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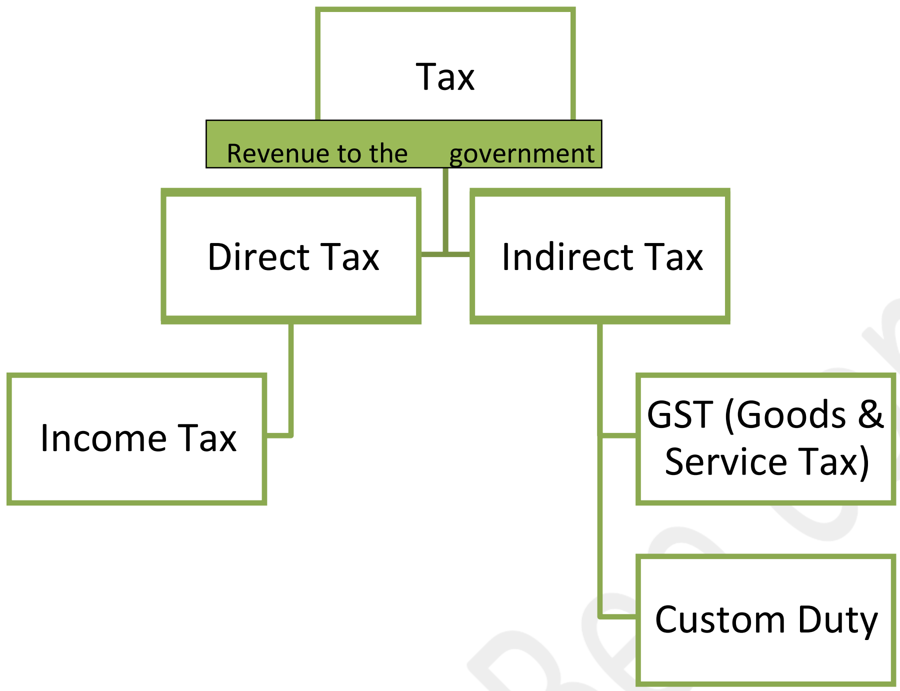
Study Notes

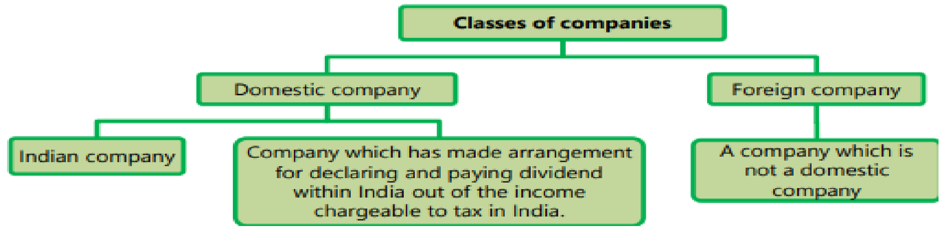
Basics
Income Tax

Tax Structure



Income Tax - Basics

1. **Governed By -** The Income Tax Act, 1961
2. **Amendments made –** By the Finance Act
3. **Heads under Income Tax**
    a. **Salaries**
    b. **Income from House Property**
    c. **Profits and Gains from Business & Profession**
    d. **Capital Gains**
    e. **Income from Other Sources**
4. **Assessee [Section 2(7)]** - the person by whom any tax or any other sum of money is payable under the Act
    - **Person** – includes the following:
        a) Individual
        b) Hindu Undivided Family (HUF)
        c) Company
            - Domestic Company
            - Foreign Company



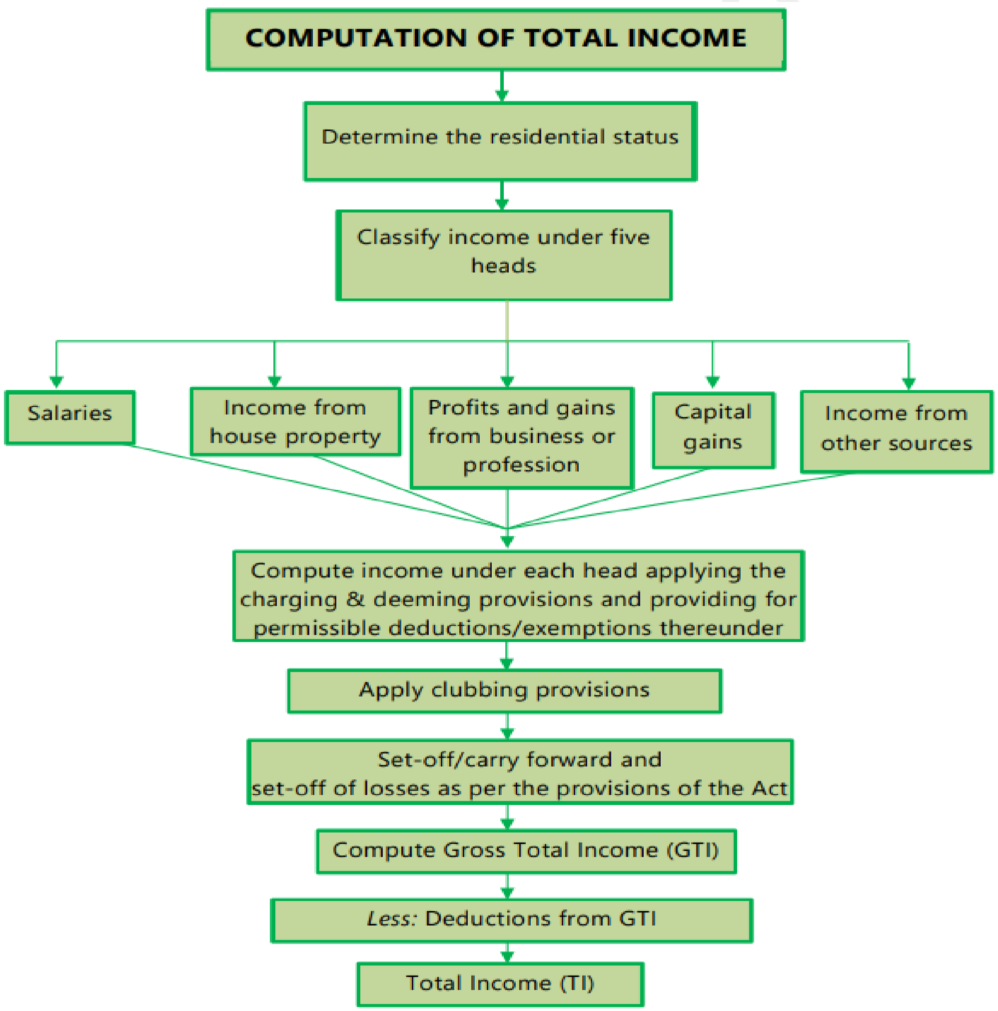
Source - ICAI

d) Firm
e) Association of Persons (AOP) / Body of Individuals (BOI)
f) Local Authority
g) Artificial Judicial Person (AJP)

5. **Assessment: [Section 2(8)]** - Procedure by which income of an assessee is determined.

6. **Assessment Year [Section 2(9)]** – Income of a particular year is taxable in the immediately following year. The immediate following year is called Assessment Year.

7. **Previous Year [Section 3]** – means the financial year to which the income belongs to.



Tax Rate

For Individuals

Indian Income tax levies tax on individual taxpayers on the basis of a slab system. Income tax has classified three categories of “individual” taxpayers as below; however, under New tax regime, no such categorization is applicable for individuals

- Individuals (aged less than of 60 years) including residents and non-residents
- Resident Senior citizens (60 to 80 years of age)
- Resident Super senior citizens (aged more than 80 years)

The Budget 2020 introduces a new regime under section 115BAC giving an option to individuals and HUF taxpayers to pay income tax at lower rates. The new system is applicable for income earned from 1 April 2020 (FY 2020-21), which relates to AY 2021-22. So the taxpayer may choose to go with new or old regime of taxation. In this new regime, taxpayer has **an OPTION to choose either**:

1. To pay income tax at lower rates as per New Tax regime on the condition that they forgo certain permissible exemptions and deductions available under income tax, out of which the most common are Leave Travel allowance (LTA), House rent allowance (HRA), Conveyance allowance, children education allowance, professional tax, interest on housing loan (u/s 24), deduction under Chapter VI-A (80C, 80D, 80E). He will continue to get **deduction benefit** for investment in Pension scheme under 80CCD(2), Deduction for employment of new employees under section 80JJAA, Depreciation u/s 32 of the Income-tax act except additional depreciation, Any allowance for travelling for employment or on transfer

OR

2. To continue to pay taxes under the existing tax rates. The assessee can avail rebates and exemptions by staying in the old regime and paying tax at the existing higher rate.

The tax slabs under old and new regime for Assessment Year 2023-2024(PY 2022-2023) are:

Income Tax Slab	Existing Regime Slab Rates			New Regime Slab Rates
	Resident Individuals & HUF < 60 years & NRIs	Resident Individuals & HUF > 60 to < 80 years	Resident Individuals & HUF > 80 years	Applicable for All Individuals & HUF
Rs 0.0 – Rs2.5 Lakhs	NIL	NIL	NIL	NIL
Rs 2.5 – Rs.3.00 Lakhs	5% (tax rebate u/s 87a is available)	NIL	NIL	5% (tax rebate u/s 87a is available)
Rs. 3.00- Rs.5.00 Lakhs		5% (tax rebate u/s 87a is available)	NIL	
Rs. 5.00 – Rs.7.5 Lakhs	20%	20%	20%	10%
Rs 7.5 – Rs.10.00 Lakhs	20%	20%	20%	15%
Rs 10.00 – Rs.12.50 Lakhs	30%	30%	30%	20%
Rs. 12.5 – Rs.15.00 Lakhs	30%	30%	30%	25%
> Rs.15 Lakhs	30%	30%	30%	30%

Note:

- *Old regime is a better option for high-income earners.*
- *The new income tax regime is beneficial for people who make low investments, or invest* **less in tax-saving scheme**
- *Individuals with Net taxable income less than or equal to Rs.5 lakh will be eligible for tax* ***rebate u/s 87A*** *i.e tax liability will be nil of such individual in both – New and old/existing tax regimes. [Rebate Amount: 12500 or Tax amount, whichever is lower]*

The tax slabs under new regime for Assessment Year 2024-2025(PY 2023-2024) are:

S. No.	***Total Income***	***Rate of tax***
1.	*Upto ₹ 3,00,000*	*Nil*
2.	*From ₹ 3,00,000 to ₹ 6,00,000*	*5%*
3.	*From ₹ 6,00,000 to ₹ 9,00,000*	*10%*
4.	*From ₹ 9,00,000 to ₹ 12,00,000*	*15%*
5.	*From ₹ 12,00,000 to ₹ 15,00,000*	*20%*
6.	*Above ₹ 15,00,000*	*30%*

Time to choose between schemes:

Nature of Income	Time of Selection of option of old vs new regime
Income from Salary or any other head of income attracting TDS	An employee can opt to choose for the new tax regime and intimate their employer at the beginning of FY. Employees can change the option of selecting the tax regime every year However if new tax slab regime is opted at the beginning of the year, it cannot be changed anytime during the year for TDS purpose, however the option can be changed at the time of filing of Income-tax return. If the employee does not inform the employer of an option, tax on salary will be deducted on the basis of the new tax regime.
Income from Business & Profession	In case of Business or profession income, the option to choose between the tax regimes is available only once for a particular business.

Tax Rate for Other Persons

a. Partnership firm/ LLP – 30%
b. Local Authority – 30%
c. Co-operative society – Slab rate applicable i. Till Rs.10,000 -10%
ii. Rs.10,000 to Rs.20,000 – 20%
iii. Above 20,000 – 30%
d. **Foreign Company –** 40%
e. **Domestic Company –**

Particulars	Tax rates
Company opts for section 115BAB (not covered in section 115BA and 115BAA) & is **registered on or after October 1, 2019 and has commenced manufacturing on or before 31st March, 2023.**	**15%**
Company opts for Section 115BAA , wherein the total income of a company has been calculated **without claiming specified deductions, incentives**, exemptions and additional depreciation	22%
Company opts for section 115BA registered on or after March 1, 2016 and engaged in manufacture of any article or thing and does not claim deduction as specified in the section clause.	25%
Turnover or gross receipt of the company is less than Rs.400 crore in the previous year 2018-19	25%
Any other domestic company (i.e. **claiming other incentives)**	30%

Surcharge

- **Surcharge applicable as per tax rates for individuals**
  - 10% of income tax, where total income exceeds Rs.50 lakh up to Rs.1 crore.
  - 15% of income tax, where the total income exceeds Rs.1 crore but is up to 2 crore.
  - 25 % of income tax, where the total income exceeds 2 crore but is up to 5 crore.
  - 37% of income tax, where the total income exceeds 5 crore.
- **Surcharge** applicable **for Partnership firms/LLP**:
  - 12% Surcharge is levied on incomes above Rs.1 crore.
- **Surcharge** applicable **for companies** is as below:
  - 7% of Income tax where total income > Rs.1 crore
  - 12% of Income tax where total income > Rs.10 crore
  - 10% of tax where domestic company opted for section 115BAA and 115BAB

Marginal Relief

Marginal relief is a **Relief from Surcharge**, provided in cases where the **Surcharge payable exceeds the additional income that makes the person liable for Surcharge**. The amount payable as Surcharge shall not exceed the amount of income earned exceeding ₹ 50 lakh, ₹ 1 crore, ₹ 2 crore or ₹ 5 crore respectively.

Cess

Health and Education cess at the rate of 4 % will be added to the income tax liability in all cases.

Dividend Taxability – Finance Act 2020

Up to Assessment Year 2020-21, if a shareholder gets dividend from a domestic company then he shall not be liable to pay any tax on such dividend as it is exempt from tax under section 10(34) of the Act. However, in such cases, the domestic company is liable to pay a Dividend Distribution Tax (DDT) under section 115-O.

The Finance Act, 2020 abolished the DDT and move to the classical system of taxation wherein dividends are taxed in the hands of the investors for dividends distributed on or after 1 April 2020.

The taxability of dividends in the hands of the company as well as shareholders from Assessment Year 2021-22 would be as under:

- **Obligation of the domestic companies**
  - The domestic companies shall **not be liable to pay DDT** on dividend distributed to shareholders on or after 01-04-2020. However, domestic companies shall be liable to **deduct tax under Section 194 at the rate of 10%** from dividend distributed to the resident shareholders if the aggregate amount of dividend distributed or paid during the financial year to a shareholder **exceeds Rs. 5,000.**
  - No tax shall be required to be deducted from the dividend paid or payable to LIC, GIC or any other insurer in respect of any shares owned by it or in which it has full beneficial interest.
  - However, where the dividend is payable to a non-resident or a foreign company, the tax shall be deducted under Section 195 in accordance with relevant DTAA.

- **Taxability in hands of shareholders**
  - Section 10(34), which provides an exemption to the shareholders in respect of dividend income, is withdrawn from Assessment Year 2021-20. Dividends received during the financial year 2020-21 and onwards shall now be taxable in the hands of the shareholders.
  - Consequently, **Section 115BBDA** which provides for **taxability of dividend in excess of Rs.10 lakh** has no relevance as the entire amount of dividend shall be taxable in the hands of the shareholder. Final dividend including deemed dividend shall be taxable in the year in which it is declared, distributed or paid by the company, whichever is earlier. Whereas interim dividend is taxable on receipt basis.
  - The dividend income shall be chargeable to **tax at normal tax rates** as applicable in the case of an assessee.
  - In the case of a non-resident shareholder, the provisions of Double Taxation Avoidance Agreements (DTAAs) and Multilateral Instrument (MLI) shall also come into play. The dividend income, in the hands of a non-resident person (including FPIs and nonresident Indian citizens (NRIs)), is taxable at the rate of 20% without providing for deduction under any provisions of the Income-tax Act.

Income Tax Amendments – Finance Act 2021

- **Scrapping of Retro tax law**
    - The 2012 Act had amended the IT Act to impose tax liability on the income earned from the sale of shares of a foreign company on a retrospective basis (i.e., also applicable to the transactions done before May 28, 2012). Under that law, if a company is registered or incorporated outside India, its shares will be deemed to be or have always been situated in India if they derive their value substantially from the assets located in India. As a result, the persons who sold such shares of foreign companies before the enactment of the Act (i.e., May 28, 2012) also became liable to pay tax on the income earned from such sale.
    - The 2021 Amendment nullified this retrospective basis for taxation

- As per Section 139AA, it is **mandatory** for every person who has been allotted **PAN** as on 1st July 2017 and who is eligible to obtain Aadhaar number, shall **link his Aadhaar number** with PAN. As per latest notification, the due date for such linking has been extended to **31 March 2022**. If any person fails to link his Aadhaar number with PAN on or before the due date for linking, after due date such person has to pay penalty fee not exceeding Rs.1,000 as introduced under new Section 234H by Finance Act, 2021.

- **New section 2(29A)** has been inserted by Finance Act, 2021 which **defines "Liable to tax",** in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country.

- **No Depreciation on Goodwill – Applicable w.e.f. A.Y. 2021-22**
  - Definition of "block of asset" has been amended to exclude "goodwill of a business or profession".
  - Amendment to Section 32(1) has been made to exclude "goodwill of a business or profession" from intangible assets for depreciation purpose.

- **Increase in Tax Audit limit – Section 44AB – Applicable w.e.f. A.Y. 2021-22**
  - As per section 44AB of the Act, any person carrying on business shall get his accounts audited, where his **total sales or turnover or gross receipts** in business **exceeds Rs.1 crore** in any financial year.
  - **As per Finance Act, 2021**, the limit of Rs.1 crore has been **increased to Rs.10 crore** [As per Finance Act, 2020 – Rs.5 crore];
    - if aggregate of all receipts including sales/ Turnover/ gross receipts during financials year in cash does not exceed 5% of the total receipts; **and**
    - aggregate of all payments including expenses incurred during financials year in cash does not exceed 5% of the total payments.

  - In case of profession: If gross receipts exceed Rs. 50 Lakhs during PY.

- **Computation of Capital Gain in case of Slump Sale or Slump Exchange – Applicable w.e.f. A.Y. 2021-22**
  - As per Section 2(42C) [up to A.Y. 2020-21], "Slump Sale" means the transfer of one or more undertakings as a **result of the sale** for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.
  - Definition of slump sale under section 2(42C) has been amended via Finance Act 2021 to include all type of transfer defined under section 2(47). As per Section 2(42C) w.e.f. A.Y. 2021-22, "Slump Sale" means the transfer of one or more undertakings, **by any means** for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

- **Taxability of Interest on Provident Fund (PF) Contribution by Employee – Applicable w.e.f. A.Y. 2022-23**
  - As per the existing provision, interest on the contribution made by the employees to the statutory provident fund, recognised provident fund and the public provident fund is exempt from tax.
  - As per the Finance Act, 2021 no exemption shall be available for the interest income accrued during the previous year in the recognised and statutory provident fund to the extent it relates to the contribution made by the employees over Rs. 2,50,000 [if contribution to such fund by the employer] / Rs.5,00,000 [if no contribution to such fund by the employer] in the previous year.

- The interest income shall be taxable under the head 'Income from other sources' at the slab rate applicable to the assessee.
- Manner of calculating interest subject to tax shall be provided by the government.

- **Only resident individuals and partnership firms are allowed eligible for presumptive taxation scheme under section 44ADA – Applicable w.e.f. A.Y. 2021-22**
  - Section 44ADA provides for computation of profit and gains of profession on a presumptive basis. It applies to an assessee engaged in the specified profession u/s 44AA(1) and resident in India. Under the presumptive taxation scheme, the assessee computes the taxable income on a presumptive basis if gross receipts of the profession do not exceed Rs. 50 lakhs during the year. The presumptive income shall be 50% of total receipts of the year from such a profession.
  - Upto A.Y. 2020-21, this presumptive taxation scheme was eligible to all assessee resident in India; however, from A.Y. 21-22 this presumptive taxation scheme shall be eligible only to resident individual and resident partnership firm in India. Thus, AOP, BOI, HUF, Company, LLP; etc resident in India shall be ineligible to claim presumptive taxation scheme u/s 44ADA.

- **Taxation of Unit Linked Insurance Plan (ULIP) – Applicable w.e.f. A.Y. 2022-23**
  - ULIP is defined as the life insurance policy which includes risk cover for policyholders and investment.
  - Up to A.Y. 2021-22, amount received under the ULIP is exempt from tax, if the premium payable for any of the years during the term of the policy does not exceeds 10% of the actual sum assured [Policy issued on or after 1st April 2012; if policy is issued on or after 1st April 2003 but on or before 31st March 2012, then 20% shall be considered instead of 10%].
  - From A.Y. 2022-23, exemption u/s 10(10D) of the Act shall not be available to any ULIP issued on or after 1st February 2021 and amount of premium payable for any of the previous year during the term of such policy is more than Rs.2,50,000

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