



dvmgopal & associates
Company Secretaries

January - 2024



TOPICS:

- HUF – Hindu Undivided Family
- Compliance Calendar – January 2024

Hindi Undivided Family (HUF)

What is HUF?

- ❖ HUF is a legal entity recognized under Indian tax laws, comprising members from a Hindu family, it includes their lineal descendants, as well as their spouses and children. It is treated as a separate taxable entity distinct from its individual members

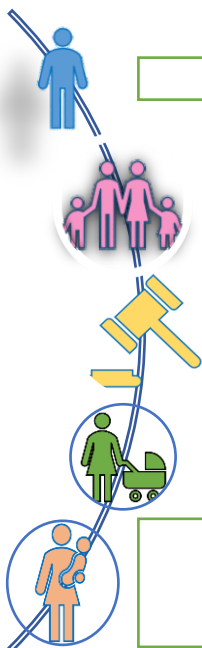


Who are the Members of the HUF?

- All individuals belonging to a Hindu family, including husbands, wives, children, their respective spouses, and their offspring, are eligible to be included in a HUF. In this structure, the male family members are referred to as coparceners, while the female family members are simply termed as members. The right to request a division of the HUF is exclusively reserved for coparceners.
- **Karta:** A HUF can be formed with just two members and at least one among them should be a male member of the family. Senior most male member of the family would become 'Karta'. The Karta is considered the legal representative of the HUF for various legal and financial purposes. The Karta is also responsible for filing income tax returns for the HUF.
- Upon the demise of Karta, the eldest male member of the family becomes the Karta of the family. Even when the deceased Karta's wife is alive, the eldest son or any other eldest male member of the family will take over that position.

Meaning of HUF

Income Tax Act 1961 has not defined the word "HUF". As per Hindu law, HUF means a family which consists of all males lineally descended from a common ancestor and includes their wives and daughters.



Head of the family is called "Karta" of HUF

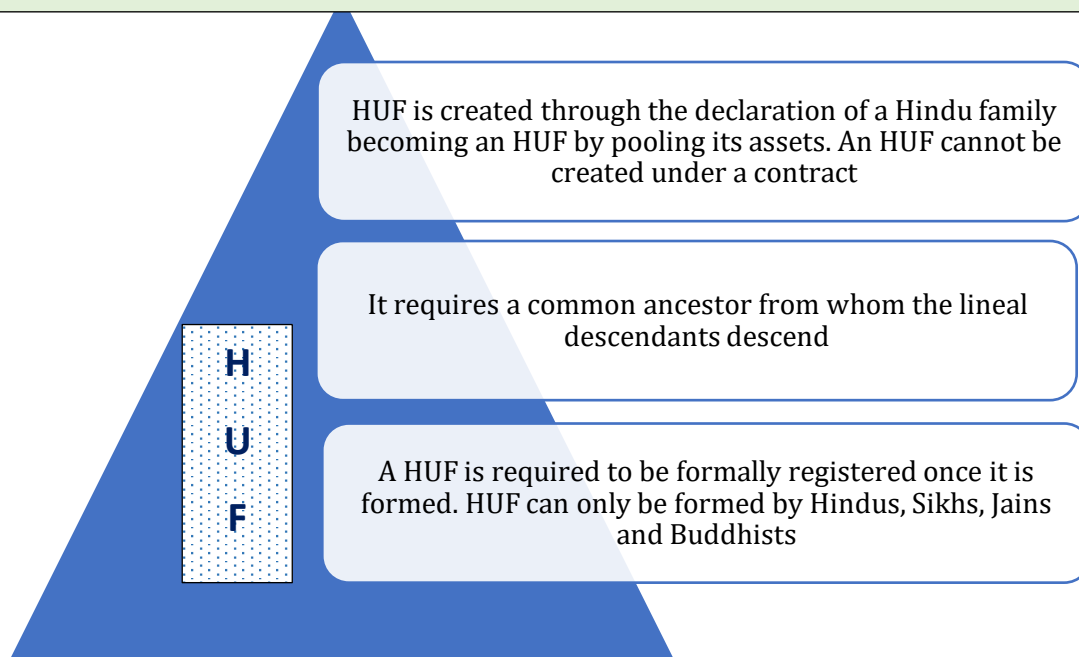
Members of the HUF are called "Co-Parceners". They are related to each other and related to the head of the family i.e., Karta

Under Income Tax Act, Jain undivided families of Jains and Sicks also considered as HUF

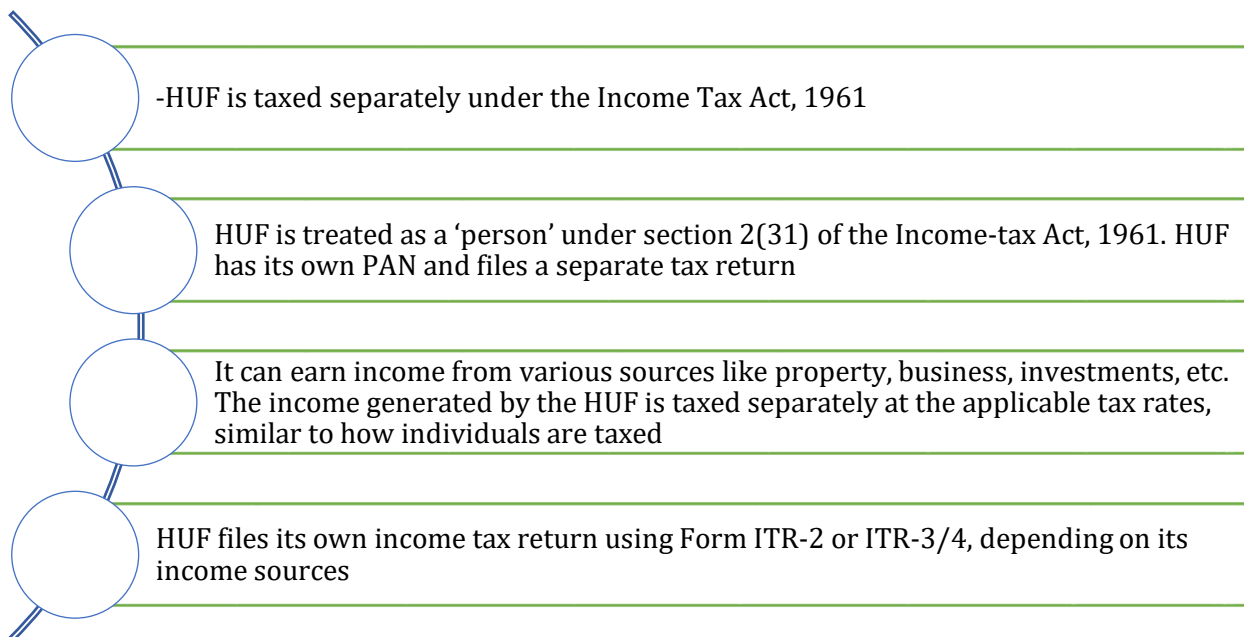
The existence of HUF arises from status not from the contract

W.e.f. 6th September 2005, daughters are also co-parceners of HUF and they can claim partition. She has same rights in the same manner as son

How is HUF is formed



How is HUF Taxed?



Assessment of HUF:

HUF is treated as separate entity under the Income Tax. It will have separate PAN. Following 2 conditions need to be satisfied to be assessed as HUF.

1. There should be a co-parcener ship. Once a joint family income is assessed under HUF, it continues to be assessed in same manner till partition is claimed.
2. There should be a joint family property which consists of ancestral property i.e., property acquired with the aid of ancestral property and property transferred by its members.



Ancestral Property

Ancestral property means a property inherited from any of three immediate male ancestors i.e., father, grandfather & great grandfather

	Income from the ancestral property held by following families is taxable as income of HUF
	A family of widow mother and sons (may be minor or major)
	Family of husband and wife, having no child
	Family of two widows of deceased brothers
	Family of two or more brothers
	Family of uncle and nephew
	Family of mother, son and son's wife
	Family of a male and his late brother's wife

Note: Property received by daughter from joint family property will be her absolute property and the income from such property is taxable in her hands.

Residential Status of HUF

A HUF would be resident in India if the control & management of its affairs is situated wholly or partly in India

If the control and management of its affairs is situated wholly outside India, then it is considered as a Non-Resident in India

If Karta of HUF satisfied both the conditions below, then the resident HUF will be treated as Resident and Ordinarily Resident (ROR) HUF. Otherwise, it is treated as Resident but not ordinarily resident" (RNOR)

If Karta is resident in India in any 2 financial years out of 10 financial years preceding the relevant financial year and

Stay of Karta during 7 financial years immediately preceding the financial year should be 730 days or more.

Taxability of Income received by a member from the Income of HUF



Section 10(2) exempts the income received by a member of the HUF from the income of HUF



Members of HUF are not required to pay taxes on the amounts received from HUF



This exemption applies only to the payments made by HUF out of the income of the family or income of the impartible estate belonging to the

Exemptions & deductions to an HUF?

HUF enjoys specific tax benefits, exemptions, and deductions similar to those available to individuals. An HUF is entitled for deductions available under Chapter VI-A (as applicable) while calculating its taxable income. Tax deductions can be availed under section 80C for the HUF account.

Special Points:

- ♣ Maintaining proper records, a separate bank account, and managing financial transactions.
- ♣ HUF can take an insurance policy on the life of its members and can pay a salary to its members if they contribute to its functioning of the HUF. This salary expense can be deducted from the income.
- ♣ In order to compute the income of an HUF, one has to first ascertain its income under the different heads of income. The following points should be kept in mind while computing income:
- ♣ If funds of an HUF are invested in a company or a firm, fees or remuneration received by the member as a director or a partner in the company or firm may be treated as income of the family (if fees or remuneration is earned essentially as a result of investment of funds)
- ♣ However, if fees or remuneration is earned for services rendered by the member in his personal capacity, it will be treated as the personal income of the member.
- ♣ If any remuneration is paid by the HUF to the Karta or any other member for services rendered by him, remuneration is deductible from income of HUF if such payment is genuine and not excessive and paid under a valid and bona fide agreement.

Non-Taxable Income for an HUF?

The following incomes are **not taxed** as income of HUF: -

- If a member has converted or transferred without adequate consideration his self-acquired property into join family property, income from such property is not taxable in hands of the family.
- Income of impartible estate (though it belongs to family) is taxable in the hands of holder of estate and not in hands of HUF.
- Personal income of the members cannot be treated as income of HUF.
- "Stridhan" is absolute property of a woman, hence income arising therefrom is not taxable as income of HUF.
- Income from individual property of daughter is not taxable in hands of HUF even if such property is vested into HUF by daughter.

Activities and Business HUF Can do?

- ✓ HUF can engage in various business activities. It should comply with legal and tax regulations applicable to businesses, maintain proper accounting records, obtain necessary licenses and permits, and conduct its operations in accordance with the laws governing business activities in India.
- ✓ An HUF, being a separate legal entity under Indian law, has the capacity to acquire, hold, and **own various assets**, including immovable property, movable property, investments, etc., in its name.
- ✓ The HUF **can acquire property** through various means such as purchase, inheritance, gift, or any other legal means of acquisition. It is essential to maintain proper documentation and records regarding the acquisition of property in the name of the HUF, including maintaining a separate bank account and adhering to legal requirements for asset ownership.
- ✓ The property owned by an HUF becomes a part of the HUF's assets and is managed and utilized for the benefit of the HUF's members in accordance with the provisions of the Hindu Succession Act and other relevant laws governing HUFs.
- ✓ The property owned by the HUF can include various types such as land, buildings, residential houses, agricultural land, commercial properties, investments in securities, and other movable assets. However, it's important to comply with legal formalities and taxation regulations while managing and transferring such properties to ensure proper compliance with the law.

Certain limitations or activities that an HUF cannot undertake?

- An HUF **cannot include members who are not part of the Hindu family** lineage. It is specifically meant for Hindu families, and non-Hindus cannot be coparceners or members of an HUF.
- Assets held by an HUF are primarily for the benefit of its members. **Transferring HUF assets to outsiders or non-family members** without proper consideration or without complying with legal requirements might not be allowed.
- **Speculative Businesses:** There are restrictions on engaging in speculative businesses, such as gambling, betting, or speculative trading in shares or commodities, as these activities might be considered against the principles of prudent financial management and could conflict with the objectives of an HUF.
- An HUF, being a family entity, **does not have the right to directly vote or hold political office**. Only individuals can exercise their right to vote or contest elections.

Liability of Co-Parcener?

The liability of all the various co-parceners is only up to their share of the property or business. So, they have limited liability. But the Karta being the head of the HUF has unlimited liability.

Advantages

Hindu Undivided Families (HUFs) in India are entitled to certain tax benefits under the Income Tax Act. Here are some of the tax benefits available to HUFs:

- ✚ **Separate Tax Entity:** HUF is considered a separate taxable entity under the Income Tax Act. It has its own Permanent Account Number (PAN) and files income tax returns separately from its individual members. One can form different taxable units of HUF.
- ✚ **Basic Exemption Limit:** HUFs are eligible for basic exemption limits and tax slabs similar to those applicable to individuals. They can avail tax exemptions and deductions on their income.
- ✚ **Tax Benefits:** HUFs have their own tax benefits under the Income Tax Act in India. They are taxed separately, which can result in potential tax savings, as income can be divided among family members and taxed at lower rates.
- ✚ **Succession Planning:** HUFs can be advantageous for succession planning and preserving family wealth as they allow for the seamless transfer of assets within the family, especially through coparcenary rights.
- ✚ **Pooling of Resources:** It enables pooling of family resources for better management and investment. Income earned by the HUF can be utilized for the benefit of the entire family.
- ✚ **Continuity:** HUFs continue to exist irrespective of changes in the family members. Even after the death of a member, the HUF continues to exist with other surviving members.
- ✚ **Carry Forward and Set Off of Losses:** Similar to individuals, HUFs can carry forward and set off losses incurred in a financial year against future profits. This helps in reducing tax liabilities in subsequent years.
- ✚ **HUF as Partner in a Business:** An HUF can act as a partner in a partnership firm or be a shareholder in a company. Any income earned by the HUF from such business interests can be assessed and taxed separately.
- ✚ **Income Splitting:** HUFs have the advantage of splitting income among family members to minimize overall tax liability. Allocating income to family members in lower tax brackets can result in tax savings for the HUF.
- ✚ **Minimal Formalities:** Fewer legal formalities in establishing and maintaining an HUF compared to a company.
- ✚ **Clubbing Provisions:** Certain provisions exist under the Income Tax Act to prevent the misuse of tax benefits by transferring income from one family member to another. Income from assets contributed to the HUF by its members can be clubbed back and taxed in the hands of the individual who transferred those assets.
- ✚ **Non-resident:** It is not necessary that a HUF must always be a resident of India. In case the control and management of the HUF are situated outside India, the HUF would be a non-resident. Where the affairs of the HUF are managed from outside India, the HUF would be a non-resident.
- ✚ **Minority:** the members are eligible to be co-parceners by the virtue of their birth into the family. So, in this case, even minor members will be a part of the HUF. But they will enjoy only the benefits of the organisation.

Disadvantages

- ❖ **Equal Rights on Assets:** All family members have equal rights on family assets, which can lead to complications when consent is needed for asset sale or distribution.
- ❖ **Complexity in Dissolution:** Closing a HUF can be complicated, with legal and logistical challenges involved in asset distribution among family members.
- ❖ **Decreasing Relevance:** With the shift from joint families to nuclear families, the relevance and importance of HUF as a tax-saving tool are declining. Cases of disputes and divorces further complicate the situation, diluting the benefits of the HUF structure.

FEMA			
Compliance details	Form	Applicability	Due Date
ECB Return	Form ECB-2	All Companies having ECB	1/7/2024
SEBI LODR Regulations			
Regulation 13(3)	Statement of Investor complaints	All Listed Entity	1/21/2024
Regulation 27 (2)	Corporate Governance	a) All Listed Entity with certain exclusions (b) SME listed Entities.	1/21/2024
Regulation 31(1) (b)	Shareholding Pattern	All Listed Entity	1/21/2024
SEBI(DP) Regulations, 2018			
Regulation 76 of	Reconciliation of Share Capital	All Listed Entity	1/30/2024
Labour Laws			
State Professional Tax (PT)	Form V	Entities registered with PT	1/10/2024
PF Payment	Monthly ECR	Entities registered with PF Authorities	1/15/2024
ESI Payment	Monthly ECR	Entities registered with ESIC Authorities	1/15/2024
Shops and Establishments	Form 1	Renewal of Shops and Establishment	1/30/2024
The Factories Act	Form AR	Common Annual Return	1/31/2024
POSH Act		Filing of Annual Report to District Officer	1/31/2024
INCOME TAX			
Deposit of Tax Deducted	Challan 281	Non-government deductors	1/7/2024
TDS returns	Form 24Q/26Q/27Q	All Tax deductors	1/31/2024
TCS returns		All Tax collectors	1/15/2024
GST			
Return of outward supplies of taxable goods and/or services	GSTR 1	GST Taxpayers who have not opted for QRMP scheme	1/11/2024
	GSTR 1	GST Taxpayers who opted for QRMP scheme -Optional	1/13/2024
Return of Outward & Inward Supplies along with payment of Tax	GSTR 3B	GST Taxpayers who have not opted for QRMP scheme	1/20/2024
GST Challan Payment if no sufficient ITC		QRMP scheme - GST Taxpayers and not having sufficient ITC	1/25/2024
Return of Outward taxable supplies and tax payable	GSTR 5 & 5A	Non-Resident GST Taxpayers	1/20/2024
Return for details of ITC received and distribution	GSTR 6	Input Service Distributors	1/13/2024
Return for TDS under GST	GSTR 7	Government Authorities	1/10/2024
Return for Details of Supplies and the amount of tax collector	GSTR 8	E-commerce Operator	1/10/2024
Return for details of goods and services purchased in India	GSTR-11	Taxpayer claiming Refund & having UIN	1/28/2024
Return of Outward & Inward Supplies along with payment of Tax	CMP-08	Composition taxpayers	1/18/2024
GST return	GSTR-4	Composition taxpayers	4/30/2024