

# INCOME FROM HOUSE PROPERTY

## Introduction

Among five heads of income, the second head is 'Income from House Property'. Under this head various provisions of Income-tax Law relating to the calculation of taxable income of house property from the houses given on rent by the assessee have been discussed.

## BASIS OF CHARGEABILITY OF TAX UNDER 'HOUSE PROPERTY' HEAD

The income of those houses is taxable under this head of which the assessee is the owner and which are not being used for business or profession. According to section 22 of Income-tax Act, "Under the head 'Income from House Property', the tax is charged on the houses or attached land of the ownership of assessee on the annual value of them, but that portion of property is left out which is being used by himself for the operation of some business or profession, on which income-tax is paid."<sup>1</sup>

## IMPORTANT POINTS RELATING TO INCOME FROM HOUSE PROPERTY

### 1. Property should be any building or house or open land attached or open lands appurtenant thereto

Income from house property can be received in two form—House or open land appurtenant thereto. The rent received from both or any of them is taxable under this head. Here it is necessary to understand the meaning of Building and open land appurtenant thereto :

(i) **Meaning of House or Building.** House has not been defined in Income-tax Act. It is a wide word, on the basis of dictionary and on the judgements of judges, house includes dwelling house, building used for office or godown, shop, cinema hall, entertainment or cultural programme purposes, auditorium and lecture hall etc.

(ii) **Land appurtenant thereto.** Generally some open land is attached with the house, e.g., open gallery attached to dwelling houses, open space from the main door of the house to the house of residence, chawk, garden, playing fields, vehicle parking space, cattle shed, connecting roads to various departments, etc. They are the part of the house. The rent received out of it on rent basis are taxable under this head.

**Explanation.** If any person earns income from temporary huts, e.g., construction of hut, shelter or temporary sheds on open land. They are not included in house. If the land is not attached to any house, the income received from land is taxable income from other sources.

### 2. Ownership of Assessee upon Building

The income of only those houses is taxable under the head 'House Property' whose ownership belongs to the assessee. The ownership on the house is of two types—(i) Legal

<sup>1</sup> "The annual value of property consisting of any building or land appurtenant thereto of which the assessee is the owner, other than, such portions of such property as he may occupy for the purpose of any business or profession carried on by him, the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head 'Income from House Property'."

—Section 22 : Income-tax Act, 1961.