S.P. SAH

ASSISTANT PROFESSOR

DEPARTMENT OF ACCOUNTANCY

D.H.S.K.COMMERCE COLLEGE

MOBILE NO. 9706208462

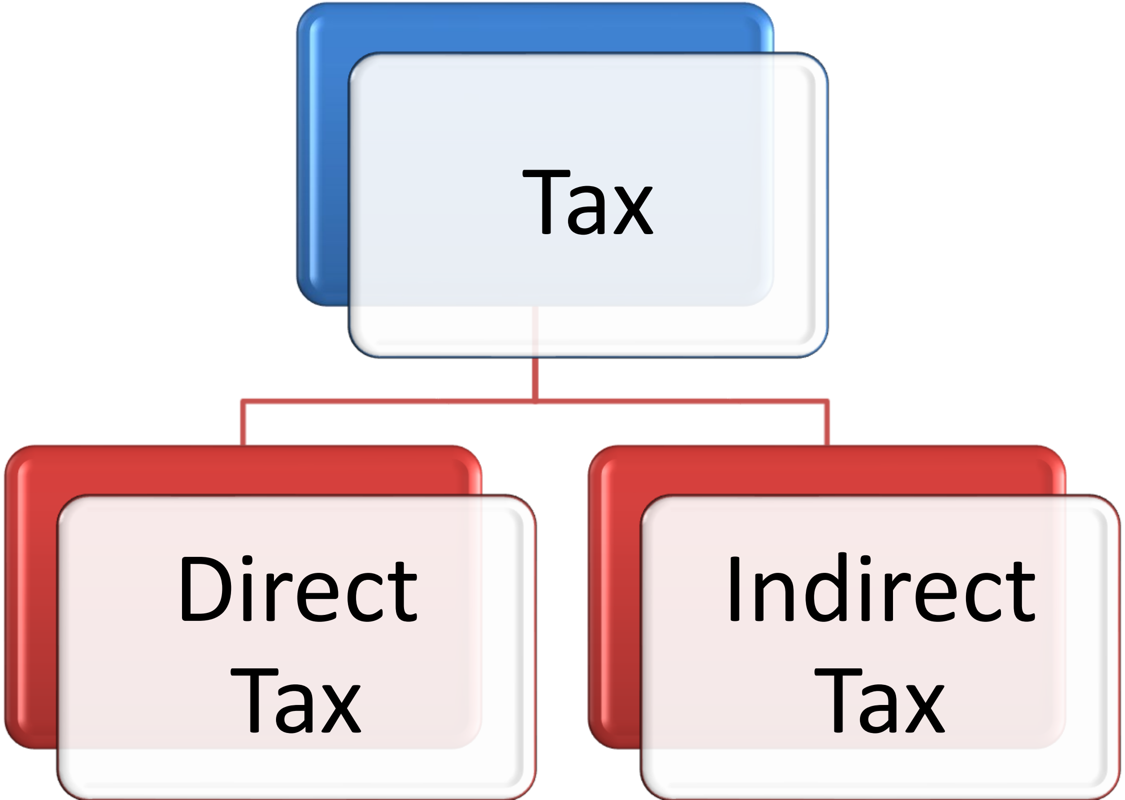
Income Tax Laws and Practice

MEANING OF TAX

Tax refers to compulsory contribution made by citizens of a country to the Government, for the benefits obtained from the Government.

According to Prof. Seligman 'tax is a compulsory contribution from a person to the government to defray the expenses incurred in the common interest of all, without reference to special benefits conferred.'

The Government of any country levies various taxes on its citizens and all such taxes are bro classified into two types, viz., **Direct Taxes** and **Indirect Taxes.**



Direct Tax

Direct Tax refers to the type of tax in which the incidence (i.e., liability for payment of tax) and impact (i.e., actual payment of tax) is on the same person. It is a form of tax which can be traced to the payer and it flows directly from the taxpayer to the Government.

Indirect Tax

Indirect Tax refers to the type of tax in which the incidence and impact are on different persons. It is a form of tax which cannot be traced to the payer and it flows from the payer to the Government indirectly - i.e., through others.

According to the Constitution of India, both direct and indirect taxes are levied in India by various authorities. The following table provides details of various authorities authorised to levy tax in India by the Indian Constitution and examples of such taxes levied:

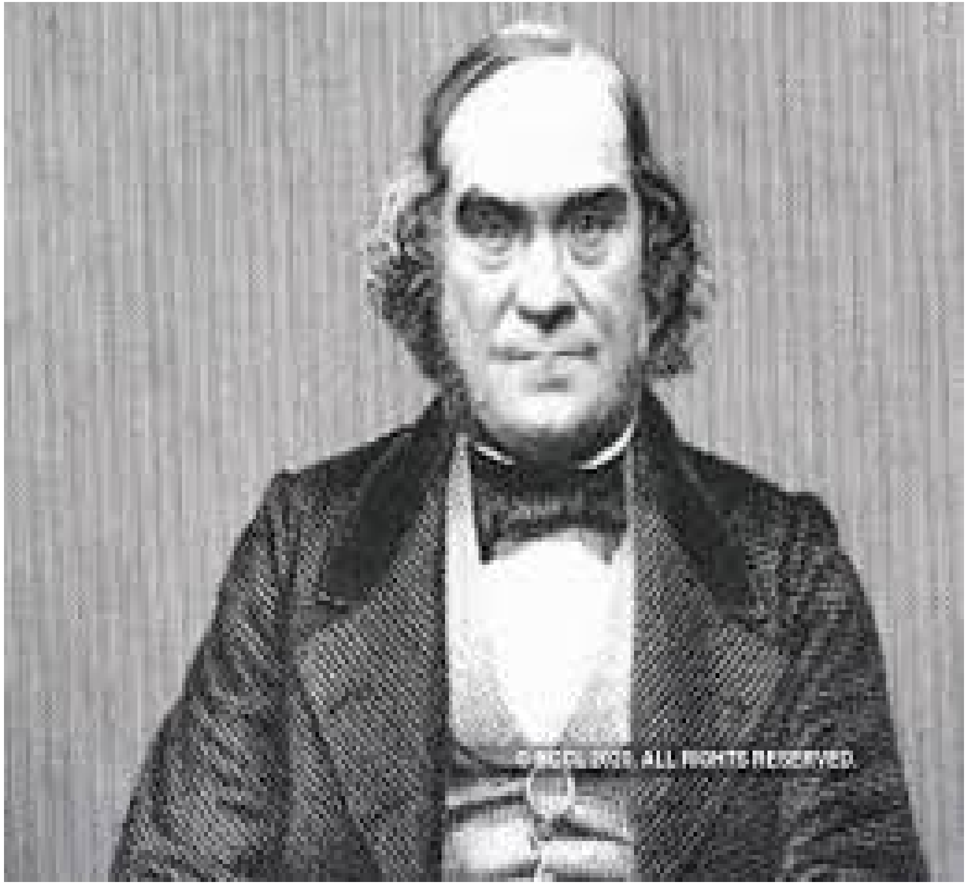
Authority	Direct Tax	Indirect Tax
The Union Government	Income Tax (other than on Agricultural Income)	Excise Duty on Petroleum Products Customs Duty **Central Goods and Services Tax** Central Sales Tax (applicable for a select list of goods)
State Governments/ Union Territories	Tax on Agricultural Income, Professional or Employment Tax, etc.	Excise Duty on Liquor **State Goods and Services Tax/Union Territories Goods and Services Tax**
Local Authority	Municipal Taxes on Property Water tax, etc.	Entry Tax, etc.

Who is liable to pay income tax?

Every person, whose taxable income for the previous financial year exceeds the minimum taxable limit, is liable to pay income tax during the current financial year on the income of the previous financial year at the rates in force during the current financial year.

BRIEF HISTORY OF INCOME TAX IN INDIA

First Budget



In India, this tax was introduced for the first time in 1860, by Sir James Wilson in order to meet the losses sustained by the Government on account of the Military Mutiny of 1857.

Income was divided into four schedules taxed separately:

(1) Income from landed property;

(2) Income from professions and trades;

(3) Income from Securities;

(4) Income from Salaries and pensions.

Income Tax 1886

In 1886, a separate Income Tax Act was passed. This Act remained in force upto 1917, with various amendments from time to time.

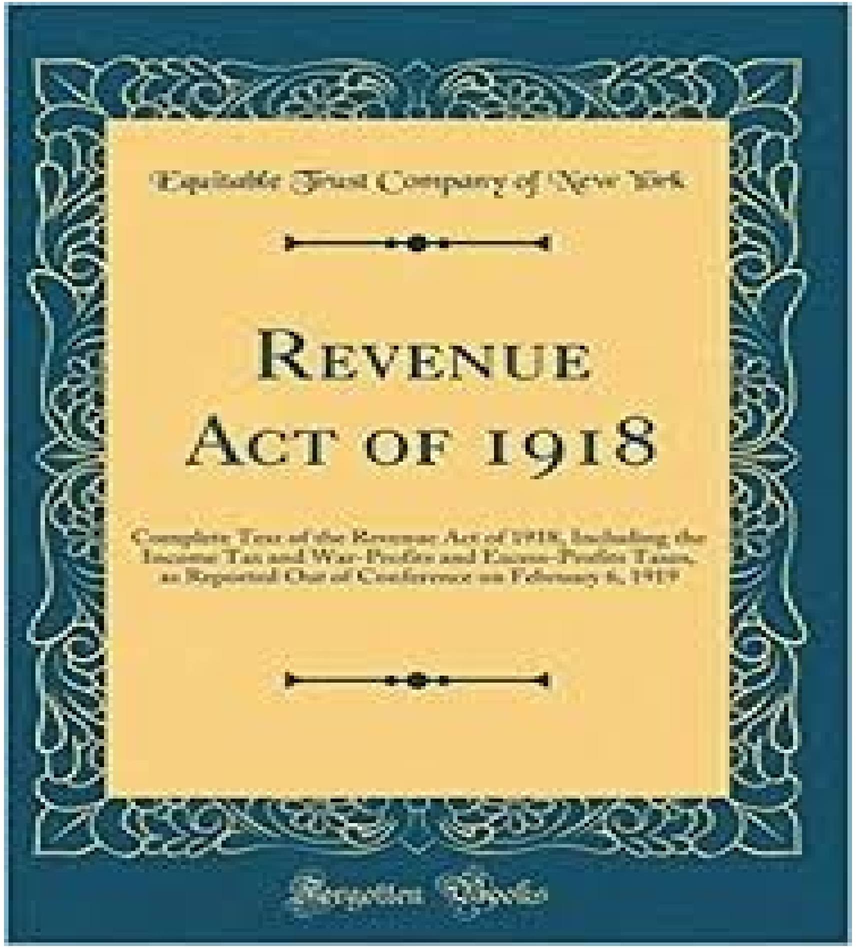
income was divided into four schedules taxed separately:

(1) Salaries, pensions or gratuities;

(2) Net profits of companies;

(3) Interests on the securities of the Government of India;

(4) Other sources of income.



In 1918, a new Income Tax Act was passed and again it was replaced by another new Act which was passed in 1922. This Act remained in force up to the assessment year 1961-62 with numerous amendments.

Income Tax

1922

The Income Tax Act of 1922 had become very complicated on account of innumerable amendments. The Government of India, therefore, referred it to the Law Commission in 1956 with a view to simplify and for the prevention of tax evasion. The Law Commission submitted its report in September 1958, but in the meantime the Government of India had appointed the Direct Taxes Administration Enquiry Committee to suggest measures to minimise inconvenience to assessees and to prevent evasion of tax. This Committee submitted its report in 1959. In consultation with the Ministry of Law finally the Income Tax Act, 1961 was passed.

The Income Tax Act, 1961 has been brought into force with effect from 1st April, 1962. It applies to the whole of India and Sikkim (including Jammu and Kashmir).

Since 1962 several amendments of far-reaching nature have been made in the Income Tax Act by the Finance Act every year.

Raja J. Chelliah Committee Report

Besides this, amendments have also been made by various Amendment Acts, for instance, Taxation Laws Amendment Act, 1984, Direct Taxes Amendment Act, 1987, Direct Taxes Law (Amendment) Acts of 1988 and 1989, Direct Tax Law (Second Amendment) Act, 1989 and at last The Taxation Law (Amendment) Act, 1991. The amendments in the Finance Acts, 1992 and 1993, are mostly based on the recommendations of Chelliah Committee Report.

As a matter of fact, the Income Tax Act, 1961, which came into force on 1st April, 1962 and re-amended widely. It has therefore become very complicated both for the administering authorities and the tax-payers.

CHARACTERISTICS OF INCOME TAX

1. Direct Tax

Income is a Direct Tax. Direct Tax means such tax which is paid by a person who bears tax burden.

2. Central Tax

Income Tax is imposed and recovered by Central Government.

3. Tax on Total Income

Income Tax is calculated on total income. Total income is also called taxable income. Total income is calculated according to the provisions of Income Tax Act.

4. Tax-Exempted Limit

If income exceeds prescribed limit of income, then tax is imposed. Tax is not imposed upto the tax-exempted limit of income. Tax-exempt limit of income for the Assessment Year 2020-21, are as follows:

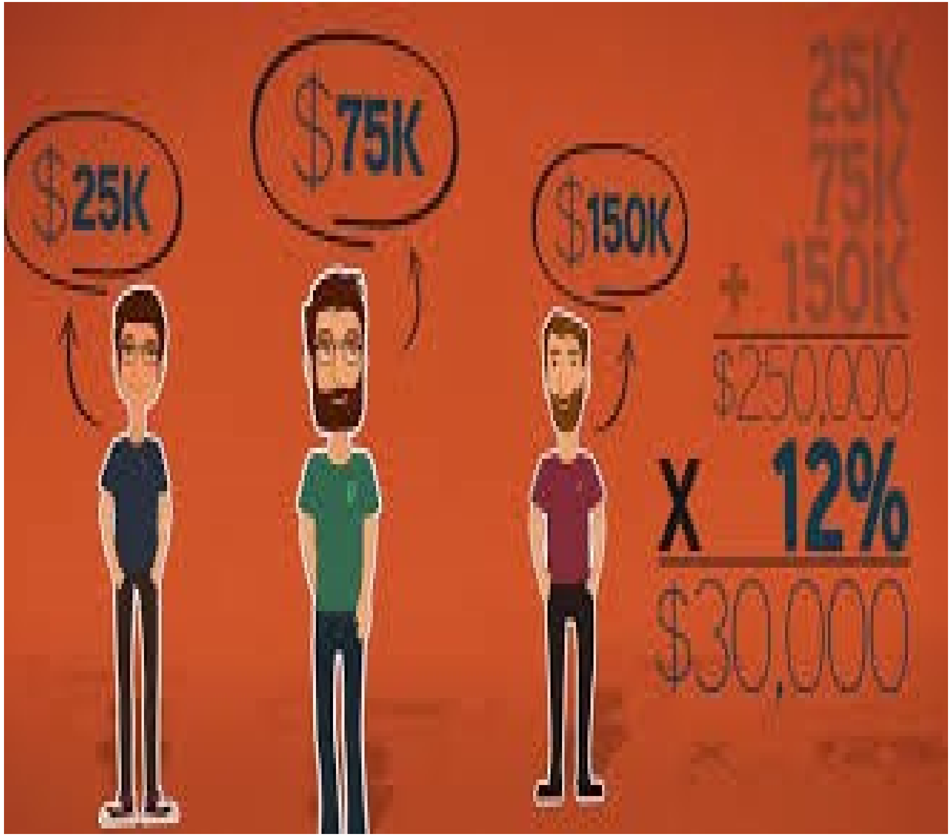
(A) Senor Citizen: Senior citizen (resident *in India), who is of the age of 60 years or more but less than 80 years Rs 3,00,000.*

(B) Super Senior Citizen: Super senior *citizen (resident in India), who is of the age of 80 years or more 5, 00,000.*

(C) Other Individuals, HUF, Association of persons, Body of Individual Rs 2, *50,000.*

(D) Firm, Company, Local Body: Nil.

5. Progressive Tax Rates



Tax is not imposed at the same rate on the total income of an individual HUF, AOP or BOI. Tax rates increase with an increase in income. Minimum tax rate is 5% and maximum tax rate is 30%. Firms and companies income are taxed at the rate of 30%.

6. Surcharge

Surcharge is imposed on the amount of income tax. Surcharge rates are as follows for the Assessment Year 2018-19.

(i) For individuals, HUF, AOP or BOI: *@ 10% if total income exceeds 50 lakh rupees but does not exceed 1 crore rupees. @ 15% if total income exceeds 1 crore rupees.*

(ii) For Firms: *@ 12% if total income exceeds 1 crore rupees.*

(iii) For Domestic Company: *@7% if total income exceeds 1 crore rupees but does not exceed 10 crore rupees. @ 12% if total income exceeds 10 crore rupees.*

Note: In above all three conditions, provision of marginal relief will also be applicable.

7. Health and Education Cess

All assessees are liable to pay education cess @ 2% and secondary , higher education cess @ 1% and health cess @1% on the total amount of income tax including surcharge.

8. Tax Burden

Tax is imposed at progressive rate on the income of individual and HUF therefore rich person bear more tax burden.

9. Administration

Tax is imposed and recovered by income tax department. Income Tax Department works under the control of Central Board of Direct Taxes (CBDT).

10. Allocation of Amount of Income Tax

The total amount of income tax recovered by government is allocated among Central Government and State Government according to the recommendation of Finance Commission. State Government will not be given any share of income tax revenue from the following amounts:

(i) Income tax amount recovered from companies.

(ii) Amount of surcharge.

(iii) Amount of education cess and SHEC.

BASIS OF CHARGE OF INCOME TAX (Section 4)

The following basic principles are the basis of charging income tax:

1. Income tax is an annual tax on income.

2. Income of previous year is taxable in the next following assessment year at the rate or rates applicable to that assessment year. However, there are certain exceptions to this rule.

3. Tax rates are fixed by the annual Finance Act.

4. Tax is charged on every person as defined in Section 2(31).

5. The tax is charged on the total income of every person computed in accordance with the provisions of this Act.

6. Income tax is to be deducted at the sources or paid in advance as provided under provisions of the Act.

The total income is computed on the basis of the residential status of the assessee. The income is classified into the following five heads:

1. Income from Salaries;

2. Income from House Property;

3. Profits and gains from Business or Profession;

4. Capital Gains; and

5. Income from other Sources

For computing the total income of an assessee and the tax payable by him, following procedure is followed:

(1) Classify the income under each of the above five heads and then deduct from the income under each head the deductions permissible under the Act in respect of that head of income. The balance of amount left under each head of income is its assessable income.

(2) Total of the assessable income of each head and the aggregate of all these assessable incomes is called the Gross Total Income.

(3) From the Gross Total Income, thus arrived at, deduct the deductions permissible under sections 80C to 80U of the Act for computing the total income. The balance left after subtracting the allowable deductions is called the Total Income.

(4) The amount of income tax payable is then calculated on this total income according to the rates prescribed by the Finance Act for the relevant assessment year and the rates prescribed under different sections of the Act.

1. Computation of Tax for the Assessment Year 2020-21

Rates of tax for an individual, Hindu undivided family, association of persons or body of individuals:

1. General rates (excluding short-term capital gains, specified in Sec. 111A, long-term capital gains, winnings from lottery, crossword puzzle, races, etc.):

(a) Individual-Senior citizen (resident in India, who is of the age of 60 years or more but less than 80 years during the previous year):

On Rs 3, 00,000 (Minimum exemption limit)	Nil
Next on Rs 2, 00,000	5%
Next on Rs 5, 00,000	20%
Next-Balance	30%

(b) Individual-Super senior citizen (resident in India, who is of the age of 80 years or more during the previous year):

On Rs 5, 00,000 (Minimum exemption limit)	Nil
Next on Rs 5, 00,000	20%
Next-Balance	30%

c) Other individuals, (Male or Female) HUF, AOP or BOI:

On Rs 2, 50,000 (Minimum exemption limit)	Nil
Next on Rs 2, 50,000	5%
Next on Rs 5, 00,000	20%
Next-Balance	30%

2. Special rates

On specified incomes the tax is charged at a specified flat rate:

(a) On short-term capital gains specified in Sec. 111A-@ 15%;

(b) On long-term capital gains- @ 20%;

(c) On gains from listed shares without indexing the cost of acquisition-@ 10%;

(d) On winnings from lottery, crossword puzzle, horse race, etc.-@ 30%.

Rebate of income tax: In case of an individual resident in India, whose total income does not exceed Rs 3, 50,000 shall be entitled to a deduction from the amount of income tax payable upto Rs 2,500.

- **(Sec. 87A)**

II. Surcharge

(a) @ 10% if total income exceeds fifty lakh but does not exceed one crore.

(b) @ 15% if total income exceeds one crore.

III. Marginal relief

(a) Where total income exceeds fifty lakh the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income tax on a total income of fifty lakh by more than the amount of income that exceeds fifty lakh.

(b) Where total income exceeds one crore rupees the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

No marginal relief will be allowed on education cess and secondary and higher education cess :

Example. Marginal Relief:

Total income of Mr. X for Assessment Year 2020-21 is Rs 1, 02, 00,000. The marginal relief and tax payable shall be as under:

Particulars	Amount Rs
Tax on Rs 2, 50,000	-
Tax on R 2,50,000 @ 5%	12,500
Tax on Rs 5,00,000 @ 20%	1,00,000
Tax on Rs 92,00,000 @ 30%	27,60,000
	28,72,500
Add : Surcharge @ 15%	4,30,875
	33,03,375
Less : Marginal relief	2,90,875
	30,12,500
Add : Education Cess & SHEC @ 3%	90,375
Tax Payable	31,02,875

Marginal relief has been computed as under:

Particulars	Amount Rs
Tax on Rs 2,00,000 (excess over one crore rupees)	60,000
Add : Surcharge	4,30,875
	4,90,875
Tax and surcharge cannot exceed the amount of income that exceeds one crore rupees	2,00,000
Marginal relief	2,90,875

IV. Heath and Education cess

Add : Education cess @ 2% and Heath cess @1% on the amount of income tax and surcharge.

Add : Secondary and higher education cess @1% on the amount of income tax and surcharge. In brief:

Particulars	Amount Rs
Income tax on total income at the prescribed rates Add: Surcharge if any (10%/15%)	00000 00000
 Add : Education cess @ 2% Add : Secondary and higher education cess @ 1% Add: Health cess @1%	00000 00000 00000
Tax Payable	00000

For simplicity education cess and SHEC has been computed in the following pages @ 3% instead of 2% plus 1%.

A person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday.

In particular, the question of attainment of age of eligibility for being considered a senior/very senior citizen would therefore be decided on the basis of above criteria.[Circular No. 28/2016 (F. N. 225/182/2016/ITA. II) Dated 27.7.2016)

For example, date of birth of Mr. X (resident in India) is 1.4.1958. He will be a senior citizen on 31.3.2018. He will get tax benefit w.e.f. Assessment Year 2018-19.

FIRM:

A firm is liable to pay tax for the Assessment Year 2018-19 at the following rates :

(i) On short-term capital gains specified in Sec. 111A-@ 15%;

(ii) On long-term capital gains-@ 10%/20% (Sec. 112);

(iii) On winning from lottery, crossword puzzle, horse race, etc.-@ 30%;

(iv) On other income-@ 30%.

Surcharge: If total income exceeds one crore rupees @ 12%

Marginal Relief: As explained

Health and Education cess & SHEC: On the amount of income tax and surcharge @ 4% i.e., 1% + 2%+1%.

Notes:

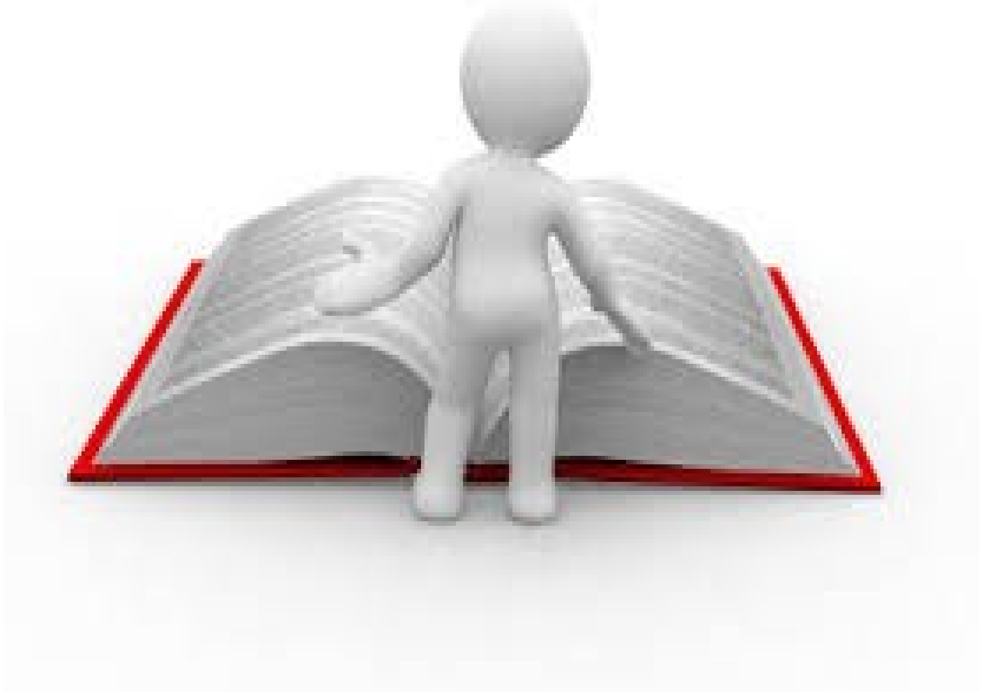
(1) In computing the income of the firm, whatever deduction is allowed to the firm as interest, salary or remuneration to partners, such amount will be treated as income of the partners under the head 'Profits and gains of business or profession'.
(2) Whatever share of profit (total income less tax paid by the firm) from the firm is received by a partner; it is not included in the income of the partner.

Note:

On Deemed Income (under Section 68, 69, 69A, 69B, 69C or 69D) tax shall be charged under section 115BBE as under:

Income Tax @ 60%, Surcharge @ 25%, Health Education Cess & SHEC 4%.

IMPORTANT DEFINITIONS



Under sections 2 and 3 of the Income Tax Act, 1961, definitions of important terms used in the Act have been given, some of which are as under:

INCOME [Sec. 2(24)]

Under this section income includes:

(i) Profits and gains;

(ii) Dividend;

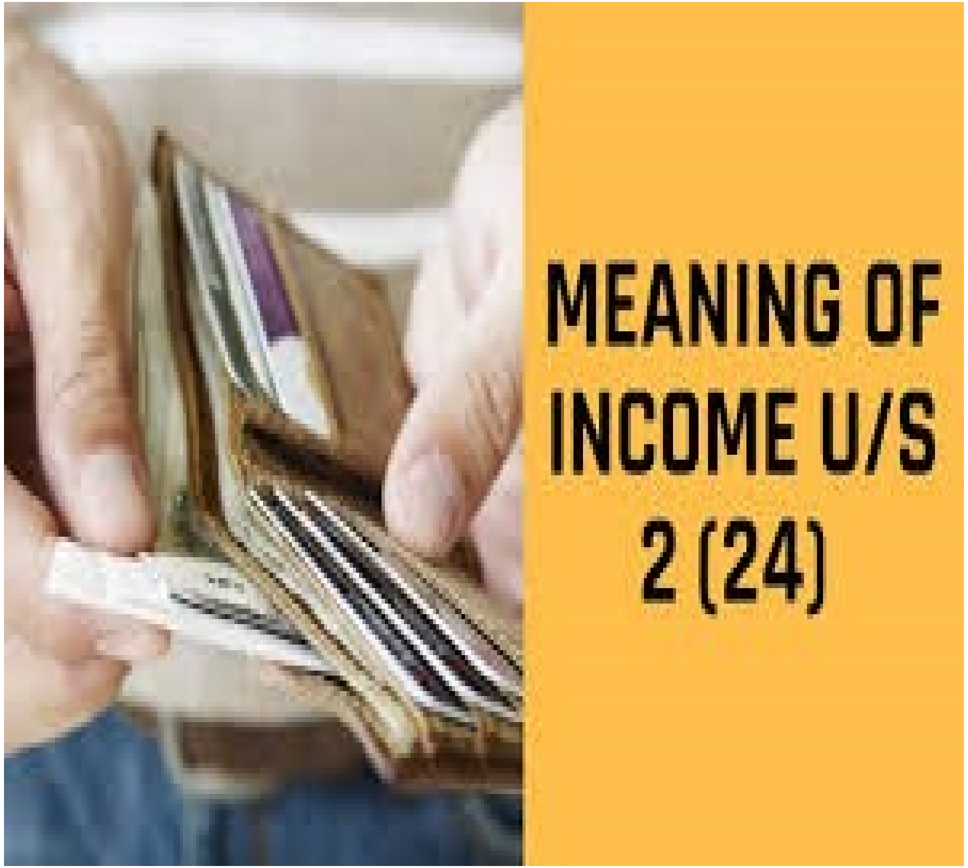
(iii) voluntary contributions received by (a) a trust created for charitable or religious purposes, or (b) by a scientific research association, or (c) by a games or sports association or institution, or (d) any university or other educational institution, or (e) any hospital or other institution, or (f) an electoral trust;

(iv) The value of any perquisite or profits in lieu of salary taxable under the head 'salaries;'

(v) Any special allowance or benefit specifically granted to the assessee to meet his expenses wholly, necessarily and exclusively for the performance of his duties;

(vi)Any allowance granted to the assessee either to meet his personal expenses at the place where he performs his duties or compensate him for the increased cost of living, **for example, City Compensatory Allowance;**

INCOME [Sec. 2(24)]



(vii) The value of any benefit or perquisite which is obtained by any representative assessee;

(viii) Any sum chargeable to income tax under the head 'business' or 'profession';

(ix) Any capital gains;

(x) The profits and gains of any business of insurance carried on by a mutual insurance company or by co-operative society;

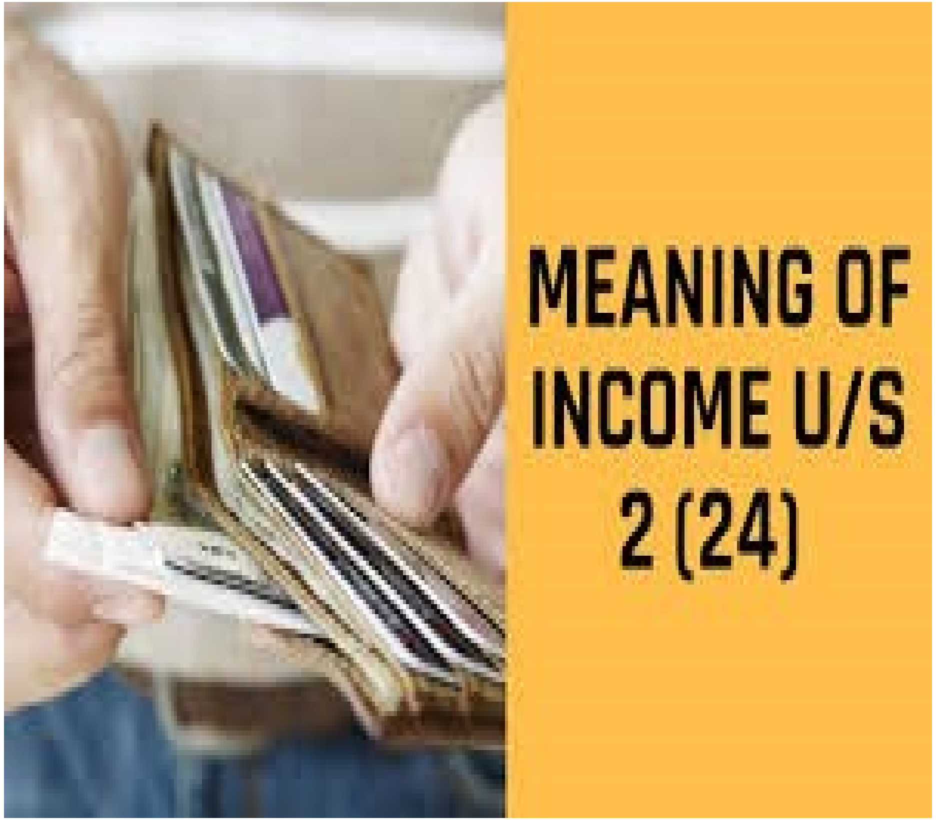
(xi) any winnings from lotteries, crossword puzzles, races including horse races, card-games and other games of any sort or from gambling or betting of any form or nature whatsoever,

Explanation : (a) 'Lottery' includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever;

(b) "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;

(xi) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set-up under the Employees' State Insurance Act or any other fund for the welfare of such employees;

INCOME [Sec. 2(24)]



(xiii) Any sum received under a keyman insurance policy including the sum received by way of bonus on such policy.

keyman insurance policy means a life insurance policy taken by a person on the life of another person who is or was (a) an employee of the first person, or (b) connected in any manner with the business.

The sum of keyman insurance policy is assessable as following:

(a) When the sum is received by the organisation, who has taken the policy, it is assessable under the head profits and gains of business or profession.

(b) When the amount is received by the employee, it is assessable as profits in lieu of salary.

(c) When the amount is received by a person, where employer-employee relationship does not subsist (Chairman or Director etc. of a company), it is assessable under the head income from other sources.

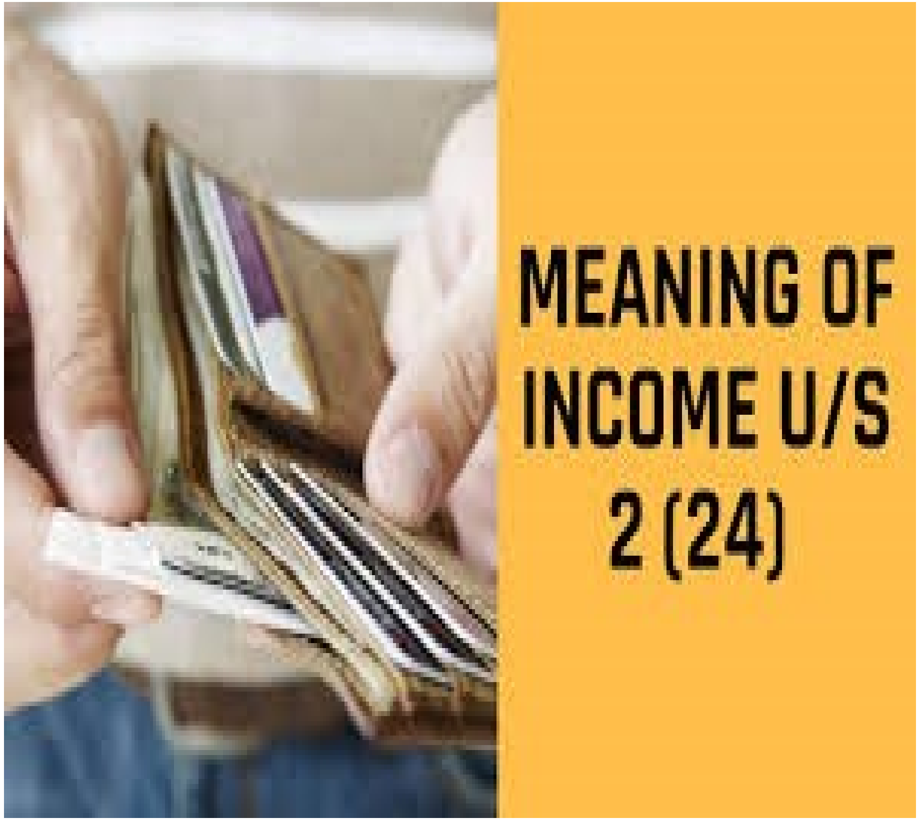
(xiv) The profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;

(xv) Any consideration received for issuing shares as exceeds the fair market value of the shares.

(xvi) Any sum of money received as an advance in the course of negotiations for transfer of a capital asset and such negotiation fails, the amount so forfeited;

(xvii) If the assessee receives (in cash or kind) the following from the Central Government or a State Government or any authority or body or agency it will be treated as income: Subsidy or grant or cash incentive or duty drawback, or waiver or concession or reimbursement.

INCOME [Sec. 2(24)]



However, if such subsidy or grant or reimbursement is taken into account for determination of the actual cost of the asset, it will not be treated as income.

The subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government, will not be treated as income.

The LPG subsidy and other welfare subsidies received by individuals shall not be included in income. (Press Release, dated 5.5.2015)

(xviii) Any sum of money or value of property received without consideration or for inadequate consideration by any person from any person or persons on or after 1.4.2017.

(xix) Compensation or other payment, due or received by any person in connection with the termination of his employment or modification of the terms and conditions relating thereto.

(xx) The fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset **(w.e.f. A.Y. 2019-20).**

CONCEPT OF INCOME

The above definition of income is not conclusive. It includes some other receipts also which are ordinarily treated as income. In fact, income means a monetary income which is derived from definite sources with some sort of regularity or expected regularity. These definite sources of income are: Salaries, Income from House Property, Profits and Gains of Business or Profession, Capital Gains and Income from Other Sources.

Besides this, there are some other important rules regarding income, which are as under:

1. *DEFINITE SOURCE OF INCOME.*

There should be a ***definite source of income.***

2.WHETHER LEGALLY OR ILLEGALLY

An income earned, ***whether legally or illegally***, is taxable under the Income Tax Act. The Income Tax Act does not make any distinction between legal and illegal income. However, any expenditure incurred to earn an illegal income is allowed to be deducted out of such income only.

4. *RECEIVED FROM OUTSIDE*

Income should be ***received from outside***. In an institution, if the income from subscription from its members exceeds its expenditure on its members the excess cannot be treated as taxable income, because the subscription was received from amongst the members themselves and the excess represents the excess of income over expenditure incurred for their own benefit or well-being, hence this excess is not received from outside, and will not be income.

Similarly, excess over expenditure, received by a club from facilities provided to members as part of advantages attached to such membership, is not taxable income. [CIT vs. Bankipur Club Ltd. (1997) 226 ITR 97 (SC)] (5)

5. RECEIVED *IN THE FORM OF MONEY*

It is not essential that the income must be received ***in the form of money***. Receipts in kind or service having money equivalent can also be income.

*6.*Temporary or Permanent Income:

Whether the income is temporary or permanent, it is immaterial from the tax point of view.

7. EARNED AN INCOME

If an assessee has ***earned an income*** but has not actually received it, it will be treated as the income of the assessee, because he is entitled to receive it.

8. Reimbursement of expenses

Reimbursement of expenses is not income. Reimbursement of actual travelling expenses to an employee is not his income.

9. A LEGAL OBLIGATION A CHARGE

Where under ***a legal obligation a charge*** is created on the income of a person, then to the extent of such charge it will be deducted from his income.

10. *Receipt on account of dharmada, gaushala*

Receipt on account of dharmada, gaushala, etc. is not income.

11. PIN MONEY RECEIVED

Pin Money received by wife for her personal expenses and small savings made by a woman out of money received from her husband for meeting household expenses is not her income.

12.Disputed Income

Any dispute regarding the title of income will not postpone or held up the assessment of such income. It will be taxed in the hands of the recipient of such income.

13. Diversion of income vs. Application of income

Diversion of income means that the income is diverted to some other person under some legal obligation. If after receiving the income it is given to someone else it is application of income. Similarly, if an income is diverted to some other person voluntarily it is application of income. Where by an obligation, income is diverted before it reaches the assessee, it is diversion of income and not taxable; but where the income is required to be applied to discharge an obligation after such income reaches the assessee, the same is merely an application of income and tax liability cannot be avoided.

14. *PLUS OR MINUS*

Income may be in ***plus or minus***. Minus income means loss, hence losses are also included in the term 'Income'.

GROSS TOTAL INCOME {Sec. 80B (5)}

The aggregate of the income under the following heads is known as gross total income:

(i) Income from salaries;

(ii) Income from house property;

(iii) Profit and gains of business or profession;

(iv) Capital gains; and

(v) Income from other sources.

The income under each head is computed after making deductions permissible under that head.

Further, the brought forward losses shall be deducted (as provided in the Act) to arrive at the assessable income.

TOTAL INCOME {SEC. 2(45)}

Total income means the amount left after making the deductions under sections 80C to 80U from the gross total income. The amount so arrived is rounded off to the nearest multiple of ten rupees.

Difference between Gross Total Income and Total Income

Basis of difference	**Gross Total Income**	**Total Income**
1.Meaning	Aggregate of various heads of income is called Gross Total Income	After deductions under Sections 800 to 80U, the balance is called Total Income.
2 .Round off	Gross Total Income is not rounded off.	Total Income is rounded off to the nearest multiple of ten rupees.
3. Levied	Tax is not levied on Gross Total Income.	Tax is levied on the Total Income at the prescribed rates.
4. Total Income	Total Income cannot be less than Total Income.	Total Income can be equal to GTI or less than GTI.
5. Agricultural income	Agricultural income is not included in GTI.	If agricultural income exceeds Rs 5,000, it is included in the Total Income of an individual or HUF to determine the tax payable by the assessee.

CASUAL INCOME

Any receipt which is of a casual and non-recurring nature is casual income. In other words, casual income is that income the receipt of which is accidental and without any stipulation. It is in nature of an unexpected wind-fall.

Winnings from lottery, crossword puzzles, card games and other games of any sort or from gambling or betting of any form or nature whatsoever are casual incomes. Receipts even from habitual betting are non-recurring receipts and assessable as casual income.

The casual income does not include:

(i) (a) capital gains; or

(b) Receipts arising from business or the exercise of a profession or occupation; or

(c) Receipts, by way of addition to remuneration of an employee, such as bonus, gratuity, perquisites, etc.

CASUAL INCOME

(ii) Voluntary payment received in exercise of an occupation are not treated as casual income, e.g., tips given in the ordinary way to taxi-drivers in the employ of taxi-owners are income arising from the exercise of an occupation. Similarly, gratuities to waiters in a hotel are taxable. A receipt may be taxable as income arising from the legal exercise of the profession even if the amount is received as a gift from third parties to whom the legal services were not rendered and who were under no obligation to pay anything at all.

If an architect submitted a plan in a competition for construction of a building, the prize won by him, is income from profession.

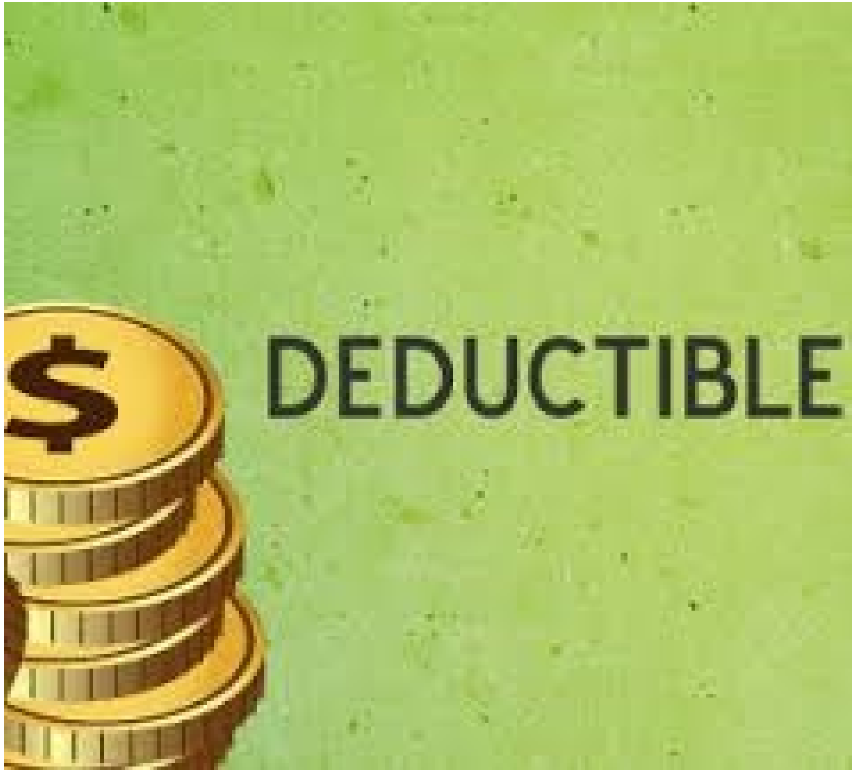
(iii) A gift from a relative is not income at all. Birthday and wedding gifts are simplest instances in point. A gift from a relative does not become income merely because it is repeated year after year. A regular allowance given year after year purely as a voluntary gift by a parent to a child or by a husband to his wife, or by one relation to another, is merely a fresh gift every time it is paid and does not amount to income.

(iv) Payment by husband to his wife under an agreement to live apart as maintenance allowance is neither casual income nor a personal gift. Hence, it is taxable.

OTHER PROVISIONS RELATING TO CASUAL INCOME

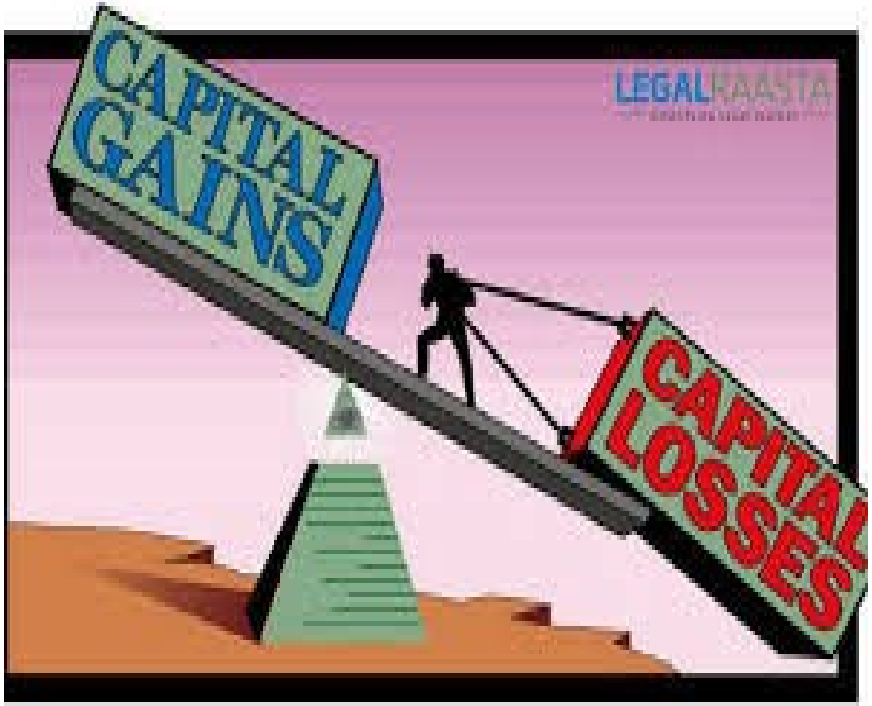
PROVISIONS

1. Expenses are not deductible



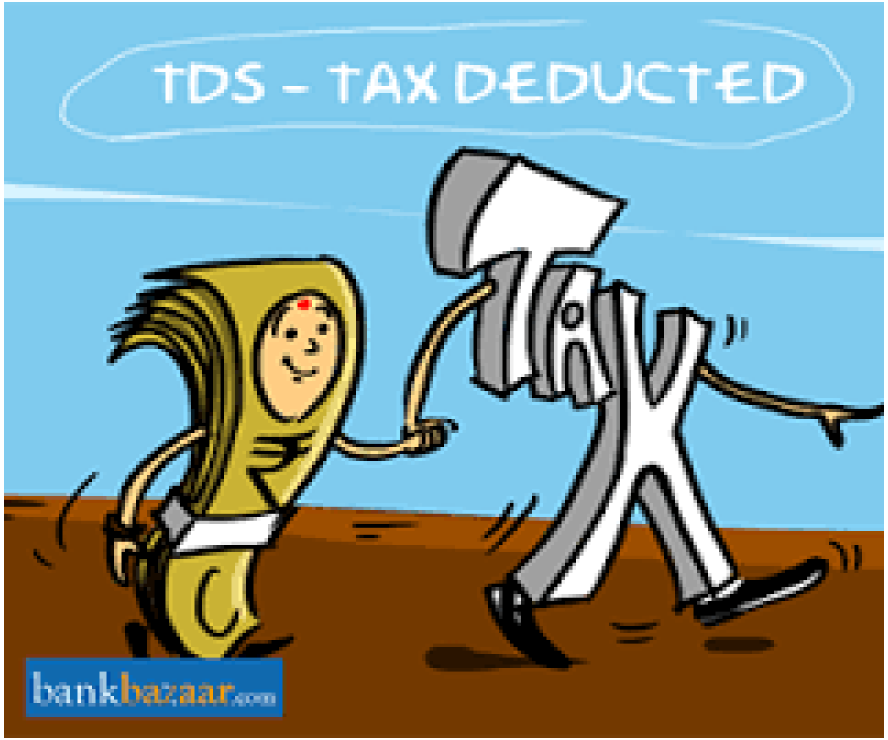
If expenses are incurred to receive casual income, such expenses are not deductible from any income. For example, an individual purchases lottery tickets, the cost of lottery tickets is not deductible from any income whatsoever. Similarly, if postal charges have been paid for sending crossword puzzles, such charges (expenses) are not deductible from any income.

2. Set-off of losses not permitted



If instead of casual income there is casual loss, such loss cannot be set-off from any income. For example, if a person wins in a card game on the first day and loses the next day, he cannot set-off the loss against any income.

3. Tax deduction at source



(a) If the winnings from horse race exceed Rs 10,000, tax will be deducted at source at the prescribed rate.

(b) If the winnings from any lottery, crossword puzzle, card game and other game of any sort exceed 10,000, tax will be deducted at source at the prescribed rate.

4. Rate of tax

On winning from lottery, crossword, puzzle, races, gambling, betting, etc. tax is chargeable @ 30%.

Illustration :

State whether the following receipts are casual incomes:

(i) Mr. X received Rs 5,000 for acting once as an arbitrator without any stipulation as to remuneration.

(ii) Mr. Y received Rs 5,000 for acting as an arbitrator with a clear and definite stipulation for the said remuneration.

(iii) Mr. X, a decree-holder, received interest of Rs 500 under an order of court granting stay of execution of the decree on judgment-debtor Mr. Y.

(iv) Mr. X is in the service of Mr. Y. Mr. Y's son was lost and Mr. X. traced him out without any stipulation of reward but Mr. Y gave him a reward of Rs 500.

SOLUTION

(i) The receipt is of a casual and non-recurring nature as there was no stipulation for remuneration.

(ii) Mr. Y was offered a definite remuneration for acting as an arbitrator and he accepted the work of the remuneration, hence, the receipt is not of a casual nature.

(iii) Interest of Rs 500 received by the decree-holder is not a casual income.

(iv) It is of casual and non-recurring nature as there was no stipulation for the reward.

PERSON [Sec. 2(31)]

'Person' includes the following:

(i) An individual;

(ii) A Hindu undivided family;

(iii) A company;

(iv) A firm;

(v) An association of persons or a body of individuals whether incorporated or not;

(vi) A local authority; and

(vii) Every artificial juridical person, not falling within any of the preceding sub-clauses.

An individual

An individual means a natural person or a human being, who may be male, female, minor child or a lunatic.

A Hindu Undivided Family

A Hindu Undivided Family means a Hindu family which consists of all persons lineally descended from a common ancestor including their wives and unmarried daughters. Jain Undivided Families and Sikh Undivided Families are also considered as 'Hindu Undivided Families' for assessment purposes, according to Income Tax Act, 1961.

A company

A company may be defined as an artificial person created by law with perpetual succession, a common seal and shares carrying limited liability.

As per section 2(17) of the Income Tax Act, a company means:

(a) Any Indian company; or

(b) Any Body Corporate incorporated under the laws of a foreign country; or

(c) Any institution, association or a body which is assessed or was assessable/assessed as a company for any assessment year commencing on or before April 1, 1970; or

(d) Any institution, association or a body, whether incorporated or not and whether Indian or non Indian, which is declared by general or special order of the Central Board of Direct Taxes be a company.

A firm

A firm means a partnership firm; which is defined under the Partnership Act.

Section 4 of the Indian Partnership Act, 1932, defines partnership as 'relationship between person who have agreed to share the profits of business carried on by all or any of them acting for Persons who have entered into partnership with one another are called 'partners' in individual capacity and as firm collectively. The name under which the business is carried on is called firm name. Firms include 'Limited Liability Partnership Firms' as defined under Limited Liabilities Partnership Act, 2008.

An Association of persons

An Association of persons means two or more persons joining for a common purpose for the purpose of earning income. The A.O.P. consist two or more individuals or any one person, i.e., an individual and a company or two or more companies.

Body of individuals

Body of individuals means a conglomeration of individuals who come together by chance, e.g., by birth or testamentary dispositions. In other words it means a conglomeration of individuals who carry on some activity with the objective of earning some income. It consists only individuals and any other category of person (i.e., companies, firms etc.) cannot be members of a body of individuals.

'Association of Persons' and 'Body of Individuals includes Societies, Clubs, Trusts, Unions, etc.

Local authority

An authority legally entitled to or entrusted by the Co management or control of a municipal or local fund such authority includes Municipality, Municipal Corporation, District Board, etc.

It includes:

(a) Panchayat; or

(b) Municipality; or

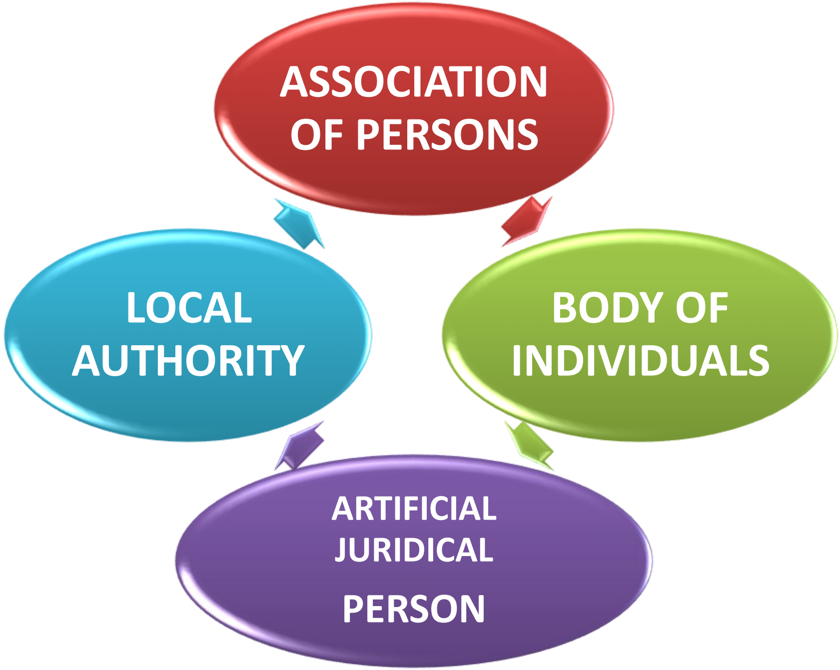
(c) Municipal Committee and District Board, legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local funds; or

(d) Cantonment Board.

Artificial Juridical Person

Artificial Juridical Person is an entity which has a separate recognition for legal purposes. It includes Gods, Idols and Deities; university and Statutory Corporations (i.e., Entities established with enactment of legislation either at Parliament or at Legislative Assembly).

An association of persons or a body of individuals or a local authority or an artificial juridical



An association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not, such person or body or authority or juridical person, was formed or established or incorporated with the object of deriving income, profits or gains. When an assessee (a shorter meaning for our requirement is – a person who has earned income) approaches us, seeking help in making his 'assessment' - the first step is to ascertain the category of 'person' to which the assessee belongs to.

Illustration :

Problem on Ascertaining the Category of 'Person' of the Assessee Ascertain the category of 'person' of the following assessees:

1. Mr. Ram
2. Lord Rama
3. Ram Seva Trust
4. Ram & Sons Ltd.,
5. Ram & Brothers 6. Ram & Co.,
7. Bharatiya Samskriti Vidyapeeth College for Women
8. Life Insurance Corporation of India
9. Bangalore University
10. Ayub Khan and Family.
11. BHEL Employees Union.
12. Institute of Chartered Accountants of India.
13. Bruhat Bengaluru Mahanagara Palike.

Assessee	Category of 'Person'
Mr. Ram	Individual
Lord Ram	Artificial Juridical Person
Ram Seva Trust	Body of Individuals or Association of Persons
Ram & Sons Ltd.,	**Joint Stock Company** (It is mandatory for Companies to use 'Limited ''Private Limited in the name.
Ram & Brothers	**Hindu Undivided Family** (Where the entity is governed by a Partnership Deed - it can also be considered as a 'Firm')
Ram & Co.,	**Firm** (if governed by a Partnership Deed) **Body of Individuals** (when not governed by a Partnership Deed and consists of only Individuals) **Association of Persons** (when not governed by a Partnership Deed and consists of different categories of persons)
Bharatiya Samskriti Vidyapeeth College for Women	**Body of Individuals or Association of Persons** (since in India, educational institutions are managed by a 'Trust' and 'Trusts' fall under BOI/AOP). **Company** (where the educational institution is managed by a Company - Public or Private) **Note:** The 'Trust' or the Company' managing the education institution is the assessee and not the institution per se.
Life Insurance Corporation of India	Artificial Juridical Person
Dibrugarh University	Artificial Juridical Person
Ayub Khan and Family	**Firm** (if governed by a Partnership Deed) **Body of Individuals** (when not governed by a Partnership Deed, and consists of only Individuals) **Association of Persons** (when not governed by a Partnership Deed and consists of different categories of persons) **Note:** It is not a Hindu Undivided Family.
BHEL Employees Union	Body of Individuals
Institute of Chartered Accountants of India	Artificial Juridical Person
Bruhat Bengaluru Mahanagara Palike	Local Authority

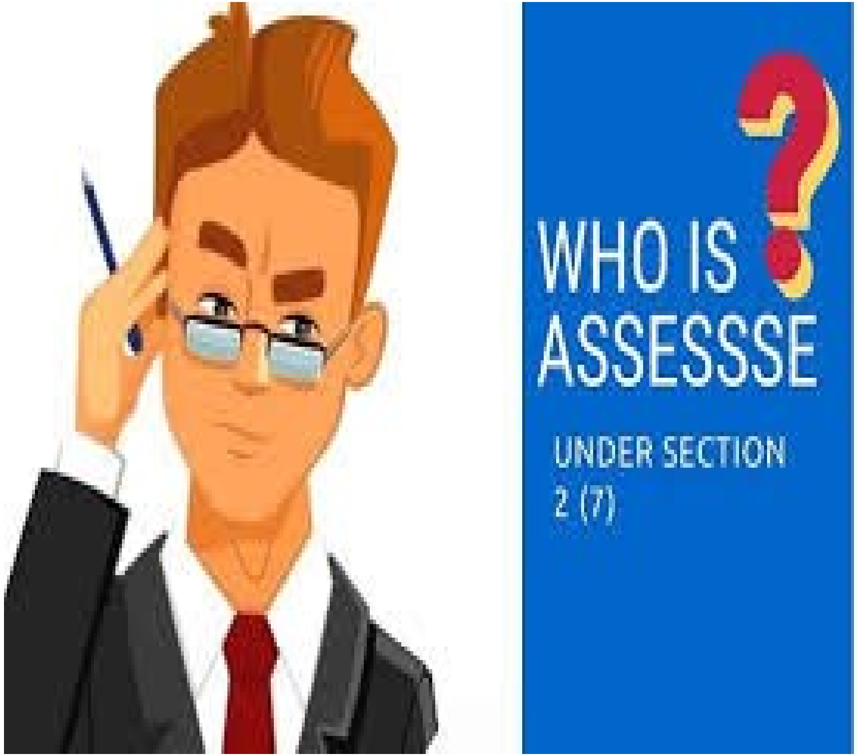
Illustration : Determine the status of the following:

(i) Calcutta University.
(ii) Essen Paints Pvt. Ltd.
(iii) Punjab Bank Ltd.
(iv) A and B are legal heirs of C. C died in 2007 and A and B carry on his business without entering into a partnership.
(v) Shri Krishna Enterprises, a firm consisting of S, K and P.
(vi) A joint family consisting of P, Mrs. P and their son S.
(vii) Municipal Corporation of Delhi.

Solution

(1)Artificial Person
(2)(ii) A Company
(3)(iii) A Company
(4)(iv) A Body of Individuals
(5)(v) A Firm
(6)(v) A Hindu Undivided Family
(7)(vii) A Local Authority.

ASSESSEE [Sec. 2(7)]



An assessee means a person:

(i) Who is liable to pay any tax; or

(ii) Who is liable to pay any other sum of money under this Act (e.g., interest, penalty, etc.); or

(iii) In respect of whom any proceeding under this Act has been taken for the assessment of his income or assessment of fringe benefits; or

(iv) In respect of whom any proceeding under this Act has been taken for the assessment of the income of any other person in respect of which he is assessable; or

(v) In respect of whom any proceeding under this Act has been taken for the assessment of the loss sustained by him or by such other person; or

(vi) In respect of whom any proceeding under this Act has been taken for the amount of refund due to him or to such other person; or

(vii) Who is deemed to be an assessee under any provision of this Act; or

(viii) Who is deemed to be an assessee in default under any provision of this Act.

Notes:

1. 'Any tax' in the above definition includes income tax, surcharge, Education Cess and Secondary and Higher Education Cess.

2. 'Any other sum of money in the above definition includes fees, interest, fines, penalty, etc.

3. Deemed to be an assessee' means that the assessee is treated as an assessee, although he is not assessable for his income or loss or refund. This category includes legal representatives, representatives of deceased persons, guardians of minor children, etc.

4. A person is said to be assessee in default if he fails to comply with the duties imposed upon him under the Income Tax Act. For example, an assessee who was liable to deduct tax at source from the payment to be made, but either does not deduct or deducts but does not remit to the Department, is an assessee in default.

DEEMED ASSESSEE

A person, who is deemed to be an assessee for some other person, is called 'Deemed Assessee'.

For example:

(i) After the death of a person, his legal representative will be treated as an assessee for that income of the deceased on which tax has not been paid by the deceased before his death

(ii) A person representing a foreigner or a minor or a lunatic is treated as an assessee for the income of such foreigner or minor or lunatic.

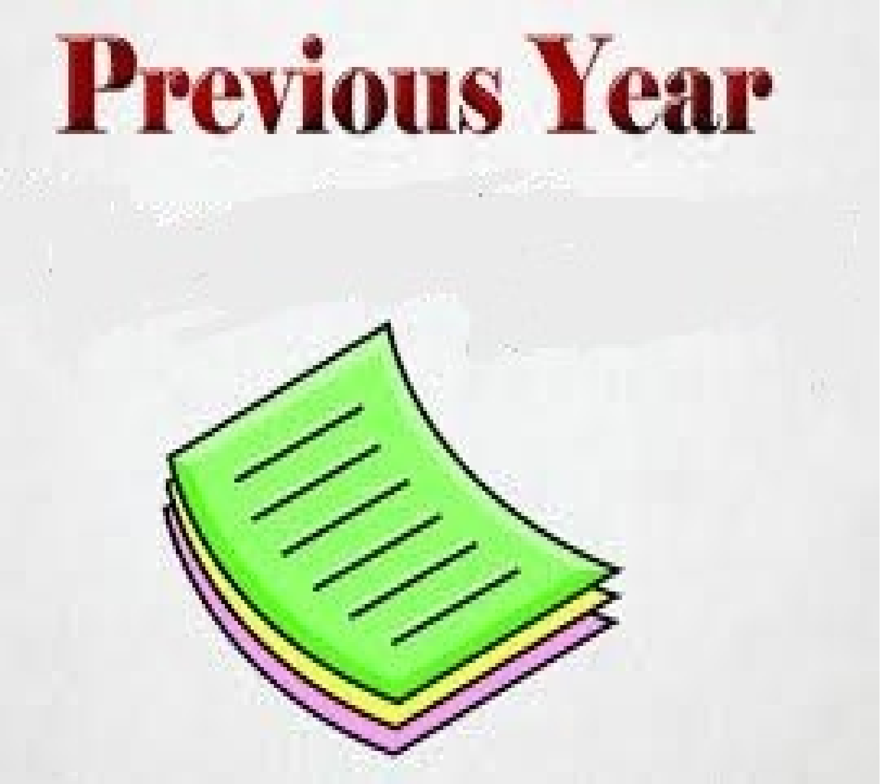
ASSESSEE IN DEFAULT

When a person is responsible for doing any work under the Act and he fails to do it, he is called an 'Assessee in Default'. For example, if a person while making any payment to another person, is liable to deduct income tax thereon at source, does not deduct income tax there from, or having deducted it, does not deposit it in the Government Treasury, he will be treated as an assessee in default for that income tax.

ASSESSMENT YEAR [Sec. 2(9)]

Assessment year means the period of twelve months commencing on the first day of April year and ending on 31st March of the next year. An assessee is liable to pay tax on the previous year during the following financial year (assessment year).

PREVIOUS YEAR (Sec. 3)



The year in which income is earned is known as previous year and the next year in which this income is taxable is known as assessment year. Income tax is charged on the total income of the previous year at the rates prescribed by the relevant Finance Act for the assessment year:

(1) Generally, previous year means the financial year immediately preceding the Assessment Year. Financial Year begins on 1st April and ends on 31st March.

(2) The financial year (year ending on 31st March) will be the uniform previous year for all the assessees and for all sources of income.

(3) In the case of a newly set-up business or profession or any other new source of income during the financial year, the previous year will begin from the date of setting up of the new business or profession or from the date of coming into existence of the new source of income and will end with the said financial year. In this case, the first previous year may be of less than 12 months.

In other words, a financial year is both a previous year as well as an assessment year. It is previous year for the income earned during that financial year and assessment year for the income earned during the preceding financial year, e.g., Financial Year 2018-19 is previous year for current income and is assessment year for the income earned during the Financial Year 2017-18.

Note

There is no compulsion on any assessee to close his accounts on 31st March only. If for any reason, personal, religious or any other ground an assessee wants to continue to close his accounts on a date different from 31st March, he can do so. However, he would be required to make up his accounts on 31st March also, for the purpose of submitting the Income tax Return.

Illustration

An assessee commences his business on:

(i) 1st July, 2017; (ii) 1st October, 2017; and (iii) 1st January, 2018.

In each case, what will be his assessment year and what period will be treated as his previous year for the concerned assessment year?

SOLUTION

In every case his assessment year will be 2018-19 and in each case the following period will comprise of the previous year:

(i) 1st July, 2017 to 31st March, 2018, (ii) 1st October, 2017 to 31st March, 2018, (iii) 1st January, 2018 to 31st March, 2018.

Illustration

(1) Sri Ram Gopal was appointed on 1.7.2017 as lecturer in a college on probation. He was confirmed on 30.6.2018.

(2) Sri Amar Nath was appointed on 1.9.2017 as a lecturer against leave vacancy of Sri Ram Nath. Sri Ram Nath joined the college on 1.2.2018.

(3) M/s Ram Lal Bhajan Lal maintain the books of account of their business on calendar year basis. They prepared their final accounts on 31.12.2017.

Under the above mentioned cases what would be the duration of previous year for the Assessment Year 2018-19?

SOLUTION

(1) The previous year for Sri Ram Gopal shall be from 1.7.2017 to 31.3.2018.

(2) The previous year for Sri Amar Nath shall be from 1.9.2017 to 31.1.2018.

(3) The previous year for M/s Ram Lal Bhajan Lal shall be from 1.4.2017 to 31.3.2018. They are required to make up their accounts upto 31.3.2018 for the purpose of submitting the return of income.

Illustration

Problem on Identification of Assessment Year and Previous

State the applicable Previous Year and Assessment Year, in the following cases

1. Salary earned for the month of January, 2019.
2. Rent received for the month of February, 2019.
3. Professional income earned between 1st November, 2018 and 15th March, 2019 by a person leaving India.
4. Profit on sale of residential site on 1st January, 2019 by a person likely to transfer property to avoid tax.
5. Business income earned during 1st April 2018 and 25th December 2018, by a discontinued business.

S.no	Transaction	Relevant Previous Year and Assessment Year	Remarks
1.	Salary earned for the month of January, 2019.	PY 2018-19 **AY 2019-20**	-
2.	Rent received for the month of February, 2019.	PY 2018-19 **AY 2019-20**	-
3.	Professional income earned between 1st November, 2018 and 15th March, 2019 by a person leaving India.	PY 2018–19 **AY 2018-19**	This is a case of exception to the 'General Rule of Previous Year' covered **under section 174** (i.e., income of a person leaving India). Hence both Previous year and Assessment Year is same (i.e., 2018-19).
4.	Profit on sale of residential site on 15 January, 2019 by a person likely to transfer property to avoid tax.	PY 2018-19 **AY 2018-19**	This is a case of exception to the 'General Rule of Previous Year' covered **under section 175** (i.e., income of a person likely to transfer property for avoiding tax). Hence, both Previous year and Assessment Year is same (i.e., 2018-19).
5.	Business income earned during 1'" April, 2018 and 25th December, 2018 by a discontinued business.	PY 2018-19 **AY 2018-19**	This is a case of exception to the General Rule of Previous Year' covered **under section 176** (i.e., income of a discontinued business). Hence, both Previous year and Assessment Year is same (i.e., 2017–18).

1. What is the Assessment Year and Previous Year for the salary received on 1st January, 2019? 2. What is the Assessment Year and Previous Year for the income earned on 1"' January, 2019 by a non-resident from a shipping business?
3. What is the Assessment Year and Previous Year for the rental income earned from house property on 1st January, 2019?
4. What is the Assessment Year and Previous Year for the professional income earned from 1 April 2018 to 31" January, 2019 by a person leaving India permanently?
5. What is the Assessment Year and Previous Year for the profit on sale of residential house earned on 15 January, 2019 by a person likely to transfer property to avoid tax?
6. What is the Assessment Year and Previous Year for the interest on fixed deposits earned for the period from 1st November, 2018 to 28th February, 2019?
7. What is the Assessment Year and Previous Year for the income earned from 1 July, 2018 to 31" January, 2019 by a discontinued business?

Solution :

S. No.	Previous Year	Assessment Year
1	2018-19	2019-20
2	2018-19	2018-19
3	2018-19	2019-20
4	2018-19	2018-19
5	2018-19	2018-19
6	2018-19	2019-20
7.	2018-19	2018-19

EXCEPTIONS TO THE GENERAL RULE I.E., TAXATION OF PREVIOUS YEAR'S INCOME DURING THE SAME YEAR

Income tax is charged on the income of the previous year during the assessment year. However, there are certain exceptions to this rule. In the following cases the assessee is liable to be assessed to tax in the same year in which he earns the income:

(i) Income of non-resident from shipping business. In the case of a non-resident carrying shipping business any income derived from carrying passengers, livestock, mail or goods shipped at a port in India, will be taxed in the year of its earning. 7½ % of the amount paid or payable on account of such carriage will be deemed to be the income. (Sec. 172)

(ii) Income of persons leaving India. When an individual may leave India during the current assessment year or shortly after its expiry, and that he has no present intention of returning to India, the total income of such individual for the period from the expiry of the previous year for that assessment year up to the probable date of his departure from India shall be charged to tax in the same assessment year. (Sec. 174)

(iii) Income of an association of persons or a body of individuals or an artificial juridical person formed for a particular event or purpose. Where any A.O.P or B.0.I or an artificial juridical person is formed or established or incorporated for a particular event or purpose and is likely to be dissolved in the assessment year in which it is formed or established or incorporated or immediately after such assessment year, the total income of such assessee for the period from the expiry of the previous year for that assessment year upto the date of its dissolution, shall be chargeable to tax in that assessment year. (Sec. 174A)

(iv) Transfer of property to avoid tax. An assessee is likely to transfer his property to avoid tax the total income of such person for the period from the expiry of the previous year for the assessment year to the date when the Assessing Officer commences proceeding under Section 175 shall be chargeable to tax in the same assessment year. (Sec. 175)

(v) On discontinuance of a business or profession. In the case of discontinuance of a business or profession, the income of the period from the expiry of the previous year for the assessment year in which the business or profession is discontinued upto the date of such discontinuance may be charged to tax in the same assessment year. (Sec. 176)

The tax on the incomes discussed under (i) to (v) shall be charged at the rates prescribed for payment of advance tax during the relevant financial year. For example, Mr. A is leaving India on 10th July, 2018. The tax on the income for the Previous Year 2017-18 shall be charged at the rates prescribed for the Assessment Year 2018-19 and tax on income from 1.4.2018 to 10.7.2018 shall be charged at the rates prescribed for payment of advance tax during the Financial Year 2018-19.

RATES OF TAX FOR AN INDIVIDUAL

Assessment Year 2020-21:

(Rates for payment of Advance Tax during the Financial Year 2019-20.)

(1) Senior citizen (resident in India, who is of the age of 60 years or more but less than 80 years during the previous year):

On Rs 3, 00,000	Nil
Next on Rs 2, 00,000	5%
Next on Rs 5, 00,000	20%
Next-Balance	30%

(2) Individual-Super senior citizen (resident in India, who is of the age of 80 years or more during the previous year):

On Rs 5, 00,000	Nil
Next on Rs 5, 00,000	20%
Next-Balance	30%

(3) Other individuals, (Male or Female) HUF, AOP or BOI:

On Rs 2, 50,000	Nil
Next on Rs 2, 50,000	5%
Next on Rs 5, 00,000	20%
Next-Balance	30%

Surcharge: (a) @ 10% if total income exceeds fifty lakh but does not exceed one crore. (b) @ 15% if total income exceeds one crore.

Marginal relief: (a) Where total income exceeds fifty lakh the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income tax on a total income of fifty lakh by more than the amount of income that exceeds Rs fifty lakh.
(b) Where total income exceeds one crore rupees the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Health and Education cess: On the amount of income tax and surcharge, if any @ 4%.

In case of an individual resident in India, whose total income does not exceed Rs 3, 50,000, shall be entitled to a deduction from the amount of income tax payable upto Rs 2,500. (Section 87A)

Illustration :

The total income of Mr. A. for the Assessment Year 2018-19 is Rs 10, 60,000. Mr. A. got the appointment letter from a foreign country. He will leave India on 20th Sept., 2018. His estimated income from 1.4.2018 to 20th Sept., 2018 is Rs 6, 60,000. How much tax he has to pay before leaving India?

SOLUTION

Mr. A has to pay tax on his income as under during the Financial Year 2018-19:

(i) Tax on 10, 60,000 i.e., total income for the Assessment Year 2018-19:

Particulars	Amount Rs
Tax on Rs 2, 50,000	-
Tax on R 2,50,000 @ 5%	12,500
Tax on Rs 5,00,000 @ 20%	1,00,000
Tax on Rs 60,000 @ 30%	18,000
	1,30,500
Add : Education Cess & SHEC @ 3%	3,915
	1,34,415

(ii) Tax on Rs 6, 60,000 (Income upto the date of leaving India) at the rates prescribed for payment of advance tax during the F.Y. 2018-19:

Particulars	Amount Rs
Tax on Rs 2, 50,000	-
Tax on R 2,50,000 @ 5%	12,500
Tax on Rs 1,60,000 @ 20%	32,000
	44,500
Add : Health and Education Cess & SHEC @ 3%	1,780
	46,280

Note: The tax is payable in the same year (2018-19) in which the income is earned (2018-19).

MAXIMUM MARGINAL RATE [Sec. 2(29C)]

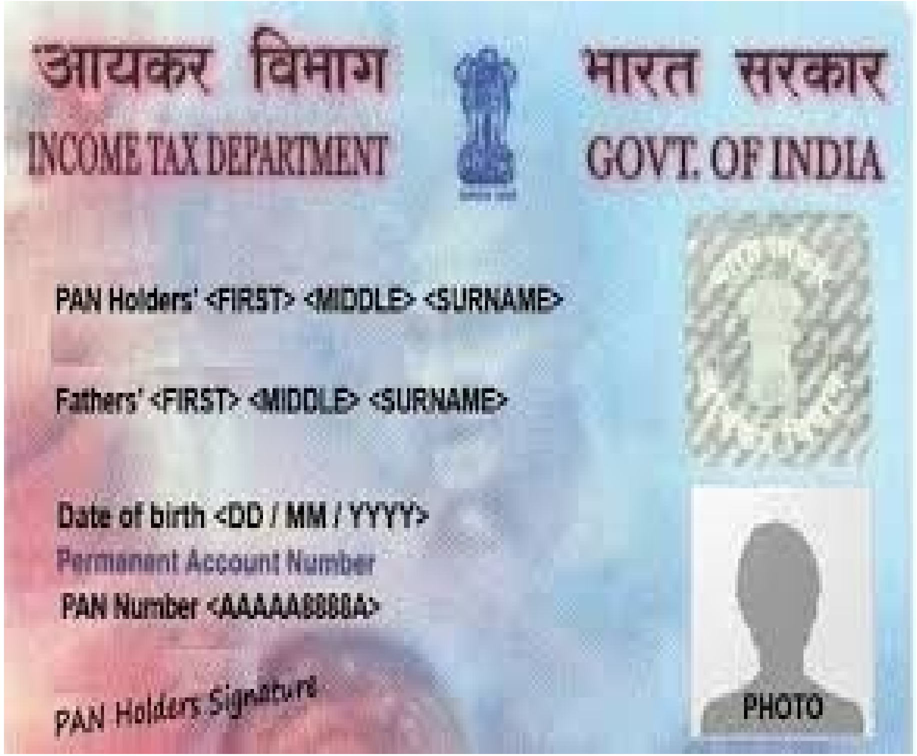
Income Slab	Existing Surcharge	After Budget	Max Marginal Tax Rate
₹50 L to ₹1 cr	10%	10%	34.20%
₹1 cr to ₹2 cr	15%	15%	35.88%
₹2 cr to ₹5 cr	15%	25%	39%
Above ₹5 cr	15%	[illegible]	[illegible]

It means the rate of income tax (including surcharge on income tax, if any) applicable in relation to the highest slab of income in the case of an individual, association of persons or body of individuals as specified in the Finance Act of the relevant year.

Note: The rate of income tax for the highest slab of income for the assessment year 2018-19 is 30%. Surcharge @ 10%

If total income exceeds fifty lakh but does not exceed one crore. If total income exceeds one crore @ 15%. Further, on the amount of income tax and surcharge education cess & SHEC is leviable @3%.

PERMANENT ACCOUNT NUMBER (Sec. 139A)



PAN means a number which the Assessing Officer may allot to any person for the purpose of identification.

PAN has ten alphanumeric characters and it is issued in the form of laminated card.

Application for PAN: If an assessee has not been allotted a Permanent Account Number he must apply for it in Form No. 49A within the prescribed time. The Assessing Officer has also got power to allot to any other person a Permanent Account Number if tax is payable by such person.

Quoting PAN: Once a Permanent Account Number has been allotted, such number must be quoted in all Returns, correspondence with Income Tax Authorities, challans for payment and in all documents prescribed by the Board.

It helps in linking the aforesaid documents to his assessment records to facilitate quick disposal of his assessment and refund claim.

The assessee must intimate to the Assessing Officer about any change in the address, name or nature of business carried on by him.

TAX DEDUCTION AND COLLECTION ACCOUNT NUMBER (Sec. 203A)

Every person, deducting tax or collecting tax at source, who has not been allotted a tax deduction account number or a tax collection account number, shall apply in duplicate in Form No. 49B within one month from the end of the month in which the tax was deducted or collected to the A.O. for the allotment of a 'tax deduction and collection account number.

Where a "tax deduction and collection account number" has been allotted to a person, he shall quote such number in the prescribed documents.