

# BASIC CONCEPTS

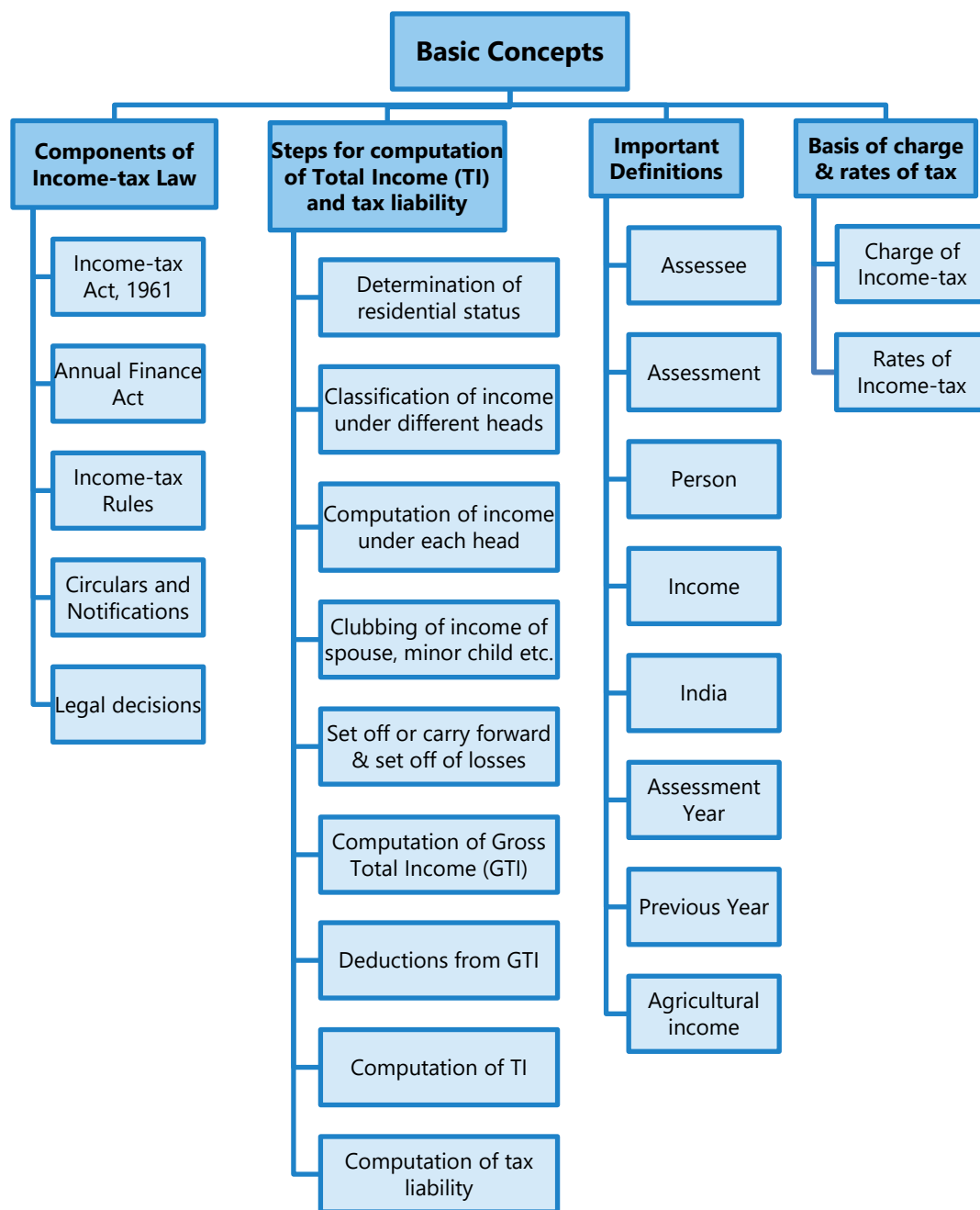


## LEARNING OUTCOMES

**After studying this chapter, you would be able to-**

- ◆ **comprehend** the meaning of tax and types of taxes;
- ◆ **discern** the difference between direct and indirect taxes;
- ◆ **appreciate** the components of income-tax law;
- ◆ **comprehend** the procedure for computation of total income for the purpose of levy of income-tax;
- ◆ **comprehend** and appreciate the meaning of the important terms used in the Income-tax Act, 1961;
- ◆ **comprehend** the meaning and scope of agricultural income and apply the same to identify whether a particular income falls within the scope of agricultural income;
- ◆ **identify** the operations which are partly agricultural and partly non-agricultural and compute the agricultural income and business income arising from such operations;
- ◆ **recognise** the previous year and assessment year for the purpose of computing income chargeable to tax under the Income-tax Act, 1961;
- ◆ **examine** the circumstances when income of the previous year would be assessed to tax in the previous year itself;

- ♦ **apply** the rates of tax applicable on different components of total income of a person for the purpose of determining the tax liability of such person under default tax regime u/s 115BAC;
- ♦ **apply** the rates of tax applicable on different components of total income of a person for the purpose of determining the tax liability of such person, who exercises the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act.

**CHAPTER OVERVIEW**



## 1. INTRODUCTION

### 1.1 What is the meaning of tax?

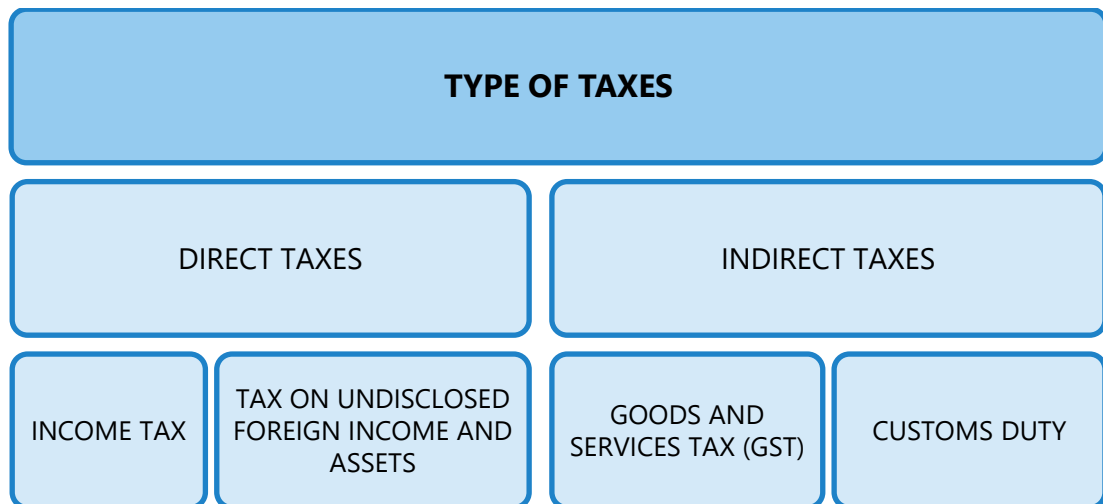
Let us begin by understanding the meaning of tax.

Article 366(28) of the Constitution of India defines the term "Taxation" as follows – "Taxation includes the imposition of any tax or impost, whether general or local or special, and tax shall be construed accordingly."

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.



### 1.2 Why are taxes levied?

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.

### 1.3 Power to levy taxes

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 the 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:

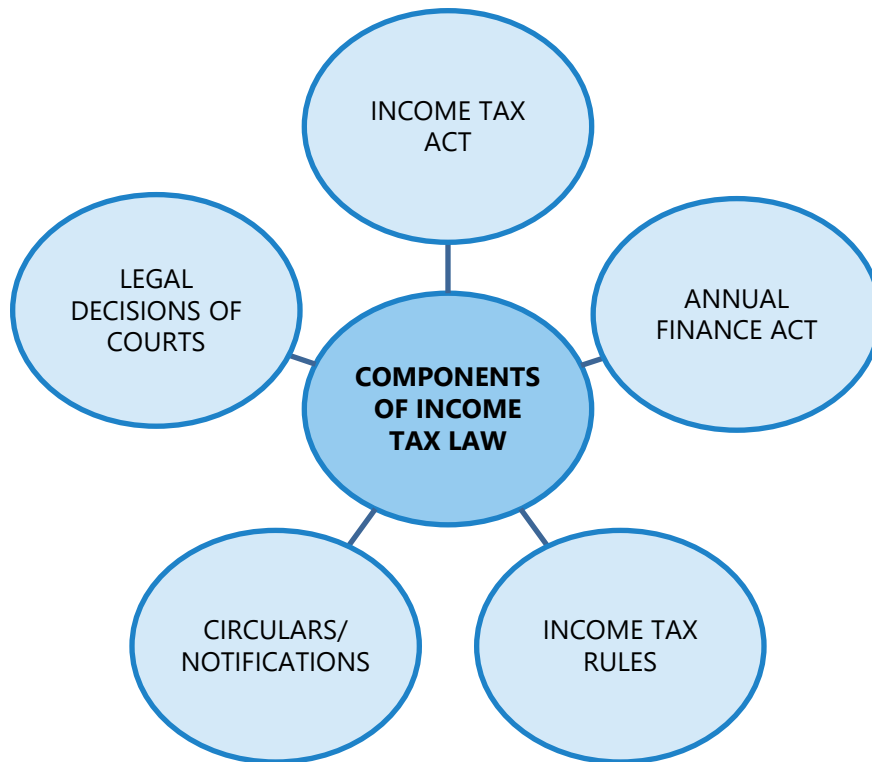
- (i) **Union List:** Parliament has the exclusive power to make laws on the matters contained in Union List.
- (ii) **State List:** The Legislatures of any State has the exclusive power to make laws on the matters contained in the State List.
- (iii) **Concurrent List:** Both Parliament and State Legislatures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



*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.*

### 1.4 Overview of Income-tax law in India

In this material, we would be introducing the students to the Income-tax law in India. The income-tax law in India consists of the following components –



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

### Income-tax Act, 1961

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

- It extends to the whole of India.
  - It came into force on 1<sup>st</sup> April, 1962.
  - It contains sections 1 to 298 and schedules I to XIV.
- ❖ A section may have **sub-sections or clauses and sub-clauses**.
- When each part of the section is independent of each other and one is not related with other, such parts are called a "Clause". "Sub section", on the other hand refers to such parts of a section where each part is related with other and all sub sections taken together completes the concept propounded in that section.

➤ **Example**

- The clauses of section 2 define the meaning of terms used in the Income-tax Act, 1961. Clause (1A) defines “agricultural income”, clause (1B) defines “amalgamation” and so on. Each one of them is independent of other clause of the same section.
- Likewise, the clauses of section 10 contain the exemptions in respect of certain income, like clause (1) provides for exemption of agricultural income and clause (2) provides for exemption of share income of a member of a Hindu Undivided Family and so on.
- Section 5 defining the scope of total income has two sub-sections (1) and (2). Sub-section (1) defines the scope of total income of a resident and sub-section (2) defines the scope of total income of a non-resident. Each sub section is related with the other in the sense that only when one reads them all, one gets the complete idea related with scope of total income.

❖ A section may also have **Provisos and Explanations**.

- The Proviso(s) to a section/sub-section/clause spells out the exception(s)/ condition(s) to the provision contained in the respective section/ sub-section/ clause, i.e., the proviso spells out the cases where the provision contained in the respective section/ sub-section/ clause would not apply or where the provision would apply with certain modification.
- The *Explanation* to a section/ sub-section/ clause gives a clarification relating to the provision contained in the respective section/ sub-section/ clause.

➤ **Example**

- Sections 80GGB and 80GGC provides for deduction from gross total income in respect of contributions made by companies and other persons, respectively, to political parties or an electoral trust.

- The proviso to sections 80GGB and 80GGC provide that no deduction shall be allowed under those sections in respect of any sum contributed by cash to political parties or an electoral trust. Thus, the provisos to these sections spell out the circumstance when deduction would not be available thereunder in respect of contributions made.
- The *Explanation* below section 80GGC provides that for the purposes of sections 80GGB and 80GGC, “political party” means a political party registered under section 29A of the Representation of the People Act, 1951. Thus, the *Explanation* clarifies that the political party has to be a registered political party.
- The Income-tax Act, 1961 undergoes change every year with additions and substitutions brought in by the Annual Finance Act passed by Parliament. Sometimes, the Income-tax Act, 1961 is also amended through other legislations like Taxation Laws (Amendment) Act.

## The Finance Act

Every year, the Finance Minister of the Government of India introduces the Finance Bill in the Parliament’s Budget Session. When the Finance Bill is passed by both the houses of the Parliament and gets the assent of the President, it becomes the Finance Act. Amendments are made every year to the Income-tax Act, 1961 and other tax laws by the Finance Act.

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

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



## Income-tax Rules, 1962

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

- The CBDT is empowered to make rules for carrying out the purposes of the Act.
- For the proper administration of the Income-tax Act, 1961, the CBDT frames rules from time to time. These rules are collectively called **Income-tax Rules, 1962**.
- Rules also have sub-rules, provisos and *Explanations*. The proviso to a Rule/ Sub-rule spells out the exception to the limits, conditions, guidelines, basis of valuation, as the case may be, spelt out in the Rule/ Sub-rule. The *Explanation* gives clarification for the purposes of the Rule.
- It is important to keep in mind that along with the Income-tax Act, 1961, these rules should also be studied.

## Circulars and Notifications

### **Circulars**

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

### **Notifications**

Notifications are issued by the Central Government to give effect to the provisions of the Act. The CBDT is also empowered to make and amend rules for the purposes of the Act by issue of notifications which are binding on both department and assesseees.

## Legal decisions of Courts

Case Laws refer to decision given by courts. The study of case laws is an important and unavoidable part of the study of Income-tax law. It is not possible for

Parliament to conceive and provide for all possible issues that may arise in the implementation of any Act. Hence the judiciary will hear the disputes between the assessee and the department and give decisions on various issues.

The Supreme Court is the Apex Court of the Country and the law laid down by the Supreme Court is the law of the land. The decisions given by various High Courts will apply in the respective states in which such High Courts have jurisdiction.

**Note – Case laws are dealt with at the Final level.**



## 2. 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 or the Income-tax Act, 1961 or both.
- (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.

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

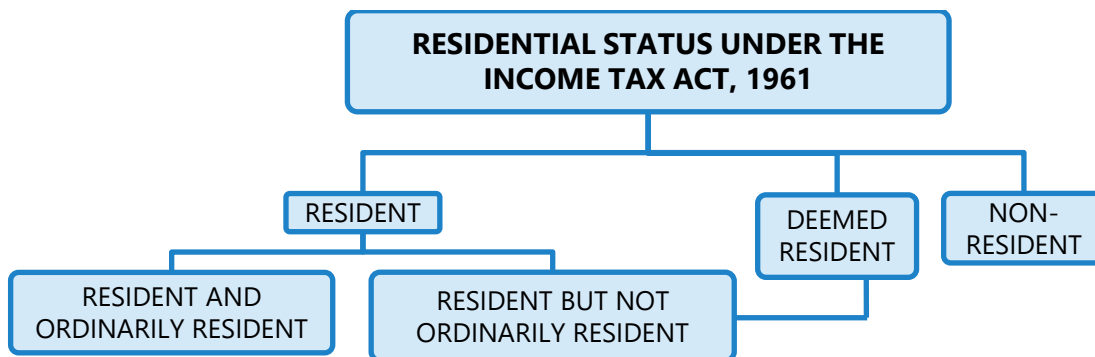
### (1) Total Income and Tax Payable

Income-tax is levied on an assessee's total income. Such total income has to be computed as per the provisions contained in the Income-tax Act, 1961.

Let us go step by step to understand the procedure for computation of total income of an individual for the purpose of levy of income-tax –

**Step 1 – Determination of residential status**

The residential status of a person has to be determined to ascertain which income is to be included in computing the total income. The residential status as per the Income-tax Act, 1961 can be classified as under –



In the case of an individual, the duration for which he is present in India in the relevant previous year or relevant previous year and the earlier previous years determines his residential status. Based on the days spent by him in India, he may be (a) resident and ordinarily resident, (b) resident but not ordinarily resident, or (c) non-resident.

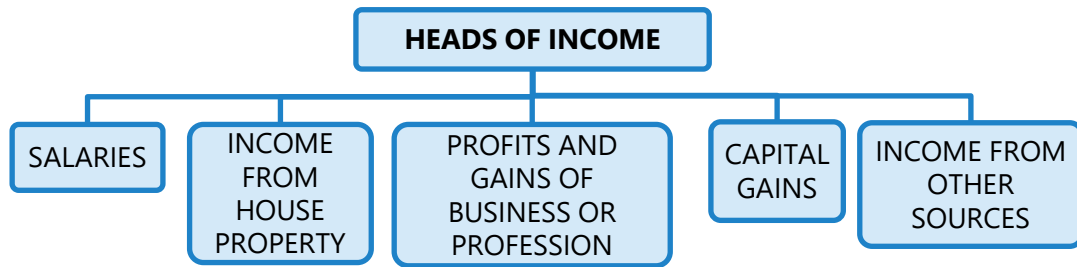
The residential status of a person determines the taxability of the income. For e.g., income earned and received outside India will not be taxable in the hands of a non-resident but will be taxable in case of a resident and ordinarily resident.

There is also a concept of deemed resident for which presence of individual in India is not required. A deemed resident is always a resident but not ordinarily resident in India. Determination of residential status has been discussed in Chapter 2.

**Step 2 – Classification of income under different heads**

A person may earn income from different sources. For example, a salaried person earns income by way of salary. He also gets interest from bank savings account/ fixed deposit. Apart from this, if he has invested in shares, he would be getting dividend and when he sells these shares, he may earn profit on such sale. If he owns a residential property which he has let out, he would earn rental income.

Under the Income-tax Act, 1961, for computation of total income, all income of a tax payer are classified into five different heads of income. These are shown below –



There is a charging section under each head of income which defines the scope of income chargeable under that head. These heads of income exhaust all possible types of income that can accrue to or be received by the tax payer. Accordingly, income earned is classified as follows:

1. Salary, pension etc. earned is taxable under the head **“Salaries”**.
2. Rental income is taxable under the head **“Income from house property”**.
3. Income derived from carrying on any business or profession is taxable under the head **“Profits and gains of business or profession”**.
4. Profit from sale of a capital asset (like land, building and shares) is taxable under the head **“Capital Gains”**.
5. The fifth head of income is the residuary head. Income which is chargeable to tax under the Income-tax Act, 1961 but not taxable under the first four heads will be taxed under the head **“Income from other sources”**.

The tax payer has to classify the income earned under the relevant head of income.

### ***Step 3 – Computation of income under each head***

Income is to be computed in accordance with the provisions governing a particular head of income.

**Exemptions:** There are certain incomes which are wholly exempt from income-tax e.g., agricultural income. These incomes have to be excluded and will not form part of total income.

Also, some incomes are partially exempt from income-tax e.g., Commuted pension. These incomes are excluded only to the extent of the limits specified in the Act. The balance income over and above the prescribed exemption limits would enter computation of total income and have to be classified under the relevant head of income.

**Deductions:** There are deductions and allowances prescribed under each head of income. For example, while calculating income from house property for let out property, municipal taxes and interest on loan are allowed as deduction. Similarly, deductions and allowances are prescribed under other heads of income. These deductions etc. have to be considered before arriving at the net income chargeable under each head.

*These exemptions and deductions would be available to the individual depending upon the regime in which he pays tax. Tax regime under section 115BAC is the default tax regime which provides for concessional rates of tax to individuals/HUFs/AoPs/Bols/Artificial juridical persons. However, certain exemptions and deductions are not allowed under the default tax regime. Such assesseees have an option to opt out of the said regime and pay tax under normal provisions of the Act. These tax regimes i.e., the default tax regime under section 115BAC and optional tax regime under the normal provisions of the Act are discussed in detail later on in this Chapter.*

*For detailed discussion on exemptions and deductions under each head, refer to Chapter 3: Heads of Income.*



#### **Disallowance of expenditure in relation to exempt income [Section 14A]**

- As per section 14A, notwithstanding anything to the contrary, expenditure incurred in relation to any exempt income is not allowed as a deduction while computing income under any of the five heads of income.
- The Assessing Officer is empowered to determine the amount of expenditure incurred in relation to such income which does not form part of total income in accordance with such method as may be prescribed.
- The method for determining expenditure in relation to exempt income for the purpose of disallowance of such expenditure under section 14A is prescribed by the CBDT.
- The provisions of section 14A regarding disallowance of expenses would apply even in a case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income.

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

In case of individuals, income-tax is levied on a slab system on the total income. The tax system is progressive i.e., as the income increases, the applicable rate of

tax increases. Some taxpayers in the higher income bracket have a tendency to divert some portion of their income to their spouse, minor child etc. to minimize their tax burden.

In order to prevent such tax avoidance, clubbing provisions have been incorporated in the Act, under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability. *For detailed discussion, refer to Chapter 4: Income of other persons included in assessee's total income.*

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

An assessee may have different sources of income under the same head of income. He may have profit from one source and loss from the other. For instance, an assessee may have profit from his textile business and loss from his printing business. This loss can be set-off against the profits of textile business to arrive at the net income chargeable under the head "Profits and gains of business or profession".

Similarly, an assessee can have loss under one head of income, say, profits and gains of business or profession and profits under another heads of income, say, income from house property. There are provisions in the Income-tax Act, 1961 for allowing inter-head adjustment in certain cases.

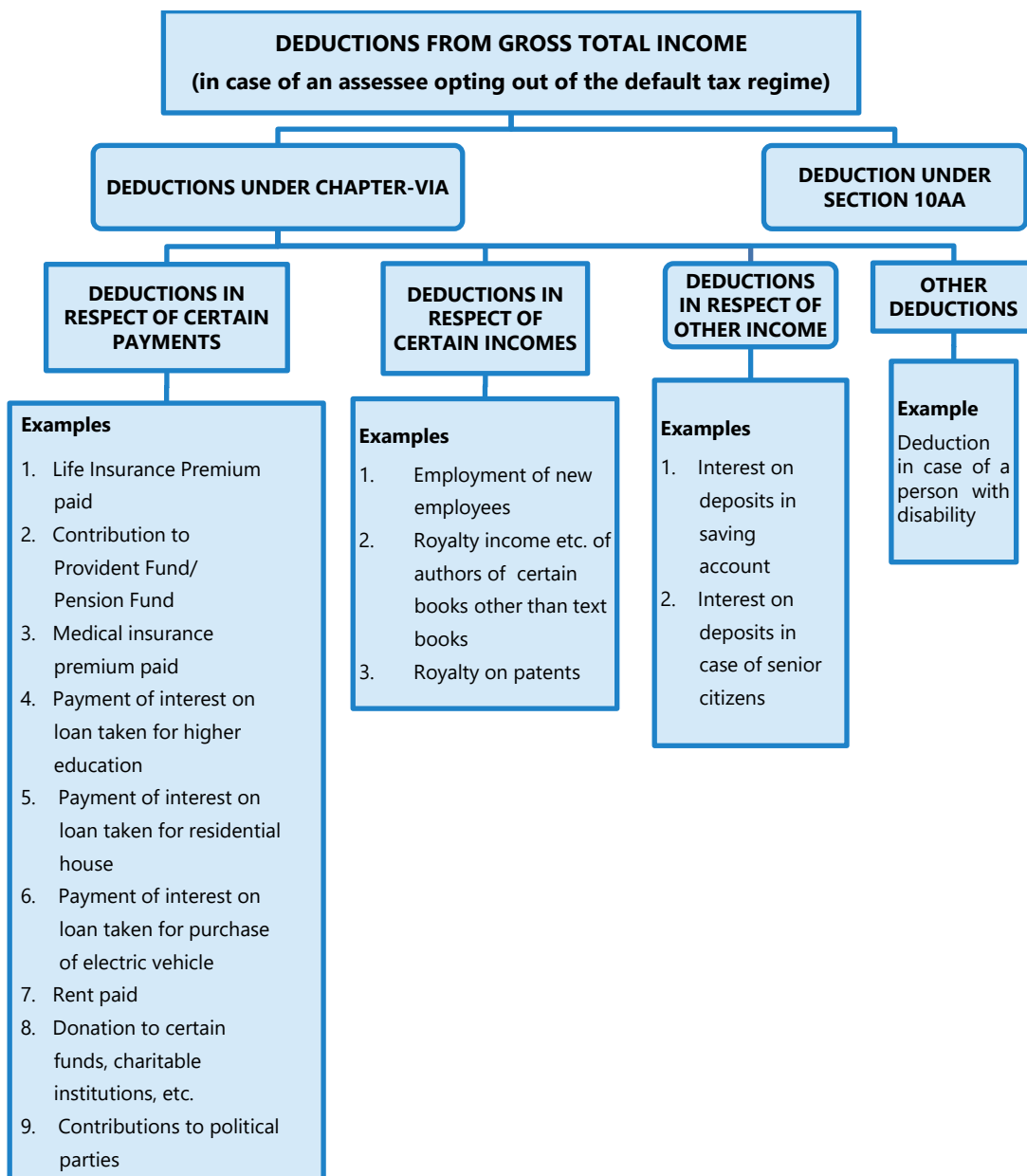
However, there are also restrictions in certain cases, like business loss is not allowed to be set-off against salary income. *Default tax regime under section 115BAC puts further more restrictions like loss from house property cannot be set off from income under any other head.* Further, losses which cannot be set-off in the current year due to inadequacy of eligible profits can be carried forward for set-off in the subsequent years as per the provisions contained in the Act. Generally, brought forward losses under a particular head cannot be set-off against income under another head i.e., brought forward business loss cannot be set-off against income from house property of the current year. For detailed discussion, refer to Chapter 5: Aggregation of income, set-off and carry forward of losses.

### **Step 6 – Computation of Gross Total Income**

The final figures of income or loss under each head of income, after allowing the eligible deductions, allowances and other adjustments, are then aggregated, after giving effect to the provisions for clubbing of income and set-off and carry forward of losses, to arrive at the gross total income.

### Step 7 – Deductions from Gross Total Income

There are deductions prescribed from Gross Total Income. Two types of deductions are allowable from Gross Total Income - Deductions under Chapter VI-A and deduction under section 10AA. *These deductions would be allowable to the assessee who opts out of the default tax regime and pays tax under the optional tax regime as per normal provisions of the Act, subject to fulfillment of requisite conditions stipulated thereunder.*

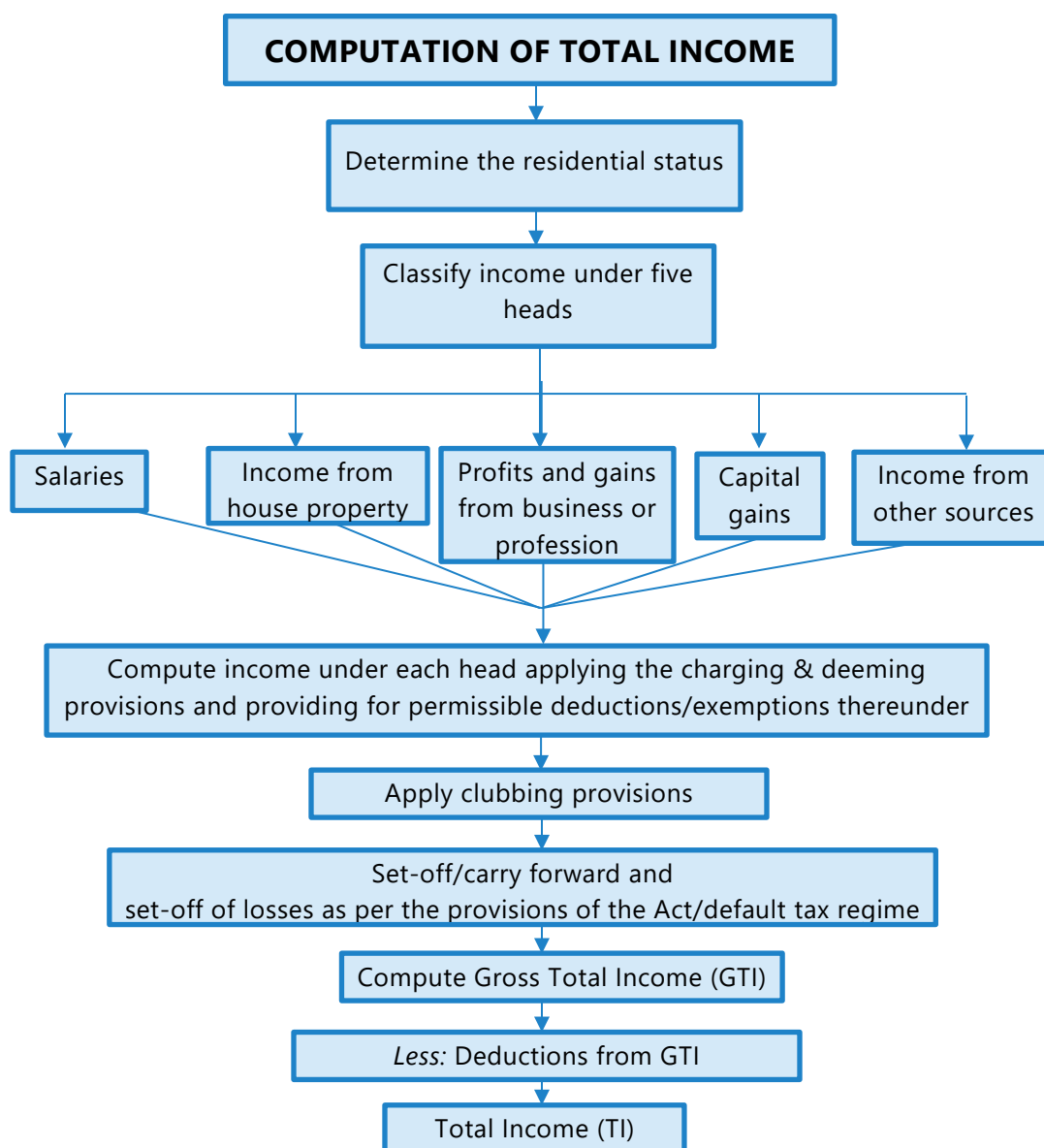


However, under the default tax regime under section 115BAC, only select deductions are permissible.

For detailed discussion, refer to Chapter 6: Deductions from Gross Total Income.

### Step 8 – Computation of Total income

The income arrived at, after claiming the above deductions from the Gross Total Income is known as the Total Income. It should be rounded off to the nearest multiple of ₹ 10 as per section 288A. The process of computation of total income is shown hereunder –





### **Step 9 – Application of the rates of tax on the total income**

#### **Rates prescribed under section 115BAC of the Income-tax Act for default tax regime**

Section 115BAC of the Income-tax Act, 1961 provides for concessional rates of tax to individuals/HUF/AoPs/Bols and artificial juridical persons. Under this regime certain exemptions/deductions are, however, not available like Leave Travel Concession, interest on housing loan on self-occupied property, deductions under Chapter VI-A [other than section 80CCD(2), 80CCH(2) or section 80JJAA] etc. The rates given under section 115BAC are the default tax rates unless the assessee exercises an option to shift out of the said regime. The basic exemption limit under section 115BAC is ₹3,00,000. This means that no tax is payable by an assessee with total income of upto ₹3,00,000. The tax rates under section 115BAC is as follows -

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%

#### **Rates prescribed by the Annual Finance Act under the optional tax regime**

Individuals/HUF/AoPs/Bols and artificial juridical persons, who exercise the option to opt out of the default tax regime under section 115BAC, have to pay tax as per normal provisions of the Act. Under the normal provisions of the Act, the rates of tax are prescribed by the Annual Finance Act of the year.

For individuals, HUF etc., the basic exemption limit is ₹2,50,000. This means that, as per the normal provisions of the Act, no tax is payable by individuals with total income of upto ₹2,50,000. Those individuals whose total income is more than ₹2,50,000 but less than ₹5,00,000 have to pay tax on their total income in excess of ₹2,50,000@5%. Total income between ₹5,00,000 and ₹10,00,000 attracts tax @20%. The highest rate is 30%, which is attracted in respect of income in excess of ₹10,00,000. The tax rates have to be applied on the total income to arrive at the income-tax liability.

*However, resident individuals enjoy rebate under section 87A in both the tax regimes which are discussed later on in this chapter.*

*For certain income (like Long Term Capital Gains, Lottery Income, Specified Short Term Capital Gains etc.), slab rates are not applicable under both the tax regimes. These incomes are taxable at special rates of taxation under both the tax regimes. These special rates are contained in the Income-tax Act, 1961 itself.*

### **Step 10 - Surcharge / Rebate under section 87A**

**Surcharge:** Surcharge is an additional tax payable over and above the income-tax. Surcharge is levied as a percentage of income-tax, where total income exceeds ₹ 50 lakhs. The rates of surcharge applicable for different slabs of total income are discussed later on in this chapter.

**Rebate under section 87A:** *In order to provide tax relief to the individual tax payers, section 87A provides a rebate from the tax payable by an assessee, being an individual resident in India, whose total income does not exceed ₹ 7,00,000 under the default tax regime under section 115BAC or ₹ 5,00,000 under the normal provisions of the Act if he opts out of the default tax regime. Under the default tax regime, an individual whose total income exceeds ₹ 7 lakhs marginally is also entitled to a rebate of the difference between tax on total income and the amount by which the total income exceeds ₹ 7 lakhs, when the former is greater than the latter.*

### **Step 11 – Health and education cess on income-tax**

The income-tax, as increased by the surcharge or as reduced by the rebate under section 87A, if applicable, is to be further increased by an additional surcharge called health and education cess on income-tax @4% of income-tax *plus* surcharge, if applicable.

### **Step 12 – Alternate Minimum Tax (AMT)**

The Income-tax Act, 1961 contains certain profit-linked and investment linked deductions under normal provisions of the Act to promote investment in various sectors. These tax benefits help to reduce the tax liability of the taxpayers who exercise the option to opt out of the default tax regime under section 115BAC and become eligible to claim such deductions. In order to preserve the tax base *vis-a-vis* profit linked and investment linked deductions, the Income-tax Act, 1961 provides for levy of alternate minimum tax. Section 115JC provides for minimum tax to be paid by the taxpayers on their total income without providing profit linked

and investment linked deductions. However, the taxpayer can claim the tax credit of the excess tax paid over the regular income-tax payable.

*Individuals/HUF/AoPs/Bols and artificial juridical persons paying tax under default tax regime under section 115BAC, are not liable to alternate minimum tax under section 115JC.*

*For detailed discussion, refer to Chapter 9: Income-tax liability – Computation and Optimisation.*

**Step 13 – Examine whether to pay tax under the default tax regime under section 115BAC or pay tax under the optional tax regime as per the regular provisions of the Act**

*Total income and tax liability of individuals/HUF/AoPs/Bols and artificial juridical persons may be computed in accordance with both the default tax regime under section 115BAC and as per the regular provisions of the Act including provisions relating to AMT, if applicable. Then, such persons can determine which is more beneficial and accordingly decide whether or not to opt out of the default tax regime under section 115BAC.*

*Individuals/HUF/AoPs/Bols not having income from business or profession can choose whether or not to exercise the option of shifting out of the default tax regime in each previous year. They may choose to pay tax under default tax regime under section 115BAC in one year and exercise the option to shift out of default tax regime in another year.*

**Step 14 – Advance tax and tax deducted/ collected at source**

Although the tax liability of an assessee is determined only at the end of the year, tax is required to be paid in advance in four installments on the basis of estimated income i.e., on or before 15<sup>th</sup> June, 15<sup>th</sup> September, 15<sup>th</sup> December and 15<sup>th</sup> March. However, residents declaring profits under presumptive taxation scheme (where business income is computed as a percentage of gross receipts/turnover) can pay advance tax in one installment on or before 15<sup>th</sup> March instead of four installments. In certain cases, tax is required to be deducted at source from the income by the payer at the rates prescribed in the Income-tax Act, 1961 or the Annual Finance Act. Such deduction should be made either at the time of accrual or at the time of payment, as prescribed by the Act.

**Example:** In the case of salary income, the obligation of the employer to deduct tax at source arises only at the time of payment of salary to the employees.

However, in respect of other payments like, fees for professional services, fees for technical services, interest payable to residents, the person responsible for paying is liable to deduct tax at source at the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier. Such tax deducted at source has to be remitted to the credit of the Central Government through any branch of the RBI, SBI or any authorized bank within the statutory due dates.

*For detailed discussion, refer to Chapter 7: Advance tax, tax deduction at source and tax collection at source.*

### **Step 15: Tax Payable/Tax Refundable**

After adjusting the advance tax and tax deducted/ collected at source, the assessee would arrive at the amount of net tax payable or refundable. Such amount should be rounded off to the nearest multiple of ₹ 10 as per section 288B.

The assessee has to pay the amount of tax payable (called self-assessment tax) on or before the due date of filing of the return. Similarly, if any refund is due, assessee will get the same after filing the return of income.

## **(2) Return of Income**

The Income-tax Act, 1961 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information as to his total income and tax payable. The format for filing of returns by different assesseees is notified by the CBDT. The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are required to be furnished in the return of income. In short, a return of income is the declaration of income by the assessee in the prescribed format.

The Act has prescribed due dates for filing return of income in case of different assesseees. Companies and firms have to mandatorily file their return of income before the due date. Other assesseees are required to file a return of income subject to fulfilling of certain conditions.



## **3. 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.

**Terms defined in the Act:** Section 2 gives definitions of the various terms and expressions used therein. If a particular definition is given in the Act itself, we have to be guided by that definition. For e.g. the term 'perquisite' has been defined under section 17(2) for the purpose of taxation of salaries.

**Terms not defined under the Act:** If a particular definition is not given in the Act, reference can be made to the General Clauses Act or dictionaries.

Students should note this point carefully because certain terms like "dividend", "transfer", etc. have been given a wider meaning in the Income-tax Act, 1961 than they are commonly understood. Some of the important terms defined under section 2 are given below:

### 3.1 Assessee [Section 2(7)]

"Assessee" means a person by whom any tax or any other sum of money is payable under this Act. In addition, it includes –

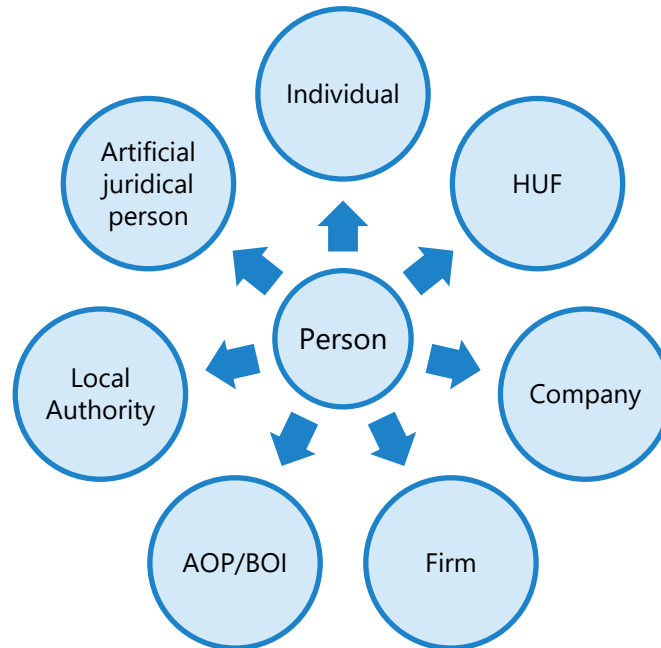
- Every person in respect of whom any proceeding under this Act has been taken for the assessment of
  - his income; or
  - the income of any other person in respect of which he is assessable; or
  - the loss sustained by him or by such other person; or
  - the amount of refund due to him or to such 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.
- Every assessee is a 'person', but every 'person' need not be an assessee.

### 3.2 Assessment [Section 2(8)]

This is the procedure by which the income of an assessee is determined. It may be by way of a normal assessment or by way of reassessment of an income previously assessed. Assessment Procedure will be dealt with in detail at the Final level.

### 3.3 Person [Section 2(31)]

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 persons each of which constitute a separate unit of assessment or a separate tax entity.

#### (i) **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<sup>1</sup> 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.

#### (ii) **HUF**

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

---

<sup>1</sup> under section 161(1)

term "person" under section 2(31). The levy of income-tax is on "every person". Therefore, income-tax is payable by a HUF.

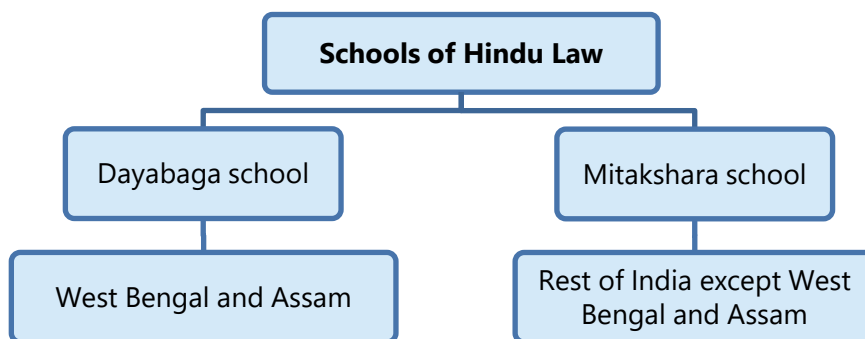
"Hindu undivided family" has not been defined under the Income-tax Act. The expression is, however, defined under the Hindu Law as a family, which consists of all males lineally descended from a common ancestor and includes their wives and daughters.

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 6<sup>th</sup> September, 2005, daughters have also been accorded coparcenary status. It may be noted that only the coparceners have a right to partition.

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. 6<sup>th</sup> 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.



The basic difference between the two schools of Hindu law with regard to succession is as follows:

<b>Dayabaga school of Hindu law</b>	<b>Mitakshara school of Hindu law</b>
Prevalent in West Bengal and Assam	Prevalent in rest of India
Nobody acquires the right, share in the property by birth as long as the head of family is living. Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Hence, the father and his brothers would be the coparceners of the HUF.	One acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus, every child born in the family acquires a right/share in the family property.

### **(iii) Company [Section 2(17)]**

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.

### **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.



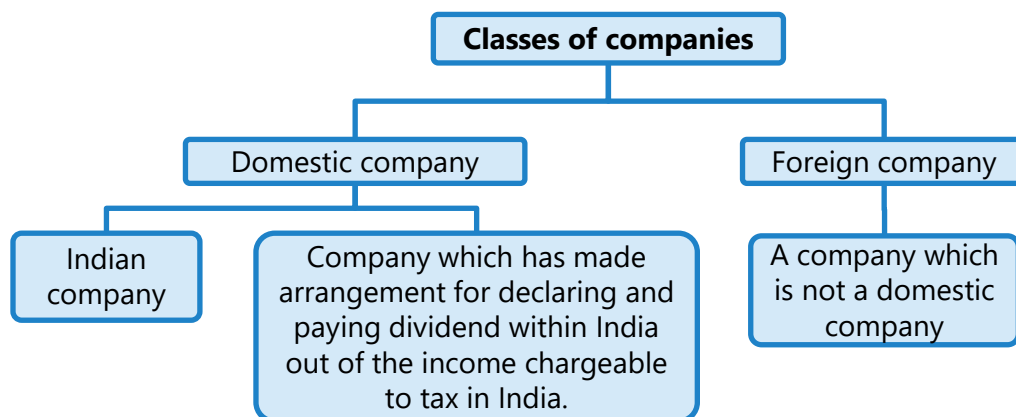
**Indian company [Section 2(26)]** - Two conditions should be satisfied so that a company can be regarded as an Indian company -

- (a) the company should have been formed and registered under the Companies Act, 1956<sup>2</sup> 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 [other than Jammu and Kashmir and Union territories mentioned in sub-clause (v) below];
- (iv) in the case of Jammu and Kashmir, a company formed and registered under any law for the time being in force in Jammu and Kashmir;
- (v) in the case of any of the Union territories of Dadra and Nagar Haveli, Daman and Diu, and Pondicherry or State of Goa, a company formed and registered under any law for the time being in force in that Union territory or State, respectively.

**(2) Foreign company [Section 2(23A)]** - Foreign company means a company which is not a domestic company



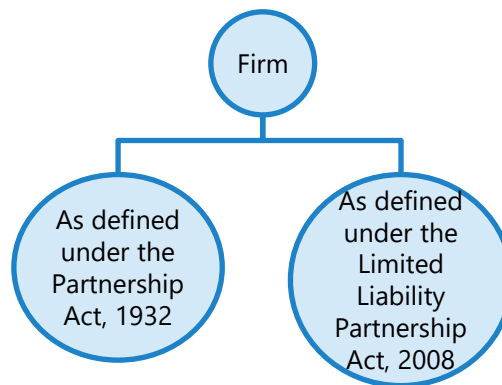
<sup>2</sup> Now Companies Act, 2013

**(iv) Firm [Section 2(23)]**

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.

In an LLP, since liability of the partners is limited to their agreed contribution therein, it contains elements of both a corporate structure as well as a partnership firm structure.

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'.*

**(v) 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. For e.g., Mr. Yash, AB & Co. (Firm) and X (P) Ltd. join together to carry on construction activity otherwise than as a partnership firm, such an association will be recognized as an association of persons.

### **(vi) Body of Individuals (BOI)**

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. For e.g., mutual trade associations, members club, etc.

Section 2(31) further explains that an association of persons or a body of individuals 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.

#### **Difference between AOP and BOI:**

In case of a BOI, only individuals can be the members, whereas in case of AOP, any person can be its member i.e. entities like company, firm etc. can be the member of AOP but not of BOI.

In case of an AOP, members voluntarily come together with a common will for a common intention or purpose, whereas in case of BOI, such common will may or may not be present.

### **(vii) Local Authority**

The term "Local Authority" 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.

### ***(viii) Artificial Juridical Persons***

Artificial Juridical Persons are the entities which are not natural persons but are separate entities in the eyes of law. This is a residual category could cover all artificial persons with a juristic personality not falling under any other category of persons. Deities, Bar Council, Universities are some important examples of Artificial Juridical Persons.

## **3.4 Income [Section 2(24)]**

### ***(1) 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. The following items of receipts are specifically included in the said definition:—

- (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(2)/(3);
- (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 assessee<sup>3</sup> 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) Profits and gains of business or profession chargeable to tax under section 28(ii)/(iii)/(iiia)/(iiib)/(iiic)/(v)/(va);
- (10) Deemed profits chargeable to tax under section 41 or section 59;
- (11) The value of any benefit or perquisite taxable under section 28(iv);
- (12) Any capital gains chargeable under section 45;
- (13) 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;
- (14) 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;
- (15) 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.

---

<sup>3</sup> mentioned in section 160(1)(iii)/(iv)

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.

- (16) Fair market value of inventory as on the date of its conversion into or treatment as a capital asset under section 28(va);
- (17) Any consideration received for issue of shares as exceeds the fair market value of the shares [Section 56(2)(viib)];
- (18) 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)];
- (19) Any sum of money or value of property received without consideration or for inadequate consideration by any person [Section 56(2)(x)];
- (20) 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)];
- (21) *Sum received, including the amount allocated by way of bonus, under a LIP other than under a ULIP and keyman insurance policy, which is not exempt u/s 10(10D), to the extent the same exceeds the aggregate of the premium paid during the term of the policy, and not claimed as deduction under any other provision of the Act [Section 56(2)(xiii)];*

*[For details, refer to Unit 5 of Chapter 3: Income from Other Sources]*

- (22) 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.

## **(2) Concept of Income under the Income-tax Act, 1961**

- **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, jewellery.
- **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 3: Profits and gains of business or 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.
- **Application of Income vis-a-vis Diversion of Income:** Application of income means to discharge an obligation (which is gratuitous or self-imposed) after such income reaches the assessee. Where by virtue of an obligation by overriding title, income is diverted before it reaches the assessee, it is known as diversion of income. In case of the former, the income would be taxable in the hands of the person who applies it, whereas in the case of the latter, it is not taxable (i.e., even if the assessee were to collect the income he does so on behalf of the person to whom it is payable).

### (3) Concept of revenue and capital receipts

Students should carefully study the various items of receipts included in the definition of income. Some of them like capital gains are not revenue receipts. However, since they have been included in the definition, they are chargeable as

income under the Act. The concept of revenue and capital receipts is discussed hereunder -

The Act contemplates a levy of tax on income and not on capital and hence it is very essential to distinguish between capital and revenue receipts. Capital receipts cannot be taxed, unless they fall within the scope of the definition of "income" and so the distinction between capital and revenue receipts is material for tax purposes.

Certain capital receipts which have been specifically included in the definition of income are compensation for modification or termination of services, income by way of capital gains etc.

It is not possible to lay down any single test as infallible or any single criterion as decisive, final and universal in application to determine whether a particular receipt is capital or revenue in nature. Hence, the capital or revenue nature of the receipt must be determined with reference to the facts and circumstances of each case.

***Criteria for determining whether a receipt is capital or revenue in nature***

The following are some of the important criteria which may be applied to distinguish between capital and revenue receipts.

**Fixed capital or Circulating capital:** A receipt referable to fixed capital would be a capital receipt whereas a receipt referable to circulating capital would be a revenue receipt. The former is not taxable while the latter is taxable. Tangible and intangible assets which the owner keeps in his possession for making profits are in the nature of fixed capital. The circulating capital is one which is turned over and yields income or loss in the process.

**Income from transfer of capital asset or trading asset:** Profits arising from the sale of a capital asset are chargeable to tax as capital gains under section 45 whereas profits arising from the sale of a trading asset being of revenue nature are taxable as income from business under section 28 provided that the sale is in the regular course of assessee's business or the transaction constitutes an adventure in the nature of trade.

***Capital Receipts vis-a-vis Revenue Receipts: Tests to be applied***

- (1) Transaction entered into the course of business:** Profits arising from transactions which are entered into in the course of the business regularly carried on by the assessee, or are incidental to, or associated with the business of the assessee would be revenue receipts chargeable to tax.



**Example:** A banker's or financier's dealings in foreign exchange or sale of shares and securities, a shipbroker's purchase of ship in his own name, a share broker's purchase of shares on his own account would constitute transactions entered and yielding income in the ordinary course of their business. Whereas building and land would constitute capital assets in the hands of a trader in shares, the same would constitute stock-in-trade in the hands of a property dealer.

- (2) **Profit arising from sale of shares and securities:** In the case of profit arising from the sale of shares and securities, the nature of the profit has to be ascertained from the motive, intention or purpose with which they were bought. If the shares were acquired as an investor or with a view to acquiring a controlling interest or for obtaining a managing or selling agency or a directorship, the profit or loss on their sale would be of a capital nature; but if the shares were acquired in the ordinary course of business as a dealer in shares, it would constitute his stock-in-trade. If the shares were acquired with speculative motive, the profit or loss (although of a revenue nature) would have to be dealt with separately from the profit or loss of other businesses.



*Securities held by Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992 would be treated as a capital asset. Even if the nature of such security in the hands of the Foreign Portfolio Investor is stock-in-trade, the same would be treated as a capital asset and the profit on transfer would be taxable as capital gains.*

- (3) **A single transaction - Can it constitute business?** Even a single transaction may constitute a business or an adventure in the nature of trade even if it is outside the normal course of the assessee's business. Repetition of such transactions is not necessary. Thus, a bulk purchase followed by a bulk sale or a series of retail sales or bulk sale followed by a series of retail purchases would constitute an adventure in the nature of trade and consequently, the income arising therefrom would be taxable. Purchase of any article with no intention to resell it, but resold under changed circumstances would be a transaction of a capital nature and capital gains would arise. However, where an asset is purchased with the intention to resell it, the question whether the profit on sale is capital or revenue in nature depends upon (i) the conduct of the assessee, (ii) the nature and quantity of the article purchased, (iii) the nature of the operations involved, (iv) whether the venture is on capital or revenue account, and (v) other related circumstances of the case.

- (4) **Liquidated damages:** Receipt of liquidated damages directly and intimately linked with the procurement of a capital asset, which lead to delay in coming into existence of the profit-making apparatus, is a capital receipt. The amount received by the assessee towards compensation for sterilization of the profit earning source is not in the ordinary course of business. Hence, it is a capital receipt in the hands of the assessee.
- (5) **Compensation on termination of agency/service contract:** Where an assessee receives compensation on termination of the agency business being the only source of income, the receipt is of capital nature, but taxable under section 28(ii)(c). However, where the assessee has a number of agencies and one of them is terminated and compensation is received therefor, the receipt would be of a revenue nature since taking up an agency and exploiting the same for earning income is in the ordinary course of business. The loss of one agency would be made good by profit from another agency. Compensation received from the employer or from any person for premature termination of the service contract is a capital receipt, but is taxable as profit in lieu of salary under section 17(3) or as income from other sources under section 56(2)(xi), respectively. Compensation received or receivable in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income.
- (6) **Gifts:** Normally, gifts constitute a capital receipt in the hands of the recipient. However, certain gifts are brought within the purview of income-tax, for example, receipt of property without consideration is brought to tax under section 56(2)(x).

For example, any sum of money or value of property received without consideration or for inadequate consideration by any person, other than a relative, is chargeable under the head "Income from Other Sources" [For details, refer to Unit - 5 of Chapter 3 :Income from Other Sources].

### 3.5 India [Section 2(25A)]

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.

### 3.6 Agricultural income [Section 2(1A)]

Agricultural income definition is very wide and covers the income of not only the cultivators but also the land holders who might have rented out the lands. Agricultural income may be received in cash or in kind.

**Agricultural income may arise in any one of the following three ways:-**

- (1) It may be rent or revenue derived from land situated in India and used for agricultural purposes.
- (2) It may be income derived from such land by
  - (a) **agriculture** or
  - (b) the performance of a **process ordinarily employed** by a cultivator or receiver of rent in kind **to render the produce fit to be taken to the market** or
  - (c) the **sale**, by a cultivator or receiver of rent in kind, **of such agricultural produce raised or received by him**, in respect of which no process has been performed other than a process of the nature mentioned in point (b) above.
- (3) Lastly, agricultural income may be derived from any **farm building** required for agricultural operations.

Now let us take a critical look at the following aspects:

- (1) **Rent or revenue derived from land situated in India and used for agricultural purposes:** The following three conditions have to be satisfied for income to be treated as agricultural income:

- (a) Rent or revenue should be derived from land;
- (b) land has to be situated in India (If agricultural land is situated in a foreign country, the entire income would be taxable); and
- (c) land should be used for agricultural purposes.

The amount received in money or in kind, by one person from another for right to use land is termed as **Rent**. The rent can either be received by the owner of the land or by the original tenant from the sub-tenant. It implies that ownership of land is not necessary. Thus, the rent received by the original tenant from sub-tenant would also be agricultural income subject to the other conditions mentioned above.

The scope of the term "**Revenue**" is much broader than rent. It includes income other than rent. For example, fees received for renewal for grant of land on lease would be revenue derived from land.

## (2) Income derived from such land by

### (a) Agriculture

The term "Agriculture" has not been defined in the Act. However, cultivation of a field involving human skill and labour on the land can be broadly termed as **agriculture**.

"Agriculture" means tilling of the land, sowing of the seeds and similar operations. It involves basic operations and subsequent operations.

#### Basic Operations

Those operations by agriculturists which are absolutely necessary for the purpose of effectively raising produce from the land are the basic operations.

#### Subsequent Operations

Operations to be performed after the produce sprouts from the land (e.g., weeding, digging etc.) are subsequent operations. These subsequent operations would be agricultural operations only when taken in conjunction with and as a continuation of the basic operations.

**Note:** The term 'agriculture' cannot be extended to all activities which have some distant relation to land like dairy farming, breeding and rearing of live stock, butter and cheese making and poultry farming. This aspect is discussed in detail later on in this chapter.

**Whether income from nursery constitutes agricultural income?**

*Yes, as per Explanation 3 to section 2(1A), income derived from saplings or seedlings grown in a nursery would be deemed to be agricultural income, whether or not the basic operations were carried out on land.*

- (b) **Process ordinarily employed to render the produce fit to be taken to the market:** Sometimes, to make the agricultural produce a saleable commodity, it becomes necessary to perform some kind of process on the produce. The income from the process employed to render the produce fit to be taken to the market would be agricultural income. However, it must be a process ordinarily employed by the cultivator or receiver of rent in kind and the process must be applied to make the produce fit to be taken to the market.

The ordinary process employed to render the produce fit to be taken to market includes thrashing, winnowing, cleaning, drying, crushing etc. For example, the process ordinarily employed by the cultivator to obtain the rice from paddy is to first remove the hay from the basic grain, and thereafter to remove the chaff from the grain. The grain has to be properly filtered to remove stones etc. and finally the rice has to be packed in gunny bags for sale in the market.

After such process, the rice can be taken to the market for sale. This process of making the rice ready for the market may involve manual operations or mechanical operations. All these operations constitute the process ordinarily employed to make the product fit for the market. The produce must retain its original character in spite of the processing unless there is no market for selling it in that condition.

However, if marketing process is performed on a produce which can be sold in its raw form, income derived therefrom is partly agricultural income and partly business income.

- (c) **Sale of such agricultural produce in the market:** Any income from the sale of any produce to the cultivator or receiver of rent-in kind is agricultural income provided it is from the land situated in India and used for agricultural purposes. However, if the produce is subjected to any process other than process ordinarily employed to make the

produce fit for market, the income arising on sale of such produce would be partly agricultural income and partly non-agricultural income.

Similarly, if other agricultural produce like tea, cotton, tobacco, sugarcane etc. are subjected to manufacturing process and the manufactured product is sold, the profit on such sale will consist of agricultural income as well as business income. That portion of the profit representing agricultural income will be exempted.

**Apportionment of Income between business income and agricultural income:** Rules 7, 7A, 7B & 8 of Income-tax Rules, 1962 provide the basis of apportionment of income between agricultural income and business income.

- (i) **Rule 7 - Income from growing and manufacturing of any product** - Where income is partially agricultural income and partially income chargeable to income-tax as business income, the market value of any agricultural produce which has been raised by the assessee or received by him as rent in kind and which has been utilised as raw material in such business or the sale receipts of which are included in the accounts of the business shall be deducted. No further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent in kind.

**Determination of market value** - There are two possibilities here:

- (I) The agricultural produce is capable of being sold in the market either in its raw stage or after application of any ordinary process to make it fit to be taken to the market. In such a case, the value calculated at the average price at which it has been so sold during the relevant previous year will be the market value.
- (II) It is possible that the agricultural produce is not capable of being ordinarily sold in the market in its raw form or after application of any ordinary process. In such case the market value will be the total of the following:—
  - The expenses of cultivation;
  - The land revenue or rent paid for the area in which it was grown; and

- Such amount as the Assessing Officer finds having regard to the circumstances in each case to represent at reasonable profit.

**ILLUSTRATION 1**

*Mr. B grows sugarcane and uses the same for the purpose of manufacturing sugar in his factory. 30% of sugarcane produce is sold for ₹ 10 lakhs, and the cost of cultivation of such sugarcane is ₹ 5 lakhs. The cost of cultivation of the balance sugarcane (70%) is ₹ 14 lakhs and the market value of the same is ₹ 22 lakhs. After incurring ₹ 1.5 lakhs in the manufacturing process on the balance sugarcane, the sugar was sold for ₹ 25 lakhs. Compute B's business income and agricultural income.*

**SOLUTION**

**Computation of Business Income and Agriculture  
Income of Mr. B**

Particulars	Business Income	Agricultural Income	
	(₹)	(₹)	(₹)
<b><u>Sale of Sugar</u></b>			
<b><u>Business income</u></b>			
Sale Proceeds of sugar	25,00,000		
<b>Less:</b> Market value of sugar-cane (70%)	22,00,000		
<b>Less:</b> Manufacturing exp.	1,50,000		
	<b>1,50,000</b>		
<b><u>Agricultural income</u></b>			
Market value of sugarcane (70%)		22,00,000	
<b>Less:</b> Cost of cultivation		14,00,000	
			8,00,000

<b><u>Sale of sugarcane</u></b>			
<b><u>Agricultural Income</u></b>			
Sale proceeds of sugarcane (30%)		10,00,000	
<b>Less:</b> Cost of cultivation		5,00,000	
			5,00,000
			<b>13,00,000</b>

**(ii) Rule 7A – Income from growing and manufacturing of rubber**

- This rule is applicable when income derived from the sale of centrifuged latex or cenex or latex based crepes or brown crepes or technically specified block rubbers manufactured or processed from field latex or coagulum obtained from rubber plants grown by the seller in India. In such cases, 35% profits on sale is taxable as business income under the head "Profits and gains from business or profession", and the balance 65% is agricultural income which is exempt.

**ILLUSTRATION 2**

*Mr. C manufactures latex from the rubber plants grown by him in India. These are then sold in the market for ₹ 30 lakhs. The cost of growing rubber plants is ₹ 10 lakhs and that of manufacturing latex is ₹ 8 lakhs. Compute his total income.*

**SOLUTION**

The total income of Mr. C comprises of agricultural income and business income.

Total profits from the sale of latex= ₹ 30 lakhs – ₹ 10 lakhs – ₹ 8 lakhs= ₹ 12 lakhs.

Agricultural income = 65% of ₹ 12 lakhs = ₹ 7.8 lakhs

Business income = 35% of ₹ 12 lakhs = ₹ 4.2 lakhs

**(iii) Rule 7B – Income from growing and manufacturing of coffee**

a) In case of income derived from the sale of coffee grown and cured by the seller in India, 25% profits on sale is taxable as business income under the head "Profits and gains from



business or profession", and the balance 75% is agricultural income and is exempt.

- b) In case of income derived from the sale of coffee grown, cured, roasted and grounded by the seller in India, with or without mixing chicory or other flavoring ingredients, 40% profits on sale is taxable as business income under the head "Profits and gains from business or profession", and the balance 60% is agricultural income and is exempt.

- (iv) **Rule 8 - Income from growing and manufacturing of tea** - This rule applies only in cases where the assessee himself grows tea leaves and manufactures tea in India. In such cases 40% profits on sale is taxable as business income under the head "Profits and gains from business or profession", and the balance 60% is agricultural income and is exempt.

Rule	Apportionment of income in certain cases	Agricultural Income	Business Income
7A	Income from sale of rubber products derived from rubber plant grown by the seller in India.	65%	35%
7B	- grown and cured by the seller in India	75%	25%
	- grown, cured, roasted and grounded by the seller in India	60%	40%
8	Income from sale of tea grown and manufactured by the seller in India	60%	40%

- (3) **Income from farm building:** Income from the farm building which is owned and occupied by the receiver of the rent or revenue of any such land or occupied by the cultivator or the receiver of rent in kind, of any land with respect to which, or the produce of which, any process discussed above is carried on, would be agricultural income.

However, the income arising from the use of such farm building for any purpose (including letting for residential purpose or for the purpose of business or profession) other than agriculture referred in (1) & (2) of para 3.6 in page 1.35 would **not** be agricultural income.

Further, the income from such farm building would be agricultural income only if the following conditions are satisfied:

- (a) The building should be on or in the immediate vicinity of the land; and
- (b) The receiver of the rent or revenue or the cultivator or the receiver of rent in kind should, by reason of his connection with such land require it as a dwelling house or as a store house.

In addition to the above conditions any one of the following two conditions should also be satisfied:

- (i) The land should either be assessed to land revenue in India or be subject to a local rate assessed and collected by the officers of the Government as such or;
- (ii) Where the land is not so assessed to land revenue in India or is not subject to local rate:-
  - a. It should not be situated in any area as comprised within the jurisdiction of a municipality or a cantonment board and which has a population not less than 10,000 or
  - b. It should not be situated in any area within such distance, measured aerially, in relation to the range of population as shown hereunder –

	<b>Shortest aerial distance from the local limits of a municipality or cantonment board referred to in item a.</b>	<b>Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year</b>
(i)	≤ 2 kms	> 10,000
(ii)	>2 kms but ≤ 6 kms	> 1,00,000
(iii)	>6 kms but ≤ 8kms	> 10,00,000

**Example:**

	Area	Shortest aerial distance from the local limits of a municipality or cantonment board referred to in item a.	Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year	Would income derived from farm building situated in this area be treated as agricultural income?
(i)	A	1 km	9,000	Yes
(ii)	B	1.5 kms	12,000	No
(iii)	C	2 kms	11,00,000	No
(iv)	D	3 kms	80,000	Yes
(v)	E	4 kms	3,00,000	No
(v)	F	5 kms	12,00,000	No
(vi)	G	6 kms	8,000	Yes
(vii)	H	7 kms	4,00,000	Yes
(viii)	I	8 kms	10,50,000	No
(ix)	J	9 kms	15,00,000	Yes

**Would income arising from transfer of agricultural land situated in urban area be agricultural income?**

No, as per *Explanation 1* to section 2(1A), the capital gains arising from the transfer of urban agricultural land would not be treated as agricultural income under section 10 but will be taxable under section 45.

**Example:** Suppose A sells agricultural land situated in New Delhi for ₹ 10 lakhs and makes a surplus of ₹ 8 lakhs over its cost of acquisition. This surplus will not constitute agricultural income exempt under section 10(1) and will be taxable under section 45.

**Indirect connection with land**

We have seen above that agricultural income is exempt, whether it is received by the tiller or the landlord. However, non-agricultural income does not become

agricultural merely on account of its indirect connection with the land. The following examples will illustrate the above point.

**Example:** A rural society has as its principal business the selling on behalf of its member societies, butter made by these societies from cream sold to them by farmers. The making of butter was a factory process separated from the farm.

*The butter resulting from the factory operations separated from the farm was not an agricultural product and the society was, therefore, not entitled to exemption under section 10(1) in respect of such income.*

**Example:** X was the managing agent of a company. He was entitled for a commission at the rate of 10% p.a. on the annual net profits of the company. A part of the company's income was agricultural income. X claimed that since his remuneration was calculated with reference to income of the company, part of which was agricultural income, such part of the commission as was proportionate to the agricultural income was exempt from income tax.

*Since, X received remuneration under a contract for personal service calculated on the amount of profits earned by the company; such remuneration does not constitute agricultural income.*

**Example:** Y owned 100 acres of agricultural land, a part of which was used as pasture for cows. The lands were purely maintained for manuring and other purposes connected with agriculture and only the surplus milk after satisfying the assessee's needs was sold. The question arose whether income from such sale of milk was agricultural income.

*The regularity with which the sales of milk were effected and quantity of milk sold showed that the assessee carried on regular business of producing milk and selling it as a commercial proposition. Hence, it was not agricultural income.*

**Example:** In regard to forest trees of spontaneous growth which grow on the soil unaided by any human skill and labour there is no cultivation of the soil at all. Even though operations in the nature of forestry operations performed by the assessee may have the effect of nursing and fostering the growth of such forest trees, it cannot constitute agricultural operations.

*Income from the sale of such forest trees of spontaneous growth does not, therefore, constitute agricultural income.*

**Examples of Agricultural income and Non-agricultural income**

For better understanding of the concept, certain examples of agricultural income and non-agricultural income are given below:

**Example: Agricultural income**

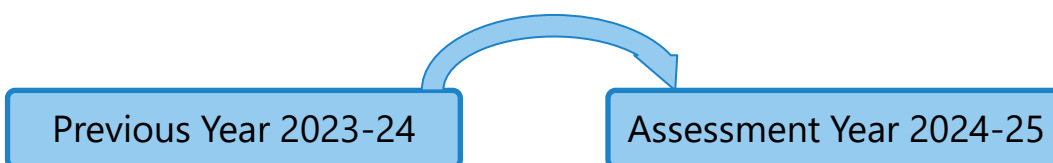
- ❖ Income derived from saplings or seedlings grown in a nursery.
- ❖ Income from growing of flowers and creepers.
- ❖ Rent received from land used for grazing of cattle required for agricultural activities.
- ❖ Income from growing of bamboo.

**Example: Non-agricultural income**

- ❖ Income from breeding of livestock.
- ❖ Income from poultry farming.
- ❖ Income from fisheries.
- ❖ Income from dairy farming.



## 4. PREVIOUS YEAR AND ASSESSMENT YEAR



### 4.1 Assessment year

The term has been defined under section 2(9). This means a period of 12 months commencing on 1<sup>st</sup> 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 2023-24 is taxable in the assessment year 2024-25.

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

## 4.2 Previous year

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 31<sup>st</sup> 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 31<sup>st</sup> March of the financial year.

### Examples:

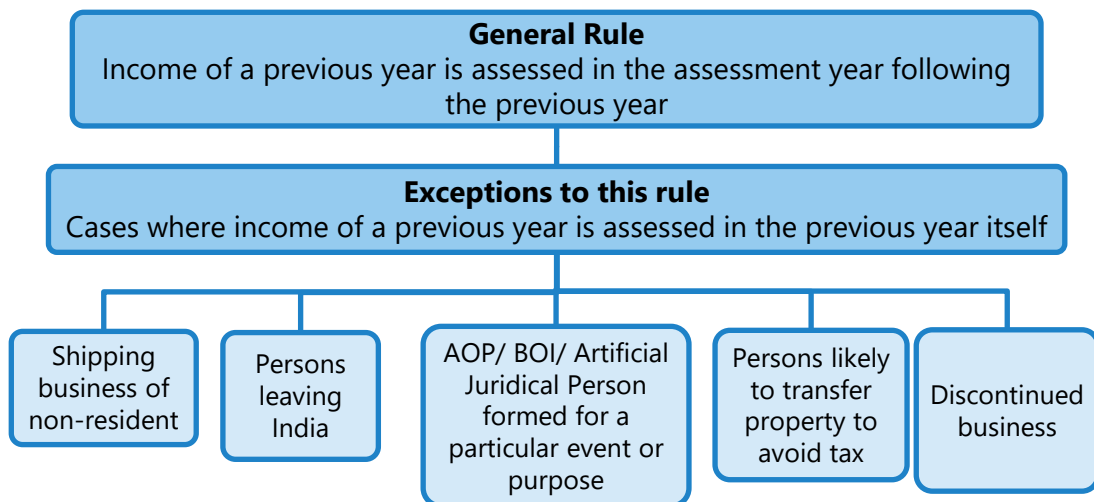
*A is running a business from 1993 onwards. Determine the previous year for the assessment year 2024-25.*

**Ans.** The previous year will be 1.4.2023 to 31.3.2024.

*A chartered accountant sets up his profession on 1st July, 2023. Determine the previous year for the assessment year 2024-25.*

**Ans.** The previous year will be from 1.7.2023 to 31.3.2024.

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



The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. For instance, income of previous year 2023-24 is assessed during 2024-25. Therefore, 2024-25 is the assessment year for assessment of income of the previous year 2023-24.

However, in a few cases, this rule does not apply and the income is taxed in the previous year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

**(i) Shipping business of non-resident [Section 172]**

Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.

**(ii) Persons leaving India [Section 174]**

Where it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of his departure from India is chargeable to tax in that assessment year.

**Example:** Suppose Mr. X is leaving India for USA on 10.6.2023 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. 2022-23 as well as on the total income earned during the period 1.4.2023 to 10.06.2023.

**(iii) AOP/BOI/Artificial Juridical Person formed for a particular event or purpose [Section 174A]**

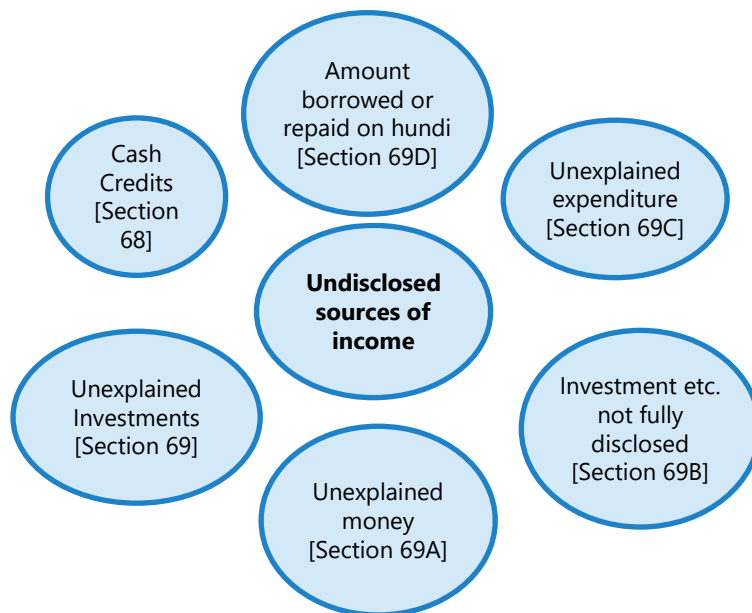
If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or in the next year, he can make assessment of the income up to the date of dissolution as income of the relevant assessment year.

**(iv) Persons likely to transfer property to avoid tax [Section 175]**

During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous year to the date, when the Assessing Officer commences proceedings under this section is chargeable to tax in that assessment year.

**(v) Discontinued business [Section 176]**

Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that assessment year.

**5. UNDISCLOSED SOURCES OF INCOME****(i) Cash Credits [Section 68]**

Where any sum is found credited in the books of an assessee maintained for any previous year and the assessee offers no explanation about the nature and source or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the sum so credited may be charged as income of the assessee of that previous year.



**Unexplained loan or borrowing** - Where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by the assessee in whose books such sum is credited shall not be deemed to be satisfactory, unless -

- the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and
- such explanation in the opinion of the Assessing Officer has been found to be satisfactory.

**Unexplained Share Capital/ Premium**- Any explanation offered by a closely held company in respect of any sum credited as share application money, share capital, share premium or any such amount, by whatever name called, in the accounts of such company shall be deemed to be not satisfactory, unless

- the person, being a resident, in whose name such credit is recorded in the books of such company also explains about the nature and the source of such sum so credited and
- such explanation in the opinion of the Assessing Officer has been found to be satisfactory

**Non-applicability to Venture Capital Fund or Venture Capital Company** – These additional conditions would not apply if the person, in whose name the sum is recorded, is a Venture Capital Fund or Venture Capital Company registered with SEBI.

### **(ii) Unexplained Investments [Section 69]**

Where in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of account and the assessee offers no explanation about the nature and the source of investments or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the value of the investments are taxed as deemed income of the assessee of such financial year.

### **(iii) Unexplained money etc. [Section 69A]**

Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and the same is not recorded in the books of account and the assessee offers no explanation about the nature and source of acquisition of such money, bullion etc. or the explanation offered is not satisfactory

in the opinion of the Assessing Officer, the money and the value of bullion etc. may be deemed to be the income of the assessee for such financial year.

**(iv) Amount of investments etc., not fully disclosed in the books of account [Section 69B]**

Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article and the Assessing Officer finds that the amount spent on making such investments or in acquiring such articles exceeds the amount recorded in the books of account maintained by the assessee and he offers no explanation for the difference or the explanation offered is unsatisfactory in the opinion of the Assessing Officer, such excess may be deemed to be the income of the assessee for such financial year.

**Example:**

*If the assessee is found to be the owner of say 300 gms of gold (market value of which is ₹ 25,000) during the financial year ending 31.3.2024 but he has recorded to have spent ₹ 15,000 in acquiring it, the Assessing Officer can add ₹ 10,000 (i.e., the difference of the market value of such gold and ₹ 15,000) as the income of the assessee, if the assessee offers no satisfactory explanation thereof.*

**(v) Unexplained expenditure [Section 69C]**

Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or the explanation is unsatisfactory in the opinion of the Assessing Officer, Assessing Officer can treat such unexplained expenditure as the income of the assessee for such financial year. Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under any head of income.

**(vi) Amount borrowed or repaid on hundi [Section 69D]**

Where any amount is borrowed on a *hundi* or any amount due thereon is repaid other than through an account-payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying for the previous year in which the amount was borrowed or repaid, as the case may be.

However, where any amount borrowed on a *hundi* has been deemed to be the income of any person, he will not be again liable to be assessed in respect of such amount on repayment of such amount. The amount repaid shall include interest paid on the amount borrowed.



## 6. RATES OF TAX, SURCHARGE & CESS

### Income-tax

*Income-tax is to be charged on every person at the **rates prescribed** for the year **by the Annual Finance Act or the Income-tax Act, 1961 or both.***

### Surcharge

Surcharge is an additional tax payable over and above the income-tax. Surcharge is levied as a percentage of income-tax. Under the normal provisions of the Act, surcharge is presently being levied beyond a particular threshold of income for different persons. Also, higher rates of surcharge are prescribed for higher thresholds of income. Under the special tax regimes for domestic companies and co-operative societies, a uniform surcharge is prescribed irrespective of the level of total income.

### "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 assessees i.e. individuals, HUF, AOPs/BOIs, Artificial Juridical Persons, 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.

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

### Income-tax

*Individuals/HUF/AoPs/Bols and Artificial Juridical Persons can pay tax at concessional rates under the default tax regime under section 115BAC. However, he/it has to forego certain exemptions and deductions under this regime. Alternatively, they can exercise the option to shift out of the default tax regime and pay tax under the optional tax regime as per the regular provisions of the Act at the tax rates prescribed by the Annual Finance Act of that year.*

**Default tax regime under section 115BAC of the Income-tax Act, 1961****I. Concessional tax rates**

Individuals/ HUF/ AoPs/ BOLS or artificial judicial persons, other than those who exercise the option to opt out this regime under section 115BAC(6), have to pay tax in respect of their total income (other than income chargeable to tax at special rates under Chapter XII such as section 111A, 112, 112A, 115BB, 115BBJ etc.) at the following concessional rates, subject to certain conditions specified under section 115BAC(2) –

(i)	Upto ₹ 3,00,000	NIL
(ii)	From ₹ 3,00,001 to ₹ 6,00,000	5%
(iii)	From ₹ 6,00,001 to ₹ 9,00,000	10%
(iv)	From ₹ 9,00,001 to ₹ 12,00,000	15%
(v)	From ₹ 12,00,001 to ₹ 15,00,000	20%
(vii)	Above ₹ 15,00,000	30%

**II. Conditions to be satisfied**

The following are the conditions to be satisfied:

S. No.	Particulars												
(1)	<p><b>Certain deductions/exemptions not allowable:</b> Section 115BAC(2) provides that while computing total income, the following deductions/exemptions would not be allowed:</p> <table> <tr> <th>Section</th><th>Exemption/Deduction</th></tr> <tr> <td>10(5)</td><td>Leave travel concession</td></tr> <tr> <td>10(13A)</td><td>House rent allowance</td></tr> <tr> <td>10(14)</td><td>Exemption in respect of special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose)</td></tr> <tr> <td>10(17)</td><td>Daily allowance or constituency allowance of MPs and MLAs</td></tr> <tr> <td>10(32)</td><td>Exemption in respect of income of minor child included in the income of parent</td></tr> </table>	Section	Exemption/Deduction	10(5)	Leave travel concession	10(13A)	House rent allowance	10(14)	Exemption in respect of special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose)	10(17)	Daily allowance or constituency allowance of MPs and MLAs	10(32)	Exemption in respect of income of minor child included in the income of parent
Section	Exemption/Deduction												
10(5)	Leave travel concession												
10(13A)	House rent allowance												
10(14)	Exemption in respect of special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose)												
10(17)	Daily allowance or constituency allowance of MPs and MLAs												
10(32)	Exemption in respect of income of minor child included in the income of parent												

	10AA	Tax holiday for units established in SEZ
	16	(i) Entertainment allowance (ii) Professional tax
	24(b)	Interest on loan in respect of self-occupied property
	32(1)(iia)	Additional depreciation
	35(1)(ii),(iia),(iii) or 35(2AA)	Deduction in respect of contribution to <ul style="list-style-type: none"> <li>- notified approved research association/university/college/other institutions for scientific research [Section 35(1)(ii)]</li> <li>- approved Indian company for scientific research [Section 35(1)(iia)]</li> <li>- notified approved research association/university/college/other institutions for research in social science or statistical research [Section 35(1)(iii)]</li> <li>- An approved National laboratory/university/IIT/specified person for scientific research undertaken under an approved programme [Section 35(2AA)]</li> </ul>
	35AD	Investment linked tax incentives for specified businesses
	80C to 80U	Deductions under Chapter VI-A (other than employers contribution towards NPS under section 80CCD(2), Central Government contribution towards Agnipath Scheme under section 80CCH(2) and deduction in respect of employment of new employees under section 80JJAA).
(2)	<p><b>Certain losses not allowed to be set-off:</b> While computing total income, set-off of any loss -</p> <p>(i) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (1) above; or</p> <p>(ii) under the head house property with any other head of income; would <b>not</b> be allowed.</p>	

(3)	<b>Depreciation or additional depreciation:</b> Depreciation u/s 32 is to be determined in the prescribed manner. Depreciation in respect of any block of assets entitled to more than 40%, would be restricted to 40% on the written down value of such block of assets. Additional depreciation u/s 32(1)(iia), however, cannot be claimed.
(4)	<b>Exemption or deduction for allowances or perquisite:</b> While computing total income, any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being force in India would <b>not</b> be allowed.

**Additional points:**

Total income under default tax regime should be computed without set-off of any loss brought forward or depreciation from any earlier assessment year, where such loss or depreciation is attributable to any of the deductions listed in (1) above. Such loss and depreciation would be deemed to have been already given effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

Where income-tax on total income of the assessee is computed under this section and there is a depreciation allowance in respect of a block of asset from an earlier assessment year attributable to additional depreciation u/s 32(1)(iia), which has not been given full effect to prior to A.Y. 2024-25 and which is not allowed to be set-off in the A.Y.2024-25 due to section 115BAC, corresponding adjustment shall be made to the WDV of such block of assets as on 1.4.2023 in the prescribed manner i.e., the WDV as on 1.4.2023 will be increased by the unabsorbed additional depreciation not allowed to be set-off.

**Example:** Let us consider the case of Mr. X, who carries on business of manufacturing of steel. He has unabsorbed depreciation as on 1.4.2023, which includes amount attributable to additional depreciation u/s 32(1)(iia) of P.Y.2022-23 or any earlier previous year in respect of block of plant and machinery. If he pays tax under default tax regime under section 115BAC for P.Y.2023-24 relevant to A.Y.2024-25, the amount so attributable to additional depreciation of earlier year remaining unabsorbed as on 1.4.2023 would not be eligible for set-off against current year income and no further deduction for such loss or depreciation shall be allowed for any subsequent year. Accordingly, the WDV of the block as on 1.4.2023 has to be increased by the said amount not allowed to be set-off.

**III. Time limit for exercising the option to shift out of the default tax regime**

- (i) **In case of an assessee having no income from business or profession:**  
Where such individual/HUF/AoP/Bol or Artificial Juridical person is **not** having

income from business or profession, he/it can exercise an option to shift out/opt out of the default tax regime under this section and such option has to be exercised along with the return of income to be furnished under section 139(1) for a previous year relevant to the assessment year. In effect, such individual/HUF/AoP/Bol or Artificial Juridical person can choose whether or not to exercise the option of shifting out of the default tax regime in each previous year. He may choose to pay tax under default tax regime under section 115BAC in one year and exercise the option to shift out of default tax regime in another year.

- (ii) **In case of an assessee having income from business or profession:** Such individual/HUF/AoP/Bol or Artificial Juridical person having income from business or profession has an option to shift out/ opt out of the default tax regime under this section and the option has to be exercised on or before the due date specified under section 139(1) for furnishing the return of income for such previous year and once such option is exercised, it would apply to subsequent assessment years.

Such person who has exercised the above option of shifting out of the default tax regime for any previous year shall be able to withdraw such option only once and pay tax under the default tax regime under section 115BAC for a previous year other than the year in which it was exercised.

Thereafter, such person shall never be eligible to exercise option under this section, except where such person ceases to have any business income in which case, option under (i) above would be available.

**AMT liability not attracted:** Individual/HUF/AoP/Bol or Artificial Juridical person paying tax under default tax regime under section 115BAC is **not** liable to alternate minimum tax u/s 115JC. Such person would not be eligible to claim AMT credit also.

**Note:** It may be noted that in case of Individual/HUF/AoP/Bol or Artificial Juridical person not having income from business or profession, the total income and tax liability (including provisions relating to AMT, if applicable under normal provisions) may be computed every year both in accordance with the regular provisions of the Income-tax Act, 1961 and in accordance with the provisions of section 115BAC, in order to determine which is more beneficial and accordingly such person may decide whether to pay tax under default tax regime under section 115BAC or exercise the option to shift out and pay tax under normal provisions of the Act for that year.

**ILLUSTRATION 3**

Mr. X has a total income of ₹ 16,00,000 for P.Y.2023-24, comprising of income from house property and interest on fixed deposits. Compute his tax liability for A.Y.2024-25 under the default tax regime under section 115BAC.

**SOLUTION****Computation of Tax liability of Mr. X for A.Y. 2024-25**

Tax liability:

First ₹ 3,00,000	- Nil	
Next ₹ 3,00,001 – ₹ 6,00,000	- @5% of ₹ 3,00,000	= ₹ 15,000
Next ₹ 6,00,001 – ₹ 9,00,000	- @10% of ₹ 3,00,000	= ₹ 30,000
Next ₹ 9,00,001 – ₹ 12,00,000	- @15% of ₹ 3,00,000	= ₹ 45,000
Next ₹ 12,00,001 – ₹ 15,00,000	- @20% of ₹ 3,00,000	= ₹ 60,000
Balance i.e., ₹ 16,00,000 minus ₹ 15,00,000	- @30% of ₹ 1,00,000	= <u>₹ 30,000</u>
		= ₹ 1,80,000
Add: Health and Education cess@4%		= <u>₹ 7,200</u>
		= <b><u>₹ 1,87,200</u></b>

**Tax rates prescribed by the Annual Finance Act for optional tax regime**

The slab rates for A.Y. 2024-25 applicable to an Individual/HUF/AOP/BOI/ Artificial Juridical Person, which has exercised the option of shifting out of the default tax regime, are as follows:

(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 plus 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 plus 30% of the amount by which the total income exceeds ₹ 10,00,000



For a senior citizen (being a resident individual who is of the age of 60 years or more at any time during the previous year), the basic exemption limit is ₹ 3,00,000 and for a very senior citizen (being a resident individual who is of the age of 80 years or more at any time during the previous year), the basic exemption limit is ₹ 5,00,000. Therefore, the tax slabs for these assesseees would be as follows –

**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 plus 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 plus 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
(iii)	where the total income exceeds ₹ 10,00,000	₹ 1,00,000 plus 30% of the amount by which the total income exceeds ₹ 10,00,000

**Clarification regarding attaining prescribed age of 60 years/ 80 years on 31st March itself, in case of senior/very senior citizens whose date of birth falls on 1st April [Circular No. 28/2016, dated 27-07-2016]**

The CBDT has clarified that 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 be decided on the basis of above criteria.

Therefore, a resident individual whose 60<sup>th</sup> birthday falls on 1<sup>st</sup> April, 2024, would be treated as having attained the age of 60 years in the P.Y.2023-24 and would be eligible for higher basic exemption limit of ₹ 3 lakh while computing his tax liability for A.Y.2024-25 under the optional tax regime as per the normal provisions of the Act. Likewise, a resident individual whose 80<sup>th</sup> birthday falls on 1<sup>st</sup> April, 2024, would be treated as having attained the age of 80 years in the P.Y.2023-24, and would be eligible for higher basic exemption limit of ₹ 5 lakh in computing his tax liability for A.Y.2024-25 under the optional tax regime as per the normal provisions of the Act.

In respect of certain types of income, as mentioned below, the Income-tax Act, 1961 has prescribed specific rates. The special rates of tax have to be applied on the respective component of total income irrespective of the tax regime and the slab rates have to be applied on the balance of total income after adjusting the basic exemption limit.

S. No.	Section	Income	Rate of Tax						
(a)	112	Long term capital gains (other than LTCG taxable as per section 112A)	20%						
(b)	112A	<div><div>Long term capital gains on transfer of –<ul style="list-style-type: none"><li>Equity share in a company</li><li>Unit of an equity oriented fund</li><li>Unit of business trust</li></ul>Condition for availing the benefit of this concessional rate is that securities transaction tax should have been paid –</div><table><tr><th>In case of (Capital Asset)</th><th>Time of payment of STT</th></tr><tr><td>Equity shares in a company</td><td>both at the time of acquisition and transfer</td></tr><tr><td>Unit of equity oriented fund or unit of business trust</td><td>at the time of transfer</td></tr></table><div><b>Note:</b> LTCG upto ₹ 1 lakh is exempt. LTCG exceeding ₹ 1 lakh is taxable @10%.</div></div>	In case of (Capital Asset)	Time of payment of STT	Equity shares in a company	both at the time of acquisition and transfer	Unit of equity oriented fund or unit of business trust	at the time of transfer	10% [On LTCG > ₹ 1 lakh]
In case of (Capital Asset)	Time of payment of STT								
Equity shares in a company	both at the time of acquisition and transfer								
Unit of equity oriented fund or unit of business trust	at the time of transfer								

(c)	111A	<p>Short-term capital gains on transfer of –</p> <ul style="list-style-type: none"> <li>• Equity shares in a company</li> <li>• Unit of an equity oriented fund</li> <li>• Unit of business trust</li> </ul> <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"> <li>• Lotteries;</li> <li>• Crossword puzzles;</li> <li>• Races including horse races;</li> <li>• Card games and other games of any sort;</li> <li>• Gambling or betting of any form or nature (other than winning from any online game)</li> </ul>	30%
(e)	115BBJ	<i>Net winnings from online games</i>	30%
(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 [See discussion below]	60%

### Unexplained money, investments etc. to attract tax@60% [Section 115BBE]

- (i) In order to control laundering of unaccounted money by availing the benefit of basic exemption limit, the 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 would be taxed at the rate of 60% *plus* surcharge @25% of tax. Thus, the effective rate of tax (including surcharge@25% of tax and cess@4% of tax and surcharge) is 78%.
- (ii) No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income.

- (iii) Further, no set off of any loss shall be allowable against income brought to tax under sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

#### ILLUSTRATION 4

*Mr. X has a total income of ₹ 16,00,000 for P.Y.2023-24, comprising of income from house property and interest on fixed deposits. Compute his tax liability for A.Y.2024-25 assuming his age is –*

- (a) 45 years  
(b) 63 years  
(c) 82 years

*Assume that Mr. X has exercised the option to shift out/ opt out of the default tax regime.*

#### SOLUTION

##### (a) Computation of Tax liability of Mr. X (aged 45 years)

Tax liability:

First	₹ 2,50,000	- Nil	
Next	₹ 2,50,001 – ₹ 5,00,000	- @5% of ₹ 2,50,000	= ₹ 12,500
Next	₹ 5,00,001 – ₹ 10,00,000	- @20% of ₹ 5,00,000	= ₹ 1,00,000
Balance i.e.,	₹ 16,00,000 minus ₹ 10,00,000-	@30% of ₹ 6,00,000	= <u>₹ 1,80,000</u>
			= ₹ 2,92,500
Add: Health and Education cess@4%			= <u>₹ 11,700</u>
			= <u><b>₹ 3,04,200</b></u>

##### (b) Computation of Tax liability of Mr. X (aged 63 years)

Tax liability:

First	₹ 3,00,000	- Nil	
Next	₹ 3,00,001 – ₹ 5,00,000	- @5% of ₹ 2,00,000	= ₹ 10,000
Next	₹ 5,00,001 – ₹ 10,00,000	- @20% of ₹ 5,00,000	= ₹ 1,00,000

Balance i.e., ₹ 16,00,000 minus ₹ 10,00,000- @30% of ₹ 6,00,000 = ₹ 1,80,000  
 = ₹ 2,90,000  
 Add: Health and Education cess@4% = ₹ 11,600  
 = ₹ 3,01,600

**(c) Computation of Tax liability of Mr. X (aged 82 years)**

Tax liability:

First ₹ 5,00,000 - Nil  
 Next ₹ 5,00,001 – ₹ 10,00,000 - @ 20% of ₹ 5,00,000 = ₹ 1,00,000  
 Balance i.e., ₹ 16,00,000 minus ₹ 10,00,000- @ 30% of ₹ 6,00,000 = ₹ 1,80,000  
 = ₹ 2,80,000  
 Add: Health and Education cess@4% = ₹ 11,200  
 = ₹ 2,91,200

**Surcharge**

**In case the Individual/HUF/AoP<sup>4</sup>/BoI and Artificial Juridical Person pays tax under default tax regime under section 115BAC**

Income-tax computed in accordance with the provisions of section 115BAC and/ or section 111A or section 112 or section 112A or 115BBE or section 115BBJ would be increased by surcharge given under the following table:

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	Applicable rate of surcharge
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	<b>Example</b>	
			<ul style="list-style-type: none"> <li>Dividend ₹ 15 lakhs;</li> <li>STCG u/s 111A ₹ 15 lakhs;</li> <li>LTCG u/s 112 ₹ 25 lakhs;</li> </ul>	Surcharge would be levied@10% on income-tax computed on total income of ₹ 1 crore.

<sup>4</sup> (other than an AOP consisting of only companies as members)

			<ul style="list-style-type: none"> <li>• LTCG u/s 112A ₹20 lakhs; and</li> <li>• Other income ₹25 lakhs</li> </ul>	
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 1 crore but ≤ ₹2 crore	15%	<b>Example</b> <ul style="list-style-type: none"> <li>• Dividend income ₹10 lakhs;</li> <li>• STCG u/s 111A ₹35 lakhs;</li> <li>• LTCG u/s 112 ₹50 lakhs;</li> <li>• LTCG u/s 112A ₹35 lakhs; and</li> <li>• Other income ₹55 lakhs</li> </ul>	
(iii)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹2 crore	25%	<b>Example</b> <ul style="list-style-type: none"> <li>• Dividend income ₹51 lakhs;</li> <li>• STCG u/s 111A ₹44 lakh;</li> <li>• LTCG u/s 112 ₹42 lakhs;</li> <li>• LTCG u/s 112A ₹55 lakh; and</li> <li>• Other income ₹6 crores</li> </ul>	
	The rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A	Not exceeding 15%	Surcharge@15% would be levied on income-tax on: <ul style="list-style-type: none"> <li>• Dividend income of ₹51 lakhs;</li> <li>• STCG of ₹44 lakhs chargeable to tax u/s 111A;</li> <li>• LTCG of ₹42 lakhs chargeable to tax u/s 112; and</li> <li>• LTCG of ₹55 lakhs chargeable to tax u/s 112A.</li> </ul>	

				Surcharge@25% would be leviable on income-tax computed on other income of ₹ 6 crores included in total income
(iv)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 2 crore in cases not covered under (iii) above	15%	<b>Example</b> <ul style="list-style-type: none"> <li>Dividend income ₹ 40 lakhs;</li> <li>STCG u/s 111A ₹ 35 lakhs;</li> <li>LTCG u/s 112 ₹ 42 lakhs;</li> <li>LTCG u/s 112A ₹ 50 lakhs; and</li> <li>Other income ₹ 1.10 crore</li> </ul>	Surcharge would be levied@15% on income-tax computed on total income of ₹ 2.77 crore.

### Marginal relief

The purpose of marginal relief is to ensure that the increase in amount of tax payable (including surcharge) due to increase in total income of an assessee beyond the prescribed limit should not exceed the amount of increase in total income.

Marginal relief is available in case of such persons paying tax under default tax regime u/s 115BAC referred to in above i.e., -

	Particulars	Marginal relief
(i)	Where the total income > ₹ 50 lakhs but ≤ ₹ 1 crore	<b>Step 1</b> - Compute income-tax on total income; and add surcharge@10% on such income-tax <b>(A)</b> <b>Step 2</b> - Compute income-tax on ₹ 50 lakhs <b>Step 3</b> - Total income (-) ₹ 50 lakhs <b>Step 4</b> - Add the amount computed in Step 2 and Step 3 <b>(B)</b>

		<p><b>Step 5</b> – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>A</b>) or Step 4 (i.e., <b>B</b>). Consequently, if <b>A &gt; B</b>, the marginal relief would be <b>A – B</b>.</p>
(ii)	Where the total income > ₹ 1 crore but ≤ ₹ 2 crores	<p><b>Step 1</b> - Compute income-tax on total income; and add surcharge@15% on income-tax (<b>C</b>)</p> <p><b>Step 2</b> - Compute income-tax on total income of ₹ 1 crore + surcharge on such income-tax@10%</p> <p><b>Step 3</b> - Total income (-) ₹ 1 crore</p> <p><b>Step 4</b> - Add the amount computed in Step 2 and Step 3 (<b>D</b>)</p> <p><b>Step 5</b> – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>C</b>) or Step 4 (i.e., <b>D</b>). Consequently, if <b>C &gt; D</b>, the marginal relief would be <b>C – D</b>.</p>
(iii)	Where the total income > ₹ 2 crores	<p><b>Step 1</b> - Compute income-tax on total income; and add surcharge@25% on income-tax (<b>E</b>)</p> <p><b>Step 2</b> - Compute income-tax on total income of ₹ 2 crore + surcharge on such income-tax@15%</p> <p><b>Step 3</b> - Total income (-) ₹ 2 crore</p> <p><b>Step 4</b> - Add the amount computed in Step 2 and Step 3 (<b>F</b>)</p> <p><b>Step 5</b> – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>E</b>) or Step 4 (i.e., <b>F</b>). Consequently, if <b>E &gt; F</b>, the marginal relief would be <b>E – F</b>.</p>

**Note** – It is presumed that the total income referred to above does not include dividend income, long term capital gains taxable under section 112/ 112A and short-term capital gains taxable under section 111A.

In case the total income includes dividend income, long term capital gains taxable under section 112/ 112A or short term capital gains taxable under section 111A, surcharge on income-tax computed on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) above.



**In case the Individual/HUF/AoP<sup>5</sup>/BoI and Artificial Juridical Person exercises the option to shift out of the default tax regime**

Income-tax computed in accordance with normal provisions of the Act or section 111A or section 112 or section 112A or 115BBE or section 115BBJ would be increased by surcharge given under the following table:

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	Applicable rate of surcharge
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	<b>Example</b>	
			<ul style="list-style-type: none"> <li>Dividend ₹ 10 lakhs;</li> <li>STCG u/s 111A ₹ 20 lakhs;</li> <li>LTCG u/s 112 ₹ 15 lakhs;</li> <li>LTCG u/s 112A ₹ 20 lakhs; and</li> <li>Other income ₹ 25 lakhs</li> </ul>	Surcharge would be levied @ 10% on income-tax computed on total income of ₹ 90 lakhs.
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 1 crore but ≤ ₹ 2 crore	15%	<b>Example</b>	
			<ul style="list-style-type: none"> <li>Dividend income ₹ 10 lakhs;</li> <li>STCG u/s 111A ₹ 40 lakhs;</li> <li>LTCG u/s 112 ₹ 55 lakhs;</li> <li>LTCG u/s 112A ₹ 35 lakhs; and</li> <li>Other income ₹ 50 lakhs</li> </ul>	Surcharge would be levied @ 15% on income-tax computed on total income of ₹ 1.90 crores.
(iii)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and	25%	<b>Example</b>	
			<ul style="list-style-type: none"> <li>Dividend income ₹ 51 lakhs;</li> </ul>	Surcharge @ 15% would be levied on income-tax on:

<sup>5</sup> (other than an AOP consisting of only companies as members)

	112A) > ₹2 crore but ≤ ₹5 crore		<ul style="list-style-type: none"> <li>• STCG u/s 111A ₹44 lakh;</li> <li>• LTCG u/s 112 ₹42 lakhs;</li> <li>• LTCG u/s 112A ₹55 lakh; and</li> <li>• Other income ₹3 crores</li> </ul>	<ul style="list-style-type: none"> <li>• Dividend income of ₹51 lakhs;</li> <li>• STCG of ₹44 lakhs chargeable to tax u/s 111A;</li> <li>• LTCG of ₹42 lakhs chargeable to tax u/s 112; and</li> <li>• LTCG of ₹55 lakhs chargeable to tax u/s 112A.</li> </ul> <p>Surcharge@25% would be leviable on income-tax computed on other income of ₹3 crores included in total income</p>
(iv)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹5 crore	37%	<b>Example</b> <ul style="list-style-type: none"> <li>• Dividend income ₹60 lakhs;</li> <li>• STCG u/s 111A ₹50 lakhs;</li> <li>• LTCG u/s 112 ₹42 lakhs;</li> <li>• LTCG u/s 112A ₹25 lakhs; and</li> <li>• Other income ₹6 crore</li> </ul>	
	Rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A	Not exceeding 15%	<ul style="list-style-type: none"> <li>• Dividend income ₹60 lakhs;</li> <li>• STCG u/s 111A ₹50 lakhs;</li> <li>• LTCG u/s 112 ₹42 lakhs;</li> <li>• LTCG u/s 112A ₹25 lakhs; and</li> <li>• Other income ₹6 crore</li> </ul>	<p>Surcharge@15% would be levied on income-tax on:</p> <ul style="list-style-type: none"> <li>• Dividend income of ₹60 lakhs;</li> <li>• STCG of ₹50 lakhs chargeable to tax u/s 111A;</li> <li>• LTCG of ₹42 lakhs chargeable to tax u/s 112; and</li> <li>• LTCG of ₹25 lakhs chargeable to tax u/s 112A.</li> </ul> <p>Surcharge@37% would be leviable on the income-tax</p>

				computed on other income of ₹ 6 crores included in total income.
(v)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 2 crore in cases not covered under (iii) and (iv) above	15%	<b>Example</b> <ul style="list-style-type: none"> <li>• Dividend income ₹ 55 lakhs;</li> <li>• STCG u/s 111A ₹ 60 lakhs;</li> <li>• LTCG u/s 112 ₹ 42 lakhs;</li> <li>• LTCG u/s 112A ₹ 35 lakhs; and</li> <li>• Other income ₹ 1.10 crore</li> </ul>	Surcharge would be levied @ 15% on income-tax computed on total income of ₹ 3.02 crore.

### Marginal relief

Marginal relief in case of such persons referred to in above under the optional tax regime (as per the normal provisions of the Act).

	Particulars	Marginal relief
(i)	Where the total income > ₹ 50 lakhs but ≤ ₹ 1 crore	<b>Step 1</b> - Compute income-tax on total income; and add surcharge @ 10% on such income-tax ( <b>A</b> ) <b>Step 2</b> - Compute income-tax on ₹ 50 lakhs <b>Step 3</b> - Total income (-) ₹ 50 lakhs <b>Step 4</b> - Add the amount computed in Step 2 and Step 3 ( <b>B</b> ) <b>Step 5</b> - Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>A</b> ) or Step 4 (i.e., <b>B</b> ). Consequently, if <b>A &gt; B</b> , the marginal relief would be <b>A - B</b> .
(ii)	Where the total income > ₹ 1 crore but ≤ ₹ 2 crores	<b>Step 1</b> - Compute income-tax on total income; and add surcharge @ 15% on income-tax ( <b>C</b> ) <b>Step 2</b> - Compute income-tax on total income of ₹ 1 crore + surcharge on such income-tax @ 10%

		<p><b>Step 3</b> - Total income (-) ₹ 1 crore</p> <p><b>Step 4</b> - Add the amount computed in Step 2 and Step 3 (<b>D</b>)</p> <p><b>Step 5</b> – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>C</b>) or Step 4 (i.e., <b>D</b>). Consequently, if <b>C &gt; D</b>, the marginal relief would be <b>C – D</b>.</p>
(iii)	Where the total income > ₹ 2 crores but ≤ ₹ 5 crores	<p><b>Step 1</b> - Compute income-tax on total income; and add surcharge@25% on income-tax (<b>E</b>)</p> <p><b>Step 2</b> - Compute income-tax on total income of ₹ 2 crore + surcharge on such income-tax@15%</p> <p><b>Step 3</b> - Total income (-) ₹ 2 crore</p> <p><b>Step 4</b> - Add the amount computed in Step 2 and Step 3 (<b>F</b>)</p> <p><b>Step 5</b> – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>E</b>) or Step 4 (i.e., <b>F</b>). Consequently, if <b>E &gt; F</b>, the marginal relief would be <b>E – F</b>.</p>
(iv)	Where the total income > ₹ 5 crores	<p><b>Step 1</b> - Compute income-tax on total income; and add surcharge@37% on income-tax (<b>G</b>)</p> <p><b>Step 2</b> - Compute income-tax on total income of ₹ 5 crore + surcharge on such income-tax@25%</p> <p><b>Step 3</b> - Total income (-) ₹ 5 crore</p> <p><b>Step 4</b> - Add the amount computed in Step 2 and Step 3 (<b>H</b>)</p> <p><b>Step 5</b> – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>G</b>) or Step 4 (i.e., <b>H</b>). Consequently, if <b>G &gt; H</b>, the marginal relief would be <b>G – H</b>.</p>

**Note** – It is presumed that the total income referred to above does not include dividend income, long term capital gains taxable under section 112/ 112A and short-term capital gains taxable under section 111A.

In case the total income includes dividend income, long term capital gains taxable under section 112/ 112A or short term capital gains taxable under section 111A, surcharge on income-tax computed on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) and (iv) above.

### ILLUSTRATION 5

*Compute the tax liability of Mr. A (aged 42), having total income of ₹51 lakhs for the Assessment Year 2024-25. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. A has exercised the option to shift out of section 115BAC.*

### SOLUTION

#### Computation of tax liability of Mr. A for the A.Y.2024-25

<b>(A)</b> Income-tax (including surcharge) computed on total income of ₹ 51,00,000		
₹ 2,50,000 – ₹ 5,00,000 @5%	₹ 12,500	
₹ 5,00,001 – ₹ 10,00,000 @20%	₹ 1,00,000	
₹ 10,00,001 – ₹ 51,00,000 @30%	<u>₹ 12,30,000</u>	
Total	₹ 13,42,500	
Add: Surcharge @ 10%	<u>₹ 1,34,250</u>	₹ 14,76,750
<b>(B)</b> Income-tax computed on total income of ₹ 50 lakhs (₹ 12,500 plus ₹ 1,00,000 plus ₹ 12,00,000)		
		₹ 13,12,500
<b>(C)</b> Total Income Less ₹ 50 lakhs		
		₹ 1,00,000
<b>(D)</b> Income-tax computed on total income of ₹ 50 lakhs plus the excess of total income over ₹ 50 lakhs <b>(B + C)</b>		
		₹ 14,12,500
<b>(E) Tax liability: lower of (A) and (D)</b>		
		₹ 14,12,500
Add: Health and education cess @4%		<u>₹ 56,500</u>
<b>Tax liability (including cess)</b>		<b><u>₹ 14,69,000</u></b>
<b>(F) Marginal Relief (A – D)</b>		
		<b>₹ 64,250</b>

**Alternative method -****(A)** Income-tax (including surcharge) computed on total income of ₹ 51,00,000

₹ 2,50,000 – ₹ 5,00,000@5% ₹ 12,500

₹ 5,00,001 – ₹ 10,00,000@20% ₹ 1,00,000

₹ 10,00,001 – ₹ 51,00,000@30% ₹ 12,30,000

Total ₹ 13,42,500

Add: Surcharge@10% ₹ 1,34,250 ₹ 14,76,750**(B)** Income-tax computed on total income of ₹ 50 lakhs(₹ 12,500 plus ₹ 1,00,000 plus ₹ 12,00,000) ₹ 13,12,500**(C)** Excess tax payable (A)-(B) ₹ 1,64,250**(D) Marginal Relief** (₹ 1,64,250 – ₹ 1,00,000, being the amount of income in excess of ₹ 50,00,000) **₹ 64,250****(E)** Tax liability (A)-(D) ₹ 14,12,500Add: Health and education cess @4% ₹ 56,500**Tax liability (including cess) ₹ 14,69,000****ILLUSTRATION 6**

Compute the tax liability of Mr. B (aged 51) under the default tax regime, having total income of ₹ 1,01,00,000 for the Assessment Year 2024-25. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit.

**SOLUTION****Computation of tax liability of Mr. B for the A.Y. 2024-25****(A)** Income-tax (including surcharge) computed on total income of ₹ 1,01,00,000

₹ 3,00,000 – ₹ 6,00,000@5% ₹ 15,000

₹ 6,00,001 – ₹ 9,00,000@10% ₹ 30,000

₹ 9,00,001 – ₹ 12,00,000@15% ₹ 45,000

₹ 12,00,001 – ₹ 15,00,000@20% ₹ 60,000

₹ 15,00,001 – ₹ 1,01,00,000@30%	<u>₹ 25,80,000</u>
Total	₹ 27,30,000
Add: Surcharge@15%	<u>₹ 4,09,500</u>
Tax liability without marginal relief	<b>₹ 31,39,500</b>
<b>(B)</b> Income-tax computed on total income of ₹ 1 crore (₹ 1,50,000 plus ₹ 25,50,000)	₹ 27,00,000
Add: Surcharge@10%	<u>₹ 2,70,000</u>
	<b>₹ 29,70,000</b>
<b>(C)</b> Total Income Less ₹ 1 crore	₹ 1,00,000
<b>(D)</b> Income-tax computed on total income of ₹ 1 crore <i>plus</i> the excess of total income over ₹ 1 crore <b>(B + C)</b>	₹ 30,70,000
<b>(E) Tax liability: lower of (A) &amp; (D)</b>	₹ 30,70,000
Add: Health and education cess @4%	<u>₹ 1,22,800</u>
<b>Tax liability (including cess)</b>	<b><u>₹ 31,92,800</u></b>
<b>(F) Marginal relief (A-D)</b>	<b>₹ 69,500</b>

**Alternative method:**

<b>(A)</b> Income-tax (including surcharge) computed on total income of ₹ 1,01,00,000	
₹ 3,00,000 – ₹ 6,00,000@5%	₹ 15,000
₹ 6,00,001 – ₹ 9,00,000@10%	₹ 30,000
₹ 9,00,001 – ₹ 12,00,000@15%	₹ 45,000
₹ 12,00,001 – ₹ 15,00,000@20%	₹ 60,000
₹ 15,00,001 – ₹ 1,01,00,000@30%	<u>₹ 25,80,000</u>
Total	₹ 27,30,000
Add: Surcharge @ 15%	<u>₹ 4,09,500</u>
	₹ 31,39,500
<b>(B)</b> Income-tax computed on total income of ₹ 1 crore [(₹ 1,50,000 plus ₹ 25,50,000) plus surcharge@10%]	<u>₹ 29,70,000</u>
<b>(C)</b> Excess tax payable (A)-(B)	₹ 1,69,500

<b>(D) Marginal Relief</b> (₹ 1,69,500 – ₹ 1,00,000, being the amount of income in excess of ₹ 1,00,00,000)	<b>₹ 69,500</b>
<b>(E) Tax liability (A) - (D)</b>	<b>₹ 30,70,000</b>
Add: Health and education cess @4%	<u>₹ 1,22,800</u>
<b>Tax liability (including cess)</b>	<b><u>₹ 31,92,800</u></b>

**ILLUSTRATION 7**

Compute the tax liability of Mr. C (aged 58), having total income of ₹ 2,01,00,000 for the Assessment Year 2024-25. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. C has exercised the option to shift out of section 115BAC.

**SOLUTION****Computation of tax liability of Mr. C for the A.Y. 2024-25**

<b>(A)</b> Income-tax (including surcharge) computed on total income of ₹ 2,01,00,000	
₹ 2,50,000 – ₹ 5,00,000 @ 5%	₹ 12,500
₹ 5,00,001 – ₹ 10,00,000 @ 20%	₹ 1,00,000
₹ 10,00,001 – ₹ 2,01,00,000 @ 30%	<u>₹ 57,30,000</u>
Total	₹ 58,42,500
Add: Surcharge @ 25%	<u>₹ 14,60,625</u>
	₹ 73,03,125
<b>(B)</b> Income-tax computed on total income of ₹ 2 crore	
(₹ 12,500 plus ₹ 1,00,000 plus ₹ 57,00,000)	₹ 58,12,500
Add: Surcharge @ 15%	<u>₹ 8,71,875</u>
	<b>₹ 66,84,375</b>
<b>(C)</b> Total Income Less ₹ 2 crore	₹ 1,00,000
<b>(D)</b> Income-tax computed on total income of ₹ 2 crore plus the excess of total income over ₹ 2 crore <b>(B + C)</b>	₹ 67,84,375
<b>(E) Tax liability (A) or (D), whichever is lower</b>	₹ 67,84,375
Add: Health and education cess @4%	<u>₹ 2,71,375</u>
<b>Tax liability (including cess)</b>	<b><u>₹ 70,55,750</u></b>
<b>(F) Marginal relief (A-D)</b>	<b>₹ 5,18,750</b>



**Alternative method**

**(A)** Income-tax (including surcharge) computed on total income of ₹ 2,01,00,000

₹ 2,50,000 – ₹ 5,00,000 @ 5%	₹ 12,500	
₹ 5,00,001 – ₹ 10,00,000 @ 20%	₹ 1,00,000	
₹ 10,00,001 – ₹ 2,01,00,000@30%	<u>₹ 57,30,000</u>	
Total	₹ 58,42,500	
Add: Surcharge@25%	<u>₹ 14,60,625</u>	₹ 73,03,125

**(B)** Income-tax computed on total income of ₹ 2 crore  
 [(₹ 12,500 plus ₹ 1,00,000 plus ₹ 57,00,000)  
 plus surcharge@15%]

₹ 66,84,375

**(C)** Excess tax payable (A)-(B) ₹ 6,18,750

**(D)** **Marginal Relief** (₹ 6,18,750 – ₹ 1,00,000, being the amount of income in excess of ₹ 2,00,00,000)

₹ 5,18,750

**(E)** Tax liability (A) - (D) ₹ 67,84,375

Add: Health and education cess@4% ₹ 2,71,375

**Tax liability (including cess) ₹ 70,55,750**

**ILLUSTRATION 8**

*Compute the tax liability of Mr. D (aged 65) in a most beneficial manner. He is having total income of ₹ 5,01,00,000 for the Assessment Year 2024-25. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit and is the same under both tax regimes.*

**SOLUTION**

**Computation of tax liability of Mr. D under default tax regime  
for the A.Y. 2024-25**

Income-tax (including surcharge) computed on total income of ₹ 5,01,00,000

₹ 3,00,000 – ₹ 6,00,000@5%	₹ 15,000
₹ 6,00,001 – ₹ 9,00,000@10%	₹ 30,000
₹ 9,00,001 – ₹ 12,00,000@15%	₹ 45,000

₹ 12,00,001 – ₹ 15,00,000@20%	₹ 60,000	
₹ 15,00,001 – ₹ 5,01,00,000@30%	<u>₹ 1,45,80,000</u>	
Total	₹ 1,47,30,000	
Add: Surcharge@25%	<u>₹ 36,82,500</u>	₹ 1,84,12,500
Add: Health and education cess @4%		<u>₹ 7,36,500</u>
Tax liability		<b><u>₹ 1,91,49,000</u></b>

**Computation of tax liability of Mr. D under optional tax regime  
for the A.Y. 2024-25**

<b>(A)</b> Income-tax (including surcharge) computed on total income of ₹ 5,01,00,000		
₹ 3,00,000 – ₹ 5,00,000 @ 5%	₹ 10,000	
₹ 5,00,001 – ₹ 10,00,000 @ 20%	₹ 1,00,000	
₹ 10,00,001 – ₹ 5,01,00,000@30%	<u>₹ 1,47,30,000</u>	
Total	₹ 1,48,40,000	
Add: Surcharge @ 37%	<u>₹ 54,90,800</u>	₹ 2,03,30,800
<b>(B)</b> Income-tax computed on total income of ₹ 5 crore (₹ 10,000 plus ₹ 1,00,000 plus ₹ 1,47,00,000)		
		₹ 1,48,10,000
Add: Surcharge@25%		<u>₹ 37,02,500</u>
		<b>₹ 1,85,12,500</b>
<b>(C)</b> Total Income Less ₹ 5 crore		₹ 1,00,000
<b>(D)</b> Income-tax computed on total income of ₹ 5 crore <i>plus</i> the excess of total income over ₹ 5 crore <b>(B + C)</b>		
		₹ 1,86,12,500
<b>(E) Tax liability (A) or (D), whichever is lower</b>		₹ 1,86,12,500
Add: Health and education cess@4%		<u>₹ 7,44,500</u>
<b>Tax liability (including cess)</b>		<b><u>₹ 1,93,57,000</u></b>
<b>(F) Marginal Relief (A – D)</b>		<b>₹ 17,18,300</b>

**Alternative method**

**(A)** Income-tax (including surcharge) computed on total income of ₹ 5,01,00,000

₹ 3,00,000 – ₹ 5,00,000@5% ₹ 10,000

₹ 5,00,001 – ₹ 10,00,000@20% ₹ 1,00,000

₹ 10,00,001 – ₹ 5,01,00,000@30% ₹ 1,47,30,000

Total ₹ 1,48,40,000

Add: Surcharge @ 37% ₹ 54,90,800 ₹ 2,03,30,800

**(B)** Income-tax computed on total income of ₹ 5 crore

[(₹ 10,000 plus ₹ 1,00,000 plus ₹ 1,47,00,000)

plus surcharge@25% ₹ 1,85,12,500

**(C)** Excess tax payable (A)-(B) ₹ 18,18,300

**(D) Marginal Relief** (₹ 18,18,300 – ₹ 1,00,000, being the amount of income in excess of ₹ 5,00,00,000)

**₹ 17,18,300**

**(E)** Tax liability (A) - (D) ₹ 1,86,12,500

Add: Health and education cess @4% ₹ 7,44,500

**Tax liability (including cess) ₹ 1,93,57,000**

It is beneficial for Mr. D to pay tax under default tax regime under section 115BAC, since his tax liability would be lower by ₹ 2,08,000 (₹ 1,93,57,000 - ₹ 1,91,49,000).

## 6.2 Firm/ LLP/ Local Authority

### Income-tax

On the whole of the total income 30%

Special rates for capital gains under sections 112, 112A and 111A would be applicable to Firm/ LLP/ local authority also.

### Surcharge

Where the total income exceeds ₹ 1 crore, surcharge is payable at the rate of 12% of income-tax computed as above.

## 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 (together with surcharge) computed on such income should not exceed the amount of income-tax computed on total income of ₹ 1 crore by more than the amount of income that exceeds ₹ 1 crore.

## 6.3 Co-operative Society

### Income-tax rates as per the normal provisions of the Act

(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 plus 20% of the amount by which the total income exceeds ₹ 10,000
(iii)	Where the total income exceeds ₹ 20,000	3,000 plus 30% of the amount by which the total income exceeds ₹ 20,000

**Note** – A manufacturing co-operative society, resident in India, can opt for concessional rates of tax under section 115BAE and other co-operative societies, resident in India, can opt for concessional rates of tax under section 115BAD.

#### **Tax rate in case of a manufacturing co-operative society, resident in India (set up and registered on or after 1.4.2023 and commences manufacture of article or thing before 31.3.2024) opting for concessional tax regime u/s 115BAE**

15% of income derived from or incidental to manufacturing or production of an article or thing

#### **Tax rate in case of other resident co-operative society opting for concessional tax regime u/s 115BAD:**

22% of total income

**Note** - Co-operative society, resident in India, can opt for concessional rate of tax u/s 115BAD or 115BAE, as the case may be, subject to certain conditions. The total income of such co-operative societies would be computed without giving effect to deduction under section 10AA, 33AB, 33ABA, 35(1)(ii)/(iia)/(iii), 35(2AA), 35AD, 35CCC, additional depreciation under section 32(1)(iia), deductions under Chapter VI-A (other than section 80JJAA) etc. and set off of loss and depreciation brought forward from earlier years relating to the above deductions. The provisions of

*alternate minimum tax under section 115JC would not be applicable to a co-operative society opting for section 115BAD or 115BAE. This section will be dealt with in detail at Final level.*

**Special rates for capital gains under sections 112, 112A and 111A would be applicable to Co-operative society also.**

### Surcharge

- (a) **In case of a co-operative society (other than a co-operative society opting for section 115BAD or section 115BAE), whose total income > ₹ 1 crore but is ≤ ₹ 10 crore**

Where the total income exceeds ₹ 1 crore but does not exceed ₹ 10 crore, surcharge is payable at the rate of **7%** of income-tax computed in accordance with the slab rates given above and/ or section 111A or section 112 or section 112A.

#### **Marginal Relief**

Marginal relief is available in case of such co-operative societies i.e., the total amount of income-tax (together with surcharge) computed on such income should not exceed the amount of income-tax computed on total income of ₹ 1 crore by more than the amount of income that exceeds ₹ 1 crore.

- (b) **In case of a co-operative society (other than a co-operative society opting for section 115BAD or section 115BAE), whose total income is > ₹ 10 crore**

Where the total income exceeds ₹ 10 crore, surcharge is payable at the rate of **12%** of income-tax computed in accordance with the slab rates given above and/ or section 111A or section 112 or section 112A.

#### **Marginal Relief**

Marginal relief is available in case of such co-operative societies i. e., the total amount of income-tax (together with surcharge) computed on such income should not exceed the amount of income-tax and surcharge computed on total income of ₹ 10 crore by more than the amount of income that exceeds ₹ 10 crore.

(c) **In case of a co-operative society opting for section 115BAD or section 115BAE**

Surcharge @10% of income-tax computed under section 115BAD **or section 115BAE** would be leviable. Since there is no threshold limit for applicability of surcharge, consequently, there would be no marginal relief.

## 6.4 Domestic Company

### Income-tax

<b><i>If the total turnover or gross receipt in the P.Y.2021-22 ≤ ₹ 400 crore</i></b>	<b><i>25% of the total income</i></b>
In any other case	30% of the total income

**Notes –**

- **In case of a domestic manufacturing company (set up and registered on or after 1.10.2019 and commences manufacture of article or thing<sup>6</sup> before 31.3.2024) exercising option u/s 115BAB:** 15% of income derived from or incidental to manufacturing or production of an article or thing
- **In case of a domestic company exercising option u/s 115BAA:** 22% of total income

Domestic company can opt for section 115BAA or section 115BAB, as the case may be, subject to certain conditions. The total income of such companies would be computed without giving effect to deductions under section 10AA, 33AB, 33ABA, 35(1)(ii)/(iia)/(iii), 35(2AA), 35(2AB), 35AD, 35CCC, 35CCD, Chapter VI-A (except section 80JJAA or section 80M), additional depreciation under section 32(1)(iia) etc. and without set-off of brought forward loss and unabsorbed depreciation attributable to such deductions. These sections will be dealt with in detail at Final Level.

**Special rates for capital gains under sections 112, 112A and 111A would be applicable to domestic company also.**

### Surcharge

(a) **In case of a domestic company (other than a domestic company opting for section 115BAA or section 115BAB), whose total income > ₹ 1 crore but is ≤ ₹ 10 crore**

<sup>6</sup>Including business of generation of electricity

Where the total income exceeds ₹ 1 crore but does not exceed ₹ 10 crore, surcharge is payable at the rate of **7%** of income-tax computed in accordance with the rates given above.

### **Marginal Relief**

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

**(b) In case of a domestic company (other than a domestic company opting for section 115BAA or section 115BAB), whose total income is > ₹ 10 crore**

Where the total income exceeds ₹ 10 crore, surcharge is payable at the rate of **12%** of income-tax computed in accordance with the rates given above.

### **Marginal Relief**

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with surcharge) computed on such income should not exceed the amount of income-tax and surcharge computed on total income of ₹ 10 crore by more than the amount of income that exceeds ₹ 10 crore.

**(c) In case of a domestic company opting for section 115BAA or section 115BAB**

Surcharge @10% of income-tax computed under section 115BAA or section 115BAB would be leviable. Since there is no threshold limit for applicability of surcharge, consequently, there would be no marginal relief.

## **6.5 Foreign Company**

### **Income-tax**

Royalties and fees for rendering technical services (FTS) received from Government or an Indian concern in pursuance of an agreement, approved by the Central Government, 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)	50%
Other income	40%

**Special rates for capital gains under sections 112, 112A and 111A would be applicable to foreign company also.**

### Surcharge

- (a) **In case of a foreign company, whose total income > ₹ 1 crore but is ≤ ₹ 10 crore**

Where the total income exceeds ₹ 1 crore but does not exceed ₹ 10 crore, surcharge is payable at the rate of **2%** of income-tax computed in accordance with the rates given above.

#### **Marginal Relief**

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

- (b) **In case of a foreign company, whose total income is > ₹ 10 crore**

Where the total income exceeds ₹ 10 crore, surcharge is payable at the rate of **5%** of income-tax computed in accordance with the rates given above.

#### **Marginal Relief**

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with surcharge) computed on such income should not exceed the amount of income-tax and surcharge computed on total income of ₹ 10 crore by more than the amount of income that exceeds ₹ 10 crore.



## **7. REBATE FOR RESIDENT INDIVIDUALS [SECTION 87A]**

In order to provide tax relief to the individual tax payers, section 87A provides a rebate from the tax payable by an assessee, being an **individual resident in India**.

### **Rebate to resident individual paying tax under default tax regime u/s 115BAC**

- (i) *If total income of such individual **does not exceed ₹ 7,00,000**, the rebate shall be equal to the amount of income-tax payable on his total income for any assessment year or an amount of **₹ 25,000**, whichever is less.*

*The 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.

### ILLUSTRATION 9

Mr. Raghav aged 26 years and a resident in India, has a total income of ₹ 6,50,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y.2024-25 under default tax regime under section 115BAC.

### SOLUTION

#### Computation of tax liability of Mr. Raghav for A.Y. 2024-25

Particulars	₹
Tax on total income of ₹ 6,50,000	
Tax@10%of ₹ 50,000 + ₹ 15,000	20,000
Less: Rebate u/s 87A (Lower of tax payable or ₹ 25,000)	20,000
<b>Tax Liability</b>	Nil

- (ii) If total income of such individual **exceeds ₹ 7,00,000** and income-tax payable on such total income exceeds the amount by which the total income is in excess of ₹ 7,00,000, the rebate would be as follows.

**Step 1** – Total income (-) ₹ 7 lakhs (**A**)

**Step 2** - Compute income-tax liability on total income (**B**)

**Step 3** - If **B > A**, rebate under section 87A would be a **B – A**.

The 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.

### ILLUSTRATION 10

Mr. Pawan aged 35 years and a resident in India, has a total income of ₹ 7,15,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y.2024-25 under default tax regime under section 115BAC.

**SOLUTION****Computation of tax liability of Mr. Pawan for A.Y. 2024-25**

Particulars	₹	
<b>Step 1:</b> Total Income of ₹ 7,15,000 - ₹ 7,00,000	15,000	<b>(A)</b>
<b>Step 2:</b> Tax on total income of ₹ 7,15,000 Tax@10%of ₹ 1,15,000 + ₹ 15,000	26,500	<b>(B)</b>
<b>Step 3:</b> Since B>A, rebate u/s 87A would be B-A [₹ 26,500 - ₹ 15,000]	11,500	
	15,000	
Add: HEC@4%	600	
<b>Tax Liability</b>	<b>15,600</b>	

**Rebate to a resident individual paying tax under optional tax regime (normal provisions of the Act)**

If total income of such individual **does not exceed ₹ 5,00,000**, the rebate shall be equal to the amount of income-tax payable on his total income for any assessment year or an amount of **₹ 12,500**, whichever is less.

The 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.

**ILLUSTRATION 11**

Mr. Piyush, aged 35 years and a resident in India, has a total income of ₹ 4,15,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y.2024-25 if he exercises the option to shift out of the default tax regime.

**SOLUTION****Computation of tax liability of Mr. Piyush for A.Y. 2024-25**

Particulars	₹
Tax on total income of ₹ 4,15,000	
Tax@5%of ₹ 1,65,000	8,250
Less: Rebate u/s 87A (Lower of tax payable or ₹ 12,500)	8,250
<b>Tax Liability</b>	<b>Nil</b>



- Rebate under section 87A is allowed from income-tax computed before adding Health and education cess on income-tax.
- Rebate under section 87A is, however, not available in respect of tax payable @10% on long-term capital gains taxable u/s 112A.



## 8. PARTIAL INTEGRATION OF AGRICULTURAL INCOME WITH NON-AGRICULTURAL INCOME

Agricultural income is exempt subject to conditions mentioned in the definition given under section 2(1A). However, a method has been laid down to levy tax on agricultural income in an indirect way. This concept is known as **partial integration of agricultural income with non-agricultural income**. It is applicable to individuals, HUF, AOPs, BOIs and artificial juridical persons. Two conditions which need to be satisfied for partial integration are:

1. The net agricultural income should exceed ₹ 5,000 p.a., and
2. Non-agricultural income should exceed the maximum amount not chargeable to tax. (i.e., If such person is paying tax under default tax regime u/s 115BAC, then ₹ 3,00,000 is the basic exemption limit irrespective of the age of the person. If such person has exercised the option to shift out of the default tax regime, then, the basic exemption limit would be ₹ 5,00,000 for resident individuals of the age of 80 years or more at any time during the previous year, ₹ 3,00,000 for resident individuals of the age of 60 years or more (but less than 80 years) at any time during the previous year and ₹ 2,50,000 for all others). Only if non-agricultural income exceeds this limit, partial integration would be required.

It may be noted that aggregation provisions do not apply to company, LLP, firm, co-operative society and local authority. The object of aggregating the net agricultural income with non-agricultural income is to tax the non-agricultural income at higher rates.

Tax calculation in such cases is as follows:

- Step 1:** Add non-agricultural income with net agricultural income. Compute tax on the aggregate amount.

**Step 2:** Add net agricultural income and the basic exemption limit available to the assessee. Compute tax on the aggregate amount.

**Step 3:** Deduct the amount of income tax calculated in step 2 from the income tax calculated in step 1 i.e., Step 1 – Step 2.

**Step 4:** The sum so arrived at shall be –

- increased by surcharge, if applicable,
- reduced by the rebate, if any, available u/s 87A.

**Step 5:** Thereafter, it would be increased by health and education cess @4%.

The above concept can be clearly understood with the help of the following illustration:

### ILLUSTRATION 12

*Mr. X, a resident, has provided the following particulars of his income for the P.Y. 2023-24.*

i. Income from salary (computed)	- ₹ 4,80,000
ii. Income from house property (computed)	- ₹ 2,50,000
iii. Agricultural income from a land in Jaipur	- ₹ 4,80,000
iv. Expenses incurred for earning agricultural income	- ₹ 1,70,000

*Compute his tax liability for A.Y. 2024-25 assuming his age is -*

- (a) 45 years
- (b) 70 years

### SOLUTION

#### (a) Computation of tax liability (age 45 years)

#### **Computation of total income of Mr. X for the A.Y. 2024-25 under default tax regime under section 115BAC**

For the purpose of partial integration of taxes, Mr. X has satisfied both the conditions i.e.

1. Net agricultural income exceeds ₹ 5,000 p.a., and
2. Non-agricultural income exceeds the basic exemption limit of ₹ 3,00,000.

His tax liability is computed in the following manner:

Particulars	₹	₹
Income from salary		4,80,000
Income from house property		2,50,000
Net agricultural income [₹ 4,80,000 – ₹ 1,70,000]	3,10,000	
Less: Exempt under section 10(1)	<u>(3,10,000)</u>	<u>-</u>
<b>Gross Total Income</b>		<b>7,30,000</b>
Less: Deductions under Chapter VI-A		<u>-</u>
<b>Total Income</b>		<b><u>7,30,000</u></b>

**Step 1** : ₹ 7,30,000 + ₹ 3,10,000 = ₹ 10,40,000

Tax on ₹ 10,40,000 = ₹ 66,000

(i.e., 5% of ₹ 3,00,000 plus 10% of ₹ 3,00,000 plus 15% of ₹ 1,40,000)

**Step 2** : ₹ 3,10,000 + ₹ 3,00,000 = ₹ 6,10,000

Tax on ₹ 6,10,000 = ₹ 16,000

(i.e. 5% of ₹ 3,00,000 plus 10% of ₹ 10,000)

**Step 3** : ₹ 66,000 – ₹ 16,000 = ₹ 50,000

**Step 4** : ₹ 50,000 - ₹ 20,000 (See working note below) = ₹ 30,000

**Step 5** : Total tax payable = ₹ 30,000

= ₹ 30,000 + 4% of ₹ 30,000 = ₹ 31,200.

**Working Note:**

#### Computation of rebate under section 87A

Particulars	₹	
<b>Step 1:</b> Total Income of ₹ 7,30,000 - ₹ 7,00,000	30,000	<b>(A)</b>
<b>Step 2:</b> Tax on total income of ₹ 7,30,000 as computed in Step 3 above	50,000	<b>(B)</b>
<b>Step 3:</b> Since B > A, rebate u/s 87A would be B-A [₹ 50,000 - ₹ 30,000]	20,000	

**Computation of total income of Mr. X for the A.Y. 2024-25 under normal provisions of the Act**

For the purpose of partial integration of taxes, Mr. X has satisfied both the conditions i.e.

3. Net agricultural income exceeds ₹ 5,000 p.a., and
4. Non-agricultural income exceeds the basic exemption limit of ₹ 2,50,000.

His tax liability is computed in the following manner:

Particulars	₹	₹
Income from salary		4,80,000
Income from house property		2,50,000
Net agricultural income [₹ 4,80,000 – ₹ 1,70,000]	3,10,000	
Less: Exempt under section 10(1)	<u>(3,10,000)</u>	<u>-</u>
<b>Gross Total Income</b>		<b>7,30,000</b>
Less: Deductions under Chapter VI-A		<u>-</u>
<b>Total Income</b>		<b><u>7,30,000</u></b>

**Step 1** : ₹ 7,30,000 + ₹ 3,10,000 = ₹ 10,40,000

Tax on ₹ 10,40,000 = ₹ 1,24,500

(i.e., 5% of ₹ 2,50,000 plus 20% of ₹ 5,00,000 plus 30% of ₹ 40,000)

**Step 2** : ₹ 3,10,000 + ₹ 2,50,000 = ₹ 5,60,000

Tax on ₹ 5,60,000 = ₹ 24,500

(i.e. 5% of ₹ 2,50,000 plus 20% of ₹ 60,000)

**Step 3** : ₹ 1,24,500 – ₹ 24,500 = ₹ 1,00,000

**Step 4 & 5** : Total tax payable = ₹ 1,00,000

= ₹ 1,00,000 + 4% of ₹ 1,00,000 = ₹ 1,04,000.

**(b) Computation of tax liability (age 70 years)****Computation of total income of Mr. X for the A.Y. 2024-25 under default tax regime under section 115BAC**

Tax liability of Mr. X would be same under default tax regime whether he is of age of 45 years or 70 years i.e., ₹ 31,200.

**Computation of total income of Mr. X for the A.Y. 2024-25 under normal provisions of the Act**

His tax liability is computed in the following manner:

**Step 1** : ₹ 7,30,000 + ₹ 3,10,000 = ₹ 10,40,000

Tax on ₹ 10,40,000 = ₹ 1,22,000

(i.e., 5% of ₹ 2,00,000 plus 20% of ₹ 5,00,000 plus 30% of ₹ 40,000)

**Step 2** : ₹ 3,10,000 + ₹ 3,00,000 = ₹ 6,10,000

Tax on ₹ 6,10,000 = ₹ 32,000

(i.e. 5% of ₹ 2,00,000 plus 20% of ₹ 1,10,000)

**Step 3** : ₹ 1,22,000 – ₹ 32,000 = ₹ 90,000

**Step 4 & 5** : Total tax payable = ₹ 90,000

= ₹ 90,000 + 4% of ₹ 1,00,000 = ₹ 93,600.



## 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.
- **Court 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) 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.**

In this step, it is necessary to consider whether the individual is paying tax under the default tax regime or exercising the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act. Certain deductions which are allowable under the normal provisions of the Act are not permissible under the default tax regime.



**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 – Providing Deductions from Gross Total Income**

Here again, only very select deductions, namely, 80CCD(2), 80CCH(2) and 80JJAA, are allowable under the default tax regime under section 115BAC.

**Step 8** – Computation of Total income

**Step 9** - Application of the rates of tax on the total income

For default tax regime, concessional tax rates are provided under section 115BAC. For optional tax regime as per the normal provisions of the Act, the tax rates are provided in the Annual Finance Act. The special rates u/s 111A, 112, 112A, 115BB, 115BBJ, etc. would apply under both tax regimes.

**Step 10** – Add Surcharge, if applicable/ Deduct Rebate under section 87A, if applicable

**Step 11** – Add Health and education cess on income-tax

**Step 12** – Compute Alternate Minimum Tax (AMT), if applicable, [under the optional tax regime]

**Step 13** - Examine whether to pay tax under default tax regime under section 115BAC or pay tax under the regular provisions of the Act, by comparing the tax liability under both regimes.

**Step 14** – Deduct Advance tax and tax deducted/ collected at source

**Step 15** – The resultant figure would be Tax Payable/Tax Refundable

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

**(3) 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 31<sup>st</sup> 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 31<sup>st</sup> March.

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

**Exceptions 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]

**Rate of tax for Undisclosed Sources of Income:** The following undisclosed incomes are chargeable to tax @78% [i.e., 60% *plus* surcharge @25% *plus* cess @4%] as specified under section 115BBE:

- (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]

**(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.

If an Individual/ Hindu Undivided Family (HUF)/ Association of Persons (AOP)/ Body of Individuals (BOI)/ Artificial Juridical Person is paying tax under default tax regime, concessional tax rates are prescribed under section 115BAC. However, if he/it exercises the option to shift out of the default tax regime, tax rates prescribed by the Annual Finance Act of that year would apply.

Persons	Rate of taxes	
<b>Individual/HUF/ AOP/BOI/ Artificial Juridical Person (Under default tax regime)</b>	Total income (in ₹)	Rate of Tax
	Upto ₹ 3,00,000	Nil
	₹ 3,00,001 to ₹ 6,00,000	5%
	₹ 6,00,001 to ₹ 9,00,000	10%
	₹ 9,00,001 to ₹ 12,00,000	15%
	₹ 12,00,001 to ₹ 15,00,000	20%
	Above ₹ 15,00,000	30%
<b>Individual (As per the normal provisions of the Act under the optional tax regime)</b>	Total income (in ₹)	Rate of Tax
	(i) Upto ₹ 2,50,000 (below 60 years) (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)	Nil
	₹ 2,50,001/ ₹ 3,00,001, as the case may be, to ₹ 5,00,000 [in cases (i) and (ii) above, respectively]	5%
	₹ 5,00,001 to ₹ 10,00,000	20%
	Above ₹ 10,00,000	30%
<b>HUF/AOP/BOI/ Artificial Juridical Person (As per the normal provisions of the Act under the optional tax regime)</b>	Total income (in ₹)	Rate of Tax
	Upto ₹ 2,50,000	Nil
	₹ 2,50,001 to ₹ 5,00,000	5%
	₹ 5,00,001 to ₹ 10,00,000	20%
	Above ₹ 10,00,000	30%

<b>Firm/LLP/local authority</b>	30%		
<b>Co-operative Society (not opting for the provisions of section 115BAD or section 115BAE)</b>	<b>Total income (in ₹)</b>	<b>Rate of Tax</b>	
	Upto ₹ 10,000	10%	
	₹ 10,001 to ₹ 20,000	20%	
	Above ₹ 20,000	30%	
<b>Company (not opting for the provisions of section 115BAA/115BAB)</b>	<b>Domestic Company</b>		<b>Foreign Company</b>
	<b>Total turnover or gross receipts in the P.Y. 2021-22 ≤ ₹ 400 crore</b>	<b>Other domestic companies</b>	
	25%	30%	40%

### Surcharge

#### Under the default tax regime

#### **Individual/ HUF/ AOP (other than an AOP consisting of only companies as members)/ BOI/ Artificial juridical person**

(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 50 lakh but is ≤ ₹ 1 crore	10%
(ii)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 1 crore but is ≤ ₹ 2 crore	15%
(iii)	<ul style="list-style-type: none"> <li>- Where the total income (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) &gt; ₹ 2 crore</li> <li>- Rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A</li> </ul>	25%  Not exceeding 15%
(iv)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 2 crore in cases not covered in (iii) above	15%

<b>Under the optional tax regime as per the normal provisions of the Act</b>		
<b>Individual/ HUF/ AOP (other than an AOP consisting of only companies as members)/ BOI/ Artificial juridical person</b>		
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 50 lakh but is ≤ ₹ 1 crore	10%
(ii)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 1 crore but is ≤ ₹ 2 crore	15%
(iii)	<ul style="list-style-type: none"> <li>- Where the total income (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) &gt; ₹ 2 crore but is ≤ ₹ 5 crore</li> <li>- Rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A</li> </ul>	25%  Not exceeding 15%
(iv)	<ul style="list-style-type: none"> <li>- Where the total income (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) &gt; ₹ 5 crore</li> <li>- Rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A.</li> </ul>	37%  Not exceeding 15%
(v)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹ 2 crore in cases not covered in (iii) and (iv) above	15%
<b>In case of an AOP of only companies as members</b>		
(i)	Where the total income > ₹ 50 lakh but is < ₹ 1 crore	10%
(ii)	Where the total income > ₹ 1 crore	15%
<b>Firm/Limited Liability Partnership/Local Authorities</b>		
Where the total income > ₹ 1 crore		12%
<b>Co-operative societies (other than a co-operative society opting for section 115BAD or section 115BBE)</b>		
Total income > ₹ 1 crore but is ≤ ₹ 10 crore		7%

Total income is > ₹ 10 crore	12%
<b>Domestic company (other than a domestic company opting for section 115BAA or section 115BAB)</b>	
Total income > ₹ 1 crore but is ≤ ₹ 10 crore	7%
Total income is > ₹ 10 crore	12%
<b>Foreign company</b>	
Total income > ₹ 1 crore but is ≤ ₹ 10 crore	2%
Total income is > ₹ 10 crore	5%

### **Rebate under section 87A:**

#### **Under default tax regime**

**(i) Where total income ≤ ₹ 7,00,000** - Rebate of up to ₹ 25,000 for resident individuals.

**(ii) Where total income > ₹ 7,00,000 and income-tax payable on such total income exceeds the amount by which the total income is in excess of ₹ 7,00,000** - Rebate of tax on total income as reduced by the total income exceeding ₹ 7,00,000 for resident individuals.

#### **Under normal provisions of the Act**

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

#### **Agricultural income is exempt under section 10(1).**

However, agricultural income has to be aggregated with non-agricultural income for determining the rate at which non-agricultural income would be subject to tax, in case of individuals, HUF, AOPs & BOIs etc., where the –

- agricultural income exceeds ₹ 5,000 p.a. and
- non-agricultural income exceeds basic exemption limit.

The following are the steps to be followed in computation of tax-

**Step 1:** Tax on non-agricultural income plus agricultural income

**Step 2:** Tax on agricultural income plus basic exemption limit

**Step 3:** Tax payable by the assessee = Step 1 – Step 2

**Step 4:** Add Surcharge/Deduct Rebate u/s 87A, if applicable.

**Step 5:** Add Health and Education Cess@4%.



## TEST YOUR KNOWLEDGE

1. Who is an "Assessee"? Explain
2. State any four instances where the income of the previous year is assessable in the previous year itself instead of the assessment year.
3. Whether the income derived from saplings or seedlings grown in a nursery is taxable under the Income-tax Act, 1961? Examine.
4. What are the two schools of Hindu law and where are they prevalent? Explain. Also, mention the difference between the two schools of Hindu Law.
5. What is the difference between an Association of Persons and Body of Individuals?
6. Mr. Sumit, a resident Indian, earns income of ₹ 15 lakhs from sale of rubber manufactured from latex obtained from rubber plants grown by him in India and ₹ 20 lakhs from sale of rubber manufactured from latex obtained from rubber plants grown by him in Malaysia during the A.Y.2024-25. What would be his business income, assuming he has no other business?
7. Mr. Raja, a resident Indian, earns income of ₹ 10 lakhs from sale of coffee grown and cured in India during the A.Y.2024-25. His friend, Mr. Shyam, a resident Indian, earns income of ₹ 20 lakhs from sale of coffee grown, cured, roasted and grounded by him in India during the A.Y.2024-25. What would be the business income chargeable to tax in India of Mr. Raja and Mr. Shyam?
8. The Jain HUF in Assam comprises of Mr. Suresh Jain, his wife Mrs. Sapna Jain, his son Mr. Sarthak Jain, his daughter-in-law Mrs. Preeti Jain, his daughter Miss Seema Jain and his unmarried brother Mr. Pritam Jain. Which of the members of the HUF are eligible for coparcenary rights?
9. Compute the tax liability under default tax regime of Mr. Kashyap (aged 35), having total income of ₹ 51,75,000 for the Assessment Year 2024-25. Assume that his total income comprises of salary income, income from house property and interest on fixed deposit.
10. Mr. Agarwal, aged 40 years and a resident in India, has a total income of ₹ 6,50,00,000, comprising long term capital gain taxable under section 112 of

₹ 55,00,000, short term capital gain taxable under section 111A of ₹ 65,00,000 and other income of ₹ 5,30,00,000. Compute his tax liability for A.Y.2024-25 under the default tax regime and optional tax regime as per the normal provisions of the Act assuming that the total income and its components are the same in both tax regimes.

11. Mr. Sharma aged 62 years and a resident in India, has a total income of ₹ 2,30,00,000, comprising long term capital gain taxable under section 112 of ₹ 52,00,000, short term capital gain taxable under section 111A of ₹ 64,00,000 and other income of ₹ 1,14,00,000. Compute his tax liability for A.Y.2024-25 under the default tax regime and optional tax regime as per the normal provisions of the Act assuming that the total income and its components are the same in both tax regimes.

## ANSWERS

1. As per section 2(7), assessee means a person by whom any tax or any other sum of money is payable under the Income-tax Act, 1961.

In addition, the term includes –

- Every person in respect of whom any proceeding under the 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 the Act;
- Every person who is deemed to be an assessee in default under any provision of the Act.

2. The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. However, in a few cases, the income is taxed in the previous year in which it is earned. These exceptions



have been made to protect the interests of revenue. The exceptions are as follows:

- (i) Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.
  - (ii) Where it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of his departure from India is chargeable to tax in that assessment year.
  - (iii) If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or in the next year, he can make assessment of the income up to the date of dissolution as income of the relevant assessment year.
  - (iv) During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous year to the date, when the Assessing Officer commences proceedings under this section is chargeable to tax in that assessment year.
  - (v) Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that assessment year.
- 3.** As per *Explanation 3* to section 2(1A), income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income and

exempt from tax, whether or not the basic operations were carried out on land.

4. The two schools of Hindu law are Dayabaga school, prevalent in West Bengal and Assam, and Mitakshara school, prevalent in rest of India.

Under the Dayabaga school of Hindu Law, nobody acquires the right, share in the property by birth as long as the head of family is living. Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Hence, the father and his brothers would be the coparceners of the HUF.

Under the Mitakshara school of Hindu Law, one acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus, every child born in the family acquires a right/share in the family property.

5. In order to constitute an Association of Persons (AOP), 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.

Body of Individuals 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.

The difference between an AOP and BOI is that in case of a BOI, only individuals can be the members, whereas in case of AOP, any person can be its member i.e. entities like company, firm etc. can be the member of AOP but not of BOI.

In case of an AOP, members voluntarily come together with a common will for a common intention or purpose, whereas in case of BOI, such common will may or may not be present.

6. Since Mr. Sumit is a resident, his global income would be taxable in India. Income of ₹ 20 lakhs from sale of rubber manufactured from latex obtained from rubber plants grown by him in Malaysia would be his business income since it is from rubber plants grown **outside India**. 35% income from sale of rubber manufactured from latex obtained from rubber plants grown by him

in India would be taxable as business income and balance 65% would be exempt as agricultural income.

Business income = 35% of ₹ 15 lakhs + ₹ 20 lakhs = ₹ 25.25 lakhs

7. In case of income derived from the sale of coffee grown and cured by the seller in India, 25% income on such sale is taxable as business income. In case of income derived from the sale of coffee grown, cured, roasted and grounded by the seller in India, 40% income on such sale is taxable as business income.

Business income of Mr. Raja = 25% of ₹ 10 lakhs = ₹ 2.5 lakhs

Business income of Mr. Shyam = 40% of ₹ 20 lakhs = ₹ 8 lakhs

8. Dayabaga school of Hindu law is prevalent in Assam. In Dayabaga school of Hindu law, nobody acquires the right, share in the property by birth as long as the head of family is living.

Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property.

Hence, Mr. Suresh Jain and his brother, Mr. Pritam Jain would be the coparceners of the Jain HUF and are eligible for coparcenary rights.

9. **Computation of tax liability of Mr. Kashyap for the A.Y.2024-25 under default tax regime**

(A) Tax payable including surcharge on total income of ₹ 51,75,000

₹ 3,00,000 – ₹ 6,00,000 @5%	₹ 15,000	
₹ 6,00,001 – ₹ 9,00,000 @10%	₹ 30,000	
₹ 9,00,001 – ₹ 12,00,000 @15%	₹ 45,000	
₹ 12,00,001 – ₹ 15,00,000 @20%	₹ 60,000	
₹ 15,00,001 – ₹ 51,75,000 @30%	₹ <u>11,02,500</u>	
Total		₹ 12,52,500
Add: Surcharge @ 10%	₹ <u>1,25,250</u>	₹ 13,77,750

<b>(B)</b> Tax Payable on total income of ₹ 50 lakhs (₹ 1,50,000 plus ₹ 10,50,000)	₹ 12,00,000
<b>(C)</b> Total Income Less ₹ 50 lakhs	₹ 1,75,000
<b>(D)</b> Tax payable on total income of ₹ 50 lakhs <i>plus</i> the excess of total income over ₹ 50 lakhs <b>(B + C)</b>	₹ 13,75,000
<b>(E) Tax payable: lower of (A) and (D)</b>	₹ 13,75,000
Add: Health and education cess @4%	<u>₹ 55,000</u>
Tax liability	<b><u>₹ 14,30,000</u></b>
<b>(F)</b> Marginal Relief <b>(A – D)</b>	₹ 2,750

**Alternative method -**

<b>(A)</b> Tax payable including surcharge on total income of ₹ 51,75,000	
₹ 3,00,000 – ₹ 6,00,000 @5%	₹ 15,000
₹ 6,00,001 – ₹ 9,00,000 @10%	₹ 30,000
₹ 9,00,001 – ₹ 12,00,000 @15%	₹ 45,000
₹ 12,00,001 – ₹ 15,00,000 @20%	₹ 60,000
₹ 15,00,001 – ₹ 51,75,000 @30%	₹ <u>11,02,500</u>
Total	₹ 12,52,500
Add: Surcharge@10%	<u>₹ 1,25,250</u>
	₹ 13,77,750
<b>(B)</b> Tax Payable on total income of ₹ 50 lakhs (₹ 1,50,000 plus ₹ 10,50,000)	₹ 12,00,000
<b>(C)</b> Excess tax payable (A)-(B)	₹ 1,77,750
<b>(D)</b> Marginal Relief (₹ 1,77,750 – ₹ 1,75,000, being the amount of income in excess of ₹ 50,00,000)	<b>₹ 2,750</b>
<b>(E)</b> Tax payable (A)-(D)	₹ 13,75,000
Add: Health and education cess @4%	<u>₹ 55,000</u>
Tax liability	<b><u>₹ 14,30,000</u></b>

**10. Computation of tax liability of Mr. Agarwal for the A.Y.2024-25  
under default tax regime**

Particulars	₹
<b><u>Tax on total income of ₹ 6,50,00,000</u></b>	
Tax@20% of ₹ 55,00,000	11,00,000
Tax@15% of ₹ 65,00,000	9,75,000
Tax on other income of ₹ 5,30,00,000	
₹ 3,00,000 – ₹ 6,00,000 @5%	15,000
₹ 6,00,000 – ₹ 9,00,000 @10%	30,000
₹ 9,00,000 – ₹ 12,00,000 @15%	45,000
₹ 12,00,000 – ₹ 15,00,000 @20%	60,000
₹ 15,00,000 – ₹ 5,30,00,000 @30%	1,54,50,000
	1,76,75,000
Add: Surcharge @15% on ₹ 20,75,000	3,11,250
@25% on ₹ 1,56,00,000	39,00,000
	2,18,86,250
Add: Health and education cess @4%	8,75,450
<b>Tax Liability</b>	<b>2,27,61,700</b>

**Computation of tax liability of Mr. Agarwal for the A.Y.2024-25  
under normal provisions of the Act**

Particulars	₹
<b><u>Tax on total income of ₹ 6,50,00,000</u></b>	
Tax@20% of ₹ 55,00,000	11,00,000
Tax@15% of ₹ 65,00,000	9,75,000
Tax on other income of ₹ 5,30,00,000	
₹ 2,50,000 – ₹ 5,00,000 @5%	12,500
₹ 5,00,000 – ₹ 10,00,000 @20%	1,00,000
₹ 10,00,000 – ₹ 5,30,00,000 @30%	1,56,00,000
	1,57,12,500

		1,77,87,500
Add: Surcharge @15% on ₹ 20,75,000	3,11,250	
@37% on ₹ 1,57,12,500	58,13,625	61,24,875
		2,39,12,375
Add: Health and education cess @4%		9,56,495
<b>Tax Liability</b>		<b>2,48,68,870</b>

**11. Computation of tax liability of Mr. Sharma for the A.Y.2024-25 under default tax regime**

Particulars	₹
<b><u>Tax on total income of ₹ 2,30,00,000</u></b>	
Tax@20% of ₹ 52,00,000	10,40,000
Tax@15% of ₹ 64,00,000	9,60,000
Tax on other income of ₹ 1,14,00,000	
₹ 3,00,000 – ₹ 6,00,000 @5%	15,000
₹ 6,00,000 – ₹ 9,00,000 @10%	30,000
₹ 9,00,000 – ₹ 12,00,000 @15%	45,000
₹ 12,00,000 – ₹ 15,00,000 @20%	60,000
₹ 15,00,000 – ₹ 1,14,00,000 @30%	29,70,000
	31,20,000
	51,20,000
Add: Surcharge @15%	7,68,000
	58,88,000
Add: Health and education cess @4%	235,520
<b>Tax Liability</b>	<b>61,23,520</b>

**Computation of tax liability of Mr. Sharma for the A.Y.2024-25 under normal provisions of the Act**

Particulars	₹
<b><u>Tax on total income of ₹ 2,30,00,000</u></b>	
Tax@20% of ₹ 52,00,000	10,40,000

Tax@15% of ₹ 64,00,000		9,60,000
Tax on other income of ₹ 1,14,00,000		
₹ 3,00,000 – ₹ 5,00,000 @5%	10,000	
₹ 5,00,000 – ₹ 10,00,000 @20%	1,00,000	
₹ 10,00,000 – ₹ 1,14,00,000 @30%	31,20,000	32,30,000
		52,30,000
Add: Surcharge @15%		7,84,500
		60,14,500
Add: Health and education cess @4%		2,40,580
<b>Tax Liability</b>		<b>62,55,080</b>