

(Core-6)

INCOME TAX LAW AND PRACTICE

Objective: To provide basic knowledge and equip students with the application of principles and provisions of Income Tax Act 1961.

Contents:

Unit I :

- a) **Basic Concepts and Definitions under IT Act:** Assessee, Previous year, Assessment year, Person, Income, Sources of income, Heads of income, Gross total income, Total income, Maximum marginal rate of tax, Tax Evasion, Tax avoidance and Tax planning
- b) Residential Status and Incidence of Tax, Residential status of all persons except company
- c) Incomes which do not form part of Total Income Except section 10AA.
- d) Agricultural Income Definition, determination of agricultural and non-agricultural Income, assessment of tax liability when there is both agricultural and non-agricultural income

Overview

Assessee

Previous Year

A Assessment
Year

Person

Income

Sources of
Income

Heads of
Income

Gross Total
Income

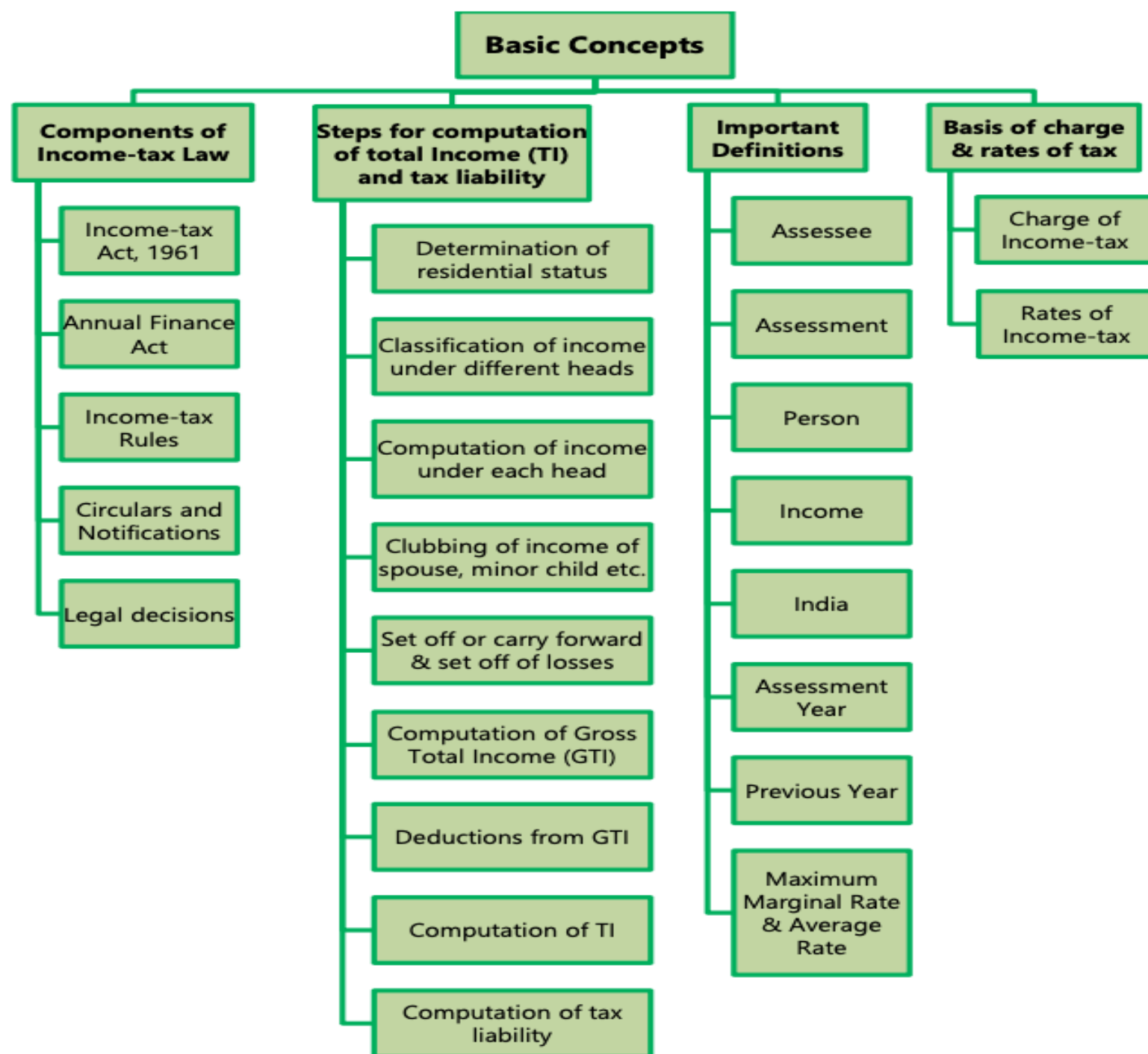
Total Income

Maximum
Marginal Rate

Tax Evasion

Tax Avoidance

Tax Planning



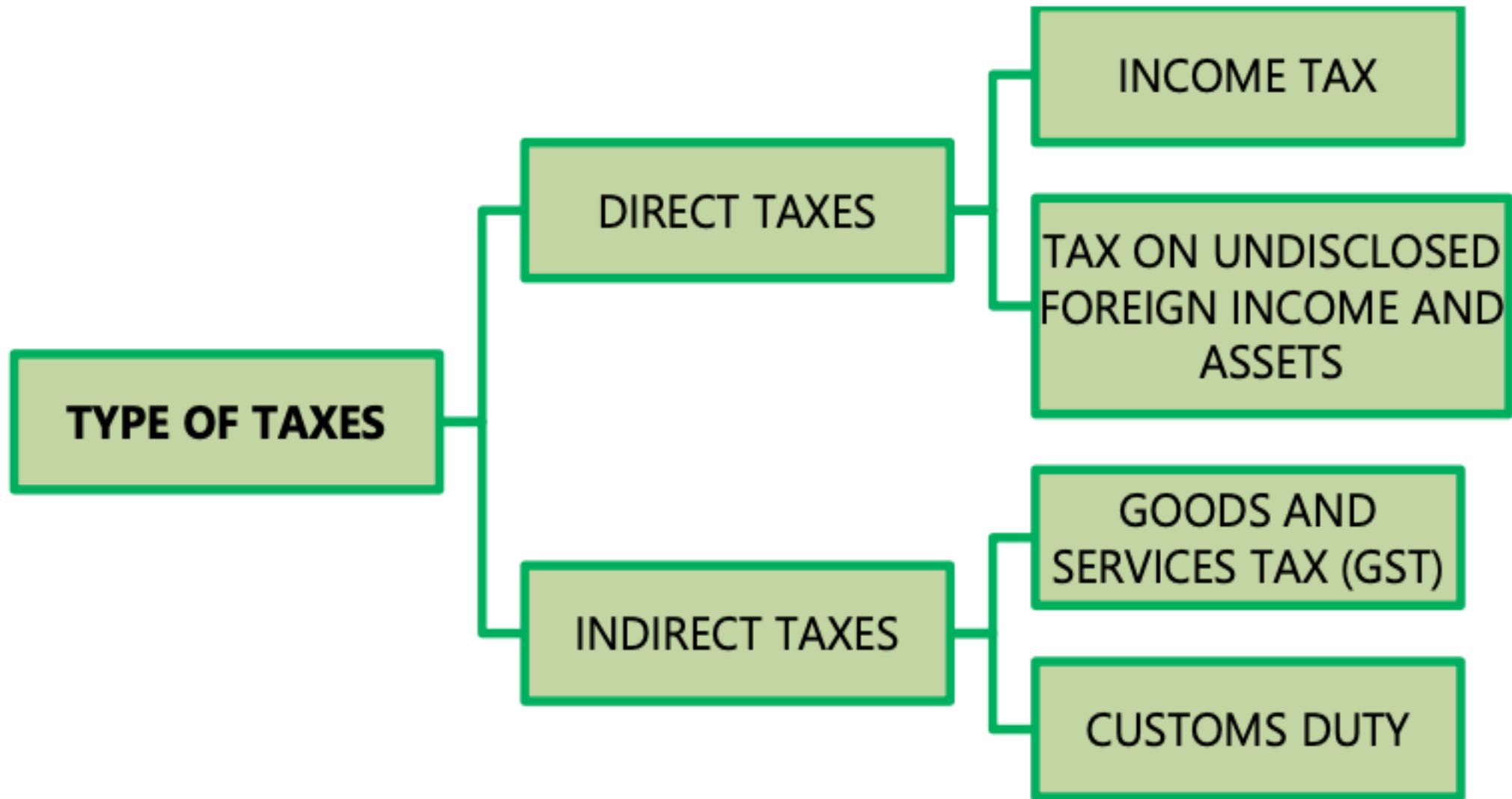
Taxes are considered to be the “cost of living in a society”. Taxes are levied by the Governments to meet the common welfare expenditure of the society. There are two types of taxes - direct taxes and indirect taxes.

Direct Taxes: If tax is levied directly on the income or wealth of a person, then, it is a direct tax. The person who pays the tax to the Government cannot recover it from somebody else i.e. the burden of a direct tax cannot be shifted. e.g. Income- tax.

Indirect Taxes: If tax is levied on the price of a good or service, then, it is an indirect tax e.g. Goods and Services Tax (GST) or Custom Duty. In the case of indirect taxes, the person paying the tax passes on the incidence to another person.

What is Tax?





- The reason for levy of taxes is that they constitute the basic source of revenue to the Government. Revenue so raised is utilized for meeting the expenses of Government like defence, provision of education, health-care, infrastructure facilities like roads, dams etc.

Why are taxes levied?



The Constitution of India, in Article 265 lays down that *‘No tax shall be levied or collected except by authority of law.’* Accordingly for levy of any tax, a law needs to be 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.

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:

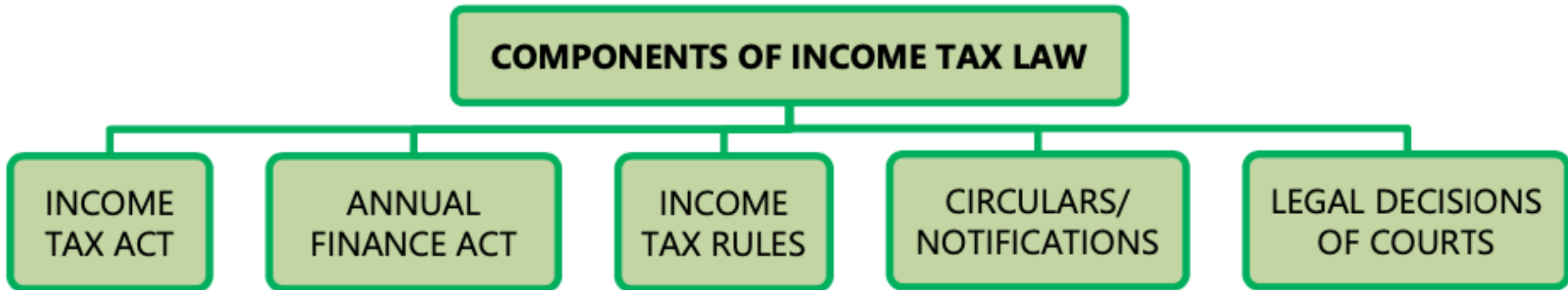
- (i) **Union List:** Parliament has the exclusive power to make laws on the matters contained in Union List.
- (ii) **State List:** The Legislatures of any State has the exclusive power to make laws on the matters contained in the State List.
- (iii) **Concurrent List:** Both Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent list.

Power to levy taxes



*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.*

Overview of Income-tax law in India



ITLP



2. IMPORTANT DEFINITIONS

In order to understand the provisions of the Act, one must have a thorough knowledge of the meanings of certain key terms like ‘person’, ‘Assessee’, ‘income’, etc. To understand the meanings of these terms we have to first check whether they are defined in the Act.



“Assessee” means a person by whom any tax or any other sum of money is payable under this Act. In addition, it includes –
Every person in respect of whom any proceeding under this Act has been taken for the assessment of

- ☐ his income; or
- ☐ the income of any other person in respect of which he is assessable; or
- ☐ the loss sustained by him or by such other person; or
- ☐ the amount of refund due to him or to such other person.

Every person who is deemed to be an assessee under any provision of this Act;

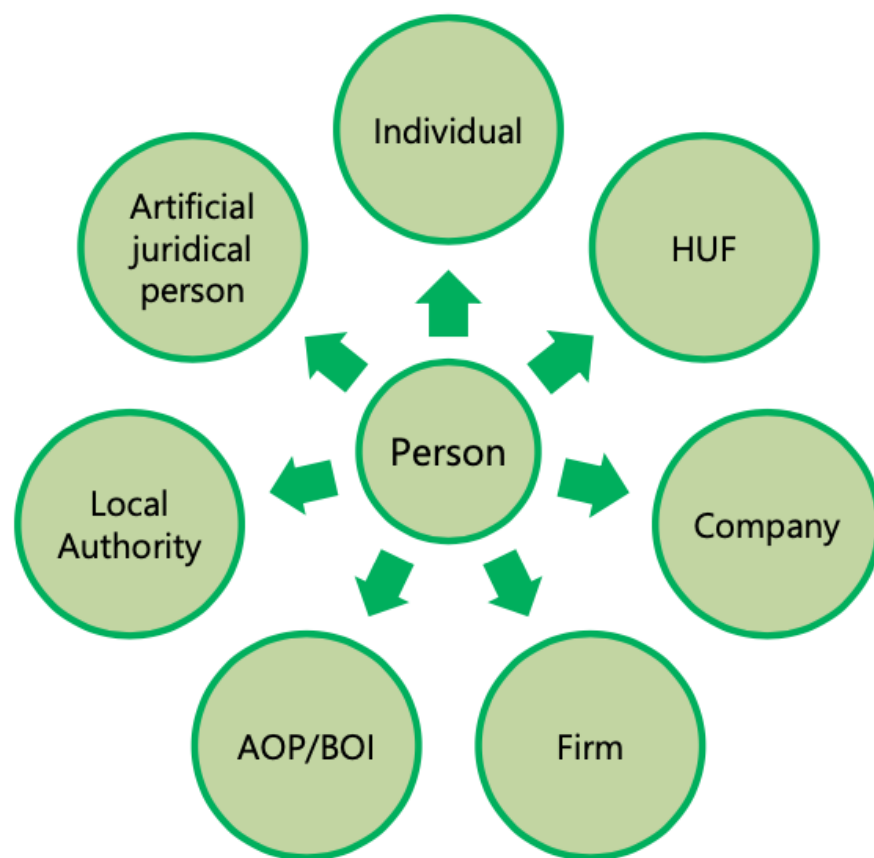
Every person who is deemed to be an assessee-in-default under any provision of this Act.

Assessee **[Section 2(7)]**

This is the procedure by which the income of an assessee is determined by the Assessing Officer. It may be by way of a normal assessment or by way of reassessment of an income previously assessed.

Assessment [Section 2(8)]

The definition of 'assessee' leads us to the definition of 'person' as the former is closely connected with the latter. The term 'person' is important from another point of view also *viz.*, the charge of income-tax is on every 'person'.



We may briefly consider some of the above seven categories of assessee each of which constitute a separate unit of assessment or a separate tax entity.

Person [Section 2(31)]

Individual

The term 'individual' means only a natural person, *i.e.*, a human being. It includes both males and females.

It also includes a minor or a person of unsound mind. But the assessment in such a case may be made on the guardian or manager of the minor or lunatic who is entitled to receive his income. In the case of deceased person, assessment would be made on the legal representative.

- Under the Income-tax Act, 1961, a Hindu undivided family (HUF) is treated as a separate entity for the purpose of assessment. It is included in the definition of the term “person” under section 2(31). The levy of income-tax is on “every person”. Therefore, income-tax is payable by a HUF.
- "Hindu undivided family" has not been defined under the Income-tax Act. The expression is, however, defined under the Hindu Law as a family, which consists of all males lineally descended from a common ancestor and includes their wives and daughters.
- Some members of the HUF are called **co-parceners**. They are related to each other and to the head of the family. HUF may contain many members, but members within four degrees including the head of the family (Karta) are called co-parceners. A Hindu Coparcenary includes those persons who acquire an interest in joint family property by birth. Earlier, only male descendants were considered as coparceners. With effect from 6th September, 2005, daughters have also been accorded coparcenary status. It may be noted that only the coparceners have a right to partition.



HUF

- A daughter of coparcener by birth shall become a coparcener in her own right in the same manner as the son. Being a coparcener, she can claim partition of assets of the family. The rights of a daughter in coparcenary property are equal to that of a son. However, other female members of the family, for example, wife or daughter-in-law of a coparcener are not eligible for such coparcenary rights.
- The relation of a HUF does not arise from a contract but arises from status. There need not be more than one male member or one female coparcener w.e.f. 6th September, 2005 to form a HUF. The Income-tax Act, 1961 also does not indicate that a HUF as an assessable entity must consist of at least two male members or two coparceners.
- Under the Income-tax Act, 1961, Jain undivided families and Sikh undivided families would also be assessed as a HUF.

HUF

For all purposes of the Act, the term ‘Company’, has a much wider connotation than that under the Companies Act. Under the Act, the expression ‘Company’ means:

- (1) any Indian company as defined in section 2(26); or
- (2) any body corporate incorporated by or under the laws of a country outside India, i.e., any foreign company; or
- (3) any institution, association or body which is assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922 or for any assessment year commencing on or before 1.4.1970 under the present Act; or
- (4) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by a general or special order of the CBDT to be a company for such assessment years as may be specified in the CBDT’s order.

Company *[Section 2(17)]*

Classes of Companies

(1) Domestic company [Section 2(22A)] - It means an Indian company or any other company which, in respect of its income liable to income-tax, has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, payable out of such income.

Indian company [Section 2(26)] - Two conditions should be satisfied so that a company can be regarded as an Indian company -

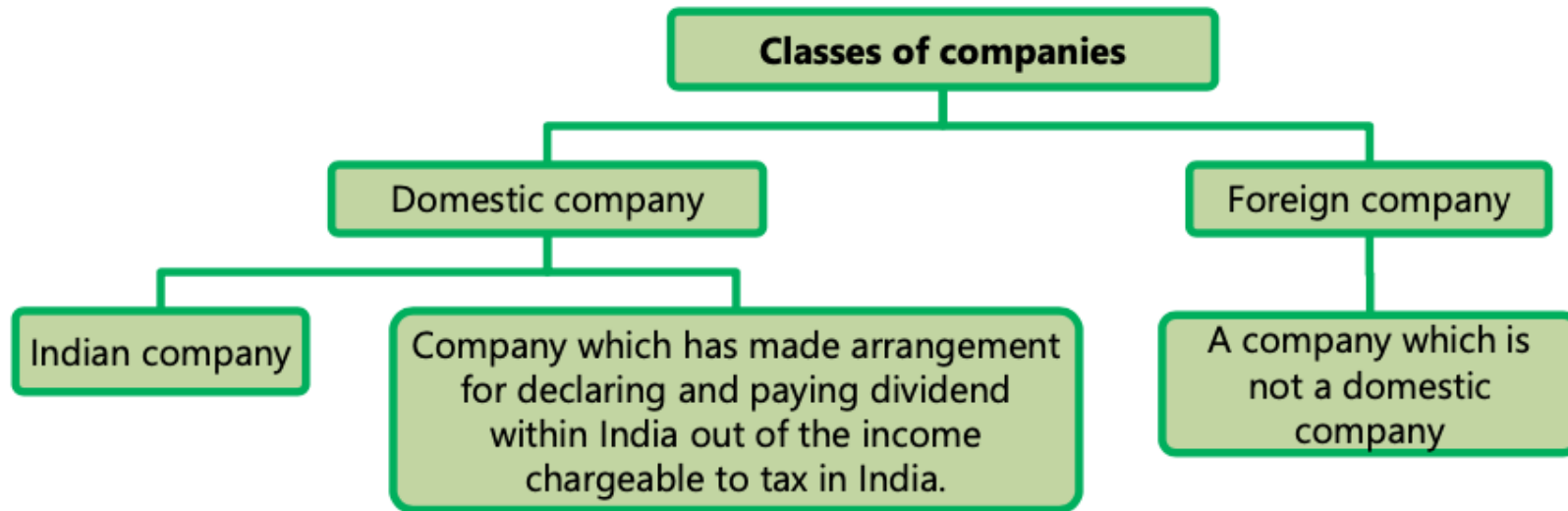
- (a) the company should have been formed and registered under the Companies Act, 1956 and
- (b) the registered office or the principal office of the company should be in India.

The expression 'Indian Company' also includes the following provided their registered or principal office is in India:

- (i) a corporation established by or under a Central, State or Provincial Act (like Financial Corporation or a State Road Transport Corporation);
- (ii) an institution or association or body which is declared by the Board to be a company under section 2(17)(iv);
- (iii) a company formed and registered under any law relating to companies which was or is in force in any part of India;
- (iv) in the case of the State of Jammu and Kashmir, a company formed and registered under any law for the time being in force in that State;
- (v) in the case of any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory.

Indian company [Section 2(26)]

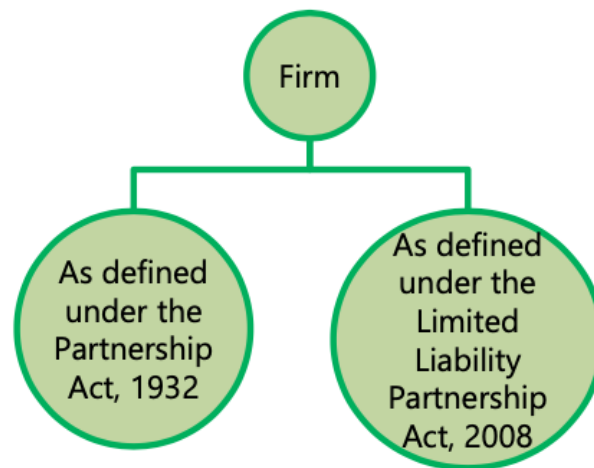
Foreign company means a company which is not a domestic company.



**Foreign
company
[Section 2(23A)]**

- The terms 'firm', 'partner' and 'partnership' have the same meanings as assigned to them in the Indian Partnership Act, 1932. In addition, the definitions also include the terms limited liability partnership and a partner of limited liability partnership as they have been defined in the Limited Liability Partnership Act, 2008.
- However, for income-tax purposes a minor admitted to the benefits of an existing partnership would also be treated as partner.

A partnership is the relation between persons who have agreed to share the profits of business carried on by all or any of them acting for all. The persons who have entered into partnership with one another are called individually 'partners' and collectively a 'firm'.



Firm [Section 2(23)]

Association of Persons (AOP)

- When persons combine together for promotion of joint enterprise they are assessable as an AOP, if they do not in law constitute a partnership. In order to constitute an association, persons must join for a **common purpose or action** and their object must be to produce income; it is not enough that the persons receive the income jointly.
- Co-heirs, co-legatees or co-donees joining together for a common purpose or action would be chargeable as an AOP.

- It denotes the status of persons like executors or trustees who merely receive the income jointly and who may be assessable in like manner and to the same extent as the beneficiaries individually. Thus, co-executors or co-trustees are assessable as a BOI as their title and interest are indivisible. Income-tax shall not be payable by an assessee in respect of the receipt of share of income by him from BOI and on which the tax has already been paid by such BOI.
- Section 2(31) further explains that an association of persons/body of individuals or a local authority or an artificial juridical person shall be treated as a person, whether or not it was formed with the object of deriving income, profits or gains. Accordingly even if such entities have been formed not for earning any income/ profit still they are "person" for the purpose of the act and are covered by the provisions of the act.

Body of Individuals (BOI)

- The term means a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund.
- **Note:** A local authority is taxable in respect of that part of its income which arises from any business carried on by it in so far as that income does not arise from the supply of a commodity or service within its own jurisdictional area. However, income arising from the supply of water and electricity even outside the local authority's own jurisdictional area is exempt from tax.

Local Authority

This category could cover every artificial juridical person not falling under other heads. An idol, or deity would be assessable in the status of an artificial juridical person.

Artificial Juridical Persons

Definition of Income

- The definition of income as per the Income-tax Act, 1961 begins with the words “Income includes”. Therefore, it is an inclusive definition and not an exhaustive one. Such a definition does not confine the scope of income but leaves room for more inclusions within the ambit of the term.
- Section 2(24) of the Act gives a statutory definition of income. At present, the following items of receipts are specifically included in income:—
 - (1) Profits and gains.
 - (2) Dividends.
 - (3) Voluntary contributions received by a trust/institution created wholly or partly for charitable or religious purposes or by certain research association or universities and other educational institutions or hospitals and other medical institutions or an electoral trust.
 - (4) The value of any perquisite or profit in lieu of salary taxable under section 17.
 - (5) Any special allowance or benefit, other than the perquisite included above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit.

(6) Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living.

(7) The value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company or by a relative of the director or such person and any sum paid by any such company in respect of any obligation which, but for such payment would have been payable by the director or other person aforesaid.

(8) The value of any benefit or perquisite, whether convertible into money or not, which is obtained by any representative assessee³ or by any beneficiary and any amount paid by the representative assessee for the benefit of the beneficiary which the beneficiary would have ordinarily been required to pay.

(9) Deemed profits chargeable to tax under section 41 or section 59.

(10) Profits and gains of business or profession chargeable to tax under section 28.

(11) Any capital gains chargeable under section 45.

(12) The profits and gains of any insurance business carried on by Mutual Insurance Company or by a cooperative society⁴ or any surplus taken to be such profits and gains by virtue of the provisions contained in the First Schedule to the Act.

Definition of Income

(13) The profits and gains of any banking business (including providing credit facilities) carried on by a co-operative society with its members.

(14) Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling, or betting of any form or nature whatsoever. For this purpose,

(i) “Lottery” includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;

(ii) “Card game and other game of any sort” includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.

(15) Any sum received by the assessee from his employees as contributions to any provident fund (PF) or superannuation fund or Employees State Insurance Fund (ESI) or any other fund for the welfare of such employees.

(16) Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy will constitute income.

“Keyman insurance policy” means a life insurance policy taken by a person on the life of another person where the latter is or was an employee of former or is or was connected in any manner whatsoever with the former’s business. It also includes such policy which has been assigned to a person with or without any consideration, at any time during the term of the policy.

Definition of Income

17) Any sum referred to in section 28(va). Thus, any sum, whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business or profession; or not sharing any know-how, patent, copy right, trade-mark, licence, franchise, or any other business or commercial right of a similar nature, or information or technique likely to assist in the manufacture or processing of goods or provision of services, shall be chargeable to income tax under the head “profits and gains of business or profession”.

(18) Fair market value of inventory which is converted into, or treated as a capital asset [Section 28(iva)].

(19) Any consideration received for issue of shares as exceeds the fair market value of the shares [Section 56(2)(viib)].

(20) Any sum of money received as advance, if such sum is forfeited consequent to failure of negotiation for transfer of a capital asset [Section 56(2)(ix)].

Definition of Income

(21) Any sum of money or value of property received without consideration or for inadequate consideration by any person [Section 56(2)(x)].

(22) Any compensation or other payment, due to or received by any person, in connection with termination of his employment or the modification of the term and conditions relating thereto [Section 56(2)(xi)].

[For details, refer to Unit 5 of Chapter 4 ‘Income from Other Sources’]

(23) Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement, by whatever name called, by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee is included in the definition of income.

However, subsidy or grant or reimbursement which has been taken into account for determination of the actual cost of the depreciable asset in accordance with *Explanation 10* to section 43(1) shall not be included in the definition of income.

Definition of Income

Regular receipt *vis-a-vis* casual receipt: Income, in general, means a periodic monetary return which accrues or is expected to accrue regularly from definite sources. However, under the Income-tax Act, 1961, even certain casual receipts which do not arise regularly are treated as income for tax purposes e.g. Winnings from lotteries, crossword puzzles.

□ **Revenue receipt *vis-a-vis* Capital receipt:** Income normally refers to revenue receipts. Capital receipts are generally not included within the scope of income in general parlance. However, the Income-tax Act, 1961 has specifically included certain capital receipts within the definition of income e.g., Capital gains i.e., gains on sale of a capital assets like land.

Concept of Income under the Income-tax Act, 1961

□ **Net receipt *vis-a-vis* Gross receipt:** Income means net receipts and not gross receipts. Net receipts are arrived at after deducting the expenditure incurred in connection with earning such receipts. The expenditure which can be deducted while computing income under each head is prescribed under the Income-tax Act, 1961. Income from certain eligible businesses/professions is also determined on presumptive basis i.e., as a certain percentage of gross receipts.

[We will discuss in detail in Unit 3 of Chapter 4 “Profits and gains from business and profession”.]

□ **Due basis *vis-a-vis* receipt basis:** Income is taxable either on due basis or receipt basis. For computing income under the heads “Profits and gains of business or profession” and “Income from other sources”, the method of accounting regularly employed by the assessee should be considered, which can be either cash system or mercantile system. Some receipts are taxable only on receipt basis, like, income by way of interest received on compensation or enhanced compensation.

Concept of Income under the Income-tax Act, 1961

The term 'India' means –

- (i) the territory of India as per Article 1 of the Constitution,
- (ii) its territorial waters, seabed and subsoil underlying such waters,
- (iii) continental shelf,
- (iv) exclusive economic zone or
- (v) any other specified maritime zone and the air space above its territory and territorial waters.

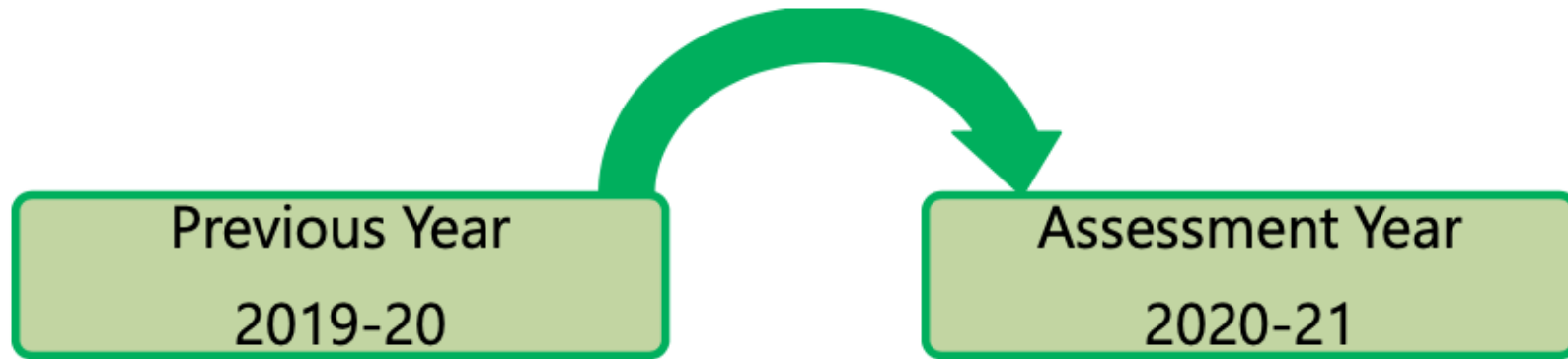
Specified maritime zone means the maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

India

[Section 2(25A)]

- As per section 2(10), "**Average Rate of income-tax**" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income.
- Section 2(29C) defines '**Maximum Marginal Rate**' to mean the rate of income-tax (including surcharge on the income-tax, if any) applicable in relation to the highest slab of income in the case of an individual, AOP or BOI, as the case may be, as specified in Finance Act of the relevant year.

**Maximum
Marginal Rate
and Average
Rate of income-
tax**



PREVIOUS
YEAR AND
ASSESSMENT
YEAR

Assessment year

The term has been defined under section 2(9). This means a period of 12 months commencing on 1st April every year. The year in which income is earned is the previous year and such income is taxable in the immediately following year which is the assessment year. Income earned in the previous year 2019-20 is taxable in the assessment year 2020-21.

Assessment year always starts from 1st April and it is always a period of 12 months.

The term has been defined under section 3. It means the financial year immediately preceding the assessment year. As mentioned earlier, the income earned during the previous year is taxable in the assessment year.

Business or profession newly set up during the financial year

- In such a case, the previous year shall be the period beginning on the date of setting up of the business or profession and ending with 31st March of the said financial year.

If a source of income comes into existence in the said financial year, then, the previous year will commence from the date on which the source of income newly comes into existence and will end with 31st March of the financial year.

Previous year

Previous year

Examples:

1. *A is running a business from 1993 onwards. Determine the previous year for the assessment year 2020-21.*

Ans. The previous year will be 1.4.2019 to 31.3.2020.

2. *A chartered accountant sets up his profession on 1st July, 2019. Determine the previous year for the assessment year 2020-21.*

Ans. The previous year will be from 1.7.2019 to 31.3.2020.

Certain cases when income of a previous year will be assessed in the previous year itself

General Rule

Income of a previous year is assessed in the assessment year following the previous year

Exceptions to this rule

Cases where income of a previous year is assessed in the previous year itself

Shipping
business of
non-resident

Persons
leaving
India

AOP/ BOI/ Artificial
Juridical Person
formed for a
particular event or
purpose

Persons likely
to transfer
property to
avoid tax

Discontinued
business

For Example

Example:

Suppose Mr. X is leaving India for USA on 10.6.2019 and it appears to the Assessing Officer that he has no intention to return. Before leaving India, Mr. X may be asked to pay income-tax on the income earned during the P.Y. 2018-19 as well as on the total income earned during the period 1.4.2019 to 10.06.2019.

subject?

shared understanding of your
subject matter.

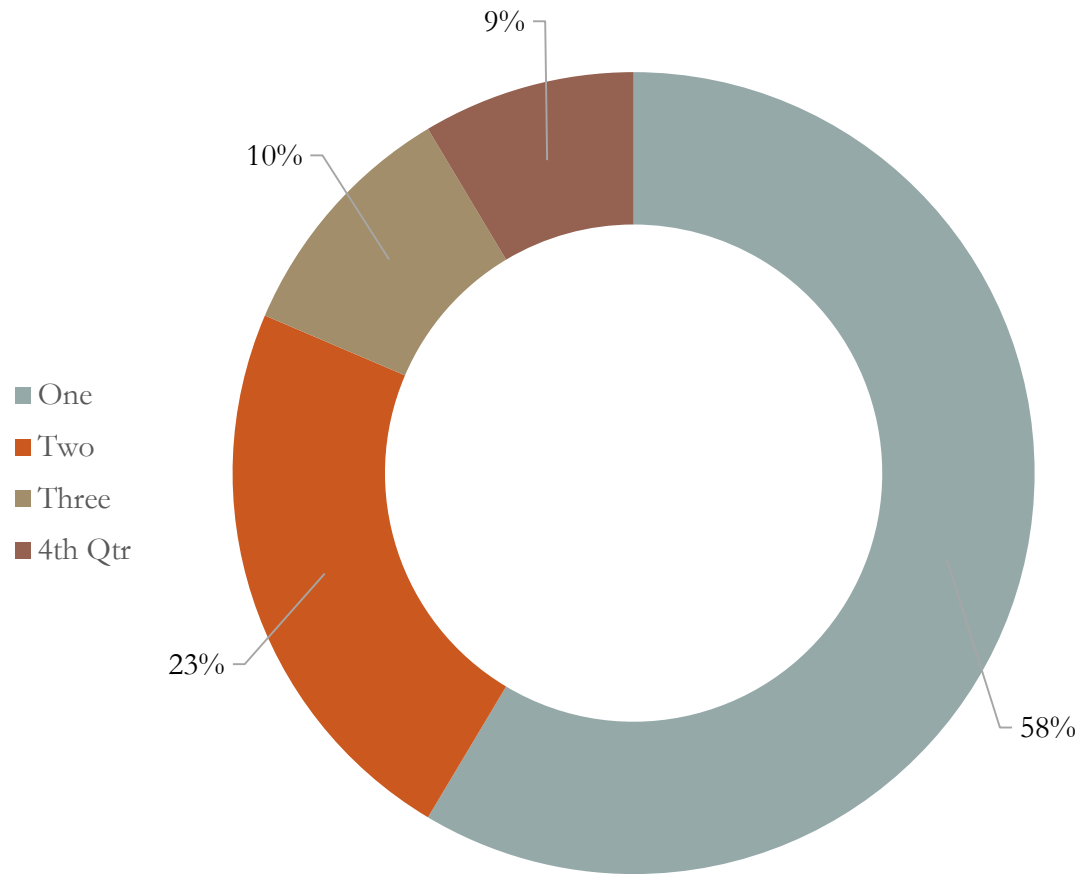
CHARGE OF INCOME TAX

Section 4 of the Income-tax Act, 1961 is the charging section which provides that:

- (i) Tax shall be charged at the rates prescribed for the year by the Annual Finance Act.
- (ii) The charge is on every person specified under section 2(31);
- (iii) Tax is chargeable on the total income earned during the previous year and not the assessment year. (There are certain exceptions provided by sections 172, 174, 174A, 175 and 176);
- (iv) Tax shall be levied in accordance with and subject to the various provisions contained in the Act.

This section is the back bone of the law of income-tax in so far as it serves as the most operative provision of the Act. The tax liability of a person springs from this section.

Rates of Tax



Part III of the First Schedule to the Finance (No. 2) Act, 2019 will become Part I of the First Schedule to the Finance Act, 2020 and so on.

Income-tax is to be charged at the rates fixed for the year by the Annual Finance Act.

Section 2 of the Finance (No. 2) Act, 2019 read with Part I of the First Schedule to the Finance (No. 2) Act, 2019, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2019-20.

Part II lays down the rate at which tax is to be deducted at source during the financial year 2019-20 from income subject to such deduction under the Income- tax Act, 1961;

Part III lays down the rates for charging income-tax in certain cases, rates for deducting income-tax from income chargeable under the head "salaries" and the rates for computing advance tax for the financial year 2019-20.

The slab rates applicable for A.Y. 2020-21 are as follows:

(1) Individual/ Hindu Undivided Family (HUF)/ Association of Persons (AOP)/ Body of Individuals (BOI)/ Artificial Juridical Person

(i)	where the total income does not exceed ₹ 2,50,000	NIL
(ii)	where the total income exceeds ₹ 2,50,000 but does not exceed ₹ 5,00,000	5% of the amount by which the total income exceeds ₹ 2,50,000
(iii)	where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 10,00,000	₹ 12,500 <i>plus</i> 20% of the amount by which the total income exceeds ₹ 5,00,000
(iv)	where the total income exceeds ₹ 10,00,000	₹ 1,12,500 <i>plus</i> 30% of the amount by which the total income exceeds ₹ 10,00,000

Mr. X has a total income of ₹ 12,00,000 comprising of his salary income and interest on fixed deposit. Compute his tax liability.

Qn No 01

For senior citizens (being resident individuals of the age of 60 years or more but less than 80 years)

(i)	where the total income does not exceed ₹ 3,00,000	NIL
(ii)	where the total income exceeds ₹ 3,00,000 but does not exceed ₹ 5,00,000	5% of the amount by which the total income exceeds ₹ 3,00,000
(iii)	where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 10,00,000	₹ 10,000 <i>plus</i> 20% of the amount by which the total income exceeds ₹ 5,00,000
(iv)	where the total income exceeds ₹ 10,00,000	₹ 1,10,000 <i>plus</i> 30% of the amount by which the total income exceeds ₹ 10,00,000

For resident individuals of the age of 80 years or more at any time during the previous year

(i)	where the total income does not exceed ₹ 5,00,000	NIL
(ii)	where the total income exceeds ₹ 5,00,000 but does not exceed ₹ 10,00,000	20% of the amount by which the total income exceeds ₹ 5,00,000
(iv)	where the total income exceeds ₹ 10,00,000	₹ 1,00,000 <i>plus</i> 30% of the amount by which the total income exceeds ₹ 10,00,000

(2) Firm/LLP

On the whole of the total income 30%

(3) Local authority

On the whole of the total income 30%

(4) Co-operative society

(i)	Where the total income does not exceed ₹ 10,000	10% of the total income
(ii)	Where the total income exceeds ₹ 10,000 but does not exceed ₹ 20,000	₹ 1,000 <i>plus</i> 20% of the amount by which the total income exceeds ₹ 10,000
(iii)	Where the total income exceeds ₹ 20,000	₹ 3,000 <i>plus</i> 30% of the amount by which the total income exceeds ₹ 20,000

(5) Company

- (i) In the case of a domestic company
- ***If the total turnover or gross receipt in the P.Y.2017-18 \leq ₹ 400 crore: 25% of the total income.***
 - *In other case: 30% of the total income*

- (ii) In the case of a company other than a domestic company
- 40% on the total income
- However, specified royalties and fees for rendering technical services (FTS) received from Government or an Indian concern in pursuance of an approved agreement made by the company with the Government or Indian concern between 1.4.1961 and 31.3.1976 (in case of royalties) and between 1.3.1964 and 31.3.1976 (in case of FTS) would be chargeable

The above rates are prescribed by the Finance (No. 2) Act, 2019. However, in respect of certain types of income, as mentioned below, the Income-tax Act, 1961 has prescribed specific rates –

S. No.	Section	Income	Rate of Tax
(a)	112	Long term capital gains (other than LTCG taxable as per section 112A) <i>(For details, refer Unit 4 of Chapter 4 on "Capital gains")</i>	20%
(b)	112A	Long term capital gains on transfer of – <ul style="list-style-type: none">• Equity share in a company• Unit of an equity oriented fund• Unit of business trust Condition for availing the benefit of this concessional rate is Securities Transaction tax should have been paid–	10% [On LTCG > ₹ 1 lakh]

(c)	111A	<p>Short-term capital gains on transfer of –</p> <ul style="list-style-type: none"> • Equity shares in a company • Unit of an equity oriented fund • Unit of business trust <p>The conditions for availing the benefit of this concessional rate are –</p> <p>(i) the transaction of sale of such equity share or unit should be entered into on or after 1.10.2004; and</p> <p>(ii) such transaction should be chargeable to securities transaction tax.</p>	15%
(d)	115BB	<p>Winnings from</p> <ul style="list-style-type: none"> • Lotteries; • Crossword puzzles; • Races including horse races; • Card games and other games of any sort; • Gambling or betting of any form or nature 	30%
(e)	115BBDA	Income by way of dividend exceeding ₹ 10 lakhs in aggregate [<i>See Note 1 below</i>]	10%
(f)	115BBE	Unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D [<i>See Note 2 below</i>]	60%

The rates of surcharge applicable for A.Y.2020-21 are as follows:

(i) Individual/HUF/AOP/BOI/Artificial juridical person

(a) Where the total income > ₹ 50 lakh but is ≤ ₹ 1 crore

Where the total income exceeds ₹ 50 lakh but does not exceed ₹ 1 crore, surcharge is payable at the rate of 10% of income-tax computed in accordance with the provisions of sub-para (1) of para 4.1 or section 111A or section 112 or section 112A.

Marginal relief

Marginal relief is available in case of such persons having a total income exceeding ₹ 50 lakh i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax payable on total income of ₹ 50 lakh by more than the amount of income that exceeds ₹ 50 lakh.

Surcharge

Compute the tax liability of Mr. A (aged 42), having total income of ₹ 51 lakhs for the Assessment Year 2020-21. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Ignore cess.

Qn No 02

(b) Where the total income $> ₹ 1$ crore but is $\leq ₹ 2$ crore

Where the total income exceeds ₹ 1 crore but does not exceed ₹ 2 crore, surcharge is payable at the rate of 15% of income-tax computed in accordance with the provisions of sub-para (1) of para 4.1 or section 111A or section 112 or section 112A.

Marginal relief

Marginal relief is available in case of such persons having a total income exceeding ₹ 1 crore i.e., the total amount of income-tax payable (together with surcharge) should not exceed the amount of income-tax and surcharge payable on total income of ₹ 1 crore by more than the amount of income that exceeds ₹ 1 crore.

Surcharge

(c) Where the total income $> ₹ 2$ crore but is $\leq ₹ 5$ crore

Where the total income exceeds ₹ 2 crore but does not exceed ₹ 5 crore, surcharge is payable at the rate of 25% of income-tax computed in accordance with the provisions of sub-para (1) of para 4.1 or section 111A or section 112 or section 112A.

Marginal relief

Marginal relief is available in case of such persons having a total income exceeding ₹ 2 crore i.e., the total amount of income-tax payable (together with surcharge) should not exceed the amount of income-tax and surcharge payable on total income of ₹ 2 crore by more than the amount of income that exceeds ₹ 2 crore.

Surcharge

(d) Where the total income > ₹ 5 crore

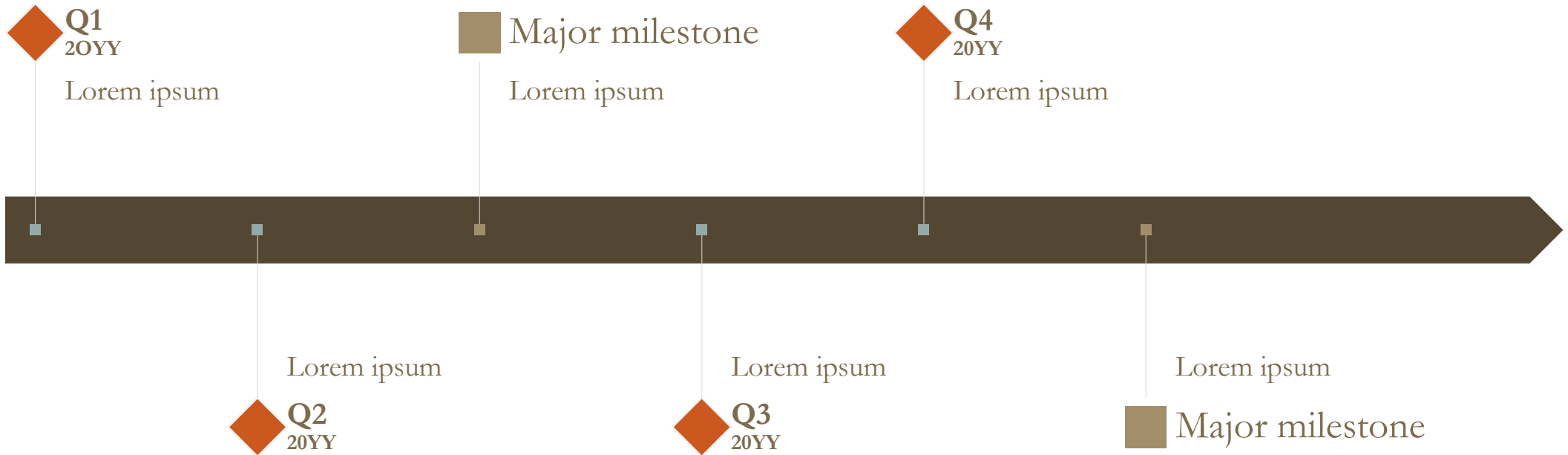
Where the total income exceeds ₹ 5 crore,
surcharge is payable at the rate of 37% of
income-tax computed in accordance with the
provisions of sub- para (1) of para 4.1 or section
111A or section 112 or section 112A.

Marginal relief

Marginal relief is available in case of such persons
having a total income exceeding ₹ 5 crore i.e., the
total amount of income-tax payable (together
with surcharge) should not exceed the amount of
income-tax and surcharge payable on total income
of ₹ 5 crore by more than the amount of income
that exceeds ₹ 5 crore.

Surcharge

History



Rebate of up to ` 12,500 for resident individuals having total income of up to ` 5 lakh [Section 87A]

In order to provide tax relief to the individual tax payers who are in the 5% tax slab, section 87A provides a rebate from the tax payable by an assessee, being an individual resident in India, whose total income does not exceed ` **5,00,000**.

- (i) The rebate shall be equal to the amount of income-tax payable on the total income for any assessment year or an amount of ` **12,500**, whichever is less.
- (ii) Consequently, any individual having total income up to ` **5,00,000** will not be required to pay any tax.
- (iii) Further, the aggregate amount of rebate under section 87A shall not exceed the amount of income-tax (as computed before allowing such rebate) on the total income of the assessee with which he is chargeable for any assessment year.

“Health and Education cess” on Income-tax

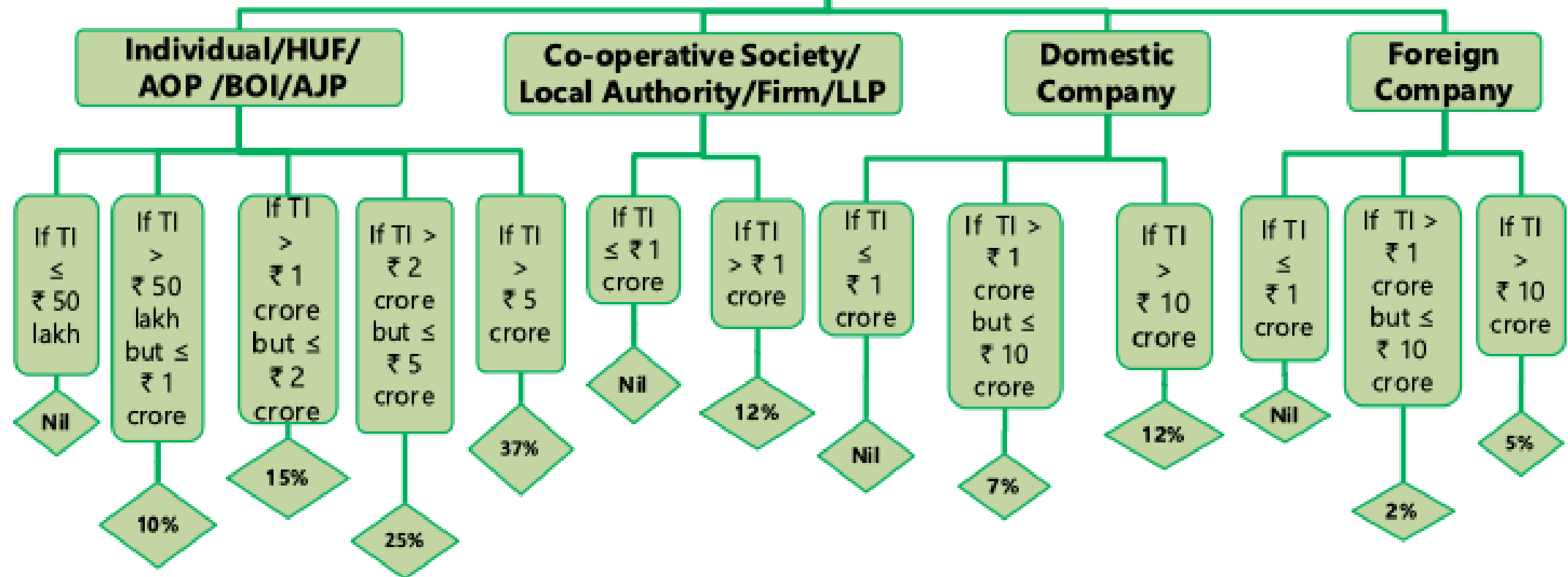
The amount of income-tax as increased by the union surcharge, if applicable, should be further increased by an additional surcharge called the “Health and Education cess on income-tax”, calculated at the rate of 4% of such income-tax and surcharge, if applicable. Health and education cess is leviable in the case of all assesseees i.e. individuals, HUF, AOP/BOI, firms, local authorities, co-operative societies and companies.

It is leviable to fulfill the commitment of the Government to provide and finance quality health services and universalised quality basic education and secondary and higher education.

Qn No 03

Mr. Raghav aged 26 years and a resident in India, has a total income of ₹ 4,40,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y.2020-21.

Rates of Surcharge A.Y. 2020-21



LET US RECAPITULATE

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

Components of income-tax law

- **Income-tax Act, 1961** – governs the levy of income-tax in India.
- **Income-tax Rules, 1962** – formulated for proper administration of the Act.
- **Annual Finance Act** – Amendments in the Income-tax Act, 1961 are effected every year through the Annual Finance Act.
- **Circulars** – issued by CBDT to clarify the meaning and scope of certain provisions of the Act.
- **Notifications** – issued to give effect to the provisions of the Act/ make or amend Rules.
- **Case law decisions** – interprets the various provisions of income-tax law.

Income-tax is a **TAX** levied on the **TOTAL INCOME** of the **PREVIOUS YEAR** of every **PERSON**.

(1) Person: A person includes an individual, Hindu Undivided Family (HUF), Association of Persons (AOP), Body of Individuals (BOI), a firm, a company etc.

(2) Concept of Previous year (P.Y.) and Assessment Year (A.Y.): Previous year is the financial year immediately preceding the assessment year i.e., it is the financial year ending on 31st March, in which the income has accrued/received.

In case of a newly set-up business, the previous year would be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly came into existence, and ending on 31st March.

Assessment year (A.Y.): Assessment year means the period of twelve months commencing on the 1st April every year.

Exception to the rule that income is charged to income-tax in the Assessment Year following the previous year:

The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. However, in the following cases, this rule does not apply and the income is taxed in the previous year in which

it is earned.

- (i) Shipping business of non-resident [Section 172]
- (ii) Persons leaving India [Section 174]
- (iii) AOP/BOI/Artificial Juridical Person formed for a particular event or purpose [Section 174A]
- (iv) Persons likely to transfer property to avoid tax [Section 175]
- (v) Discontinued business [Section 176]

Previous Year for Undisclosed Sources of Income: The following undisclosed source of income are charged to tax in the previous year in which they are assessed by the Assessing Officer:

- (i) Cash Credits [Section 68]
- (ii) Unexplained Investments [Section 69]
- (iii) Unexplained money etc. [Section 69A]
- (iv) Amount of investments etc., not fully disclosed in the books of account [Section 69B]
- (v) Unexplained expenditure [Section 69C]
- (vi) Amount borrowed or repaid on hundi [Section 69D]

The above undisclosed incomes are chargeable to tax @78% [i.e., 60% *plus* surcharge @25% *plus* cess @4%] as specified under section 115BBE.

(3) Total Income: Total income has to be computed as per the provisions contained in the Income-tax Act, 1961. The following steps has to be followed for computing the total income of an assessee:

Step 1 – Determination of residential status

Step 2 – Classification of income under different heads

Step 3 – Computation of income under each head after providing for permissible deductions/ exemptions

Step 4 – Clubbing of income of spouse, minor child etc.

Step 5 – Set-off or carry forward and set-off of losses

Step 6 – Computation of Gross Total Income

Step 7 – Deductions from Gross Total Income

Step 8 – Computation of Total income

(4) Tax liability: Tax has to be computed by applying the rates of tax mentioned in the Annual Finance Act and the rate specified under the Income-tax Act, 1961, as the case may be.

Persons		Rate of taxes	
Individual		Total income (in ₹)	Rate of Tax
		(i) Upto ₹ 2,50,000 (below 60 years)	Nil
		(ii) Upto ₹ 3,00,000 (60 years or above but less than 80 years and resident in India)	
		(iii) Upto ₹ 5,00,000 (above 80 years and resident in India)	
		₹ 2,50,001/ ₹ 3,00,001, as the case may be, to ₹ 5,00,000 [in cases (i) and (ii) above, respectively]	5%
Hindu Undivided Family (HUF)/ Association of Persons (AOP)/ Body of Individuals (BOI)/ Artificial Juridical Person		₹ 5,00,001 to ₹ 10,00,000	20%
		Above ₹ 10,00,000	30%
		Total income (in ₹)	Rate of Tax
		Upto ₹ 2,50,000	Nil
		₹ 2,50,001 to ₹ 5,00,000	5%
Firm/LLP/local authority		₹ 5,00,001 to ₹ 10,00,000	20%
		Above ₹ 10,00,000	30%
		30%	
		Total income (in ₹)	Rate of Tax
		Upto ₹ 10,000	10%
Co-operative Society		₹ 10,001 to ₹ 20,000	20%
		Above ₹ 20,000	30%
		Domestic Company	Foreign Company
		Total turnover or gross receipts in the P.Y. 2017-18 ≤ ₹ 400 crore	Other domestic companies
		25%	30%
Company			40%

Surcharge			
Individual/ HUF/ AOP/ BOI/ Artificial juridical person			
Where the total income > ₹ 50 lakh but is ≤ ₹ 1 crore			10%
Where the total income > ₹ 1 crore but is ≤ ₹ 2 crore			15%
Where the total income > ₹ 2 crore but is ≤ ₹ 5 crore			25%
Where the total income > ₹ 5 crore			37%
Firm/Limited societies	Liability	Partnership/Local Authorities/Co-operative	
Where the total income > ₹ 1 crore			12%
Domestic company			
Total income > ₹ 1 crore but is ≤ ₹ 10 crore			7%
Total income is > ₹ 10 crore			12%
Foreign company			
Total income > ₹ 1 crore but is ≤ ₹ 10 crore			2%
Total income is > ₹ 10 crore			5%
Rebate under section 87A: Rebate of up to ₹ 12,500 for resident individuals having total income of up to ₹ 5 lakh.			
“Health and Education cess” on Income-tax: 4% of income-tax and surcharge, if applicable			