

TAXATION OF HINDU UNDIVIDED FAMILY

1. Hindu Undivided Family (HUF) is treated as a separate entity for the purposes of assessment under the Income-tax Act.
2. HUF does not arise from a contract. HUF is a creation of law. After marriage, as soon as a child is born, HUF comes into existence. HUF consist of Father, sons and daughters. Wife is not the part of the HUF.
3. Sons and daughters and the father i.e. Karta are the co-parceners in the joint family and have a right to demand partition. The Karta can give his share in the co-parcenary to his wife.
4. If partition of HUF is made by Courts, the courts will always award equal partition. However, the family may mutually effect partition without going to the courts and mutual partition can be unequal.
5. **HUF cannot make any gift of HUF property to co-parcener and non-coparceners. Any gifts made by HUF are void-ab-initio. Therefore, if HUF property is gifted by HUF, then such gifts are void-ab-initio. The gifted property shall be included in the wealth of HUF and not the donee. Similarly, the income from gifted properties shall be taxable in hands of HUF and not the donee.**
6. The provisions of computing income of HUF are the same for a normal assessee.
7. **Capital Gains on distribution of assets on partition of HUF**
 - **Section 47: No capital gains shall arise to HUF on distribution of assets on partition of HUF.**
 - **Section 49(1):** Cost of acquisition of such assets to the member shall be the cost of acquisition of such asset in the hands of HUF.
Where an individual converts his self-acquired property into HUF property without adequate consideration, then cost of acquisition of the converted property to the HUF shall be the cost of acquisition in the hand of the transferor individual.
 - In above two cases, the period of holding of asset of transferor shall also be considered for computing the period of holding of asset in hands of transferee.

8. **Section 171: Partition of HUF takes place on the date the properties are actually physically divided. There must be physical division of the properties. Physical division of income without physical division of properties does not amount to partition.**
9. **Any remuneration paid by HUF to the Karta or any other member for services rendered by him in conducting family's business, is deductible if remuneration is:**
 - a. **paid under a valid and bona fide agreement;**
 - b. **in the interest of and expedient for the business of family; and**
 - c. **reasonable and not excessive.**
10. **There can be two types of partitions:**
 - (a) **Total Partition**
 - (b) **Partial Partition**

Total Partition: Where all the properties of the family are divided amongst all the members of the family, and the family ceases to exist as HUF.

Partial Partition: If some members of the HUF go out, others remain together, or some property is divided, and balance remains joint.

11. **PARTITION HAS TO BE A TOTAL PARTITION. PARTIAL PARTITION IS NOT RECOGNISED UNDER THE INCOME-TAX ACT.**

IF THERE IS A PARTIAL PARTITION OF HUF, THEN IT SHALL BE DEEMED THAT NO PARTITION HAS TAKEN PLACE AND THE INCOME FROM THE PROPERTY DISTRIBUTED ON PARTIAL PARTITION SHALL BE ASSESSED IN THE HANDS OF HUF AS IF NO SUCH PARTIAL PARTITION HAS TAKEN PLACE.