is not covered under angel tax provisions of ITL.
2. Deeming provisions are to be strictly construed: Attempt to notionally term the excess value of assets received by the Taxpayer from amalgamating company as "premium over face value" for application of deeming provisions of angel tax, result in stretching the fiction beyond its purpose and import another fiction in it, which is held to be unwarranted by Indian judiciary.
3. Angel tax provisions are not applicable to share issue undertaken under a scheme of amalgamation: Angel tax provisions contemplate a bare issue of shares, i.e., issue of shares on its own accord where the consideration flows from the allottee and not for discharging of any consideration/ obligation, as in case of amalgamation. The provisions contemplate a bilateral arrangement and not a tripartite arrangement, where undertaking is vested by amalgamating company and shares are issued by amalgamated company (the Taxpayer) to shareholders of amalgamating company. Also, the exemption granted to shareholders of the amalgamating company upon "transfer" of shares against receipt of shares of amalgamated company under ITL, support that in case of amalgamation, tax implications are not sought to be triggered.

5.	13.12.2011	<i>Pradeep Kumar Malhotra v. CIT</i>	<i>Ahmedabad ITAT</i>
----	------------	--------------------------------------	-----------------------

Can the loan or advance given to a shareholder by the company, in return for an advantage conferred on the company by the shareholder, be deemed as dividend under section 2(22)(e)

Facts of the Case: The assessee, a substantial shareholder in a closely held company, let out his flat to the company and also permitted it to place it on mortgage. In consideration, the company passed a resolution authorizing the assessee to obtain from the company an interest-free deposit up to Rs.50 lakhs. He also received an amount by way of “security deposit”. The AO assessed the said “advances/ deposits” as “deemed dividend” u/s 2(22)(e). The CIT (A) deleted the addition though the Tribunal upheld it.

Judgement: The phrase “by way of advance or loan” s. 2(22)(e) must be construed to mean those advances or loans which a shareholder enjoys simply on account of being a person who is the beneficial owner of shares. If such loan or advance is given to such share holder as a consequence of any further consideration received from the shareholder, then such advance or loan cannot be said to be “deemed dividend” u/s 2(22)(e). Thus, while gratuitous loan or advance given by a company to a substantial shareholder comes within the purview of section 2(22)(e), a case where the loan or advance is given in return to an advantage conferred upon the company by the share holder does not. On facts, as the advance was in lieu of the company being permitted to mortgage the assessee’s flat, it was not “gratuitous” and so not assessable as “deemed dividend” (Creative Dyeing 318 ITR 476 (Del) & Nagindas Kapadia 177 ITR 393 (Bom) followed).

6.	2021	<i>PCIT vs Dr. Ranjan Ray</i>	<i>PCIT</i>
----	------	-------------------------------	-------------

Can the bonus shares given to a shareholder be chargeable under ‘Income from other sources’ as no consideration is paid by the shareholder under section 56(2)(x)

Facts of the Case: The assessee was an individual engaged in the medical profession. For the A.Y. 2012-13, the A.O. found that the assessee had received 1,00,00,000 bonus shares issued by M Ltd. The A.O. invoked section 56(2)(vii) and treated the receipt of bonus shares as income from other sources and assessed the fair market value of the bonus shares as income of the year.

Judgement: A careful scrutiny of section 56(2)(vii) contemplates two contingencies; firstly, where the property is received without consideration, and secondly, where it is received for consideration less than the fair market value. The issue of bonus shares by capitalisation of reserves is merely a reallocation of the company’s funds. There is no inflow of fresh funds or increase in the capital employed, which remains the same. The total funds available with the company remain the same and the issue of bonus shares does not result in any change in respect of the capital structure of the company. In substance, when a shareholder gets bonus shares, the value of the original shares held by him goes down and the market value as well as the intrinsic value of the two shares put together will be the same or nearly the same as per the value of the original share before the issue of bonus shares. Thus, any profit derived by the assessee on account of receipt of bonus shares is adjusted by depreciation in the value of equity shares held by him. Hence, the fair market value of bonus shares is not normally assessable as income from other sources.

There was no material on record to infer that bonus shares had been transferred with an intention to evade tax. The provisions of section 56(2)(vii)(c) were not attracted to the fact situation of the case.

LESSON ROUND-UP

- Income chargeable under Income-tax Act, which does not specifically fall for assessment under any of the heads discussed earlier, must be charged to tax as “income from other sources”.
- Section 56(2) specifically provides for the certain items of incomes as being chargeable to tax under the head such as Dividend, Keyman Insurance policy, Winnings from lotteries, Contribution to Provident fund, Income by way of interest on securities, Income from hiring machinery etc, Hiring out of building with machinery, Money Gifts, Share premiums in excess of the fair market value to be treated as income, income by way of interest received on compensation.
- The entire income of winnings, without any expenditure or allowance or deductions under Sections 80C to 80U, will be taxable. However, expenses relating to the activity of owning and maintaining race horses are allowable. Further, such income is taxable at a special rate of income-tax i.e., 30% + surcharge + cess @ 4%.
- **Admissible Deductions:** The income chargeable under the head “Income from other sources” is the income after making the deductions such as :
 - (i) sum paid by way of commission or remuneration to a banker or any other person for the purpose of realizing interest / Dividend;
 - (ii) deduction shall be allowable in accordance with the provisions of Section 36(1)(va), i.e., if the employer has credited the employee’s accounts in the respective funds;
 - (iii) a sum equal to 33-1/3% of the income or Rs. 15,000 (Rs. 25,000 for the assessee paying tax u/s 115BAC), whichever is less, is allowable as a deduction from family pension;
 - (iv) a deduction of a sum equal to 50% of from Interest on compensation or enhanced compensation and;
 - (v) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income.
- **Inadmissible deductions:** The following amounts shall not be deducted in computing income chargeable under the head ‘Income from other sources’:
 - (i) Any personal expenses of the assessee.
 - (ii) Any interest chargeable under the Income-tax Act which is payable outside India and from which income-tax has not been paid or deducted at source.
 - (iii) Any payment which is chargeable under the head “Salaries” if it is payable outside India unless tax has been paid thereon or deducted therefrom at source.
 - (iv) Any expenditure referred to in Section 40A of Income-tax Act.

TEST YOURSELF

(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation.)

Multiple Choice Questions “MCQs”

1. Mr. Dev has earned interest of Rs. 12,000 under Post Office Savings Bank Account. The income taxable as other sources is ?
 - a) Rs. 12000
 - b) Fully Exempt

- c) Rs. 8,500
- d) Rs. 6,000

Answer : c

2. Mr. Raj received Rs. 80,000 from his friends on the occasion of his Marriage anniversary. Taxable income from other sources is?
- a) Entire Rs. 80,000 is exempt
 - b) Entire Rs. 80,000 is taxable
 - c) only Rs. 30,000 is taxable
 - d) Only 50% , i.e. Rs. 40,000

Answer : b

3. Ram received INR 80,000 from his best friend on his birthday?
- a) INR 80000 is taxable
 - b) INR 30000 is taxable
 - c) Entire amount is exempt
 - d) None of the above

Answer : a

4. Mr. C aged 72 years, received INR 15,00,000 as dividend, in FY 2025-26. The Income chargeable to tax is:
- a) INR 15,00,000
 - b) INR 5,00,000
 - c) Nil
 - d) INR 750000

Answer : a

5. Dividend received from a foreign company is charged to tax under the head _____.
- (a) Profits and gains of business or profession
 - (b) Capital gains
 - (c) Income from other sources
 - (d) Income from salaries

Answer : c

6. Deduction for Family Pension received will be lower of 33.33% and in case of assessee paying tax u/s 115BAC:
- (a) 15,000
 - (b) 10,000
 - (c) 25,000
 - (d) 0

Answer : c

7. Interest on enhanced compensation received by Mr X during the previous year 2025-26 is Rs 1,00,000. Out of this, Rs 15,000 relates to PY 2015-16. Amount of taxable interest in PY 2025-26 will be:

- (a) 15,000
- (b) 85,000
- (c) 1,00,000
- (d) 0

Answer : c subject to deduction @ 50%

LIST OF FURTHER READINGS

- **Direct Taxes Law and Practice**
Author : Dr. Vinod K. Singhania & Dr. Kapil Singhania
Publisher : Taxmann
- **Direct Taxes Ready Reckoner with Tax Planning**
Author : Dr. Girish Ahuja & Dr. Ravi Gupta
Publisher : Wolters Kluwer

OTHER REFERENCES (INCLUDING WEBSITES AND VIDEO LINKS)

- **Income Tax Act, 1961:** <https://www.incometaxindia.gov.in/Pages/acts/income-tax-act.aspx>
 - **Income Tax Rules, 1962:** <https://www.incometaxindia.gov.in/Pages/rules/income-tax-rules-1962.aspx>
 - **Circulars:** <https://www.incometaxindia.gov.in/Pages/communications/circulars.aspx>
 - **Notifications:** <https://www.incometaxindia.gov.in/Pages/communications/notifications.aspx>
-
-
-
-
-
-
-
-
-
-