

Definition of “Taxpayer’s Income” from the *Income Tax Act* of Canada

Income Tax Act

R.S.C., 1985, c.1 (5th Supp.)

1. This Act may be cited as the *Income Tax Act*.

2. (1) An income tax shall be paid, as required by this Act, on the taxable income for each taxation year of every person resident in Canada at any time in the year.

(2) The taxable income of a taxpayer for a taxation year is the taxpayer's income for the year plus the additions and minus the deductions permitted by Division C.

3. The income of a taxpayer for a taxation year for the purposes of this Part is the taxpayer's income for the year determined by the following rules

4. (1) For the purposes of this Act,

(a) a taxpayer's income or loss for a taxation year from an office, employment, business, property or other source, or from sources in a particular place, is the taxpayer's income or loss, as the case may be, computed in accordance with this Act

5. (1) Subject to this Part, a taxpayer's income for a taxation year from an office or employment is the salary, wages and other remuneration, including gratuities, received by the taxpayer in the year.

9. (1) Subject to this Part, a taxpayer's income for a taxation year from a business or property is the taxpayer's profit from that business or property for the year.

56. (1) Other Sources of Income: are associated with “superannuation or pension benefit, old age security, canada pension plan, provincial pension plan, employee benefit plan, retirement compensation arrangement”, etc. [see this provision for complete details]

248. (1) In this Act,,

“**business**” includes a profession, calling, trade, manufacture or undertaking of any kind whatever and, except for the purposes of paragraph 18(2)(c), section 54.2, subsection 95(1) and paragraph 110.6(14)(f), an adventure or concern in the nature of trade but does not include an office or employment.

"**property**" means property of any kind whatever whether real or personal or corporeal or incorporeal and, without restricting the generality of the foregoing, includes

- (a) a right of any kind whatever, a share or a chose in action,
- (b) unless a contrary intention is evident, money,
- (c) a timber resource property, and
- (d) the work in progress of a business that is a profession;

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"**taxpayer**" includes any **individual** whether or not liable to pay tax;

"**individual**" includes any entity exempt, because of subsection 149(1), from tax under Part I on all or part of the entity's taxable income [such as charities, government bodies, *etc.*]

and

the heirs, executors, liquidators of a succession, administrators or other **legal representatives** of such an **individual**, according to the law of that part of Canada to which the context extends;

"**legal representative**" of a taxpayer means a trustee in bankruptcy, an assignee, a liquidator, a curator, a receiver of any kind, a trustee, an heir, an administrator, an executor, a liquidator of a succession, a committee, **or** any other like person, administering, winding up, controlling or otherwise dealing in a representative or fiduciary capacity with the property that belongs or belonged to, or that is or was held for the benefit of, the taxpayer or the taxpayer's estate;

Summary: From a combination of sections 2, 3, 4, 5, 9, 56, and 248 of the *Income Tax Act*, a taxpayer’s income is determined from the “salary, wages, and other remunerations” from an “office or employment”, as well as from the **taxpayer’s profit** from a “business, property or other source, or from sources in a particular place” [which now requires a definition of **profit**]. Furthermore, said **taxpayer** is an entity dealing in a representative or fiduciary capacity with the property which belongs to Her Majesty.

Since “**profit**” is neither defined in the *Income Tax Act* nor the *Interpretation Act*, we have to refer to elsewhere for its definition, such as from Law Dictionaries or Case Law:

profit means: The excess of revenues over expenditures in a business transaction; Gain (*Black’s Law Dictionary, 7th Edition*).

profit means: The advance in the price of goods sold beyond the cost of purchase. The gain made by the sale of produce or manufactures, after deducting the value of the labor, materials, rents, and all expenses, together with the interest of the capital employed. (*Black’s Law Dictionary, 4th Edition*).

For a **reasonable expectation of profit**, see: “*Stewart v. Canada* 2002 SCC 46, [2002] 2 SCR 645, Date 2002-05-23, Docket 27860”.

A human being does not appear in the definition of a “**taxpayer**” within the *ITA* (*supra*) because the labour of a human being cannot be used for profit and therefor cannot be taxed, see: *Clayton Act* Title 15 USC Section 17 to wit: “The labor of a human being is not a commodity or article of commerce.”

INCOME TAX ACT - PART XVII, Sec 248. INTERPRETATION (Definition of Taxpayer)

