

ASSESSMENT OF TAXABLE INCOME AND INCOME TAX LIABILITY OF AOP/BOI (A conceptual study)

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DOI : 10.48047/IJFANS/V11/ISS7/322

Abstract: Income Tax is a direct tax. All the persons required to compute their taxable income and the tax by following the procedure laid down in the income tax law. The term 'person' has defined by Sec.2(31) according it includes individuals, Partnership firms, companies, co-operative societies, Association of Persons(AOP) and Body of Individuals(BOI) etc., The AOP/BOI will be considered as a person whether or not incorporated under any law. Besides they are deemed persons whether they have profit motive or not. Like other persons, the AOP/BOI shall also compute their tax liability in the current year and pay the same. This study the procedure for determination of taxable income and income tax liabilities of such AOP and BOI.

Key words: Taxable income, AOP, BOI, Income Tax.

1. **Introduction:** For determination of tax liability, the taxable income has to be calculated. Taxable income is the excess of gross total income over the deductions available u/s.80C to 80U. The computation of Gross total income of AOP/BOI is as usual. The computation of business income is as per Sec.28 to 44D. While computing the business income the interest paid on capital or loan, salary, bonus, commission or remuneration by the AOP/BOI to its members disallowable as per Sec.40(ba). If any interest is from the members for example interest on drawings, is taxable for it. But if an individual who is a member in a representative capacity is paid interest otherwise than as member in a representative capacity, such interest shall not be disallowed. If salary by AOP/BOI to its member who is member on behalf of HUF, i.e. in representative capacity, still such salary shall not be allowed as deduction while computing the income of AOP/BOI. The rent paid by the AOP/BOI to its member for utilizing his/her premises will be allowed as deduction.
2. **Research Methodology:** This article is a descriptive study based research and the data gathered from secondary sources like academic books on income tax, previously published research articles and the related websites.
3. **Discussion:** This includes the following.
 - (A) **Assessment of AOP/BOI will be assessed as under-**
 - (i) If the individual share of members is unknown, then the entire income(excluding income chargeable at specified rates) of the AOP/BOI will be chargeable at Maximum Marginal Rate(MMR)+ surcharge+ Secondary and Higher Education cess. If a member's income is liable at a rate higher than MMR, then the AOP/BOI's entire income is taxable at such higher rate than MMR. For example if an abroad company is a member in an AOP/BOI, then the AOP/BOI' whole income liable at 40%+surcharge+Secondary and Higher Education cess.
 - (ii) If members shares are certain or determinate-(a) If a member has total income(before including his share from AOP/BOI) crosses the tax free limit, then the

entire income(excluding income chargeable at specified rates) of the AOP/BOI will be chargeable at Maximum Marginal Rate(MMR)+ surcharge+ Secondary and Higher Education cess.(b) if a member's income is leviable at a rate higher than MMR, then the proportionate income of that member is taxable at such higher rate and the remaining income is chargeable at MMR.

- (iii) Where no member has income higher than basic exemption limit, and no members is taxable at more than MMR, then the AOP/BOI's total income is taxable at slab rates applicable to individuals below the age group of 60 years.
- (iv) If no member has income higher than basic exemption limit, and one of the members is taxable at more than MMR(ie., if the member is a foreign company, then out of the total income the income pertaining to that member is taxable at such higher rate and the remaining income is chargeable to tax at MMR.
- (v) The tax rate applicable on Long Term Capital Gains to AOP/BOI is 20%/10% as per sec.112. The tax rate applicable on Short Term Capital Gains to AOP/BOI is 15%.

Taxability for members:

- (i) If the AOP/BOI has taxed at MMR or at higher rate, then member's share is fully exempt in his hands which means, the member need not pay any tax on his share. It is as per Sec.86.
- (ii) If the AOP/BOI has paid tax at the slab rates of individuals, then the respective share shall be computed as per Sec.67A.

4. Conclusion:The research paper has explored the intricacies of these unique and important tax entities. The paper gives legal framework, and taxation implications of AOP and BOI. In conclusion, several key findings and takeaways can be summarized:

- (i) **Distinctive Legal Entities:** AOP and BOI are distinct legal entities with specific characteristics. AOP is formed when two or more individuals come together with a common purpose and pool their resources, while BOI consists of individual members who collectively generate income through a joint enterprise. Understanding these distinctions is essential for proper assessment and taxation.
- (ii) **Taxation Considerations:** The research paper highlights the significance of taxation in the context of AOP and BOI. These entities have their unique tax structures, and understanding the implications of income tax, as well as other related taxes, is crucial for accurate assessment and compliance.
- (iii) **Income Allocation and Taxation:** The allocation of income within AOP and BOI is a complex process, often based on agreed-upon profit-sharing ratios. The research paper underscores the importance of clearly defined agreements among members, as these impact the taxation of each individual. Effective assessment requires meticulous documentation and adherence to the prevailing tax laws and regulations.
- (iv) **Legal Compliance and Documentation:** AOP and BOI assessments necessitate meticulous record-keeping and adherence to legal compliance. The paper highlights the importance of maintaining accurate financial records, complying with statutory requirements, and submitting timely tax returns. Non-compliance can lead to legal consequences and financial penalties.
- (v) **Operational Flexibility:** AOP and BOI offer flexibility in their operational structures, which can be tailored to the specific needs and goals of their members. Assessing the right

structure and ensuring it aligns with the business's objectives is crucial for achieving optimal tax benefits.

- (vi) Tax Planning and Optimization: AOP and BOI assessments should consider tax planning strategies that can help optimize tax liability. These entities can be used strategically to reduce tax burdens, if structured and managed efficiently.
- (vii) Professional Guidance: The complexity of this assessment necessitates professional guidance. Engaging tax professionals, accountants, and legal experts with expertise in these entities can be invaluable for ensuring proper assessment, compliance, and tax optimization. In conclusion, the assessment of these persons is a multifaceted process that requires a comprehensive understanding of their legal and tax implications. The proper assessment of these entities is essential for individuals and businesses seeking to maximize tax efficiency and ensure compliance with tax laws. This research paper serves as a valuable resource for professionals, tax authorities, and individuals involved with AOP and BOI, offering insights into the complexities and considerations associated with these unique legal entities.

Disclaimer: This article provides a general idea about the subject matter. The provisions of Income Tax Act and Income Tax Rules have to be referred besides, specialist advice should be sought about your specific circumstances.

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