CHAPTER OVERVIEW

- Components of Income-tax Law
- Rules of Interpretation
- Important Definitions
- Charge of Income-tax
- Rates of Tax & Surcharge

1.1 OVERVIEW OF INCOME TAX LAW IN INDIA

The Constitution of India, in Article 265 lays down that *"No tax shall be levied or collected except by authority of law."* Accordingly, both the levy of tax as well as its collection shall be made under a law framed by the government.

Constitution of India gives the power to levy and collect taxes, whether direct or indirect, to the Central and State Government. The Parliament and State Legislatures are empowered to make laws on the matters enumerated in the Seventh Schedule by virtue of Article 246 of the Constitution of India.

The Seventh Schedule to Article 246 contains three lists which enumerate the matters under which the Parliament and the State Legislatures have the authority to make laws for the purpose of levy of taxes.

The following are the lists:

(i) **Union List or List I:** Parliament has the exclusive power to make laws on the matters contained in Union List.

(ii) **State List or List II:** The Legislatures of any State has the exclusive power to make laws on the matters contained in the State List.

(iii) **Concurrent List or List III:** Both Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent List.

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Income-tax is the most significant direct tax. ***Entry 82 of the Union List*** *i.e., List I in the Seventh Schedule to Article 246 of the Constitution of India has given the power to the Parliament to make laws on taxes on income other than agricultural income.*

Income-tax is a tax levied on the total income of the previous year of every person. A person includes an individual, Hindu Undivided Family (HUF), Association of Persons (AOP), Body of Individuals (BOI), a firm, a company etc. The income-tax law in India consists of the following components –

The various instruments of law containing the law relating to income-tax are explained below:

Income-tax Act, 1961

The levy of income-tax in India is governed by the Income-tax Act, 1961. In this book we shall briefly refer to this as the Act.

- It extends to the whole of India.
- It came into force on 1st April, 1962.
- It contains sections 1 to 298 and schedules I to XIV.
- It undergoes a change every year by the Annual Finance Act passed by Parliament, and other legislations like the Taxation Laws (Amendment) Act.

The Finance Act

Every year the Finance Minister of the Government of India introduces the Finance Bill in the Parliament's Budget Session. When the Finance Bill is passed by both the houses of the Parliament and gets the assent of the President, it becomes the Finance Act. New provisions are inserted; existing provisions are substituted or amended every year in the Income-tax Act, 1961 and other tax laws by the Finance Act.

The First Schedule to the Finance Act contains four parts which specify the rates of tax -

- **Part I** of the First Schedule to the Finance Act specifies the rates of tax applicable to the current Assessment Year. Accordingly, Part I of the First Schedule to the Finance Act, 2023 specifies the rates of tax for A.Y. 2023-24.

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- **Part II** specifies the rates at which tax is deductible at source for the current Financial Year. Accordingly, Part II of the First Schedule to the Finance Act, 2023 specifies the rates at which tax is deductible at source for F.Y. 2023-24.
- **Part III** gives the rates for calculating income-tax for deducting tax from income chargeable under the head "Salaries" and computation of advance tax for F.Y. 2023-24 where the assessee exercises the option to shift out of the default tax regime provided under section 115BAC(1A).
- **Part IV** contains the rules for computing net agricultural income.

Income-tax Rules, 1962

The administration of direct taxes is looked after by the Central Board of Direct Taxes (CBDT).

- The CBDT is empowered to make rules for carrying out the purposes of the Act.
- For the proper administration of the Income-tax Act, 1961, the CBDT frames rules from time to time. These rules are collectively called **Income-tax Rules, 1962.**
- It is important to keep in mind that along with the Income-tax Act, 1961, these rules should also be studied.

Circulars and Notifications

Circulars

- Circulars are issued by the CBDT from time to time to deal with certain specific problems and to clarify doubts regarding the scope and meaning of certain provisions of the Act.
- Circulars are issued for the guidance of the officers and/or assessees. However, it cannot override the provisions of the Act.
- The department is bound by the circulars. While such circulars are not binding on the assessees, they can take advantage of beneficial circulars.

Notifications

- Notifications are issued by the Central Government to give effect to the provisions of the Act.

  Example: Under section 10(15)(iv)(h), interest payable by any public sector company in respect of such bonds or debentures and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf would be exempt. Therefore, the bonds and debentures, interest on which would qualify for exemption under this section are specified by the Central Government through Notifications.

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