

Department of Commerce (CA)

CORE PAPER-XII-DIRECT TAX

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**UNIT1: The income tax act-definition of income-
assessment year-previous year-assessee-assesee in
default-scope of income-charge of tax-residential
status-exempted income**

REFERENCE BOOK:

- INCOME TAX LAW AND PRACTICE- GAUR AND NARANG
- DIRECT TAXES-B.B.LAL
- INCOME TAX LAW AND PRACTICE-DINKAR PAGARE
- INCOME TAX LAW AND PRACTICE -MALHOTRA

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INCOME TAX IN INDIA

AN INTRODUCTION BRIEF HISTORY OF INCOME TAX IN INDIA

In India, Income tax was introduced for the first time in 1860, by Sir James Wilson in order to meet the losses sustained by the Government on account of the Military Mutiny of 1857. Thereafter; several amendments were made in it from time to time. In 1886, a separate Income tax act was passed. This act remained in force up to, with various amendments from time to time. In 1918, a new income tax was passed and again it was replaced by another new act which was passed in 1922. This Act remained in force up to the assessment year 1961-62 with numerous amendments. The Income Tax Act of 1922 had become very complicated on account of innumerable amendments. The Government of India therefore referred it to the law commission in 1956 with a view to simplify and prevent the evasion of tax. The law commission submitted its report in September 1958, but in the meantime the Government of India had appointed the Direct Taxes Administration Enquiry Committee which submitted its report in 1956. In consultation with the Ministry of Law finally the Income Tax Act, 1961 was passed. The Income Tax Act 1961 has been brought into force with 1 April 1962. It applies to the whole of India including Jammu and Kashmir.

Income-tax law in India

- The income tax law in India consists of the following components:
 - 1. Income tax Acts
 - 2. Income tax rules
 - 3. Finance Act
 - 4. Circulars, notifications etc
 - 5. Legal decision of courts.

Important Definitions

Assessment Year :

- Section 2(9) "Assessment year" means the period starting from April 1 and ending on March 31 of the next year.
- Eg: Assessment year 2013-14 which commences on April 1, 2013 and ends on March 31, 2014. Income of previous year of an assessee is taxed during the assessment year at the rates prescribed by the relevant Finance Act for tax rates.

Previous year :

- section 3 Income earned in a particular year is taxable in the next year. The year in which income is earned is known as previous year and the next year in which income is taxable is known as assessment year. In other words, previous year is the financial year immediately preceding the assessment year.

Person :

- Section 2(31) The term “person” includes: 1. an individual; 2. a Hindu undivided family; 3. a company; 4. a firm; 5. an association of persons or a body of individuals , whether incorporated or not; 6. a local authority; and 7. every artificial juridical person not falling with in any of the preceding categories.

Assessee :

- Section 2(7) Every person in respect of whom, any proceeding under the act has been taken for the assessment of his income or of the income of any other person in respect of which he is assessable or of the loss sustained by him or by such other person or the amount of refund due to him or to such other person may be called an assessee.

- Deemed Assessee: A person who is deemed to be an assessee for some other person is called “Deemed Assessee”.
- Assessee In Default: When a person is responsible for doing any work under the Income Tax Act and he fails to do it, he is called an “Assessee in default”.
- Assessment [Section 2(8)] This is the procedure by which the income of an assessee is determined by the Assessing Officer.

Types of Residential Status

The different types of residential status are:-



Residential Status of Individual

The residential status of individual will be determined as under-

Assessee	Basic Condition	Additional Condition
Resident	He must satisfy at one of the basic conditions.	Not required.
Not Ordinarily Resident	He must satisfy at least one of the basic conditions.	He must satisfy either one or both the additional conditions given u/s 6(6).
Non-Resident	Should not satisfy any of the basic conditions.	Not required.

Contd...

Basic Conditions u/s 6(1):

- ii. He must be in India for a period of 182 days or more during the previous year; or
- iii. He must be in India for a period of 60 days or more during the previous year and 365 days or more during the four years immediately preceding the previous year.

Additional Conditions u/s 6(6):

- v. He must be a non-resident in India in nine out of the ten previous years preceding that year; or
- vi. He must be in India during 7 preceding previous years for aggregate period of 729 days or less.

Incidence of Tax

Particulars	Tax Incidence		
	R	NOR	NR
Income received in India by or on behalf of assessee	Yes	Yes	Yes
Income deemed to received in India by or on behalf of assessee	Yes	Yes	Yes
Income accruing or arising in India	Yes	Yes	Yes
Income deemed to accrue or arise in India	Yes	Yes	Yes
Income which accrues or arise outside India	Yes	No	No



The process of computation of Total Income.

Determination of residential Status.

Classification of Income under five heads.

Salary + income from + profit and gains + capital gain + other sources

house property of business or profession

aggregation of income

Clubbing of income

Set off/ carry forward of losses Gross total income

Deductions from Gross total income

Total income.

EXEMPTIONS & EXCLUSIONS U/S. 10:

1. Agricultural Income u/s. 10(1)
2. Receipts by a member, from a HUF u/s. 10(2)
3. Share of Profit from partnership firm u./s. 10(2A)
4. Leave Travel Concession in India u/s. 10(5)
5. Gratuity u/s. 10(10)

EXEMPTIONS & EXCLUSIONS U/S. 10

6. Compensation received at the time of Voluntary Retirement u/s. 10(10C)
7. Amount received under Life Insurance Policy u/s 10(10D)
8. Payment received from Provident Fund u/s. 10 (11), (12)
9. Payment received from an Approved Superannuation Fund u/s. 10(13)
10. House Rent Allowance u/s. 10 (13A).

EXEMPTIONS & EXCLUSIONS U/S. 10

11. Special Allowance u/s. 10 (14): Transport Allowance, Conveyance Allowance, Daily Allowance, Uniform Allowance, Helper Allowance, Research Allowance, Children Education Allowance, Children's Hostel Expenditure Allowance.
12. Interest on Securities u/s. 10(15)
13. Educational Scholarships u/s. 10(16)
14. Income of a minor child u/s 10 (32) [including basic provisions of sec 64(1A)]
15. Dividends and Interest on Units u/s. 10(34) (35).

Income not included in total income (U/s 10)

- The income tax Act 1961 enumerates in section 10, the items of income which are totally exempt from tax .
- While computing the total income of a previous year of any person, any income which falls within any of the following clause shall not be included in the total income.

Gratuity u/s. 10(10)

- Gratuity is paid for long and meritorious services rendered by an employee.
- With the enactment of the payment of Gratuity Act, 1972, gratuity payment has become legally compulsory.
- Where the payment of Gratuity Act, 1972 is inapplicable, an employee can claim gratuity under the terms of contract of employment .

Tax treatment of Gratuity

- For Govt. employees – fully exempt from tax
- For Non-Govt. employee covered by payment of Gratuity Act 1972. –
- **Least of the following three is exempt from tax**
 1. 15 days salary (7days salary in case of seasonal establishment) based on salary last drawn for each year of service
 2. Rs. 10,00,000 (Rs 3,50,000 up to 23rd may 2010)
 3. Gratuity actually received

Non- Govt. employee not covered by the payment of Gratuity Act 1972

- Least of the following three is exempt from tax

1. Rs 10,00,000
2. Half months average salary for each completed year of service
3. Gratuity actually received

Agricultural Income u/s. 10(1)

Agriculture income is exempted from tax if it comes from within the definition of "agricultural income"

TAX

A fee charged (“levied”) by a Government on –

☞ income,

☞ product (or)

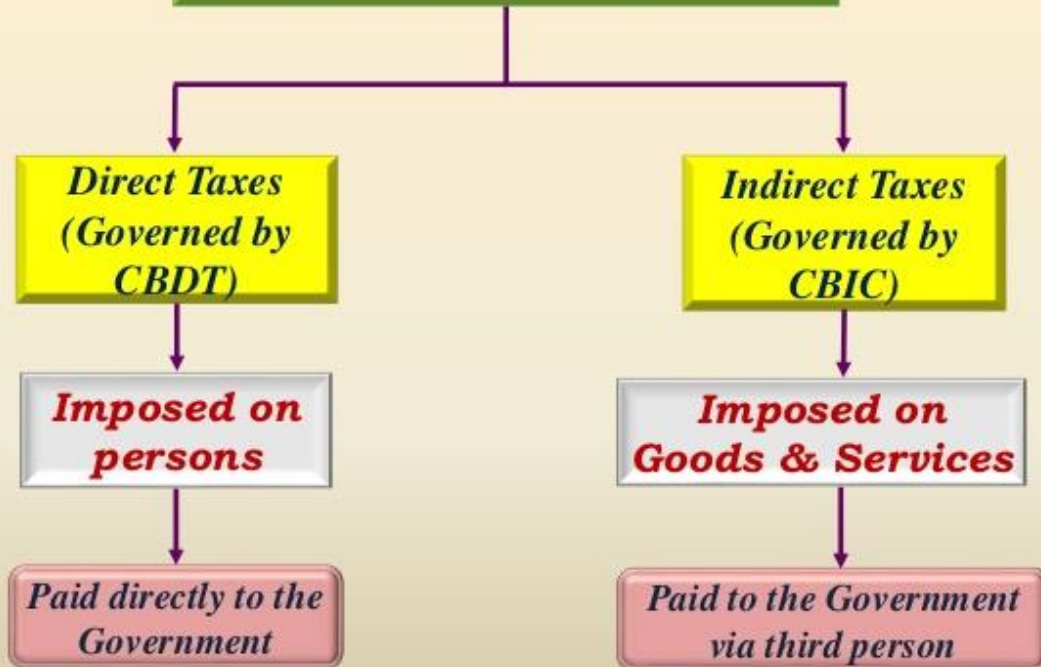
☞ activity.



Types of Taxes



TYPES OF TAXES



☞ *If tax is levied directly on the income (or) wealth of a person, then it is a direct tax.*

➔ *e.g. Income-tax, Wealth tax.*

☞ *If tax is levied on the price of a good (or) service, then it is called an indirect tax.*

➔ *e.g. Excise duty, Customs duty, Service tax and Sales tax (or) Value Added Tax.*

Tax – Duty – Cess - Surcharge

- ☞ Tax – is a payment made to the Government of a country without any return.
- ☞ Duty – is a levy on goods.
- ☞ Cess – is a tax levied for a specific purpose.
- ☞ Surcharge – is an additional tax burden to those, whose income exceeds the specified limit.
- ☞ Income tax – a levy on the income earned.
- 'Levy' is not a tax – it means 'the act of charging the tax'.

Taxation System

