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OPEN UNIVERSITY**

BBA

BACHELOR OF BUSINESS ADMINISTRATION



BBAR-501

DIRECT AND INDIRECT TAXES

DIRECT & INDIRECT TAXES



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ROLE OF SELF INSTRUCTIONAL MATERIAL IN DISTANCE LEARNING

The need to plan effective instruction is imperative for a successful distance teaching repertoire. This is due to the fact that the instructional designer, the tutor, the author (s) and the student are often separated by distance and may never meet in person. This is an increasingly common scenario in distance education instruction. As much as possible, teaching by distance should stimulate the student's intellectual involvement and contain all the necessary learning instructional activities that are capable of guiding the student through the course objectives. Therefore, the course / self-instructional material are completely equipped with everything that the syllabus prescribes.

To ensure effective instruction, a number of instructional design ideas are used and these help students to acquire knowledge, intellectual skills, motor skills and necessary attitudinal changes. In this respect, students' assessment and course evaluation are incorporated in the text.

The nature of instructional activities used in distance education self- instructional materials depends on the domain of learning that they reinforce in the text, that is, the cognitive, psychomotor and affective. These are further interpreted in the acquisition of knowledge, intellectual skills and motor skills. Students may be encouraged to gain, apply and communicate (orally or in writing) the knowledge acquired. Intellectual- skills objectives may be met by designing instructions that make use of students' prior knowledge and experiences in the discourse as the foundation on which newly acquired knowledge is built.

The provision of exercises in the form of assignments, projects and tutorial feedback is necessary. Instructional activities that teach motor skills need to be graphically demonstrated and the correct practices provided during tutorials. Instructional activities for inculcating change in attitude and behavior should create interest and demonstrate need and benefits gained by adopting the required change. Information on the adoption and procedures for practice of new attitudes may then be introduced.

Teaching and learning at a distance eliminates interactive communication cues, such as pauses, intonation and gestures, associated with the face-to-face method of teaching. This is particularly so with the exclusive use of print media. Instructional activities built into the instructional repertoire provide this missing interaction between the student and the teacher. Therefore, the use of instructional activities to affect better distance teaching is not optional, but mandatory.

Our team of successful writers and authors has tried to reduce this.

Divide and to bring this Self Instructional Material as the best teaching and communication tool. Instructional activities are varied in order to assess the different facets of the domains of learning.

Distance education teaching repertoire involves extensive use of self- instructional materials, be they print or otherwise. These materials are designed to achieve certain pre-determined learning outcomes, namely goals and objectives that are contained in an instructional plan. Since the teaching process is affected over a distance, there is need to ensure that students actively participate in their learning by performing specific tasks that help them to understand the relevant concepts. Therefore, a set of exercises is built into the teaching repertoire in order to link what students and tutors do in the framework of the course outline. These could be in the form of students' assignments, a research project or a science practical exercise. Examples of instructional activities in distance education are too numerous to list. Instructional activities, when used in this context, help to motivate students, guide and measure students' performance (continuous assessment)



PREFACE

We have put in lots of hard work to make this book as user-friendly as possible, but we have not sacrificed quality. Experts were involved in preparing the materials. However, concepts are explained in easy language for you. We have included many tables and examples for easy understanding.

We sincerely hope this book will help you in every way you expect. All the best for your studies from our team!



DIRECT & INDIRECT TAXES

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DIRECT AND INDIRECT TAXES

BLOCK-1 BASICS OF INCOME TAX

UNIT 1

INCOME TAX ACT 1961

UNIT 2

SCOPE AND OBJECTIVES OF INCOME TAX

UNIT 3

BASICS OF INCOME AND PERSON

UNIT 4

RESIDENTIAL STATUS

BLOCK 1 : BASICS OF INCOME TAX

Block Introduction

In this block we will study about our Income tax Act which is considered to be one of the most complicated acts in India. Most of the time students have been found running away from this subject. The writer has tried his best to explain the topics in very easy language and in most interesting ways. Sufficient illustrations and pictures have been added to make the content more interesting and easily understandable.

The first block has been divided into four units where unit one covers the basics concepts of income tax act and even gives an overview of the act. It covers meaning and definition of Taxation, characteristics of Taxation, types of Taxes, Direct Taxes and Indirect Taxes. The Unit Two gives the scope and objectives of income tax. It covers background of Income Tax, Scope of Income Tax Law, Application of Income Tax Act, 1961, Objectives of Income Tax, Taxation Structure in India. The Unit Three covers Basics of income and person. It covers the topic Concept of Income, Definition of Income, Person, Assessee, Assessment Year, Agricultural Income. The unit four covers Residential Status, Types of Income, Incidence of tax payer for different tax payers, Provisions of budget 2020 (Finance bill 2020.)

So after the study of this block you will get a sufficient idea about this subject. You will not only learn the basic concepts of income tax but they will also learn the importance of this subject in this particular course.

Block Objective

After learning this block, you will be able to understand:

- Taxation and its various types.
- History and back ground of taxation.
- Objective of tax as well as income tax.
- Income.
- Assessment year and financial year.
- Agriculture Income.
- Residential status
- Incidence of tax (Types of income)

Block Structure

Unit 1: Income Tax Act 1961

Unit 2: Scope and Objectives of Income Tax

Unit 3: Basics of Income and Person

Unit 4: Residential Status



INCOME TAX ACT, 1961

: UNIT STRUCTURE :

- 1.0 Learning Objectives**
- 1.1 Introduction**
- 1.2 Meaning and Definition of Taxation**
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- 1.10 Case Study**
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1.0 Learning Objectives

After learning this unit, you will be able to understand:

- State the meaning and definition of taxation.
- Enlist the characteristics of taxation.
- Enumerate the types of taxes.
- Distinguish between direct taxes and indirect taxes.

1.1 Introduction

The important aim of the economic policy is to achieve economic growth of the nation, equitable distribution of wealth and income in the country and reduction of poverty. Taking into consideration these aspects, public finance is mainly related with the methods by which the funds are raised to meet the public expenditure. To achieve this goal, public expenditure is estimated first and then an attempt is made to find out the ways and means of financing such required public expenditure. These are financed out of public revenues. Public revenues include direct taxes, indirect taxes, profit from government commercial undertakings etc. Direct and indirect taxes are important sources of raising public finance. It helps in diversification of income from the rich to the poor and from the few to the many.

The tax system in India is flexible. It helps in mobilization of resources. With this intention, the incentives for savings and investments have been provided. The direct tax system includes wealth tax, gift tax etc., apart from income

tax. Taxation appears to be the most important source of revenue to the Government.

Check your progress 1

1. Which following aim is not a part of Economic Policy ?
 - (a) Wealth maximization
 - (b) Achieve economic growth of nation
 - (c) Equitable distribution of wealth and income in country
 - (d) Reduction of poverty

1.2 Meaning and Definition of Taxation

A tax is a compulsory payment to be made to the Government by the public. It has no relation to the benefit to be derived by the taxpayer. In other words, there is no direct return to the taxpayer for what he pays, though public in general derives a common benefit. Thus, tax is a compulsory contribution collected by the Government to meet the expenses of various public functions.

The term ‘taxes’ has been defined by various experts as follows:

1. **Prof. Taussig:** “The essence of a tax, as distinguished from other charges imposed upon a person or persons by the government, is the absence of a direct quid pro quo between the taxpayer and the public authority”.
2. **P. E. Taylor:** “A compulsory payment to government without expectation of direct return in benefit to the taxpayer is known as tax”.
3. **Prof. Bastable:** “A tax is a compulsory contribution of the wealth of a person or body of persons for the service of public powers”.
4. **Prof. Seligman:** “A tax is a compulsory contribution from a person to the government to defray the expenses incurred in the common interest of all without references to special benefits conferred”.
5. **Webster’s New Riverside University Dictionary:** “A contribution for the support of a government required of persons, groups or business within the domain of that government, i.e. taxation”.
6. **The Dictionary of Modern Economics:** Taxation means ‘Compulsory levies on private individuals and organisations made by government to raise revenue to finance expense on public goods and services and to control the volume of private expenditure in the economy”.

Check your progress 2

1. A is a compulsory payment to be made to the Government by the public
 - a. tax
 - b. fine
 - c. penalty
 - d. None

1.3 Characteristics of Taxation

With the help of above definitions, we may define the following characteristics of taxation:

1. A tax is a contribution by individuals as well as organisation to the government to undertake various public activities.
2. It is a compulsory measure and the taxpayer cannot refuse to pay taxes, i.e. nobody can escape taxation; refusal to pay taxes is a crime. (Therefore, somebody rightly pointed out that there is no excuse for death and income tax.)
3. Taxes are levied to cover public expenses incurred by the government in the common public interest. Thus, money required to maintain law and order, defence, construction and up-keep of roads etc. is raised through taxes.
4. It is not possible to establish a link between the tax and its benefit to the taxpayer. Public, in general, derives the benefits of money spent by the Government but the taxpayer does not get a direct return equal to the amount of tax paid by him.
5. Paying taxes means some sacrifice by the taxpayer.
6. Taxes are levied at progressive rates.
7. It helps in diversification of income from the rich to the poor and from few to many.
8. Tax is one of the important and major sources of finance to the government.
9. Taxation results in reduction of surplus income, which was otherwise available to tax payers.
10. It may adversely affect the ability to invest.

We may conclude that a tax is compulsory and it can be imposed only by the government and none else. It is collected for the general welfare of the society and hence a taxpayer has no right to expect a direct return on the amount of tax paid by him. Benefit, thus, cannot be the basis of payment of tax by any person.

Check your progress 3

1. A _____ is a contribution by individuals as well as organisation to the government to undertake various public activities.
 - a. Interest
 - b. Tax
 - c. Penalty
 - d. fine

1.4 Types of Taxes

The economists classify taxes into two groups:

- Direct taxes
- Indirect taxes

In modern times, a different classification is available, so taxes may be grouped as under:

1. Taxes on incomes
2. Taxes on commodities

3. Taxes on capital

These three types may be regressive, proportional or progressive.

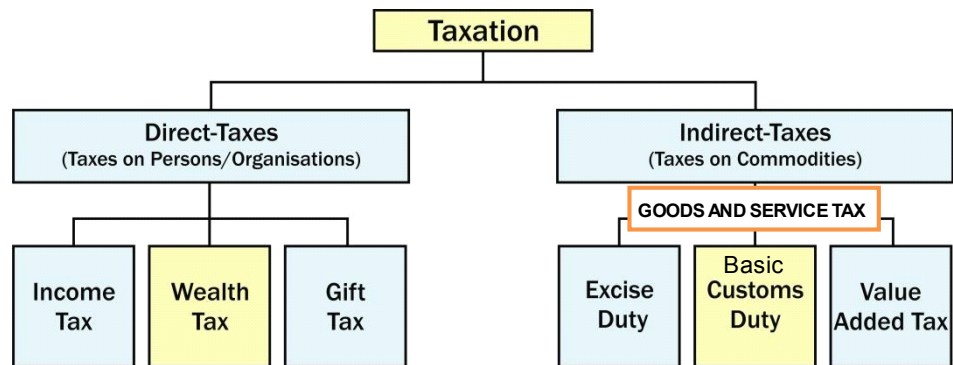


Fig 1.1 Taxation

1.4.1 Direct Taxes

Direct taxes are those taxes, which are levied immediately on incomes and property generated by the individual persons or the group of persons. The income of the person or the group of persons is directly assessed and the tax payable is determined. This tax is directly paid by the individuals to the Government treasury, thus directly contributing to the national exchequer. By this simple logic, tax on income, tax on wealth and tax on gifts are direct taxes since these are collected from persons who earn income or hold property or donate money by way of gifts. Direct taxes are normally levied on individuals, who are assessed or determined on the basis of their income or property.

Direct tax is a tax paid by a person on whom it is imposed and the burden of this tax cannot be shifted by the taxpayer to any other person. J.S. Mill has defined a direct tax as “one which is demanded from the very person who is intended or desired, should pay it”. In other words, where the amount of tax is paid out of the pocket of the person who is legally responsible for the payment of the tax is termed as “Direct tax”.

Advantages of direct taxes

Following are the advantages of direct taxes:

1. **Direct tax system helps to create general consciousness in the society:** As the tax payer knows how much money he is required to pay and how much money he has paid towards tax on income or property, the direct-tax system helps to create general consciousness and awareness in the society. Due to this characteristic of the direct tax system, it is regarded as the simplest and most effective method of revenue realization.
2. **Revenue elasticity:** The revenue of direct taxes varies according to the change in the income. As the income increases, the tax collection also increases. The rates of direct taxes are generally progressive, i.e. lower rate of tax at lower level of income and higher rates of tax at higher level of income. The rates go on increasing with the level of income. Due to this progressive system of tax rates, the revenue from tax collection increases faster than the increase in the income.

3. **Most logical and rational revenue mobilization method:** As the rates of direct taxes are progressive they are directly related to the capacity of the tax payer to bear the burden of tax. The lower amount of taxes is levied on the persons earning lower income while the persons earning more income are required to pay higher taxes. Due to this, lower burden is placed on the weaker section of the community whereas the economically stronger class of the society has to bear larger share of tax collection.
4. **Reduce the inequality between the rich and poor:** The direct taxes are also used as one of the measures to reduce the inequality between the rich and the poor by taking away more and more money from the rich by way of higher taxes on income and property and distributing that income among the poor class of the society through various schemes and provisions of amenities. The higher incidence of taxes on income and properties of rich persons reduces the consumable surplus a variable with them, which otherwise would have been spent by them on non-priority items. This surplus taken away from rich class is utilized in implementing the socio- economic welfare schemes for the benefit of the poor class of the society.
5. **More realistic estimates can be possible:** As the direct taxes are directly assessed and determined with reference to the income generated in the society, its estimation and budgeting at the planning stage becomes very easy. More realistic estimates can be made as compared to other tax collection system, which helps the Government authorities in making fiscal economic policies.

Disadvantages of direct taxes

Following are the disadvantages of direct taxes:

1. **Difficult and time-consuming tax collection process:** Due to large number of tax payers spread over at different levels of income in the country, the assessment of tax becomes cumbersome procedure. To determine the tax Liability, the detailed scrutiny of the accounts and financial affairs of the tax payer is essential but for which the possibility of evasion of tax increases.
2. **Cost of collection is exorbitantly high:** As the Government expenditure on running the big collection machinery, which includes thousands of employees at various levels, maintenance of office establishments across the country etc. is day by day increasing. Therefore, the revenue from direct taxes becomes less beneficial. Sometimes, even the total abolition of the direct taxes is also advocated by economists and financial experts as according to them the revenue realization from direct taxes is meageras compared to this tremendous cost of collection.
3. **Pinch the tax payers more:** Direct taxes are to be paid in lump sum and hence, pinch the tax payers more.

4. **Many people find it difficult to understand:** The laws of direct taxes have become so complicated that many people find it difficult to understand. This requires the expert assistance of tax advisor.
5. **Lead to the tendency to avoid the work:** The major portion of the income, particularly at the higher levels of income, being taken away by the Government by way of taxes, the desire to work hard and earn more and more income gets reduced. This may also adversely affect the overall production in the country.
6. **Evasion and corruption:** As the direct taxes are assessed on the individual persons, the honest persons are charged tax strictly as per legislation whereas the dishonest tax payers escape out of their tax liability by maneuvering their affairs in such a manner so as to reduce their tax liability. There is a great scope for tax evasion by concealing real income. It may be found in direct system that “Honesty is taxed while dishonesty is rewarded”. It leads to corruption.
7. **Arbitrarily decided:** The nature and base of direct taxes are arbitrarily decided. The finance minister uses his own judgments in determining the taxation potential of the tax payer. There is no scientific formula for evolving the mode of gradation and progression in direct taxation.
8. **Narrow-based calculation of tax:** Direct taxes are narrow based as many concessions are given to low income groups. The poor section of the society remains untouched under direct taxes and to that extent they fail to achieve their objectives of promoting civil sense among all the citizens.

1.4.2 Indirect Taxes

An Indirect tax is a tax, the burden of which can be shifted to other

The indirect taxes are levied on commodities at the stage of manufacture, sale or import. Both direct and indirect taxes aim at the same objective, i.e. to raise the revenue and at the same time to control the expenditure and investment. However, their mode of collection is different, depending upon the various factor

The indirect taxes are collected at the consumption stages and at the time of spending the income, as the indirect taxes are mainly levied on the commodities, they are collected at the time of sale or purchase of the commodities in the commercial activity of business. The indirect taxes are collected at various stages in the chain of manufacture from raw materials to the consumption of finished goods. The customs duty is levied at the time of import of goods into the territory of the country. The excise duty is collected at the time of production of finished products and it is levied on the person who manufactures the finished products. The Value Added Tax was collected from the seller of the finished products when he sells the product in the commercial market. The incidence of these taxes was passed on by the manufacturer or seller to the ultimate consumer, commonly called as the customer, through the price charged for the commodity sold. Thus, incidence of indirect taxes

gets shifted to the individual person in the society, although they are not directly paid by him into Government treasury.

When the liability of a tax is on one person but the burden of it falls on another person, it is an indirect tax. It is a tax the impact of which falls upon one person who can shift the money burden of the tax on some other person. Thus, impact and incidence of indirect tax are on different persons. Consequently, a tax payer is not the tax bearer. For example, taxes on commodities (such as Excise Duty, Value Added Tax (VAT), Import Duty) are imposed upon the producers, dealers or importers, as the case may be, but the burden thereof falls on the consumer **Goods and Service tax replacing major indirect taxes in India**

With effect from 1st July 2017

Advantages of indirect taxes

Following are the advantages of indirect taxes:

- 1. Convenience in collection and assessment:** The major advantage of indirect taxes is its convenience in collection and assessment. As the indirect taxes are collected at various stages in the commercial activity, those are relatively simple to realize and their realization automatically increases with the increase in the commercial activity. Excise duty is collected at the time of delivery of the manufactured goods from the factory, whereas Value Added Tax (VAT) is collected at the time of sale of such manufactured goods in the market. The customs duty is levied at the time of import of the goods into the country. Since the indirect taxes are normally levied on organized sector, its realization becomes simple and very convenient.
- 2. Pinch the tax payers less:** It pinches the tax payer less as he is kept in the dark about how much tax he has paid on his total purchases.
- 3. Indirect taxes are difficult to evade:** Evasion of taxes is possible only when manufacturers manipulate the accounts, importers smuggle the goods etc. Otherwise it is very difficult to evade.
- 4. Broad-based calculation of tax:** Indirect taxes have a broader scope than direct taxes. The low income groups of society which are exempted from direct taxes can be easily caught in the net of taxation through indirect taxes. Thus, indirect taxes may be considered as a balancing factor in the equity of a tax policy. Indirect taxes cover almost the entire population of the country.
- 5. Indirect taxes can be used to protect the health of the society:** The indirect taxes also play the important role of social service to the community by discouraging the consumption of undesired articles such as tobacco, cigarettes, liquors and narcotics drugs by making them costlier by imposition of heavy taxes. This can be said as one of the social benefits of the taxation policy that the Government can achieve.
- 6. Progressive tax policy:** The indirect taxes are generally levied on ad valorem basis i.e. on the basis of value of the commodities. The rates of

taxes are also different for different commodities, higher for luxury items like refrigerators, cars, air conditioners etc. and lower for necessity items like edibles, drugs, basic raw materials etc. The revenue from such taxes can be increased based on pattern of demand for the commodities.

7. **Indirect taxes can serve as complementary to direct taxes:** Additional revenue can be easily obtained by introducing indirect tax rather than a direct tax, without revealing its real burden to the public.
8. **An effective means of mopping up consumer's surplus:** Indirect taxes are an effective means of mopping up consumer's surplus which can be utilized fruitfully in expending the process of capital formation in the country.

Disadvantages of indirect taxes:

Following are the demerits of indirect taxes:

1. **Indirect taxes do not create social consciousness:** The indirect taxes do not create the social consciousness and awareness as the person paying the taxes, in most of the cases, even does not realize or feel the incidence of tax.
2. **Difficult to assess the effect of the incidence of taxes:** As it is very difficult to assess the effect of the incidence of taxes on the demand of commodities, the estimates of revenue from indirect taxes may go wrong. This is more possible, in case of commodities with elastic demands since the demand of such commodities, will be adversely affected by increase in taxes and the desired level of revenue may not be achieved.
3. **They are not levied according to the principle of ability to pay:** Indirect taxes are charged at a proportional rate on commodities of general consumption, their burden falls more heavily upon the poor section of the people.
4. **Uneconomical:** Indirect taxes do not comply with the principle of economy and productivity. As these taxes involve many stages, the cost of collection is usually high in relation to the revenue yielded.
5. **Proved to be inflationary:** Indirect taxes prove to be inflationary as they increase the prices of commodities by the amount of tax levied

Although the attempt of comparison and distinction between direct and indirect taxes is made, based on their merits and demerits the two systems are mutually complimentary to each other. Both the systems have the same objective to meet i.e. the redistribution of income in the society and raising revenue by such redistribution of income. Only the process of achieving such objective is different.

Distinction between direct and indirect tax:

The following table indicates the difference between direct and indirect taxes.

Point of Distinction	Direct Taxes	Indirect Taxes
1. Nature of tax	It is a tax on Person.	It is a tax on Commodity.
2. Who pays the tax	A 'Person' pays the tax.	A 'dealer' pays the tax.
3. Burden of tax	Person paying the tax has to bear the burden.	Person paying the tax does not bear the burden,
4. Shifting the burden of tax	The burden of tax cannot be shifted by the taxpayer.	The burden of the tax is shifted to some other person.
5. Return of tax collected	The question of giving something in return of the tax collected does not arise. However, tax proceeds are utilized for public purposes.	The question of giving something in return of the tax collected does not arise. However, tax proceeds are utilized for public purposes.
6. Base of assessment	The taxes which are based on income or receipts are called direct taxes.	The taxes which are levied on expenditure are called indirect taxes.
7. Examples	Income tax, wealth tax, Gift tax etc., are treated as direct taxes.	The taxes on commodities such as Excise Duty, Custom Duty, Value Added Tax (VAT) etc., are treated as indirect taxes.
8. Process of achievement	The process of achievement takes place through the correlation of ability to pay and the actual tax payment.	The process of achievement takes place through commodity market.
9. Pinching	Direct taxes are to be paid in a lump sum and hence pinch the tax payer more.	It pinches the tax payer less as he is kept in dark about how much tax he has paid on purchases.
10. Inflation	Direct taxes are considered as an effective and important tool of anti- inflationary fiscal policy.	Indirect taxes prove to be inflationary as they increase the prices of commodities by the amount of tax levied.

1.4.3 Taxes in India

Taxes in India are levied by the Central Government and State Governments. Some minor taxes are also levied by the local authorities such as municipality.

(A) Taxes are levied by the Central Government :

The Central Government has power to impose of direct and indirect taxes. Listed below are some of the taxes that are levied by the Central Government.

BASICS OF INCOME TAX

- (i) Taxes on income other than agriculture income (Income tax.)
- (ii) Goods and Services Tax (GST) : In India GST will be levied both the Central and the States.
- (iii) Custom duty : Custom duties which are levied on goods imported to/ exported from India.
- (iv) Securities Transaction Tax.
- (v) All residency types of taxes not listed for away authority.

(B) Taxes imposed by the state Government :

There are certain taxes which are levied by the state governments. These kinds of taxes are the one of the sole responsibility of the governments of the individual states. Listed below are some of the taxes are levied by the state government.

- (i) Goods and Services Taxes : It falls under the state goods and Services tax Act,2017. It is levied on the inter state supply of goods and services.
- (ii) Stamp duty.
- (iii) Land revenue
- (iv) Taxes on vehicles
- (v) Duty on entertainment / Taxes on luxuries.

(C) Taxes levied by the local bodies.

- (i) Octroi (entry tax).
- (ii) Tax on properties.
- (iii) Tax on markets.
- (iv) User charges for utilities like water supply, drainage etc.

Check your progress 4

1. _____ tax is a tax paid by a person on whom it is imposed and the burden of this tax cannot be shifted by the taxpayer to any other person.
- (a) Direct
 - (b) Indirect
 - (c) income
 - (d) None of above

Check your progress 5

1. Following are the demerits of indirect taxes:
- (a) Indirect taxes do not create social consciousness
 - (b) Difficult to assess the effect of the incidence of taxes
 - (c) Uneconomical
 - (d) All of above

1.5 Let Us Sum Up

In this block we have studied that for the development of any economy funds are required and in this taxation play a major role. Through taxation money is

collected from the general public which is utilized for the development of the economy and society.

The important aim of the economic policy is to achieve economic growth of the nation, equitable distribution of wealth and income in the country and reduction of poverty. Taking into consideration this aspect, public finance is mainly related with the methods by which the funds are raised to meet the public expenditure. To achieve this goal public expenditure is estimated first and the attempt is made to find out the ways and means of financing such required public expenditure. These are financed out of public revenues. Public revenue includes direct taxes, indirect taxes, profit from government commercial undertakings etc. Direct and indirect taxes are one of the important sources of raising public finance. It helps in diversification of income from the rich to the poor and from the few to the many. A tax is a compulsory payment to be made to the Government by the public. It has no relation to the benefit to be derived by the taxpayer. In other words, there is no direct return to the taxpayer for what he pays, though public in general derives a common benefit. Thus, tax is a compulsory contribution collected by the Government to meet the expenses of various public functions.

Therefore in this unit we have discussed the role of and importance of taxation in our economy. This brief will certainly help the students in getting the sufficient information required for this curriculum.

1.6 Answer for Check Your Progress

Check your progress 1

Answers: (1-a)

Check your progress 2

Answers: (1-a)

Check your progress 3

Answers: (1-b)

Check your progress 4

Answers: (1-a)

Check your progress 5

Answers: (1-d)

1.7 Glossary

1. **Direct Tax** - Direct taxes are taxes imposed on income, capital gains and net worth. Gift tax, death duties and property tax are also considered direct taxes.
2. **Indirect Tax** - Tax imposed on certain transactions, goods or events. Examples include VAT, sales tax, excise duties, stamp duty, services tax, and registration duty, transaction tax and GST.

1.8 Assignment

Write in detail about indirect tax and give examples.

BASICS OF
INCOME TAX

1.9 Activities

Explain direct taxation with examples

1.10 Case Study

Make a list of the direct taxes and indirect taxes and discuss it with your group.

1.11 Further Readings

1. Direct Taxes, Gupta and Ahuja.



SCOPE AND OBJECTIVE OF INCOME TAX

: UNIT STRUCTURE :

- 2.0 Learning Objectives**
- 2.1 Introduction**
- 2.2 Background of Income Tax**
- 2.3 Scope of Income Tax Law**
- 2.4 Application of Income Tax Act, 1961**
- 2.5 Objectives of Income Tax**
- 2.6 Taxation Structure in India**
- 2.7 Let Us Sum Up**
- 2.8 Answers for Check Your Progress**
- 2.9 Glossary**
- 2.10 Assignment**
- 2.11 Activities**
- 2.12 Case Study**
- 2.13 Further Readings**

2.0 Learning Objectives

After learning this unit, you will be able to understand:

- Explain the background of Income Tax.
- Specify the scope of Income Tax Law.
- Discuss the scheme of sections and sub sections in the Income Tax Act.
- Enumerate the objectives of Income Tax.
- Justify the model of three tier government policies.
- Elaborate on the model of the taxation structure in India.
- State the observations of Indian tax structure.

2.1 Introduction

One of the major sources of Government revenue is “taxation”. The economic definition of the term ‘tax’ can be described as “a tax is a mandatory contribution from the citizens of the nation to the expenditure incurred by the Government to achieve common interest of the citizens without reference to specific benefits conferred on any individual”. In other words, it is nothing but the share of the person paying tax, in the joint liability of the nation for its growth and development. In the country like India where the needs of development are constantly increasing the taxation and its policy assumes greater importance in resource mobilization.

Check your progress 1

1. One of the major sources of Government revenue is
 - (a) Taxation
 - (b) Import Income
 - (c) Export Income
 - (d) None

2.2 Background of Income Tax

Apart from catering the need of development finance, the taxation policies are also used as a tool for reducing the inequality in incomes, proper distribution of national income into various classes of society, checking the inflationary trends in the economy and for attaining other socio-economic goals of the nation.

The Government of India provides for the division of tax powers between the Centre and the States. The Centre is allocated exclusive jurisdiction over the following taxes:

1. Income-tax
2. Wealth-tax
3. Gift-tax
4. Excise duty
5. Customs duty
6. GST

In accordance with the power conferred by the Constitution, the Income-tax Act has been enacted. The present Income-tax Act (1961) is a comprehensive legislation containing various provisions on every aspect of income-tax. It replaced the old Indian Income-tax Act, 1922 which had been in force for four decades. The new Act after it came into force, was amended several times to make it simpler and at the same time to make it more productive. The Central Government through its fiscal policies of budgetary planning tried to make the income-tax more effective by inducing new incentives and new tax policies.

Check your progress 2

1. The Government of India provides for the division of tax powers between the
 - a. Centre and the states
 - b. People and states
 - c. States

2.3 Scope of Income Tax Law

The law of Income Tax is contained in Income Tax Act, 1961. It is routine process to prepare finance bill for every financial year. Latest financial bill is of 2020 (As passed by parliament.)

The Income Tax Act broadly covers the following:

1. Basis of charging income
2. Incomes exempt from Income Tax
3. Computation of incomes under various heads

4. Clubbing of income
5. Set off any carry forward of losses
6. Permissible deductions
7. Rebates and reliefs
8. Double taxation relief
9. Determination of tax in certain special cases
10. Non-residents (special provisions)
11. Tax on dividends distributed by domestic companies
12. Income tax authorities and their powers
13. Survey, search and seizure
14. Assessment procedure
15. Assessment of firms
16. Collection and recovery of Tax - TDS
17. Payment of advance tax
18. Refund
19. Advance rulings
20. Appeal and revision
21. Acquisition of immovable property
22. Penalty
23. Prosecution

For implementing the various provisions of the Act, Income Tax Rules, 1961 have been framed which prescribe the procedures, time-limits, conditions, returns, forms etc. Besides, the Central Board of direct Taxes has issued a number of circulars/ notifications, clarifying the provisions of the Act, either on its own initiative or at the instance of public queries.

Check your progress 3

1. Latest finance bill is passed in which year
- a. Every five years b. Every financial year
- c. Every Assessment year d. none of the above

2.4 Application of Income Tax Act, 1961

The Income-Tax Act, 1961 is applicable to whole of India including States and Union Territories. It brings the charge of income-tax on the income arising or accruing in the whole of India. The Income-Tax Act levies the tax on “income”. The term “income” used in the Act has a much wider connotation as it includes different types of receipts or gains which normally would not have been treated as “income”. The Section-2 (24) of the Act provides an inclusive definition of the term income which enlarges the scope of the levy of income-tax on all possible incomes. There is no comprehensive definition of the term income in the Act; thus covering into its ambit different types of the income by its inclusive nature.

The various types of incomes liable to income-tax under the Income-tax Act, 1961 have been classified under different heads of income as under: (Heads of Income: U/S14).

1. Income from Salaries
2. Income from Capital gains
3. Profits and gains from business or profession
4. Income from house property
5. Income from other sources

The scheme of the section and sub-sections in the Act provides the method and conditions for computation of taxable income liable to income tax.

Section-2 of the Act provides the definitions of various expressions used in the Act. For example, sub-section (24) defines what income is, sub-section (1) defines what agricultural income is. The expressions “assessee” and “person” have been defined in the sub-section (7) and (31) respectively. These definitions provided in Section 2 of the Act define the scope of the Act and its applicability to different types of income or different types of persons.

Section-3 of the act defines the expression “Previous Year” which is nothing but a financial year immediately preceding the assessment year. The assessment year commences from 1st April and ends on 31st March. The assessment of income-tax is made with reference to the financial year relevant to the assessment year.

Section-4 of the Act is a charging section. Accordingly, the income-tax is charged on the income assessed for the previous year at the rates specified in the schedule contained in the Finance Act. Every year the Parliament passes the Finance Act in the budgetary sessions which provides the rates of income-tax to be applied for ensuing financial year.

Section-5 of the Act specifies the scope of the total income liable to the income- tax in any previous year. It provides the conditions for taxability of income based on its accrual or receipt in India or outside India.

Section-6 of the Act provides the rules for determination of the residential status of the different classes of assesses based on which the tax liability under the Act is computed.

Section-10 of the Act provides a complete list of all the incomes that are totally exempt from tax, if a person is in receipt of such income he is not required to pay tax thereon

Check your progress 4

1. There are _____ major heads of income under income tax act
 - a. Five
 - b. Six
 - c. Ten
 - d. twenty

2.5 Objectives of Income Tax

Tax revenue is treated as one of the most important way of raising the funds for government activities. Apart from rising of funds, the tax policies are being framed to achieve several economic and social objectives.

The objectives of the “Income Tax” in India may be summarised into following broad headings

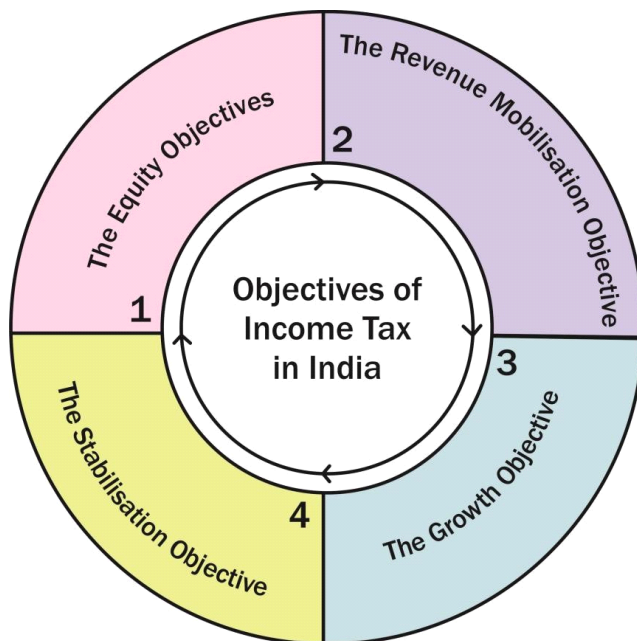


Fig 2.1 Objectives of income tax

1. The equity objective-

This takes into consideration the ability to pay. This implies that everybody should be taxed according to the income he earns. Equity and social justice demands that the rich people should bear a heavier burden of tax and the poor a lesser burden. This has been well achieved as the Income Tax in India is highly progressive. As the income increases the burden of tax also increases.

Due to this progressive burden of tax the extra income accumulated with the rich class of the society is taken away by way of income-tax and it is diverted to the necessary development schemes for the benefits of the poor class of the society, thus uplifting the economic level of the mass community. This assists in reducing the gap between rich and poor by curtailing the consumable surplus available in the hands of the rich. In finance bill 2020 as compared previous Income tax slabs, three more tax slabs are provided to reduce the gap between rich and poor. In new tax regime now six income tax slabs are given keeping in mind income of an individual. This re-distribution of income is one of the most important roles played by the income-tax in India.

2. Revenue mobilization objective-

The scope of rising of funds from income tax is limited. But tax policies adopted in our country are useful in mobilizing the resources. The

government is using income-tax as one of the device to mobilise the resources. In spite of progressive rates of income-tax the revenue realized through income-tax is not significant because very few citizens are charged to income-tax, by a rough estimate even less than five percent of the total population is contributing to the tax realization. Due to this the share of income tax in the total Government Revenue is less than ten percent of the total revenue. The income tax did have a prominent role in revenue mobilization in the past, but over the five year plans its significance has gradually decreased.

3. The growth objective-

Direct tax like income tax is being used as an important instrument of economic growth. It is aimed to accelerate economic development. For this purpose, tax policies are framed in such manner that undesired expenditure is restricted and savings is increased.

By employing the proper personal tax and corporate tax policies, the investment in capital formation is encouraged. Different rebates and concessions are provided in the Act to induce more and more investment in priority sectors of the economy which in turn generates more income in those sectors. The allowance of depreciation and investment deposits provided in the Income-tax Act are primarily meant for augmenting the capital base of the country. The income-tax deductions provided on account of savings in the long term investments like Provident Funds, L.I.C. policies, Public Provident Funds, Savings Certificates etc., are used to divert the money from undesired expenditure to productive sector.

4. The stabilizations objective-

The tax rate structure existing in India is at highly progressive rates. Therefore, if national income rises, the tax revenue will rise automatically and if national income falls, the tax revenue will decrease automatically. This helps in achieving the economic stability.

However, the following other objectives may be stated

1. To promote certain types of business-activities. For example, recently tourism is being encouraged on a wider scale. For this purpose, the Income Tax Act provides for certain tax concession in respect of earnings in convertible foreign exchange from hotel business or travel agency. Similarly, export promotion ranks priority in India. The Act provides for deduction in respect of profits from exports. To add, the Government has been trying to reduce regional imbalance and encourage development of backward areas. In such a case, the Act provides for deduction in respect of profits from newly established industrial undertaking or hotel business in backward areas in respect of profits from newly established small scale industrial units in rural areas.
2. To create proper investment climate, the income tax legislation encourages savings and investments.

To stimulate and stabilize economic growth and to help in solving even specific problems.(Recently the earthquake problem faced by the Gujarat State.)

Check your progress 5

1. _____ like income tax is being used as an important instrument of economic growth and development
 - a. Indirect tax
 - b. Direct tax
 - c. None of above

2.6 Taxation Structure in India

In the development of India, particularly after independence, the taxation has played a significant role. In the socialistic economic pattern adopted by our country where the fiscal policies are used as the tool for development and growth the taxation has been treated as the most important source of revenue. The various five year plans were implemented for attaining the socio-economic goal of the country. The expenditure planned for the development was mainly financed by raising tax revenue by adopting different types of taxation policies. As can be commonly seen in any developing economy, in India also to be greatest need of the economy is to break the vicious circle of poverty, low level of savings, low level of production and the alarming unemployment. The Indian Government through its fiscal measures has played a vital role in overcoming these basic problems. The taxation structure adopted in our country is mainly based on two types of taxes, i.e. Direct taxes and Indirect taxes.

Three Tier Government Policies:

India has a three-tier Government.

- The Central Government
- The State Government
- The Local Government

The Local Governments are directly under the State Government and hence no separate allocation of taxation rights has been done to them. To avoid any conflict or dispute between the Centre and the States in the matter of taxation, the following provisions are included in our Constitution:

- There is no tax, which can be levied by-both the Central and the State Governments. Thus, customs and corporation tax are levied by the Central Government. These two taxes account for about 50 per cent of its tax receipts.
- States have powers to levy some other taxes and the tax collection maybe utilized on their activities.
- Some taxes are levied and collected by the Central Government but their proceeds are shared by the center and the states, e.g., Income tax and Union excise duties are the examples of this category. The Finance Commission advises, from time to time, on the basis of division between the Centre and the States.

- **GOODS AND SERVICE TAX**

In some cases, power to levy and collect taxes is vested with the Central Government but the tax proceeds are to be distributed among the States. Duty on railway freight and fares, terminal tax on goods and passengers carried by railways etc. taxes on sale/purchase of newspapers and on advertisement in the newspaper are the examples.

- Some taxes are levied by the Central Government but the responsibility to collect them rests on the State Government, e.g. stamp duties (except those included in the Union list) and excise duties on drugs and cosmetics are the taxes belonging to this category.

According to the above guidelines, direct taxes are collected by the Central Government. Income-tax (being one of the direct taxes) is levied and collected by the Central Government, but the proceeds thereof are shared by the Centre and States on the basis of division advised by the Finance Commission from time to time. Besides Income Tax, Wealth Tax, Gift Tax, Estate Duty (discontinued from 16th March, 1985), the Companies (Profit) surtax (discontinued from 1st April, 1988), Expenditure tax, Corporation tax, Service tax are the direct taxes that are levied and collected by the Central Government.

Model of the taxation structure in India:

To understand the taxation structure in India, one has to study the different taxes imposed on the citizens through various enactments and legislations in past. The simple model of the taxation structure in India is depicted in the following table.

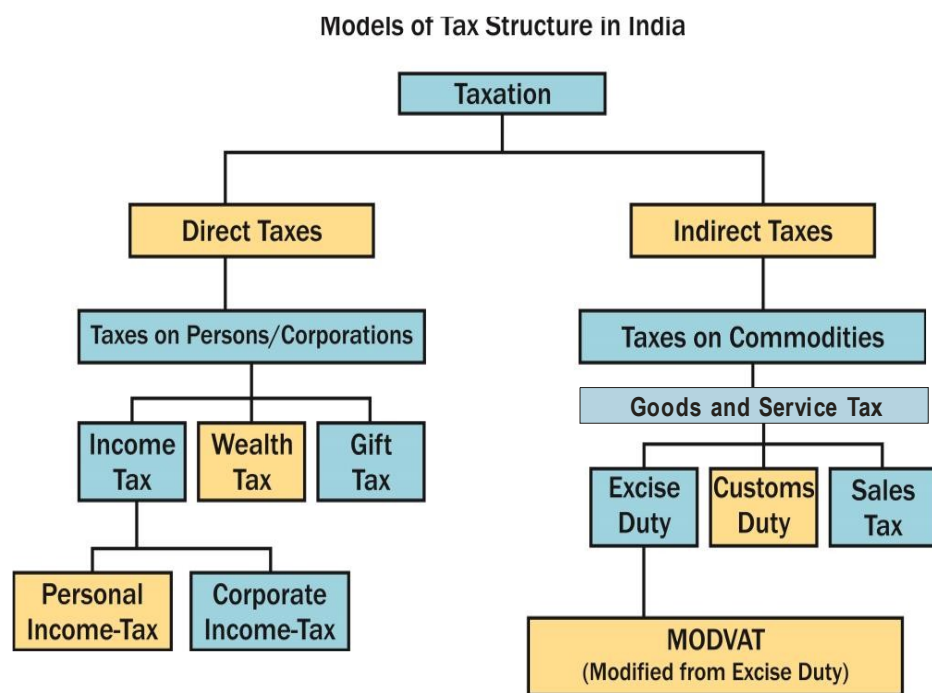


Fig 2.2 Models of Tax structure in India Taxation

1. Direct Taxes

- a. Income tax:** The income-tax is levied on the income of different category of persons as per the provisions of Income-tax Act, 1961. Various rates and provisions are made under this Act, to enable the assessing authorities to compute the taxable income.

Different types of exemptions and concessions are also given in the Act. After computing the taxable income as per the various provisions of the Income-tax Act, 1961, the rates of income-tax applicable to that assessment year is applied to find out the tax liability. As laid down in the Income-tax Act, the applicable rates are prescribed by the Finance Act of that year. The Finance Act is normally presented by the Finance Minister before the Parliament in the form popularly known as “Budget” every year. The collection of income-tax is mainly through personal income-tax and corporate income-tax, the share of corporate tax being the largest one.

The rates of income-tax are progressive and incidence increases with the rise in income. The basic limit of total exemption is fixed and the income crossing the basic limit is subjected to tax.

Certain provisions are included in the Income-tax Act making it compulsory to deduct the tax at source of the income itself and to pay it to the Government treasury. These provisions in the Act ensure the better collection of tax.

- b. Wealth-tax:** The wealth-tax as the name suggests, is the tax on wealth or property held by the tax payer. The quantum of wealth accumulated over and above the basic exemption limit is subjected to wealth-tax. The limit for exemption from wealth-tax was ₹30,00,000. However, wealth tax was abolished in the budget of 2015 (effective FY 2015-16) The provisions for charging the wealth to wealth-tax and various exemptions and deductions are contained in the Wealth-tax Act, 1959. The various types of assets like Jewellery, gold, ornaments, buildings, cash and bank balances, investment in company shares and debentures etc., accumulated by the assessee are liable to tax under this Act. Although the revenue from the wealth-tax is not significant in the total Government revenue, the tax on wealth basically serves the social purpose of redistribution of wealth in the society. By imposing the wealth-tax, some of the wealth accumulated by the rich is taken away; thus, attempt is made to reduce the gap between the rich and the poor.
- c. Gift-tax:** -The Gift-tax Act, 1958 was introduced mainly to discourage the avoidance of income and wealth-tax by transferring the sources of income to another person. Subject to basic exemption limit, Gifts upto. 50,000 in a financial year are exempt from the amounts gifted by the assessee to other persons are liable to gift-tax, under the various provisions contained in the Gift-tax Act. Although the share of gift-tax in the total Government revenue is also insignificant its main objec-

tive is to check the illegitimate transfer of income to other persons with a view to avoid taxes. **Section-5** (1) of the Gift tax Act enumerates the various types of gifts which are exempt from Gift Tax.

The tax system in India is flexible. It helps in mobilization of resources. The direct tax system includes above mentioned wealth tax, gift-tax etc. apart from income tax. Due to low level of national income, agricultural income exempted from tax, high level of unemployment etc., the scope of direct taxes is very limited and the need of indirect taxes has become more and more important to raise the revenue to meet the development expenditure.

2. Indirect Taxes

Customs and Central excise are important sources of Central Government revenue. These account for about 80 per cent of total revenue. Taxation measures undertaken during the recent years intended to achieve reforms in the structure of customs and excise duties and The Government of India has mooted an Idea to replace the present indirect taxes by a new and common indirect tax namely “Goods and Service Tax-GST” introduced with effect from 1st July 2017. However before implementation of GST the different indirect taxes were applicable for designing to further promote the basic objectives of economic growth, equity, simplicity and revenue raising capacity.

- a. **Excise Duty:** The excise duty is a tax on manufacture. The commodities produced at the manufacturing premises are subjected to excise duty. The various provisions for charging the excise duty on different manufactured products are enacted through a very

“Comprehensive legislation” called as Central Excises and Salt Act, 1944. Different commodities are classified into various tariff headings under the provisions of the Central Excise Tariff Act of India, 1985 and the rates of excise duty .for each such tariff classification is also prescribed under the same Act.

The levy of excise duty is based on two-tier system:

- Basic Excise duty
- Special Excise duty

The Act also provides various exemptions and concessions taking into consideration need for economic development of the country, at the same time social goals of the society. The effective Government machinery for collection of excise duty is formulated under the Act itself and its implementation is also governed by the same Act.

- b. **Customs Duty:** The Customs Act of India was enacted to impose the custom duty on the goods imported in India. Different commodities are classified into various customs tariffs as per international Harmonious System of Nomenclature (HSN) and the rates of customs duty are prescribed for each such tariff entry. The levy of customs duty is based on three-tier system i.e. Basic customs duty, Auxiliary customs duty

and countervailing customs duty. The policies of imposition of customs duty and various exemptions are made after giving “due consideration to the availability of foreign exchange resources, need to protect indigenous industries by discouraging the use of imported goods, development of indigenous industries etc.

- c. **GST:** In block – 4 detailed information is given for GST.

Observations on Indian Tax Structure:

From the Indian Tax structure reviewed above, we may make certain observations on Indian tax structure. They are mentioned below:

1. Tax revenue has provided a major part of the Government’s needs for meeting its expenditures, covering development and non-development expenses. Tax revenue has been a much bigger source of govt. finance as compared to other sources like deficit financing, all types of borrowings etc. This source accounts for about 50 percent of the total government spending.
2. Direct taxes play a significant role in tax system not only as a revenue source but as a powerful instrument for achieving social and economic objectives. First of all, direct taxes help to make tax system progressive and reduce disparities in distribution of income and wealth. Secondly, they help the strategy of planning in many ways. Various rules and regulations in tax laws are encouraging to promote savings. In India, Income tax and also taxes on capital are designed to serve these objectives.
3. Indirect taxes accounted for a large share in the revenue right from 1951 and till recently it was as much as about 80% of total tax revenue.
4. Revenue from taxes has recently been showing a rising trend, though this rise has not been in proportion to the national income. Taxes have been indicating a continuous rise in Government income.
5. The prevention of inflationary price increase was ascribed a priority position in India through its planning process. Like in any developing country, in India also the problem of inflationary trend setting in the economy has been causing the great worry to the Government. This is mainly because, in the initial stages of development projects, a large amount of income gets generated without the adequate supporting back up of corresponding production of commodities. This results into changing pressure on demands of the commodities without sufficient availability of the production.
6. India basically being the poor country, having very low per capita income, the scope of income-tax has been very limited. In our country very few people are in the tax brackets due to the heavy dependence on the agriculture and at the same time the large scale unemployment prevailing in the country. The agricultural income, as a policy has always been outside the tax bracket, thus restricting the scope of income-tax in revenue realization.

Recent unofficial estimate indicates that actual tax evasion is, in some cases, nearly 75 per cent of the actual tax liability. This has resulted in the emergence of ‘Parallel economy’ (black money) and this result in a continuous loss of revenue to the Government. It is, therefore, necessary to control tax evasion. For this purpose, the Government has taken various legislative and administrative steps

Check your progress 6

1. India has a _____ tier Government
- | | |
|---------|----------|
| a. Two | b. Three |
| c. Four | d. five |

2.5 Let Us Sum Up

In this block we have discussed few more things about taxation .One of the major sources of Government revenue is “taxation”.

The economic definition of the term “tax” can be described as “a tax is a mandatory contribution from the citizens of the nation to the expenditure incurred by the Government to achieve common interest of the citizens without reference to specific benefits conferred on any individual”. In other words, it is nothing but the share of the person paying tax in the joint liability of the nation for its growth and development. Apart from catering the need of development finance, the taxation policies are also used as a tool for reducing the inequality in incomes, proper distribution of national income into various classes of society, checking the inflationary trends in the economy and for attaining other socio-economic goals of the nation. The Government of India provides for the division of tax powers between the Centre and the States.

In the development of India, particularly after independence, the taxation has played a significant role. In the socialistic economic pattern adopted by our country where the fiscal policies are used as the tool for development and growth the taxation has been treated as the most important source of revenue. As can be commonly seen in any developing economy, in India also tube greatest need of the economy is to break the vicious circle of poverty, low level of savings, low level of production and the alarming unemployment. The Indian Government through its fiscal measures has played a vital role in overcoming these basic problems. The taxation structure adopted in our country is mainly based on two types of taxes, i.e. Direct taxes and Indirect taxes. This unit thus is going to be of great help to the readers in understanding the concept behind the introduction of taxation not only in India but all over the world.

2.6 Answer for Check Your Progress

Check your progress 1

Answers: (1-a)

Check your progress 2

Answers: (1-a)

Check your progress 3

Answers: (1-b)

Check your progress 4

Answers: (1-a)

Check your progress 5

Answers: (1-b)

Check your progress 6

Answers: (1-b)

2.7 Glossary

1. **Distribution** - A payout of cash or property from a corporation to a shareholder.
2. **Dividends** - A payment by a corporation to shareholders, which is taxable income of shareholders. Most corporations receive no deduction for it.

2.8 Assignment

Give a detailed account of Indian Tax structure.

2.9 Activities

Describe the scope and objectives of Income Tax.

2.10 Case Study

Prepare a detailed note on the application of Income Tax Act with suitable examples. For the preparation of list take help from the internet.

2.11 Further Readings

1. Direct Taxes, Gupta and Aujha
2. The Economics of Taxation, Bernard Salanié, MIT Press, 1997



: UNIT STRUCTURE :

- 3.0 Learning Objectives**
- 3.1 Introduction**
- 3.2 Concept of Income**
- 3.3 Definition of Income**
- 3.4 Person**
 - 3.4.1 Individual**
 - 3.4.2 Hindu Undivided Family**
 - 3.4.3 Company**
 - 3.4.4 Firm**
 - 3.4.5 Association of Persons and Body of Individuals, Associations of Persons, whether Incorporates or not**
 - 3.4.6 Body of Individuals**
 - 3.4.7 Local Authority**
 - 3.4.8 Artificial Judicial Persons**
- 3.5 Assessee**
- 3.6 Assessment Year**
- 3.7 Agricultural Income**
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- 3.16 Activities**
- 3.17 Case Study**
- 3.18 Further Readings**

3.0 Learning Objectives

After learning this unit, you will be able to understand:

- Explain the concept of income
- Define income
- Specify the tests of governing the concept of income

- Discuss the concept of Assessment Year
- Elaborate on agricultural income
- Describe the incomes exempted from Tax

3.1 Introduction

Income-tax as the word implies is a tax on “Income”. Therefore, one has to know as to what is income which is chargeable to income-tax. In general, the term income means any monetary gain either in the form of money or money’s worth coming from a certain source with some sort of regularity. Income is the return on capital but capital is not necessarily a source of income in all cases. The term “Income” is of such a wide importance that it is very difficult, perhaps impossible, to define precisely. In a leading case, Kamakhya Narayan Singh V/s. Commissioner of Income Tax, the learned judges have remarked, “... the word income” is of the broadest connotation, it is a word difficult and perhaps impossible to define”.

3.2 Concept of Income

The Indian Income Tax Act does not provide any definition of the term “Income”. It only gives a list of sources of income and prescribes methods of computation of income under various heads of income, (e.g. Income from salary, house property, business etc.). The Act specifies the items which are included in income and, thus, items which do not appear in the list escape the tax net. The Act tried to make the concept of income as broad as possible. Hence, income includes salaries, income from house property, profits and gains from business/profession, Capital gains etc. A Various section of the Act makes the concept of income an ‘All inclusive’ and does not spare income from any source from being taxed.

Check your progress 1

1. The Indian Income Tax Act does not provide any definition of the term
- | | |
|-----------|-------------|
| a. Income | b. Interest |
| c. Money | d. Assesse |

3.3 Definition of Income

The definition provided under Sec. 2(24) enumerates certain items, some of which cannot ordinarily be considered as income, but are statutorily to be treated as such. The definition of the word income as provided in the Section 2(24) is reproduced below: Income includes:

1. Profits and gains
2. Dividend
3. Voluntary contribution received by
 - a. Trust created wholly or partly for charitable or religious purposes or
 - b. An institution established wholly or partly for such purposes or
 - c. Scientific research association or

- d. Games or sports association or
 - e. Any institution or fund established for charitable or religious purposes
4. The value of any perquisite or profit in lieu of salary taxable under Section 17(2) and Section 17(3)
 5. Any special allowance or benefit specially granted to an assessee to meet his expenses wholly, necessarily and exclusively for the performance of duties
 6. Any allowance granted to the assessee either to meet his personal expenses at the place where he performs his duties 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 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 obtained by any representative assessee or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee
 9. Any sum chargeable to income tax under Section 28 or 41 or under Section 59
 10. Profits on sale of a licence granted under the imports (control) order, 1955
 11. Cash assistance received or receivable by any person against export under any scheme of the Government of India
 12. Any duty of customs or excise repaid or repayable as drawback to any person against exports under the customs and Central Excise Duties Drawback Rules, 1971
 13. Any capital gains chargeable under Section 45
 14. The profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society computed in accordance with Section 44
 15. Any winnings from lottery, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form of nature whatsoever
 16. Any sum received by the assessee from his employees as contributions to any provident fund or super annuation fund or any fund set up under the provisions of the Employees State Insurance Act, 1948 or any other fund for the welfare of such employees
 17. Any sum received under Keyman Insurance Policy, including bonus

Explanation

From the above definition of the word income it will be clear that it is not

possible to give a comprehensive definition of income. Particularly, in the diverse courses of modern trade, commerce and industry and in the ever-increasing and complex transactions of trade, commerce and industrial environment the money, in cash or kind, passes from one person to another in different forms and shapes. It is therefore, impossible to define exhaustively which of such shapes or forms of receipt of money income for the purpose of income-tax is.

Criteria or Principles or Rules or Tests of Governing the Concept of Income:

1. **Regular and definite source:** The term “Income” connotes a periodical monetary return coming in with some sort of regularity or expected regularity from definite sources.
2. **Different forms of income:** Income may be received in cash or kind, when income is received in cash, valuation is to be made according to the Income Tax Rules. If rule is not prescribed, then the valuation is made on the basis of market value.
3. **Capacity or illegality:** The Income-Tax Law does not make any distinction between legality and illegality of income. Thus, the income earned by way of smuggling of gold is liable to income-tax.
4. **The periodicity:** The periodicity in the receipt is not the deciding factor to establish the nature of receipt as income. Lump sum receipt may also be treated as income if the other conditions satisfied.
5. **Basis of income:** Income arises either on receipt basis or on accrual basis. Income may accrue to a taxpayer without its actual receipt.
6. **Relief or reimbursement of expenses not treated as income:** Mere relief or reimbursement of expenses is not treated as income. For instance, reimbursement of travelling expenses to an employee is not an income.
7. **Diversion of income:** Whereby an obligation income is diverted before it reaches the assessee, it is “diversion of income” and not taxable. Conversely, after earning the income if it is required to be applied to discharge an obligation it is merely an “application of income” and income is chargeable to tax.
8. **Surplus from mutual activity:** A person cannot make taxable profit out of a transaction with himself. It means income must come from outside.
9. **Nature of income:** For the purpose of income-tax, there is no distinction between temporary and permanent income. Even temporary income is taxable.
10. **Devaluation of currency:** If any assessee receives extra money on account of devaluation of currency, it is taxable.
11. **Income includes loss:** While income, profits and gains represent “plus income”, Losses represent “minus income” (CIT VS Karamchand Premchand Ltd.).

12. **Casual income:** Any receipt which is of casual nature is not an income. The casual receipt is the one which arises without any expectation to arise and which cannot be anticipated to recur in the future. These capital receipts are not income for the purpose of income-tax.
13. **Saving from expenses is not an income:** Pin money received by wife for her dress/personal expenses and small savings made by a woman out of money received from her husband for meeting household expenses is not treated as her income.
14. **Prize on winning a motor rally:** The prize on winning a motor rally is income (CIT Vs. G. R. Karthikeyan, 1993).

While considering the criteria of the income we may conclude that, by defining income as “including” certain classes of receipts the Income Tax Act makes it clear that meaning of “income” is not restricted to classes of receipts mentioned in the definition but also includes in its ambit the meaning of the terms as generally understood.

“Gross Total Income” means total income computed with the provisions of the Act before making any deduction under section 80 C to 80 U.

“Total Income” means the gross total income as reduced by the amount permissible as deduction under Sections 80 C to 80 U.

Check your progress 2

1. The income earned by way of smuggling of gold is _____ under income-tax.
 - a. Illegal
 - b. Liable to tax
 - c. legal
 - d. None of above

3.4 Person

Person

The term person is important in the context of Income-tax Act, 1961 as the charge of income-tax is on “person”. The term person leads to the expression “assessee”. Since the assessee is a person as defined in the Income-tax Act, Section-SCSI of the Act defines the term “person” as under:

2(31) “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
7. Every artificial judicial person, not falling within any of the preceding sub- clauses

The definition of person is comprehensive and it is inclusive one. Every class

of person is a unit of assessment; all the assesseees are broadly divided into above classes for the purpose of assessment of income-tax. These categories of persons are briefly discussed in the following paragraphs in this chapter.

3.4.1 Individual

The term individual means only a natural person or a human being. It includes both male and female. It also includes minor person, the assessment in respect of whose income is done on the guardian. An individual also includes the person of unsound mind, the assessment in respect of whose income is done on the trustee,

The concept of individual assumes a greater importance in the Income-tax Act since every individual is taxed separately on the income derived by him. Even if an individual is a member of a group of individuals deriving the taxable income, its entity as an “individual” is separate from the entity of the group.

3.4.2 Hindu Undivided Family

A Hindu Co-parcenary (i.e. joint heir ship or joint ownership) is the basis of a Hindu Undivided Family which includes only those persons who acquire by birth an interest in the joint or coparcenary property. A Hindu Undivided Family may get composed of male and female members there need not be more than one male member to form a Hindu Undivided Family along with other female members it is a case of a “sole coparcener”. In such a case the tax is leviable on the joint family and not on the male members as an individual.

There can be a Hindu Undivided Family consisting of female members only.

In a Hindu Undivided Family consisting of the mother and her minor sons, the mother can act as manager. Even the eldest son, though minor, can also act as manager representing the family. In such a case, the assessment and recovery proceedings may be taken against the manager concerned.

The basic principle behind treating a HUF as distinct legal entity for income-tax assessment is that the income arising from common property of a HUF is subjected to tax in the hands of HUF as joint liability whereas the members of HUF are liable to tax only on their own income earned in their individual capacity.



Fig 3.1 Hindu Undivided Family

3.4.3 Company

“Company” is another taxable entity which is also a separate unit of assessment under Income-tax Act. For the purposes of Income-tax Act, the term “company” has a much wider connotation than that under the Companies Act, Section-2(17) defines the term as under:

“Company” means

1. Any Indian company, or
2. Anybody corporate incorporated by or under the laws of a country outside India, or
3. Any institution, association or body which is or was assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922, or which is or was assessable or was assessed under this Act as a company for any assessment year commencing on or before the 1st day of April, 1970.
4. Any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by general or special order of the Board to be a company.

Provided that, such institution, association or body shall be deemed to be a company only for such assessment year or assessment year(whether commencing before the 1st day of April, 1971, or on or after that date) as may be specified in the declaration.



Fig 3.2 Company

Explanation

From the above definition it will be clear that, under the Income-tax Act, even an unregistered or unincorporated association may be declared to be a company. Thus, what is not a legal entity may be assessable as a company. Even a company registered under Section 25 of the Companies Act without a commercial or profit-motive will be assessed as a company for income-tax purposes.

As a company is treated as distinct legal entity separate from its shareholders, every company is treated as a separate unit of assessment different from the persons constituting it. The income derived by the company is thus taxable in the hands of company as such and no tax can be levied on the shareholders in respect of the income derived by the company. This principle of independent corporate personality of a company is very important in the context of income-tax assessment.

Different classes of companies: The definition of the term “company” under the provision of the Act indicate different classes of companies which are as under:

a. Indian Companies

According to Section 2(26) of the Act, an Indian company means a company formed and registered under the Indian Companies Act, 1956. Two conditions should be satisfied so that a company can be regarded as an Indian company. The company should have been formed and registered as an Indian company and secondly, the registered office of the company should be situated in India. Besides this, the following are also treated as Indian company:

- A company formed and registered under any law relating to companies formerly in force in any part of India (except the State of Jammu and Kashmir and certain Union territories)
- A statutory corporation established under a Central or State Act
- Any institution, association or a body which is declared by the Board as a company under Section 2(27)
- A company formed and registered under any law in force in the State of Jammu and Kashmir
- Any company formed and registered under any law in force in Dadra Nagar Haveli, Goa, Daman and Div and Pondicherry

b. Domestic Company

- Indian company or
- Any other company which in respect of its income liable to tax under Income-tax Act, has made the prescribed arrangements for the declaration and payment within India of the dividends on preference shares payable out of such income

c. Foreign Company

A foreign company is one which is not a domestic company.

d. Company in which public is substantially interested

According to Section 2(18), the following companies are said to be companies in which the public is substantially interested.

- A company owned by the Government or the Reserve Bank of India or in which not less than 40 percent of the shares are held by the Government or the Reserve Bank of India or corporation owned by the Bank (The Government means either central or State but not foreign Government).

- A company having no share capital which is declared by the Board for the specified assessment year or year to be a company in which public are substantially interested
- A company (now companies Act, 2013) which is registered under Section 25 of the Companies Act, 1956, formed for promoting commerce, arts, science, religion, charity or any other useful object
- A company which is not a private company subject to fulfillment of certain conditions
- A company which carries on as its principal business, the business of acceptance of deposits from its members

3.4.4 Firm

A partnership firm is recognized as a separate entity from its partners Under the Income-tax Act also it is different and distinct unit of assessment. According to Section 2(23) of the Act the terms firm, “partner” and “partnership” have the same meanings as assigned to them in the Indian Partnership Act. However, for

The purpose of income-tax assessment it also includes a minor who has been admitted to the benefits of the partnership.

According to Section 4 of the Indian Partnership Act, partnership is the relation between persons who have agreed to share the profits of the business carried on by all or any of them acting for all. The persons who have entered into partnership are called as partners and they are collectively called as “firm”. Following are the essential characteristics of the partnership firms:

- It is a relationship arising out of a contract between persons. The contract may be verbal or in writing.
- Sharing of profits is a vital condition of partnership. No partnership can come into existence unless there is an agreement to share profits,
- There should be at least two persons or more persons to form a partnership. The persons may be individuals or artificial persons like company etc. A minor cannot enter into partnership but he can be admitted to the benefits of the partnership,
- The partnership firm must carry on the business which includes every trade occupation and profession.
- The business of the partnership firm may be carried on by any one or more acting for all or by all. The act of one partner is binding upon all others and similarly, he would be bound by what other partners do in carrying on the business.



Fig 3.3 Firm

3.4.5 Association of Persons and Body of Individuals, Associations of Persons whether Incorporate or not

The phrase “association of persons” is most comprehensive and under Sec. 3 (42) Of the General Clauses Act, the “person” includes any company, association or body of individuals, whether incorporated or not. Thus, an “association of persons”, may have its member companies, firms, joint families and associations.

Under Sec. 86 (v) a member of an association is not liable to pay tax again in respect of his share in the benefits of the association on which the tax has already been paid by the association.

In order to constitute an “association of persons”, the persons must join in a common purpose or common action and the object of association must be to produce income. It is enough that all the members - persons receive the income jointly. Co-heirs, Co-legatees, Co-donees and other joining together in a common purpose or action will be chargeable as an “association of persons”.

3.4.6 Body of Individuals

When the members concerned come together with the main intention to receive income jointly, their association is described as a “Body of Individuals”. If the co-trustees and co-executors whose title and interests are indivisible and who merely receive jointly incomes such as dividend, interest etc., they will be more appropriately assessable as a “Body of Individuals”.

3.4.7 Local Authority

A municipal committee, district board, body of port commissioners and other such authorities are known as “Local Authorities”. Such authorities are legally entitled to or entrusted by the Government with the control or management of municipal or local funds. A local authority is taxable only in respect 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 commodity or services within its own jurisdictional areas, For and from the assessment year 1972-73 income arising from the supply of water and electricity even outside the local authority’s jurisdictional area is exempted from tax.

3.4.8 Artificial Judicial Persons

This category covers every artificial person not falling under any other heads. It mainly refers to the private religious trusts. An idol or deity would be assessable in the status of an artificial person. As an example, Tirupati Devasthan would be covered under this category of persons.

Check your progress 3

1. The term individual means a _____
 - a. Natural person
 - b. A company
 - c. Natural person and a company
 - d. All of the above

3.5 Assessee

The provisions of the Income tax Act, 1961 levy the income-tax on the income earned by the “assessee”. An “assessee” is responsible for discharging the liability under the Income-tax Act. It is therefore, very important to study the meaning of the term assessee used in the Act. Section 2(7) of the Income-tax Act defines the term assessee as follows.

“Assessee” means a person by whom any tax or any other sum of money is payable under this Act and includes -

- Every person in respect of whom any proceeding under this 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 of 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



Fig 3.4 Tax

Act Explanation

From the above definition it can be noted that the “assessee” means a person as defined in Section 2(31) of the Income-tax Act, by whom any tax or any other sum of money is payable under the Income-tax Act. Any other sum of money payable under the Income-tax Act would include the interest or penalty levied under relevant provisions of the Act.

The expression assessee used in the Act also includes every person in respect of whom any proceedings under the Act are taken for the assessment of (a) his income, (b) his loss and (c) amount of refund due to him. Thus the definition of the term assessee under the Income-tax Act covers two categories of the person.

- The persons by whom any tax, penalty or interest is payable under the Act, whether any proceedings under the Act have been actually taken against them or not. This category covers the person whose taxable income under the Income-tax Act exceeds the basic exemption limit prescribed under the Act.
- The persons against whom any proceedings under the Act have been taken, whether or not they are liable to pay tax, penalty or interest under the Act. This part of definition of the term assessee enables Income-tax authorities to initiate the proceedings against any person for assessment of his income or loss under the provisions of the Act.

Deemed Assessee

The clause (b) of the definition of “assessee” also includes every person who is deemed to be an assessee under any provisions of the Act. Section 159 of the Act provides that when a person dies, his legal representative is liable to pay any sum which the deceased person would have been liable to pay, had he not died.

Thus the legal representative will be held as assessee in respect of the income of the deceased person and any proceedings taken against the deceased person before his death shall be continued against the legal representative. All the provisions relating to assessments, penalty or interest, service of notice etc. will be equally applicable to the legal representative. Similarly, the “executors” who are liable to income-tax in respect of income of the deceased under the provisions of Section 169 of the Act will also be treated as an assessee for the purpose of income-tax assessment.

Deemed assessee in default

Clause (c) of the definition of term assessee also covers every person who is deemed to be an assessee in default under any provisions of the Act/In certain circumstances, the provisions of Income-tax Act (Sec. 194) requires the person paying income to other person to deduct the income-tax at source and pay it to the Government within the stipulated time period. Section 201 of the Act provides that if any such person does not deduct or after deducting fails to pay the tax as required under the Act, he shall be deemed to be an assessee in default. Thus, in respect of the income-tax liable to be deducted at source) the person paying the income tax will be considered as an assessee and any proceedings under the Act will be taken against such person.

Check your progress 4

1. _____ means a person by whom any tax or any other sum of money is payable under this Act

a. Individual	b. “Assessee”
c. person	d. company

3.6 Assessment Year

It is a period of 12 months commencing on the 1st day of April immediately after the previous year. For example, for previous year ending 31stMarch 2019, the assessment year is 2019-2020 (i.e. from 1.4.2019 to 31.3.2020). Income of the previous year of an assessee is taxed during the next following prescribed by the relevant Finance Act. [Section 2(9)]

Previous Year

In the language of Income Tax Act, previous year is the financial year ending on 31st March every year. [Section 3]

Income of the previous year of an assessee is taxed during the next following assessment year at the rates prescribed by the relevant Finance Act.

Income earned in a year is taxable in the current(py) year. The year in which income is earned is known as previous year and the next year in which income is tax assessed is known as assessment year.

- a. In any area which falls within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee or by other name) or a cantonment board and which has a population of not less than 10,000 according to the latest preceding census of which the relevant figures have been published before the first day of the previous year.
- b. In any area within such distance, not being more than eight kilometer from the local limits of any municipality or cantonment board referred to in item (a), as the central government may, having regard to the extent of and scope for urbanization of that area and other relevant considerations, specify in this behalf by notification in the official gazette.

From the definition and various provisions given above, it can be concluded that the "receipt can be treated as "Agricultural Income" provided it satisfies the following conditions:

- The income must be derived from land
- Such land must be situated in India
- The land must be used for agricultural purposes
- The income derived from the building may also be treated as agricultural income provided it satisfies the condition prescribed above in sub-clause (c).

Explanatory of conditions and their relevance to agricultural income The conditions and their relevance to agricultural income are explained as follows:

1. Income must be derived from the land -

The agricultural income may be received in the form of rent or revenue derived from land. The term "derived from land" means that the income must be "arisen out" of land. Thus, the land should be immediate and effective source of income to treat the income as the agricultural income. If the relation between land and the income is not direct or primary one, the income cannot be treated as agricultural income.

Following are the examples of some of the types of revenue derived in relation to or by virtue of land, yet those cannot be treated as agricultural income since those incomes are not directly associated with the land and the land cannot be said as effective or immediate source of the revenue.

- Maintenance charges paid on agricultural land cannot be said to be derived out of land.
- An annuity paid by the transfer of the land to the transferor of the land under the contract is not an income derived from land.
- The amount of salary received by the manager of the agricultural farm is not an agricultural income as there is a not direct annexe between the salary income and the agricultural land. The salary is earned for the personal services rendered to the employer; it neither derives out of cultivation of land nor out of personal association to the agricultural land.

2. The land must be situated in India -

The land out of which the income is derived must be situated in India. To other words, the income derived from the land situated in any foreign country will not constitute the agricultural income within the meaning of Section 2(1) of the Income-tax Act and such income, if derived by the citizen resident in India, will be chargeable to income tax.

3. The land must be used for agricultural purposes -

The income derived from land will constitute the agricultural income only if such land is used for the agricultural purposes. To elaborate this principle, one has to understand what is meant by “agriculture”. The agriculture means cultivation of land, that is to say the process of tilling of the land, sowing of seeds and other incidental operations performed on the land. These operations, to treat them as Agricultural operations require the human skill and labour to be consumed in the land.

Thus, all direct operations carried on directly on the land in the process of cultivation of land constitute agriculture. Any subsequent operation after the produce has arisen from the land, such as digging, cutting etc. cannot be said to have performed on the land itself and thus such subsequent operations are not agricultural process in the context of Income-tax Act, unless they are carried on in continuation of the basic operations of the cultivation. Thus, it follows from the above that the income must be derived from performing the primary agricultural processes of cultivation on the land to constitute it as agricultural income. The income derived from the sale of forest trees, which grow spontaneously, cannot be treated as agricultural income because no processes are performed on the land for the growth of the trees and the process of spontaneous growth of trees is not the agricultural process.

4. Income from building situated in the vicinity of the land -

Clause (c) of subsection (1) of Section 2 of the Income tax Act specifies that the income derived from any building on the agricultural land would constitute the agricultural income if following conditions are satisfied:

- The building must be on or in immediate vicinity of the agricultural land.
- The building should be owned and occupied by the cultivator of the land or by receiver of the rent or revenue from such land, in respect of which land, the processes ordinarily employed by the cultivator or receiver of the rent or revenue, to render the produce raised by him fit to be taken to the market for sale are carried on.
- The building must be used by the cultivator or receiver of revenue or rent as his dwelling house by reason of his connection with land or as a store house or other outhouse.

Thus, the income derived from the godown or shed situated on the land used for agricultural process for storing the grains raised on the agricultural land is to be treated as an agricultural income and consequently it will be exempt from income-tax. Similarly, the income earned from the farm house constructed

on the land which is used by the owner or cultivator of land for his residence, would constitute the agricultural income.

5. Income from agricultural produce and from marketing agricultural produce -

The clause (b) of the sub-section (1) of section (2) of the Income-tax Act deals with the income derived from land by

- Agriculture
- The performance of any process ordinarily employed by a cultivator or the receiver of rent in kind to render the produce raised by him fit to be taken to market or
- The sale of the produce raised or received by a cultivator or receiver of rent in kind in respect of which no process other than the one which is ordinarily performed by a cultivator has been performed.

Thus, the income derived from the process of growing agricultural produce and other incidental processes to make the agricultural produce fit to be taken to the market for sale, will be agricultural income. However, the processes carried on the agricultural produce must retain the original character of the produce, otherwise the income derived from the sale of the agricultural produce after transforming it into the entirely new form and shape cannot be treated as agricultural income.

Examples:

1. The income derived from sale of wheat grown on the land is agricultural income, but the income derived from processing it into wheat flour and sale proceeds of such wheat flour does not constitute an agricultural income within the meaning of Sec. 2 (1) of the Income-tax Act, 1961.
2. The cotton grower need not convert his cotton into suitable thread because there is already market for all types of cotton. Therefore, for deciding income chargeable for taxation, the market price of the cotton used for threading will be deducted- from the total income.
3. If a sugar factory is using sugarcane grown on its own farm, the entire income cannot be treated as the agricultural income. Because a cultivator of sugarcane can sell his produce without converting it into sugar. It means production of sugar does not form a part of cultivation activities. The income chargeable for taxation should be decided accordingly. It can be done by deducting the market price of sugarcane from the total income; and the rest of the income becomes taxable.
4. The green tea leaf is a marketable commodity. If a tea-estate has undertaken manufacturing of tea suitable for consumption, such manufacturing activity does not form a part of cultivation activities. Therefore, the market price of the green tea leaf will be deducted from the total income while arriving at the income chargeable for taxation.

Check your progress 6

1. Agriculture income is _____ under income tax act.
 - a. Exempted
 - b. Taxable
 - c. Partially taxable
 - d. None of above

3.8 Residential Status

The residential status of an assessee decides the extent of his taxable income. It is determined solely on the basis of physical presence and/or other prescribed criterion as against nationality or domicile of the individual, It is determined for every previous year separately. A person may be a resident in one previous year and non-resident in next year. The prescribed tests for determining the residential status are given in separate chapter.

3.9 Head of Income

Income-tax is a composite tax on all incomes received by or accruing or arising to, a tax payer during previous year. For computing taxable income, incomes from various sources are computed under five different heads of income. If there is two or more source of income falling under a head of income, the income is computed separately for each source and then aggregate under that head. The various heads of income are-

- (i) Salary including allowances, value of perquisites, profit in lieu of salary and pension.
- (ii) Income from house property whether residential or commercial let out or self occupied.
- (iii) Profit and gain from business and profession.
- (iv) Capital gain.
- (v) Income from other sources including bank interest, interest on securities, lotteries, crosswords puzzles, races, games, gifts from unrelated persons exceeding the specified limit etc.

3.10 Gross Total Income

It is aggregated of incomes under various five heads of income.

Gross Total Income = aggregate income from salary, house property, business/profession capital gain and other success.

3.11 Total Taxable Income

It is aggregated of incomes under various heads of income after deduction of applicable deductions.

Total Taxable Income = Gross total income less applicable deductions.

Check your progress: 7

1. There are total _____ heads of incomes.
 - a. Ten
 - b. Five
 - c. Seven
 - d. Three

Check your progress: 8

1. Gross total income can be aggregate amount of one or more than one _____.
- a. deductions b. heads
c. relief d. none of the above

Check your progress: 9

1. Total taxable income after applicable _____.
- a. deductions b. heads
c. relief d. Exemption.

3.12 Let Us Sum Up

In this unit we have studied basic things about income tax of India. We have studied that the word implies is a tax on “Income”. Therefore, one has to know as to what is income which is chargeable to income-tax. In general, the term income means any monetary gain either in the form of money or money’s worth coming from a certain source with some sort of regularity.

Income is the return on capital but capital is not necessarily a source of income in all cases. The term “income” is of such a wide importance that it is very difficult, perhaps impossible, to define precisely. In a leading case Kamakhya Narayan Singh V/s. Commissioner of Income Tax, the learned judges had remarked, - “the word income” is of the broadest connotation, it is a word difficult and perhaps impossible to define ‘The Indian Income Tax Act does not provide any definition of the term “income”. It only gives a list of sources of income and prescribes methods of computation of income under various heads of income, (e.g. Income from salary, house property, business etc.). The Act specifies the items which are included in income and, thus, items which do not appear in the list escape the tax net.

The aim of this unit was to discuss the basic things of income tax with the reader As introduction of basic concepts is very necessary especially in a subject like income tax.

3.13 Answer for Check Your Progress

Check your progress 1

Answers: (1-a)

Check your progress 2

Answers: (1-b)

Check your progress 3

Answers: (1-a)

Check your progress 4

Answers: (1-b)

Check your progress 5

Answers: (1-a)

Check your progress 6

Answers: (1-a)

Check your progress 7

Answers: (1-b)

Check your progress 8

Answers: (1-b)

Check your progress 9

Answers: (1-a)

3.14 Glossary

1. **Global Income Tax** - Income tax that aggregate income from all sources at the individual (or family unit) level. The income is then taxed at a single progressive rate.
2. **Sole Proprietorship** - Ownership of all of the assets of an unincorporated business by a single individual. The individual owner is personally liable for all debts of the business

3.15 Assignment

Describe the Hindu Undivided Family.

3.16 Activities

What is meant by Agricultural Income? Explain in detail

3.17 Case Study

Browse through the Internet and make a list of definition of Income and Person.

3.18 Further Readings

1. Direct Taxes, Gupta and Ahuja
2. Gupta's Income Tax Ready Reckoner
3. Taxman's – Direct Taxes Ready Reckoner Dr. Vinod K Singhanis.



RESIDENTIAL STATUS

: UNIT STRUCTURE :

- 4.0 Learning Objective**
- 4.1 Introduction**
- 4.2 Different Taxable Entities**
- 4.3 Residential Status**
- 4.4 Rules to determine Residential Status of an Individual**
- 4.5 Non-Resident**
- 4.6 Resident and Ordinarily Resident status:**
- 4.7 Relationship between residential status and incidence of tax**
- 4.8 Type of Income**
- 4.9 Incidence of tax payer for different taxpayers**
- 4.10 Let Us Sum Up**
- 4.11 Answer for check your progress**
- 4.12 Glossary**
- 4.13 Assignment**
- 4.14 Activities**
- 4.15 Case Study**
- 4.16 Further Readings**

4.0 Learning Objective

After this unit we will be able to;

- To know and study the Type of Residential Status
- Understand the Residential Status of an individual (Section 6)
- Know about the Resident in India
- Know about Non-Resident in India
- Resident and Ordinarily Resident status
- Relationship between residential status and incidence of tax
- Type of Income
- Incidence of tax payer for different taxpayers

4.1 Introduction

The tax liability of an assessee is determined on the basis of his stay in India during the relevant previous year. Taxability of income cannot be determined unless the residential status of a person is determined. In Act it is clearly define the scope of total income, that incidence of tax depends upon the residential status of a person.

The following points are important

- Residential status of an assessee is to be determined in respect of each previous year.
- Residential status of an assessee may change from one year to another previous year.

- Residential status and Citizenship of an individual are two different concepts. An ordinary resident in India may not be an Indian citizen or vice versa.

An assessee can have only one residential status for a previous year means he cannot be a resident for one source of income and a Non-Resident for another source of income.

- An assessee can have different residential status in different countries or same residential status in different countries.

Check your progress 1

1. The tax liability of an assessee is determined on the basis of his stay in India during the relevant _____ year.
- a). Previous year b).Current year
c).preceding previous year d).None of above

4.2 Different Taxable Entities

All taxable entities are divided in the following categories for the purpose of determining residential status:

- I. Individual
- II. Hindu Undivided Family
- III. Company
- IV. Firm and other Person

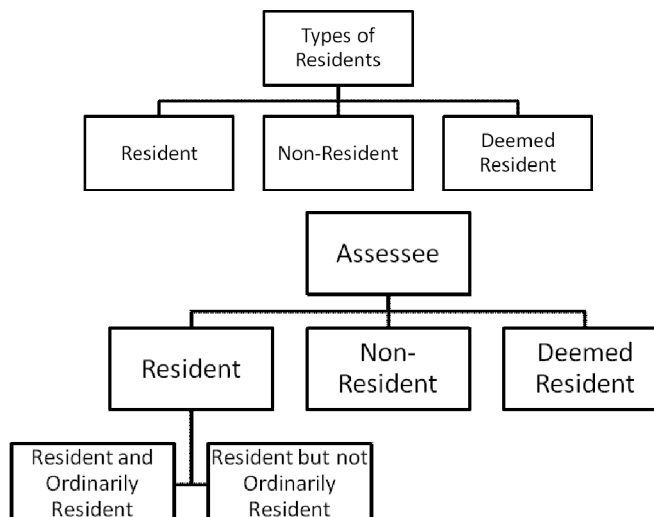
Check your progress 2

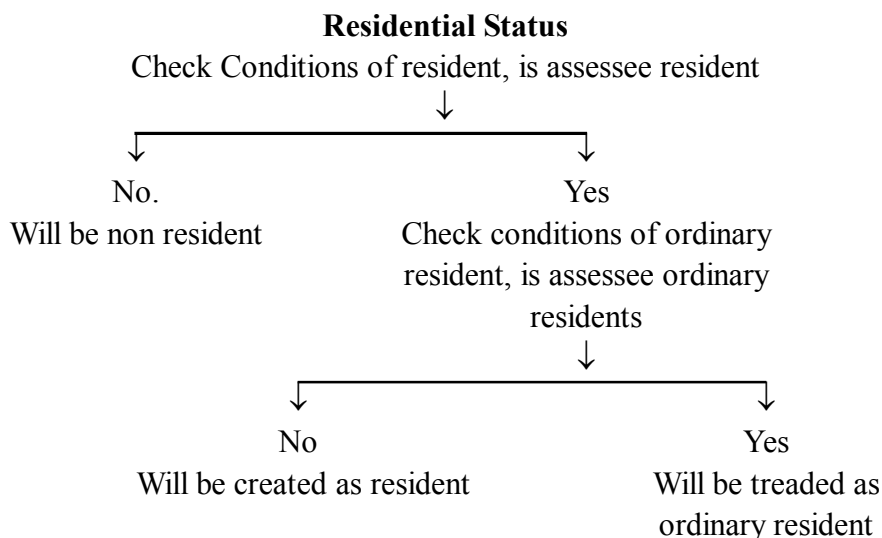
1. Which of the following entities are included in the status of Residence
- a).Individual b).HUF
c). Company d). All of above

4.3 Residential Status

According to provision an individual and Hindu undivided family can either be;

- I. Resident and ordinarily resident in India; or
- II. Resident but not ordinarily resident in India; or
- III. Non-resident in India
- IV. Deemed Resident





All other assesses (viz. a firm, a company and every other person) can either be:

- (a) Resident in India; or
- (b) Non-resident in India

Check your progress 3

1. Which of the following is included in the type of resident?
 - a) Resident
 - b) Non-Resident
 - c) Deemed Resident
 - d) All of Above

4.4 Rules to determine Residential Status of an Individual

Basic Conditions to test when an Individual is said to be Resident in India [Sec. 6(1)]

An individual is said to be resident in India in any previous year, if he satisfies any one of the following basic conditions:

- a. Stay in India 182 days or more in the previous year.

OR

- b. Stay in India for a total period of 60 days or more during the previous year and 365 days or more during 4 years immediately preceding the previous year.

Exception:

The period of 60 days in basic condition (b) above has been extended to 182 days in case of:

- I. An Indian citizen who leaves India during the previous year for the purpose of employment outside India or an Indian citizen who leaves India during the previous year as a member of the crew of an Indian ship.
- II. Indian citizen or a person of Indian origin who comes on a visit to India during the previous year the period of 60 days' stay in basic condition (b) was extended to 182 days. But now it is 120 days as per finance bill 2020.

Note:

- a. Assessee stay in India during the previous year is essential. If he has not stayed at least for 60 days, than none of the above conditions would be fulfilled.

- b. A person is deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born 'in undivided India. It may be noted that grandparents include both maternal and paternal grandparents.
 - c. It may be noted that stay of an assessee in India need not be continuous.
 - d. It is not necessary that he should stay at the same place during this period. He may go from place to place If he stayed on a ship in the territorial water of India than also it is considered to be Stay in India.
 - e. If the total duration of an individual's stay in India at various places is 24 hours. It will be taken as 1 full day.
 - f. The day on which he enters India, as well as the day on which he leaves India, shall be taken into account as the stay of the individual in India.
- After determining that a Person is Resident of India, then we need to check whether he is Ordinary Resident (OR) or Resident but not ordinary Resident (RBNOR)

Check your progress 4

- 1. An individual is said to be resident in India in any previous year, if he satisfies any one of the following basic conditions:
 - a).Stay in India 182 days or more in the previous year.
 - b).Stay in India 162 days in the previous year.
 - c).Stay in India 60 days in the previous year.
 - d).None of above

4.5 Non-Resident:

An individual is a non-resident in India if he does not satisfy even one of the above mention basic conditions in Para (4)

4.6 Resident and Ordinarily Resident status:

After determining that a Person is Resident of India, than we need to check whether he is Ordinary Resident (OR) or Resident but not ordinary Resident (RBNOR)

Following additional both the condition must be fulfilled to become Ordinary Resident

- I. He must be Resident in India at least for 2 previous year out of 10 previous Years Preceding to the relevant Previous Year.

And

- II. His stay should be at least 730 days in India during 7 Preceding Previous Year.

4.7 Deemed Resident (Finance bill 2020)

If section 6, clause (1A) is inserted in finance bill 2020.

According to this provision, an Indian Citizen shall be deemed to be resident in India in any previous year, if in that respective year he is not liable to pay tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature. Moreover, section 6(b)(d) has been inserted and as per this provision in such a case, the individual would be resident but not ordinary resident conditions for deemed resident :

- (i) The assessee is an Indian resident .
- (ii) His total Income (other than the income form foreign sources.) exceeds Rs. 15,00,000 during the repective previous year.
- (iii) He is not liable to pay tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature. On fulfilment of these 3 conditions an individual shall be resident but not ordinary resident.

To become an ordinary Resident he has to satisfy both the above mentioned additional conditions

Illustration -1.

Smt. Shweta Doshi, an Indian citizen, is employed in the UAE for the last 14 years. She returned to

India on 1st August, 2018 to attend a social function and stayed in India up to 1st May,2019.

Determine his residential status will be determined as under:

Calculation of days:

August '18	31
September	30
October	31
November	30
December	31
January '19	31
February	28
<u>March</u>	<u>31</u>
<u>Total</u>	<u>243</u>

Notes: Smt. Shweta Doshi is an Indian Citizen who came to India on a visit, condition of 182 days(instead of 60 days) is to be taken into account

As she satisfies one of the two basic conditions, she will be treated as a 'Resident'. In case of 'Resident', it is necessary to look other two additional conditions to determine her final status.

She was neither a resident for minimum 2 years out of preceding 10 previous years, nor did she stay nin india for 730 days during preceding 7 P.Y. hence she would not be considered an ordinary resident.

Condition for Resident	Stay in India	Whether the condition is fulfilled
(1) Stay in India for minimum 182 during P.Y. '18-'19	243	Yes
(2) Stay in India for 182 days or more during the P.Y. and for 365 days or more during the 4 years preceding to the relevant P.Y.(60 days condition become non-functional for Indian citizen who comes to India on a visit)	Stay in India 182 days or more during P.Y.,but not for 365 days during the preceding 4 years.	No

She is not meeting conditions of resident but ordinary resident.

Therefore, her final status for the P.Y. 2018-'19 is that of resident but not ordinarily resident (RBNOR)

Illustration 2:

Mr. Kaivan is a American citizen born in Nepal 2000. He regularly visits India during last 10 years including 2018-'19 in the month of Sept., Oct and Nov. decide his Residential Status for A.Y. 2019-'20. Instead of Sept, Oct and November, if he visits in the month of Oct, Nov and Dec., what would be his status for A.Y. 2019-'20

Calculation of days:

Months	Days
September	30
October	31
November	<u>31</u>
Total days	<u>91</u>

Calculation of days during 4 preceding previous year : 91 days X 4 years = 364 days.

A.Y. 2019-'20	P.Y. 2018-'19	Period: 01-04-2018 to 31-03-2019
Basic Conditions-Section 6(1)	Days	Whether Conditions Satisfied or not?
(1) His stay should be at least 182 days or more in India in P.Y. OR	91 days	No
(2) (a) His stay should be at-least 60 days in India in P.Y. And	91 days 'Yes'	No
(b) His stay should be at-least 365 days during 4 P.P.Ys.	364 days 'No'	

As none of the basic conditions are satisfied, Mr Kaivan is **“Non-Resident”** for A.Y. 2019-'20(P.Y. 2018-'19)

IF Mr Kaivan visits India in the month of October, November and December his residential status for A.Y. 2019-'20 will be: Calculation of days:

Months	Days
October	31
November	31
December	<u>31</u>
Total days	<u>92</u>

Calculation of days during 4 preceding previous year : 92 days X 4 years = 368 days.

RESIDENTIAL STATUS

A.Y. 2019-'20	P.Y. 2018-'19	Period: 01-04-2018 to 31-03-2019
Basic Conditions	Days	Whether Conditions Satisfied or not?
(1) His stay should be at least 182 days or more in India in P.Y. OR	92 days	No
(2) (a) His stay should be at-least 60 days in India in P.Y. And	92 days 'Yes'	
(b) His stay should be at-least 365 days during 4 P.P.Ys.	368 days 'Yes'	Yes

His stay India during 2018-'19 is only 92 days so he is satisfying condition 2(a) and during 4 preceding previous year his stay is 368 days , so he is satisfying condition 2(b) also. As 2nd basic condition of Mr Kaivan is "Resident" for A.Y. 2019-'20

Once an individual is "Resident", we need to check further additional two conditions for "Resident and ordinary Resident" or "Resident but not ordinary Resident"

Additional Conditions-Section 6(6)	Whether Satisfied or not ?
I. He must be Resident in India at least for 2 previous year out of 10 previous Years Preceding to the relevant Previous Year. And	Yes
II. His stay should be at least 730 days in India during 7 Preceding Previous Year	No

Mr Kaivan has been visiting India for 92 days since last 10 Years, he must be satisfying 1st additional condition of being resident for 2 out of 10 PPY. Considering the basic conditions u/s

6(1) independently for each PPYs. However, he is not satisfying the second additional condition as

his stay is $92 \times 7 = 644$ days only.

Mr Kaivan is "Resident but not ordinary Resident "for the A.Y.2019-'20.

Residence of an assessee may be studied under the following separate classes:

1. Individual/ person
2. Hindu Undivided Family

3. A Company
4. Any other person

1. Individual

An individual is said to be resident in India during the relevant previous year if he satisfies certain conditions. The Act divides the conditions into the following two categories, namely, category A and category B.

Category A:

An individual has to satisfy any one of the following two conditions:

1. He has been in India for a period or periods amounting in all to 182 days or more.
2. He has been in India for a period or periods amounting in all to 365 days or more within the four years immediately preceding the relevant previous year and that he is in India for a period or periods amounting in all to 60 days or more during that year.

Explanation:

1. The stay in India in all the above cases need not be continuous for those days. It may be in parts and such stay need not be at the same place.
2. If an individual (who is a citizen of India) leaves India for the purpose of employment outside India or as a member of the staff of an Indian ship, the period of 60 days or more as in (2) above shall be 182 days or more.
3. If a citizen of India comes to India on visit, he can stay in India up to 182 days during the relevant previous year.
4. The personal presence in India of an individual is required. Therefore, the above conditions are applicable to individual only and none else (i.e. Firms, companies).

Category B:

An individual has to satisfy both the following conditions (after satisfying at least one of the conditions in category A):

1. He has been resident in India in 9 out of 10 years immediately preceding the relevant previous year.
2. He has been in India for a period or periods amounting in all to 730 days or More during seven years immediately preceding the relevant previous year.

Explanation:

1. If an individual satisfies conditions under both the above categories (i.e. A and B), he will be resident and ordinarily resident.
2. If he satisfies either or both the conditions under category A, but does not satisfy both the conditions under category B, he is said to be resident but not ordinarily resident.

3. If he does not satisfy any one of the conditions of category A, he is said to be a non-resident. It does not matter whether he satisfies one or both the conditions under category B. 2.

Hindu Undivided Family, Firm or Other Association of Persons:

The following test of residence has to be fulfilled by these bodies to acquire the status of the “Residence in India”. Test for ‘Residence in India’

According to Sec. 6 (2), a Hindu Undivided Family, Firm or other association of persons is resident in India if the control and management of its affair is situated wholly or in part in India. Explanation:

- a. **Control and Management:** The expression “Control and Management” signifies the power of controlling and directing the business affairs it is sometimes described as the “head and brain” of business. It means that the term “Control and Management” is used specifically to denote the right of the top management to take decision and control and direct the business affairs Therefore, it certainly differs from the act of running business.
- b. **Place of Control and Management:** The expression “Situating” used in Sec, 6(2) implies the functioning of controlling and directive power at a particular place with some degree of permanence and stability. It indicates the place from where the business is being controlled and managed. If such a place of control and management of business is Wholly or in part situated in India, the HUF, firm or other association of persons will get the status of a “Resident in India”.
- c. **Residence of Members:** The residence of individual members of the HUF. Firm or other association of persons is immaterial in determining the residential status of the HUF etc., except where it affects the control and management of the business.
- d. **Affairs:** It includes all those activities which are relevant for the purpose of the Income Tax Act and have some relation to the income sought to be assessed. Mere activities, even by the Karta or the manager, do not constitute affair
- e. **Place of Business:** The place of business where the HUF and other bodies undertake a great deal of business can be altogether different from the place of control and management of business affairs Thus, both these could be different places situated far away from each other. But the residential status will be decided only on the basis of the place of “control and management” and not on the place of business.
- f. **Division of Seat of Management and Control:** The seat of management and control could be divided at two different places and it is expected that at least one of such seats should be situated in India. It means at least a part of management and control should be in India for

the HUF and other bodies to acquire the status of a “Resident in India”.

- g. Occasional visits of Non-Resident Karta:** A “non-resident” Karta having places of the HUF business in India might occasionally visit them and casually issue directives in respect of business. In such a case, it should be noted that such an act of directing business does not constitute the “Control and Management¹ of business of India. As a result, the HUF is not entitled for a status of a resident in India. Not Ordinarily Resident in India:

It should be clearly noted that the Partnership Firms and other Associations of Persons do not come under the category of not ordinarily resident in India”. Only Hindu Undivided family comes under this category.

In the entire set up of the Hindu Undivided Family the position of the Karta is very important and therefore, his residential status is considered while classifying the HUF as “not ordinarily resident in India” for the purpose of income tax.

According to Sec. 6 (b) of the Income Tax Act, 1961, the Hindu Undivided Family is said to be “Not Ordinarily Resident in India” provided

- Its manager has not been resident in India in nine out of ten previous year preceding that year or
- Its manager has not, during the seven previous years preceding that year, been in India for a period or periods amounting in all to seven hundred and twenty nine days or less

Non-Resident in India:

The Hindu Undivided Family, Partnership Firm or other Association of Persons are “Non-resident” only when the control and management of their affairs is situated wholly outside India.

Basics of Income and Person

Check your progress 5

1. The _____ of an assessee decides the extent of his taxable income.
 - a. residential status
 - b. income
 - c. sources of income

4.7 Relationship between residential status and incidence of tax

Incidence of tax on a taxpayer depends on his residential status and type of income.

4.8 Type of Income

- I. Indian Income: If income is received or deemed to be received in India during the previous year or accrues (or arises or is deemed to accrue or arise) in India during the previous year or received and accrues both in India during the previous year is said to be Indian Income.

II. Foreign Income

RESIDENTIAL STATUS

If income is neither received (nor not deemed to be received) in neither India; nor it accrue or arise (or not deemed to accrue or arise) in India is said to be foreign income.

4.9 Incidence of tax payer for different taxpayers:

Sr. No.	Particulars of Income	Ordinary Resident (OR)	Resi. but not Ordi. Resi. (RBNOR)	Non-Resident
01	Income received or deemed to be received in India during P.Y. wherever income accrue/arise	Taxable	Taxable	Taxable
02	income accrue/arise or deemed to be received in India during P.Y. wherever income received	Taxable	Taxable	Taxable
03	Foreign Income (A) Any income accrue/arise or deemed to be accrue/arise or received in India from a Business whose control is in foreign country.	Taxable	Taxable	Taxable
	(B) Any income accrue/arise or deemed to be accrue/arise or received outside India from a Business whose control is in India.	Taxable	Taxable	Not Taxable
	(C) Any incomes accrue/arise or deemed to be accrue/arise outside India from a Business whose control is in foreign country.	Taxable	Not Taxable	Not Taxable
	(D) Any income accrue/arise or deemed to be accrue/arise outside India other than a Business income (i.e. any other source), whether brought in to India or not.	Taxable	Not Taxable	Not Taxable
4	Agricultural Income Income from an Agricultural Property situated: In India	Exempted Taxable	Exempted Not Taxable	Exempted Not Taxable
	In Foreign Country			
5	Dividend Income From Indian Company	Exempted Taxable	Exempted Exempted	Exempted Exempted
	From Foreign company			
6	Any income which is not taxed during PPY, later on remitted to India	Not Taxable	Not Taxable	Not Taxable

Example: Residential Status and Accessibility of Income

Mr. X has the following incomes during the Assessment Year 2019-20 (Previous Year 2018-19):

- Dividends on shares in Indian companies credited to his account are outside India. ₹ 15000
- Interest on bank accounts in India ₹ 15000
- Royalty from books published in India ₹ 60000

- d. Interest on capital from firm outside India but controlled in India
₹ 75000
- e. Remuneration for technical services rendered outside India, paid by an
Indian company. ₹ 150000
- f. Interest on bank deposits outside India.
₹ 45000 Total income of Mr. X shall be

- (i) If Mr. X is “Resident1 in India

Gross Total Income = (a) + (b) + (c) + (d) -f (e) + (f) = ₹ 3, 60,000

Note: Dividend received or shares is not exempt from the assessment
year2003-04 and onwards.

- (i) If Mr. X is “Resident but Not Ordinarily Residentl

Gross Total Income = (b) + (c) + (d) = ₹ 1, 50,000

Interest on foreign deposits and remuneration for technical services
rendered outside India payable by a resident person are not deemed to accrue
or arise in India.

- (ii) If Mr. X is “Non-Resident”

Gross Total Income = (b) + (c) = ₹ 75,000

In case of Non-Residents foreign incomes are excluded.

4.10 Let Us Sum Up

The tax liability of an assessee is determined on the basis of his stay in
India during the relevant previous year. Taxability of income cannot be deter-
mined unless the residential status of a person is determined. In Act it is
clearly define the scope of total income, that incidence of tax depends upon
the residential status of a person. The income earned from nations outside
India in India or outside India is taxable in India is depends on the residential
status rather than his citizenship.

4.11 Answer for check your progress

Check your progress 1

Answer : (1 - a)

Check your progress 2

Answer : (1 - d)

Check your progress 3

Answer : (1 - d)

Check your progress 4

Answer : (1 - a)

Check your progress 5

Answer : (1 - a)

4.12 Glossary

Incidence of tax: The scope of total income varies according to the residen-
tial status of an assessee i.e. the incidence of tax is highest on Resident, a little
lower on Resident but not ordinary resident and lowest on Non-Resident
Assessee.

4.13 Assignment

Explain the types of residential status

4.14 Activities

Incidence of tax payer for different taxpayers

4.15 Case Study

Make a list of Different Taxable Entities

4.16 Further Readings

- Singhanian- Direct Taxes
- Plakiwala-Income Tax Chaturvedi and pathisana
- H.C. Mehrotra –Income Tax Law and Practice.

Block Summary

In this block we have learnt that taxation is one of the most important factor responsible for the growth and development of our economy. Income tax is considered to be one of the most complicated acts in India. Most of the time students have been found running away from this subject. Best efforts have been made to explain the topics in very easy language and in most interesting ways. Sufficient illustrations and pictures have been added to make the content more interesting and easy understandable.

The whole block was divided into three units and the first unit covers the basics concepts and gives an overview of the subject Income tax act 1961. It covers meaning and definition of Taxation, characteristics of Taxation, types of Taxes, direct Taxes, and indirect Taxes. Unit second gives the scope and objectives of income tax .It covers background of Income Tax, Scope of Income Tax Law, Application of Income Tax Act, 1961, Objectives of Income Tax, Taxation Structure in India. Whereas the last unit covers Basics of income and person .It covers the topic Concept of Income, Definition of Income, Person, Assessee, Assessment Year, Agricultural Income, Residential Status, Companies, Incomes Exempted from Tax.

This block is going to be of great help for all the readers who intend to build the career in this respective line.

Block Assignment

Short Answer Questions

1. Meaning and definition of taxation.
2. Characteristics of taxation.
3. Additional canons of taxation advocated by other experts.
4. Observations on Indian Tax Structure.
5. Application of Income Tax Act, 1961.
6. Excise duty.
7. Wealth-tax.
8. Incomes exempted from Tax.
9. Companies.
10. Assessment Year.
11. Artificial Judicial Persons.
12. Concept of Income.

Long Answer Questions

1. Discuss the various types of taxes.
2. Write a note on tax structure in India.
3. Discuss the various types of status in case of Income tax of India.

Enrolment No.:

1. How many hours did you need for studying the units ?

Unit No.	1	2	3	4
Nos of Hrs				

2. Please give your reactions to the following items based on your reading of the block:

Items	Excellent	Very Good	Good	Poor	Give specific example if any
Presentation Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Language and Style	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Illustration used (Diagram, tables etc)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Conceptual Clarity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Check your progress Quest	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Feed back to CYP Question	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Any Other Comments

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BBAR-501

DIRECT AND INDIRECT TAXES

BLOCK-2 HEADS OF INCOME

UNIT 1

INCOME FROM SALARY

UNIT 2

INCOME FROM HOUSE PROPERTY

UNIT 3

INCOME FROM BUSINESS OR PROFESSION

UNIT 4

INCOME FROM CAPITAL GAIN

BLOCK 2 : HEADS OF INCOME

Block Introduction

As discussed in the earlier block the importance of income tax. This act is considered to be one of the most important act and the most complicated too.

As already discussed the complexity of Income Tax. The writer has tried his best to explain the topics in very easy language and in most interesting ways. Sufficient illustrations and pictures have been added to make the content more interesting and easy understandable. The first and second units discuss about the heads of income salary and house property.

Unit three discusses about the heads of income business or profession. Here detailed discussion has been made on Income from Business or Profession, General Principles governing the computation of taxable income under the head profits and gains of business or profession, Expenses allowed as deduction from Profit and Gain of Business or Profession and Expenses Expressly Disallowed (u/s40).

On the other hand unit four focuses on capital gains. Here detailed discussion has been made on basis of Charge (Sec 45), Chargeability of Tax, differences between the long as well as short term capital gain has also been discussed here in detail. How is capital gain charged, are there any special rates for it chargeability has been discussed here in detail.

So after going through this block you will have sufficient knowledge of calculating income and income tax.

Block Objective

After learning this block, you will be able to understand:

- Income from salary and house property
- Much about business or profession.
- Calculate profits and gains of business or profession.
- Identify expenses allowed as deduction from profit and gain of business or profession.
- Section 40 which speaks about disallowed expenses.
- Various types of capital gains.
- Role of cost inflation index and rates for the various financial years.

Block Structure

Unit 1 : Income from Salary

Unit 2 : Income from House Property

Unit 3 : Income from Business or Profession

Unit 4 : Income from Capital Gain



: UNIT STRUCTURE :

1.0 Learning Objectives

1.1 Introduction

1.2 Income from Salary

1.3 Taxability of Salary

1.4 Allowances:

1.5. Perquisites & FBT:

1.6 Deduction from Salaries [Sec. 16]

1.7 Chart for computation of taxable salary

1.8 Let Us Sum Up

1.9 Answer for check your progress

1.10 Glossary

1.11 Assignment

1.12 Activities

1.13 Case Study

1.14 Further Readings

1.0 Learning Objectives

After this unit you will be able to learn

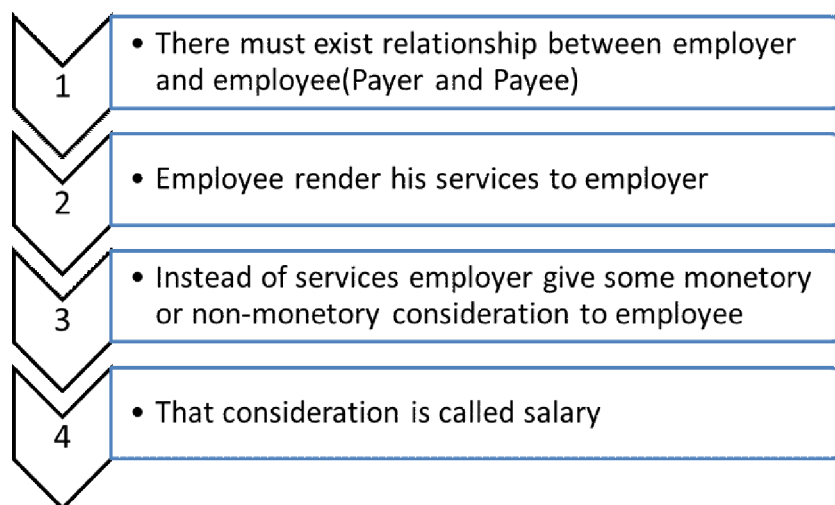
- Study what does “Salary” includes.
- Know some important points regarding salaries
- Study about the Allowances and their taxability
- Study the valuation of perquisites
- Understand Deduction allowed from salaries(U/s 16)
- Chart for computation of taxable salary

1.1 Introduction

Income of person is classified into five categories. Thus, income belonging to a particular category is taxed under a separate head of income pertaining to that category (Under section 14). The five heads of income are (i) Income from Salary (ii) Income from house property (iii) Income from business or profession (iv) Income from Capital Gain (v) Income from other sources. Salary means - There must be relation between employer and employee. Due to relation between payer and payee any Payment or rewards made by employer to his employee instead of service rendered by employee whatever consideration given by employer to employee is called salary. Salary includes both ‘monetary’ and ‘Non-monetary’ facilities.

HEADS OF INCOME

- Monetary Facility: Basic Salary, Bonus, Commission, Allowance etc.
- Non-monetary facility: Housing Accommodation, Medical Facility, Perquisite etc.



According to Sec. 17(1) 'Salary' includes the following:

- I. Basic Salary
- II. Wages
- III. Bonus
- IV. Commission
- V. Gratuity
- VI. Annuity or Pension
- VII. Allowances
- VIII. Perquisites
- IX. Profit in lieu of salary
- X. any encashment of leave not availed
- XI. Contribution to the recognised provident fund by the employer, in excess of 12% of employee's salary
- XII. Interest credited to RPF in excess of 9.5% p.a.
- XIII. Transfer balance in a Recognised Provident fund to the extent it is taxable;
- XIV. Contribution made by the Central Government to the account of an employee under a notified pension scheme[U/s 80CCD]

Chargeability of salary on Due or Receipt whichever falls earlier: Salary is taxable on 'due' (accrual) basis or on 'receipt' basis whichever is earlier, whether it is from present employer or former employer.

- Salary due : In a previous year is taxable, even if it is not received by the employee
- Salary received: In a previous year is taxable, even if it has not become due to the employee;

Arrears of salary: Received during a previous year provided it is not charged to tax in earlier previous years

Notes : To avoid double taxation where any salary paid in advance is included in the total income of any person for any previous year , It will not be included again in the total income of person when salary become due.

Check your progress 1

1. There must be relation _____
 - a. Between employer and bank
 - b. Between employer and customer
 - c. Between employer and employee
 - d. None of above

1.2 Income from Salary

Income under head salary taxable only if there is a relationship between employer and employee is a payer and payee. There must be control over the method of doing work of other person. When, how and by whom it has to be done, and the receiver is bound to follow all his instructions.

1.2.1 Few common examples when there is no control of payer over payee are

- Partner of a firm- any salary, bonus etc. by whatever name called received by a partner from the firm shall not be regarded as salary.
- Director who is not employee.
- Member of Parliament.
- Guest lecturers etc.

In all these cases income of the receiver is not taxable under head salary.

Check your progress 2

1. Who are consider as an employee _____

a Director.	b Member of Parliament
c Guest lecturers	d None of above

1.3 Taxability of Salary

- 1.3.1 Basic salary : Is fully taxable
- 1.3.2 Wages : The same word be treated as “Salary” is fully taxable
- 1.3.3 Bonus : Is a part of salary that’s why it is also fully taxable
- 1.3.4 Commission : Is a part of salary that’s why it is also fully taxable
- 1.3.5 Gratuity

Gratuity is a lum-sum amount paid to an employee when he retires or resign after a long services. it is a reward for his long services. It is exempted from tax fully for certain categories of employees.for other employees, it is exempted upto a certain limit.

Gratuity received by employee on his retirement is taxable under the head ‘ salary’ whereas gratuity received by the legal heir of the deceased employee shall be taxable under the head ‘Income from Other Sources’

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INCOME

Notes:

- I. Gracious payment to widow or legal heirs of deceased employee is not taxable (who died while in service)
- II. 'Ex-Gratia' payment from central/state Government, Local Authority, Public sector undertaking on account of inquiry to the person/death of a family member (while on duty) is also exempted.
 - Gratuity received by Govt. employees: Fully Exempted.
 - Gratuity received by Payment of Gratuity Act 1972:

Least of the below three is Exempted:

1	Actual Gratuity Received	
2	Last month Salary X 15/26 X No. of completed years of service	
3	Maximum₹	₹20,00,000
➤	Exempted : Whichever is lower is exempted	
➤	Taxable :(Actual Gratuity Rec.-Exempted Gratuity)	

Notes :

- Salary = Basic Salary + D.A.
- Completed year means rounded off completed years. A service period is 6 month or more add one year in number of completed years.
- seasonable establishment take 7 days instead of 15 days
- Gratuity received by any other employee. : Employee of statutory corporations and private sector employees on their retirement or death, termination, resignation or on his becoming incapacitated to retirement is exempted up to the following limit or may be received by his widow, children or dependents on his death.

Least of the below three is Exempted :

1	Actual Gratuity Received	
2	Last 10 month Ave. Salary X 1/2 X No. of completed years of service	
3	Maximum₹	₹20,00,000
➤	Exempted : Whichever is lower is exempted	
➤	Taxable :(Actual Gratuity Rec.-Exempted Gratuity)	

Notes :

- Salary = only Basic Salary but consider if benefit of retirement is given in that case D.A. will be added otherwise ignore D.A.
- Completed year means net completed year.
- Pension: In the consideration of past service by an employee the pen-

sion is a periodic payment made by him which is taxable as salary. An assessee can get Pension by either of the following two ways

- I. Uncommuted pension Pension regularly received periodically is taxable as a salary for all types of employees.

Exception :

- (a) Pension received from UNO by the employee or his family member is exempted;
- (b) Pension received by central Government employees (Defence Personnel) who have been awarded Gallantry Awards is also exempted U/s 10(18)
- (c) Family pension received by the family member of armed forces is also exempted U/s 10(19).

II. Commuted Pension :

- a. Pension received by in lump-sum is completely tax free for government employees, employees of local authority, employees of statutory corporations and High court / Supreme Court Judges.
- b. Received by other non govt. employee
 - If employee receives Gratuity: 1/3 of the full value of commutable pension is tax-free.
 - If employee does not receive gratuity: 1/2 of the full value of commutable pension is tax-free.
- III. New Pension Scheme: It covers New Pension Scheme with effect from 01-01-2004 and Atal Pension Yojana (From 19-02-2016). It is applicable to those employees who have joined the Govt. service or any other employer on or after 01-01-2004 or any other assessee, being an individual (irrespective of date of joining employment) U/s 80CCD and 80CCD(B)
- IV. Family pension: Pension received by family member of a deceased employee is not taxable under the head of 'Income from Salary' but taxable under the head of 'Income from other Sources'(after allowing standard deduction in this regards)

Check your progress 3

1. Gratuity received by employee register under Gratuity act 1972 is exempted maximum amount ₹ _____
 - a. 5,00,000
 - b. 10,00,000
 - c. 20,00,000
 - d. None of the above

1.4 Allowances:

They are paid to meet the special circumstances created by the nature of employment. From the taxability point of view, they can be classified as under:

HEADS OF
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- A. Fully taxable Allowance
- B. Partly Exempted Allowance
- C. Special Allowance exempted up to certain limit or actual expenditure.

1.4.1 Fully Taxable Allowances

- 1. Dearness Allowance (D.A.)
- 2. City Compensatory Allowance (C.C.A)
- 3. Medical Allowance
- 4. Servant's Allowance
- 5. Tiffin, Lunch or Dinner & Refreshment allowance
- 6. Over Time allowance
- 7. Interim allowance
- 8. Allowance received by Non-resident Foreign technician
- 9. Project Allowance
- 10. Other Cash Allowance.

1.4.2 Partly Exempted Allowances

[I] House Rent Allowance (H.R.A) [Section 10(13A)]

Least of below three is Exempt

- 1 Actual HRA Received
- 2 Actual Rent Paid-10% of salary
- 3 40 % of Salary or 50 % of Salary (In case of Metro city)

Metro city : Mumbai, Delhi, Kolkata and Chennai

Notes: (i) Salary = Basic Salary + D.A (if considered as retirement benefit) + Commission (only if based on Fixed % on turnover by employee.)

[II] Entertainment Allowance (E.A.) [Section 16(11)]: It is one & the only allowance which is First added to the salary income & thereafter deduction can be claimed under section-16 (ii) as follows:

For Govt. Employees	For Non Govt. Employees
Least of the Three is Exempt	Fully Taxable
(1) ₹. 5,000	
(2) 1/5 (20%) of Basic Salary	
(3) Actual Amount Received	

As Compared to all allowances, only in case of Entertainment Allowance received is first of all added to the Gross salary and then the amount of exemption is reflected as deduction u/s. 16(ii). In all other allowances, only net taxable allowance amount is directly added in the Gross Salary.

1.4.3 Special Allowances

(1) Following are the Special Allowances **Exempt up to Actual Expenses u/s. 10(14)**

- (i) Conveyance Allowance

- (ii) Travelling Allowance & Transfer allowance
- (iii) Daily Allowance
- (iv) Helper Allowance
- (v) Uniform Allowance
- (vi) Academic or Research Allowance

INCOME FROM
SALARY

(2) Following are the Special Allowances **Exempt up to Certain Limits**

Children Education Allowance	₹ 100 Per child per month
Hostel Expenditure Allowance	₹ 300 Per child per month
Tribal Area Allowance	₹ 200 Per month
Transport Allowance	₹ 1600 Per month or ₹ 3,200 Per month in case of blind/ physically disabled (w.e.f. A.Y 2016-2017)
Allowance given to employee in transportation services (Running Allowance)	70% of such Allowance or Rs. 10,000 per month whichever is less.
Hilly Area Allowance or High Altitude Allowance	₹ 800 Per month
Border Area Allowance	₹ 1,300 Per Month
Underground Allowance	₹ 800 Per Month

(3) Other Special Allowances are **Fully Exempt or Not chargeable to Tax**

Foreign Allowance received by Indian citizen serving in Foreign country-Section- 10(7)

Allowances received by High-court & Supreme Court Judges.

UNO Allowance received by employees of UNO

Compensatory allowance under article 222(2) of the constitution

Allowance of Researcher/Teacher from SAARC member state is exempted up to maximum period of 2 years starting from the year of his/her arrival in that other member state

Check your progress 4

1. Hostel allowance exempted for one child maximum ₹ _____
 - a. ₹ 200.
 - b. ₹ 300
 - c. ₹ 500

1.5 Perquisites Perks & FBT:

Any additional benefit or casual emolument fee or profit paid to a person because of his position of office, in addition to wages, is called 'perquisite' (popularly known as 'perks').

HEADS OF INCOME

Mainly there are three types of perks:

(A) Perks Exempt for All types of employees

(B) Perks Taxable for All types of employees

(C) Perks Taxable to Specified employees.

1.5.1 Perks Exempt for all types of employees:

1. Free Telephones including mobile.
2. Free Facility of Computer / Laptop
3. Free Beverages, Tea & Snacks provided during working hours
4. Free Food
5. Goods which produced by Employer given to employee at concessional rate.
6. Transfer movable assets without consideration after using it for a period of 10 yrs. or more.
7. Free recreational facility.
8. Free Transport facility to employee by Railway/Airways Companies.
9. Free leave travel concession.
10. Free Conveyance facility between employee's residence and office
11. Free Training or Refreshment Course.
12. Free Education to children in the institute maintained by Employer – Exempt up to ₹ 1,000. P.m. per child (no limit on numbers)
13. Rent free accommodation & free transport- conveyance facility provided to any High-court & Supreme Court Judges and officer of Central Govt., Parliament, Minister or leader of opposition party.
14. Interest free loan or a loan at concessional rate up to ₹. 20,000.
15. Interest free loan for some specified medical treatment.
16. Reimbursement of medical expenses – up to ₹. 15,000.
17. Gift in cash up to ₹. 5,000 & Gift in kind.
18. Free Periodicals and Journals

1.5.2 Perks Taxable for all types of Employees:

1. Rent free furnished or unfurnished accommodation provided to employee.
2. Concessional rent, furnished or unfurnished accommodation provided to employee
3. Any sum paid by employer which is the obligation of employee like Income-tax or personal debt.
4. Any sum paid or payable by employer for insurance coverage of life of an employee i.e. LIC premium of employee paid by employer.
5. Value of sweat equity shares allotted at concessional rate or free of cost to the employees.

6. Any contribution in excess of ₹ 1, 00,000/- by employer in approved superannuation fund created for the benefit of employee.
7. Value of any other Fringe benefit or amenity as may be specified.

1.5.3 Perks Taxable for Specified Employees

Definition of Specified Employees:

1. Fulltime Part time director of the company OR
2. Employee holding 20 % or more share OR
3. Employee having monetary salary of Rs. 50,000 or more P.a.

Note: ₹. 50,000 p.a. means ₹. 4,167/- per month which, in today's era, is very minimum monthly salary amount. Accordingly almost all employee become "Specified Employees"

Following additional perquisites are taxable for specified employee

- I. Motor car facility
- II. Domestic Servant
- III. Supply of Gas, electricity or water
- IV. free education

Check your progress 5

1. Free children education perquisites for one child maximum ₹ _____
 - a. ₹ 1000.
 - b. ₹ 3000
 - c. ₹ 5000

1.6 Deduction from Salaries [Sec.16]

While computing the taxable income under the head 'salary' the following deduction is allowed:

- (a) Standard Deduction [Section 16(i)/ (ia)]
 - (b) Exempted Entertainment Allowance [Sec.16(ii)]
 - (c) Professional Tax[Sec. 16(iii)]
- (a) Standard Deduction [Section 16(i)/(ia)] :** A standard deduction of ₹ 40,000 {A.Y. 2019-'20) and ₹ 50,000(A.Y. 2020-'21) or the amount of salary, whichever is lower is to be allowed from gross salary Income of an employee.
- (b) Entertainment allowance:** Exempted Entertainment allowance received by government employee is allowed to deduct from gross salary
- (c) Professional Tax:** Under Article 276(2) any sum paid by an employee or employer on account of tax on employment like professional tax levied by State Government is allowed as deduction as deduction from salary.

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<p>Check your progress 6</p> <p>1. Standard deduction maximum ₹ _____</p> <p>a. ₹ 100000.</p> <p>b. ₹ 30000</p> <p>c. ₹ 50000</p>
--

1.7 Chart given below the computation of taxable income of salary

Statement showing taxable income of Mr. X

Individual Previous year: 2019-20
 Ordinary Resident Assessment year: 2020-'21
 Indian Citizen Permanent A/c No.

Particulars	Amount ₹	Amount ₹
Salary Income		
Basic Salary, Wages, Bonus, Commission	...	
Gratuity, Pension	...	
Taxable Allowance: i.e. Dearness Allow	...	
Taxable value of perquisite	...	
Employer's excess contribution to RPF	...	
Excess interest credited to RPF	...	
	±	
Gross Salary
Less: Special Deductions:		
U/s 16(ia) Standard deduction	50,000	
16(ii) Exempted Entertainment Allow
6(iii) Professional Tax
	±	±
Net Income from Salary	±
Less: General Deduction U/s 80C To 80U		.
Taxable Income		.

Some Changes in Income from Salary

The Finance Minister introduced several proposals in relation to the personal tax regime in the Union Budget 2020 presented in the parliament on February 1, 2020.

Related

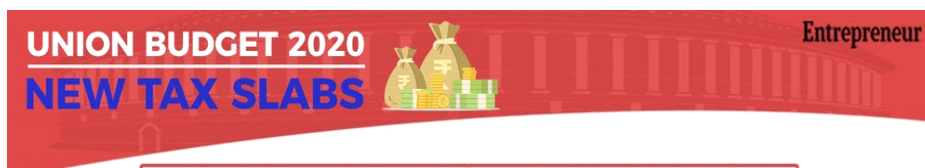
- New income tax regime vs old: Which is better for you?
- Budget gives option of lower income tax rates, new tax slabs minus 70 exemptions
- Tax on allotment of start-up ESOPs removed by Budget 2020

- Timeline to avail loan for affordable housing extended till March 31, 2021

[Budget 2020] Tax Rates Lowered But HRA, 80C, and INR 50,000 Standard Deduction Gone. In the Union Budget 2020, finance minister Nirmala Sitharaman proposed a new tax regime with lower tax rates for different income groups. Feb 1, 2020

In the Union Budget 2020, finance minister Nirmala Sitharaman proposed a new tax regime with lower tax rates for different income groups. But, the new regime is subject to foregoing various tax deductions and exemptions available to taxpayers.

Four new tax slabs have been introduced, making it a total of seven slabs.



INCOME TAX SLAB (INR)	INCOME TAX RATE (%)
UP TO 2.5 LAKH	NIL
2.5 - 5 LAKH*	5
5 - 7.5 LAKH	10
7.5 - 10 LAKH	15
10 - 12.5 LAKH	20
12.5 - 15 LAKH	25
ABOVE 15 LAKH	30

*INCOMES BELOW INR 5 LAKH WILL BE TAX EXEMPT.

Under the new tax rules, those earning INR 5-7.5 lakh will get a concession of 10 percentage points from the current tax rate, whereas annual income of INR 7.5-10 lakh attract 5 percentage points less tax. However, all without deductions.

Further, those with an annual income of INR 10-12.5 lakh will pay 10 percentage points less in taxes, while income of INR 12.5-15 lakh will get a 5 percentage points concession from the current applicable tax rates.

The taxpayers have the option to continue with the current tax rates and avail various deductions available. The government offering a choice between the two tax regimes might be an exercise for them to see how the new proposal works out. “The new regime appears as the government’s roadmap to taking away all deductions and exemptions in the coming years.”

Surcharge and education cess would apply as per existing rates.

The new tax regime is optional. Individuals who opt to claim available exemptions/deductions would be taxed as per the existing rates.

Individuals who earn taxable income up to INR 5,00,000 continue to be exempt from tax liability under the existing and new tax regimes.

While a break for middle-class taxpayers, the new tax regime offers no respite to the rich and super rich as tax rates of incomes above INR 15 lakh remain unchanged.

In the wake of the Punjab and Maharashtra Cooperative (PMC) Bank crisis, the government has also decided to increase the deposit insurance from the

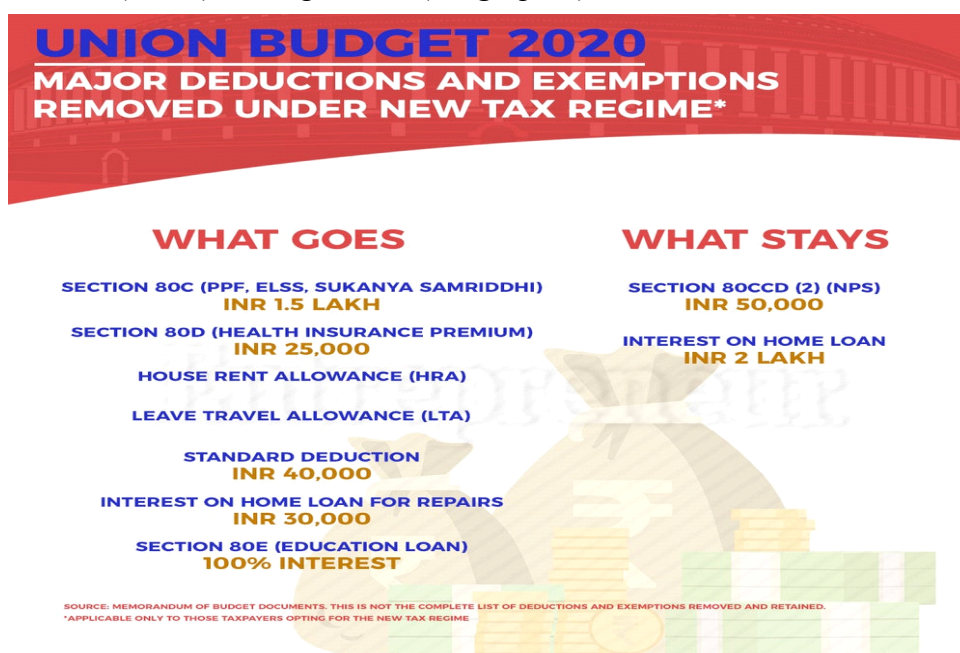
HEADS OF INCOME

current INR 1 lakh to INR 5 lakh for each account. This will be a huge relief for depositors as many lost money in the PMC incident.

Deductions Removed

Currently, taxpayers get around INR 5 lakh worth of deductions under Section 80C (INR 1.5 lakh), interest on home loan (INR 2 lakh), health insurance premium (INR 50,000), National Pension Scheme (INR 50,000) and standard deduction of INR 50,000, among others. Also, house rent allowance (HRA) and leave travel allowance (LTA) are some of the exemptions that help taxpayers lower their net taxable income.

The new regime has removed around 70 of the existing deductions and exemptions including HRA, LTA, standard deduction and 80C, which includes investments in Public Provident Fund (PPF) and Equity-Linked Savings Scheme (ELSS), among others. (*see graphic*)



The exchequer will have to forego about INR 40,000 crore in tax revenues due to revised tax slabs, as stated by the finance minister during the Budget speech.

Also Read: [Budget 2020: A Precious Little Something for Everyone](#)

How Will the Taxpayer Benefit?

Experts say the new tax regime may not be suitable for everyone. “With the optional new regime, taxpayers will have to evaluate what works better for them,” says Gupta. “Those committed to long-term saving and investing via Section 80C may be discouraged and this may likely demotivate taxpayers to opt for tax-saving linked investing, like in ELSS and PPF.”

Sousthav Chakrabarty, CEO and co-founder, Capital Quotient, sees a silver lining in the deductions. “With the host of deductions removed, mis-selling of insurance and other products that happens in the name of tax saving will hopefully reduce,” he says.

Also, Sitharaman said during her speech that this will help taxpayers file their tax returns on their own without the help of professionals.

1.8 Let Us Sum Up

As per the Income-tax Act, 1961, there are five sources of Income. The most common source of Income is “Salary”. The salaried assessee can get maximum benefit of Allowance, perquisites & deductions available in the provision and get the benefit the relationship between the payer and payee should be that of master- servant relationship or employer and employee relationship.

1.9 Answers for check your Progress

Check your progress 1

Answer : (1 - c)

Check your progress 2

Answer : (1 - d)

Check your progress 3

Answer : (1 - c)

Check your progress 4

Answer : (1 - b)

Check your progress 5

Answer : (1 - a)

Check your progress 6

Answer : (1 - c)

1.10 Glossary

Salary : Remuneration received by an employee from employer in consideration of his service.

Allowance : A fixed sum of money received by the employees from the employer to meet their official or personal expenses. Allowances are always paid in terms of money

Perquisites : A casual emolument attached to a position or an office in addition to salary. Perquisites are normally given in kind; however, sometimes it may be given in cash also.

Emolument : Returns

1.11 Assignment

Define salary and deduction available under the head Salaries

1.12 Activities

Discuss the provisions of income-Tax Act, 1961 relating to House Rent Allowance, Entertainment Allowance and gratuity.

1.13 Case Study

Explain Perks Exempt for all types of employees

1.14 Further Readings

Palkhiwala – Income Tax

Chaturvedi and pathisana

Singhanian – Direct Taxes

H.C.Mehrotra – Income Tax Law and Practice



UNIT STRUCTURE :

- 2.0 Learning Objective**
- 2.1 Introduction**
- 2.2 Income from House Property**
- 2.3 Property held as Stock-in-Trade [Section 23]**
- 2.4 House Property income not charged to tax**
- 2.5 Certain incomes from house property**
- 2.6 Types of House Properties**
- 2.7 Computation of Income from house property**
- 2.8 Recovery of unrealized rent and Assessment of Arrears of rent received**
- 2.9 Let Us Sum Up**
- 2.10 Answer for check your progress**
- 2.11 Glossary**
- 2.12 Assignment**
- 2.13 Activities**
- 2.14 Case Study**
- 2.15 Further Readings**

2.0 Learning Objective

After learning this unit, you will be able to understand:

- Who is considered Owner
- Income from House Property
- Deemed Owner
- Property held as Stock-in-Trade
- House Property income not charged to tax
- Certain incomes from house property
- Types of House Properties
- Computation of Income from house property
- Recovery of unrealized rent and Assessment of Arrears of rent received

2.1 Introduction

The provisions with respect to income from house property are laid down in section 22 to Section 27 of this Act.

A person in whose name the house property is registered is the owner of the house property and is liable to pay income-tax on the income from such house property.

Who is considered Owner ?

- I. Ownership includes both freehold and leasehold rights
- II. The assessee must be the owner of the house property during the previous year.
- III. It is not necessary that the owner of a building also owns the plot of land on which the building is constructed.
- IV. It is also includes 'deemed ownership' as per Section 27.

2.2 Income from House Property

According to section 22, the annual value of property consisting of any building or land appurtenant thereto of which the assessee is the owner or deemed owner is chargeable to income tax under the head "Income from House Property" The following four point emerge from the above provision of section 22

- I. Income tax is assessed on "Annual value" and not on actual rent.
- II. The assessee must be the owner of the house property.
- III. Income from land appurtenant to the building is also taxable under this head
- IV. The property should not have been used for his own business or profession.

2.2.1 Ownership of Property Necessary:

Only the legal owner of the house property is liable to pay tax on income under this head. If a person is not the owner of the property from which he derives income, then he is not assessable under this head.

The word "Owner" includes legal owner as well as deemed owner.

2.2.2 Deemed Owner:

Besides the legal owner, Section 27 provides that the following persons are to be treated as deemed owner of house property for the purpose of charging tax on annual value under the head "Income from house property"

- I. Transfer to Spouse or Minor Child: If the property is transferred without adequate monetary consideration by the assessee to his or her spouse or his or her minor child, then the individual who has transferred the property would be deemed as "owner" of the property.

Notes : The following transfer of the assets without adequate consideration is not considering deemed assets.

- Assets transferred to spouse in connection with an arrangement to live apart.
 - Assets transfer to minor married daughter is not considering deemed assets.
- II. Holder of Impartible Estate: The holder of impartible estate is deemed owner of the property.
 - III. **Property held by a Member of Co-operative Society/Company/AOP:** A member of co-operative society, company or other associa-

tion of persons to whom a building is allotted or leased under the house building scheme of the society. Company or association, is treated as deemed owner of such property.

IV. A Person who has acquired a right in a Building under Lease: Acquiring a property on lease for a term of not less than 12 years in this case lessee is deemed owner.

1.2.3 Property should not be occupied by the owner for his own business or profession:

Annual value of the house property is not chargeable to tax under the head “Income from house property” If the owner of the property utilizes the property for the purpose of carrying on his business or profession, income of which is chargeable to tax. This rule is applicable even if in a particular year income from business or profession is nil or there is loss.

Check your progress 1

1. Who is not liable to pay tax in income from house property
 - a. Legal owner of house property.
 - b. Holder of Impartible Estate
 - c. Property occupied by the owner for his own business

2.3 Property held as Stock-in-Trade [Section 23]:

As specific head of charge is provided for income from house property, annual value of house property cannot be brought to tax under any other head of income. It will remain so even if:

- I. The property is held by the assessee as stock-in-trade of a business but where the house property held as stock in trade which is not let during the whole or any part of the previous year, the annual value such property or part of the property for the period up to 1 year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority shall be taken to be nil or negative.
- II. If the assessee is engaged in the business of letting out of property on rent, or
- III. If the assessee is a company which is incorporated for the purpose of owning house property.

Exception: The rule that income from ownership of house property is taxable under the head “Income from house property” has the following exception:

- A. If letting is only for the benefit of main business of the assessee, rental income is not taxable under the head “Income from house property” but is chargeable as business income, e.g. tenting of servant quarters.
- B. If income is received only for letting out of property but also for incidental services or facilities(e.g. a furnished paying guest accommodation, a well-equipped theatre, a safe deposit vault), than it cannot be said to be derived from mere ownership of house property but because

of facilities and services rendered. Income in such case may be assessable as income from business.

INCOME FROM HOUSE PROPERTY

Check your progress 2

1. Which following statement is not taxable under the head Income from House property
 - a. The property is held by the assessee as stock-in-trade of a business
 - b. Income from appurtenant land with building
 - c. The assessee must be the owner of the house property.

2.4 House Property income not charged to tax

The following cases income from property is not charged to tax:

- a) Farm House: Building is occupied by agriculturist or receiver of rent, revenue of such land provided that the building is in the immediate vicinity or agricultural land as dwelling house or a store house
- b) Property held for charitable purposes: As per section 11, where the property is held for charitable or religious purpose the income from such property is exempt from tax.
- c) House property is used for own business or profession.
- d) Self-occupied house: Annual value of one self-occupied house shall be taken as Nil(For A.Y.020-'21 any two house shall be taken as self-occupied and tax liability will be Nil)
- e) House property of registered trade union/local authority: The income from property held by registered trade union/local authority is not taxable.
- f) Place of Ex-ruler: The annual value of any one palace in the occupation of an ex-ruler shall be exempted from tax.
- g) Property held by Political Party.

Check your progress 3

1. Who is not liable to pay tax on income from house property
 - a. Building is Occupied by agriculturist.
 - b. Property held for charitable purposes
 - c. Property held by political party
 - d. None of the above

2.5 Certain incomes from house property

- a) House Property situated in foreign Country: Only in case of an ordinary resident, the income from house property situated in foreign country is assessed tax. It is taxable under the head "Income from house property"
- b) House property sublet by Tenant: Income received by Tenant is taxable under the head "Income from other sources"
- C) Income from house letting business: When the business of a person is

HEADS OF INCOME

to let out house properties, the rent received is assessed to tax under “Income from house property” but if house property is let-out for the benefit of own business in that case it is taxable under the head “Income from business or Profession”

Composite Rent: When a building is let out along with plant, machinery, furniture etc. and the rent for building can be separately determined, then such rent must be taxed as ‘Income from house property’ and remaining income may be taxed as ‘Income from other sources’ or ‘Income from business’ as the case may be. If, however, such composite rent cannot be separated, the rent is assessed as ‘Income from other sources’

- d) Disputed Ownership: The income-tax authority may take a decision to assess such property from the viewpoint of a person who receives rent
- e) Joint Ownership: When the house property is jointly owned by two or more person and their respective shares are defined and ascertainable, then the share of each such person in the income from the property will be included in his separate total income.

Check your progress 4

1. Who is not liable to pay tax on income from house property
 - a. Legal owner of house property.
 - b. House property use for own business
 - c. Rent received by Tenant of sublet property

2.6 Types of House Properties:

On the basis of nature of occupation, house property can be classified into the following categories:

- I let - out property for residence or commercial.
- II Self occupied property for residence.
- III Deemed to be let-out property
- IV Partly let - out and partly self-occupied property.

2.7 Computation of Income from house property

2.7.1

- a) Municipal value (MV) as per municipal records: This is rateable value of property by Municipal Corporation.
- b) Fair Rent (FR): Rent charged by similar property.
- c) Standard Rent (SR): Maximum Rent a person can legally recover under Rent control Act.
- d) Annual Rent Received/Receivable (AR): Rent for the period for which property is available for letting out.
(Annual Rent – Expenses paid by owner to provide amenities to tenant -unrealised rent)

If the owner has incurred to certain expenses to earn rent they are deducted

INCOME FROM HOUSE
PROPERTY

from annual rent. Exp. like Liftman’s salary, electricity consumed, expenses of providing water, gardener’s salary etc.

2.7.2 Follow following step for Gross Annual value of a let-out housed property under Sec. 23(1) is to be determined as under. There can not be gross annual value of self occupied house property but interest 30000/20000 which ever is applicable can be charged.

Step 1: Determine ‘Expected Rent’ of the let-out house property.

Sr. No	Particulars	Amount
a	Annual value as per municipal records..... (MV)	
b	Fair Value.....(FV)	
	Whichever is higher	
c	Standard Rent.....(SR)	
	(Expected Rent)Whichever is lower	

Step 2: Determine ‘Actual Rent received/receivable.

Annual Rent receivable	...
Less: Expenses paid by owner for providing amenity to tenant	...
Less: Unrealised rent	...
Actual Rent Received	...
Note: Ignoring the loss of rent due to vacancy period in step-2	

Step 3: Gross annual value

(Compare Step-1 and Step-2) Whichever is more	...
Less: Vacancy period loss	...

2.7.3 Taxable income from House property:

Gross Annual value (as per step -3)	...
Less: Municipal Taxes (Paid by owner either of previous year or any other year)	...
Net Annual Value	...
Less: Deduction U/s 24	
Sec. 24(a) Standard deduction @ 30% of NAV	...
Sec 24(b) Interest on Borrowed capital
Taxable income from House property	...

2.7.4 Interest on Borrowed capital (For Let-out or deemed to be let-out property)

- I. Interest for pre-construction period: Accumulated interest for pre-construction is allowed as deduction in five equal Instalments.

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INCOME

- II. Deduction will begin from the year in which construction of property is completed or property is acquired.
- III. Pre-construction period means the period commencing preceding the year of completion of construction / year of acquisition OR year if the full repayment of loan –Whichever is earlier.

2.7.5 Deduction of interest in case of Self Occupied Property: Special provision for deduction of interest in case of self-occupied property or property having Gross annual value is NIL

2.7.6 Deduction of interest in case of let out property:

The full amount of interest is deductible.

Loan is taken for	Period	Maxi. Interest Allowable as deduction
Repairs/Renovation	Before 01-04-1999	30,000
	After 01-04-1999	30,000
Purchase/Construction	Before 01-04-1999	30,000
	01-04-1999 to 31-03-2014	1,50,000
	01-04-2014 to 31-03-2019	2,00,000
	01-04-2019 onwards	3,50,000

Check your progress 5

1. housing loan interest exempted if Loan is taken for repairs before 01-04-1999
- a. Maximum ₹ 30,000
- b. Maximum ₹ 1,50,000
- c. Maximum ₹ 2,00,000

2.8 Recovery of unrealized rent and Assessment of Arrears of rent received:

2.8.1 Section 25A: Taxability rent recovered later:

- Where any rent cannot be realized in a particular previous year and subsequently if it is realized, such an amount will be deemed to be the income from house property of the year in which it is received.
- Even though, the basic requirement for assessment of house-property income is the ownership of the property, but, in case of unrealized rent being subsequently realized, it is not require that the assessee continues to be the owner of the property in the year of receipt too.

2.8.2 Section 25B- Assessment of Arrears of rent received:

- In case the owner of a property has received any arrears of rent, the same shall be deemed to be the income from house property in the year of receipt.
- Only 30% of the receipt shall be allowed as deduction as standard deduction to cover the expenses like Repairs, collection charges etc.

3. However the other deduction like interest on housing loan will not be allowed as in the case of unrealized rent, the assessee may not be the owner of the property in the year of receipt.

INCOME FROM HOUSE PROPERTY

Illustration-1

Smt. Shweta has two house property named “Kavisha” and “Saloni” both houses are self- occupied

The following are the details of the properties.

Particulars	House “Kavisha”	House “Saloni”
	₹	₹
Municipal Value	2,00,000	2,60,000
Fair Rent	2,20,000	2,80,000
Standard Rent	2,40,000	2,40,000
Total Municipal Taxes(20% Out Standing)	25,000	50,000
Interest on housing loan for construction	50,000	25,000

Determine taxable income for both the house properties.

Answer:

Smt. Shweta	DLO	
	Kavisha	Saloni
Particulars		
1. Municipal Value	2,00,000	2,60,000
2. Fair Rent	2,20,000	2,80,000
Whichever is more	2,20,000	2,80,000
3. Standard Rent	2,40,000	2,40,000
Whichever is lower(GAV)	2,20,000	2,40,000
Less: Municipal Tax (only paid)	20,000	40,000
Net Annual Value	2,00,000	2,00,000
Less: Standard Deduction		
30% of NAV	60,000	60,000
Interest on Housing loan interest	50,000	25,000
Taxable income	90,000	1,15,000

Decision

Notes : According to the interim budget 2019 has proposed to treat the second house owned by an individual as self-occupied and thereby removed the necessity of paying tax on notional rent. This new provision will be applicable from financial bill 2019 onwards subject to bill being passed. Now any assessee can occupy two own residential houses.

2.9 Let Us Sum Up

The annual value of property, consisting of any building or land appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him, the profit of which are chargeable to Income tax, shall be

HEADS OF INCOME

chargeable to income tax under the head “Income from House Property”
When the property is used by the owner for his business or profession is chargeable to income tax, the income of that property is not charged in the hands of owner . Similarly, when a firm carries on business or profession in a building owned by a partner, no income from such property is added to the income of the partner, unless the firm pays the partner any rent for the same. If the assessee is not the owner of the building but is a lessee and he sublets the property, he would be taxed under the head “Income from other sources”.

2.10 Answer for check your Progress

Check your progress 1

Answer: (1 - c)

Check your progress 2

Answer: (1 - b)

Check your progress 3

Answer: (1 - d)

Check your progress 4

Answer: (1 - a)

Check your progress 5

Answer: (1 - a)

2.11 Glossary

- Deemed Owner: A person who is liable to pay tax is known as deemed owner
- Joint Ownership: When the house property is jointly owned by two or more person
- Appurtenant- Belonging –Associational – Secondary building that are appurtenant to the main building

2.12 Assignment

Explain, in brief, the provisions of income-tax Act, 1961, for computing the ‘Income from House Property’

2.13 Activities

Mention the specific deductions allowed from the ‘ Net Annual Value’ of a let-out house property.

2.14 Case Study

Effect of vacancy period house while calculating Rent received or receivable.
Recovery of unrealized rent and Assessment of Arrears of rent received

2.15 Further Readings

- I. Direct Taxes, Gupta and Ahujha
- II. Taxation and finance, S.M.Shukla
- III. Bharat’s Handbook on Income-tax by CA. Raj K. Agrawal



HEADS OF INCOME BUSINESS OR PROFESSION

: UNIT STRUCTURE :

- 3.0 Learning Objectives
- 3.1 Introduction
- 3.2 Income from Business or Profession
- 3.3 General Principles Governing the Computation of Taxable Income under the Head “Profits and Gains of Business or Profession
- 3.4 Income from Profits and Gains of Business or Profession
- 3.5 Income Chargeable under the Head Business / Profession
- 3.6 Expenses Allowed as Deduction from Profit and Gain of Business or Profession
- 3.7 Expenses Expressly Disallowed (U/S40)
- 3.8 Additional Information
- 3.9 Let Us Sum Up
- 3.10 Answer for Check Your Progress
- 3.11 Glossary
- 3.12 Assignment
- 3.13 Activities
- 3.14 Case Study
- 3.15 Further Readings

3.0 Learning Objectives

After learning this unit, you will be able to understand:

- Define income from business or profession.
- Delineate the income from profits and gains of business or profession.
- Explain the meaning of income chargeable under the head business/ profession.
- Identify expenses allowed as deduction from profit and gain of business or profession.
- Describe Expenses Expressly Disallowed (u/s40).

3.1 Introduction

Under the Income Tax Act, Profits and Gains of ‘Business or Profession’ are also subjected to taxation. The term business includes any (a) trade, (b) commerce, (c) manufacture, or (d) any adventure or concern in the nature of trade, commerce or manufacture. The term profession implies professed attainments in special knowledge as distinguished from mere skill; special knowledge which is to be acquired only after patient study and application. The words profits and gains’ are defined as the surplus by which the receipts from the business or profession exceed the expenditure necessary for the

purpose of earning those receipts. These words should be understood to include losses also, so that in one sense 'profit and gains' represent plus income while 'losses' represent minus income.

3.2 Income from Business or Profession

The following types of income are chargeable to tax under the heads profits and gains of business or profession:-

- Profits and gains of any business or profession
- Any compensation or other payments due to or received by any person specified in section 28 of the Act
- Income derived by a trade, profession or similar association from specific services performed for its members
- Profit on sale of import entitlement licence, incentives by way of cash compensatory support and drawback of duty;
- The value of any benefit or perquisite, whether converted into money or not, arising from business
- Any interest, salary, bonus, commission, or remuneration received by a partner of a firm, from such a firm
- Any sum whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business or not to share any know-how, patent, copyright, franchise, or any other business or commercial right of similar nature or technique likely to assist in the manufacture or processing of good
- Any sum received under a key man insurance policy
- Income from speculative transactions

In the following cases, income from trading or business is not taxable under the head profits and gains of business or profession:

- Rent of house property is taxable under the head Income from house property. Even if the property constitutes stock in trade of recipient of rent or the recipient of rent is engaged in the business of letting properties on rent.
- Deemed dividends on shares are taxable under the head Income from other sources.
- Winnings from lotteries, races etc. are taxable under the head Income from other sources.

Profits and gains of any other business are taxable, unless such profits are subjected to exemption.

Check your progress 1

1. Winnings from lotteries, races etc. are taxable under the head.
 - a. Income from business and profession
 - b. Income from other sources
 - c. Income from Capital Gain
 - d. Income from Salary

3.3 General Principals Governing the Computation of Taxable Income under the Head “Profits and Gains of Business or Profession

HEADS OF INCOME BUSINESS OR PROFESSION

- Business or profession should be carried on by the assessee. It is not the ownership of business which is important, but it is the person carrying on a business or profession, who is chargeable to tax.
- Income from business or profession is chargeable to tax under this head only if the business or profession is carried on by the assessee at any time during the previous year. This income is taxable during the following assessment year.
- Profits and gains of different business or profession carried on by the assessee are not separately chargeable to tax i.e. tax incidence arises on aggregate income from all businesses or professions carried on by the assessee. But, profits and loss of a speculative business are kept separately.
- It is not only the legal ownership but also the beneficial ownership that has to be considered.
- Profits made by an assessee in winding up of a business or profession are not taxable, as no business is carried on in that case. However, such profits may be taxable as capital gains or as business income, if the process of winding up is such as to involve the carrying on of a trade.
- Taxable profit is the profit accrued or arising in the accounting year. Anticipated or potential profits or losses, which may occur in future, are not considered for arriving at taxable income. Also, the profits, which are taxable, are the real profits and not notional profits. Real profits from the commercial point of view mean a gain to the person carrying on the business and not profits from narrow, technical or legalistic point of view.
- The yield of income by a commercial asset is the profit of the business irrespective of the manner in which that asset is exploited by the owner of the business.
- Any sum recovered by the assessee during the previous year, in respect of an amount or expenditure which was earlier allowed as deduction, is taxable as business income of the year in which it is recovered.
- Modes of book entries are generally not determinative of the question whether the assessee has earned any profit or loss.
- The Income tax act is not concerned with the legality or illegality of business or profession. Hence, income of illegal business or profession is not exempt from tax.

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The provisions regarding income chargeable under the head 'Profits and Gains of Business or Profession' are contained in section 28 to 44D of the Income Tax Act, 1961.

Business: (Sec 2(13)) Profession means the purchase and sale or manufacture of a commodity with a view to make profit. It includes any trade, commerce or manufacture or any adventure or concern in the nature of trade. It is important that the intention of purchase or manufacture should be to sell at a profit.

Profession: (Sec 2(36)) Profession means the activities for earning livelihood which require intellectual skill, e.g. the work of a lawyer, doctor, auditor, engineer and so on, are in the nature of profession.

Vocation: Vocation means activities which are performed in order to earn livelihood, e.g. brokerage, insurance agency, music, dancing etc. The rules for the assessment of business, profession or vocation are same.

Check your progress 2

1. _____ Means activities which are performed in order to earn livelihood, e.g. brokerage, insurance agency, music, dancing etc.
 - a. Vocation
 - b. Business
 - c. Profession
 - d. None of above

3.4 Income from Profits and Gains of Business or Profession

Given below are few FAQ's related to income from profits and gains of business or profession?

1. In case of a working partner of a firm receiving salary as per the partnership deed, in computation of his individual income, will such salary be taxed under the head salaries?
No. In such a case the salary will be taxed under the head Profits & Gains from business or Profession
2. In the above case can the assessee claim standard deduction?
No. Since the income is not charged under the head salaries, standard deduction cannot be claimed.
3. Does the frequency or number of transaction affect the taxability of an entity?
No. Even an isolated transaction may be considered as business given the facts and circumstances of the case.
4. Are losses to business such as theft, embezzlement etc., allowed as a deduction in computing business income?
Yes. They are allowed on grounds of commercial expediency and not covered by any specific provision of the act.
5. Can the benefit of carry forward of Depreciation allowance be claimed

where the actual business in respect of such depreciation has been discontinued?

Yes, the benefit can be claimed even when the original business is discontinued.

6. Subject to the exceptions specified in the Income Tax Act, where cash payments exceeding ₹ 20000 are made, what is the tax implication?

Any cash payment in excess of ₹. 20,000 shall not be allowed as a deduction while computing income under the head Profits and gains of business or profession in terms of Section 40A (3).

7. Are income tax and wealth tax deductible expenses? No. They are not deductible expenses.

8. Is provision made for gratuity an allowable expense?

Provision made for the purpose of payment of sums by way of any contribution towards an approved gratuity fund or for the purpose of payment of any gratuity that has become payable during the previous year is eligible for deduction under section 40A(7).

9. Is interest on loan taken for payment of income tax a deductible expense?

No. It is not an expenditure incurred wholly and exclusively for the purpose of business. Therefore it is not a deductible expense.

10. The Director of a company was accompanied by his wife on a foreign tour undertaken by him for business purposes. Is the travel expenditure of the wife an allowable expense?

The travel expenditure of the spouse can be said to be admissible where it is necessary for promotion of business on grounds commercial expediency. Otherwise it is inadmissible.

11. For how many years can the tax credit in respect of MAT (Minimum Alternative Tax) be carried forward by the company ?

seven assessment years.

12. Against what is the tax credit in respect of MAT adjusted?

With the insertion of section 115JB no tax credit is available now.

13. Does periodicity of payment affect the nature of income to determine whether it is a capital or revenue expenditure?

No. It does not matter if the payment is made periodically or as a lump sum amount.

14. Can the method of charging depreciation be changed in an accounting year ?

For accounting purposes, depreciation should be charged consistently. But it can be changed under the following circumstances:

If the new method is required by any statute.

If it is necessary for compliance with any accounting standard.

If the change would result in a more appropriate preparation of financial statements.

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15. What is the distinction between a reserve and a provision?

A provision is usually made against anticipated losses and contingencies and is charged against the profits in the Profit and Loss a/c. It is usually shown in the Balance Sheet as a deduction from the assets. Reserve on the other hand is an appropriation from the final profits, the assets by which they are represented form part of the capital employed of the business. Reserves are shown in the Balance Sheet as a part of the proprietor's interest.

16. Loss in respect of speculation business carried on by the assessee be set off against profits and gains of any other business or profession?

No. loss in respect of speculation business can be set off only against profits from any speculation business

Check your progress 3

1. A _____ is usually made against anticipated losses and contingencies and is charged against the profits in the Profit and Loss a/c.
 - a. contingency
 - b. provision
 - c. Reserve
 - d. None of above

3.5 Income Chargeable under the Head Business / Profession

The following incomes are chargeable to income tax under the head Profits and Gains of Business or Profession:

- The profits and gains of any business or profession which was carried on by the assessee at any time during the previous year
- Any compensation or other payment due to or received by any person specified by section 28(ii)
- Income derived by a trade, profession or similar association from specific performance for its members.
- Profit on sale of a licence granted under the Imports Control Order, 1955
- Cash assistance received or receivable by any person against exports under any scheme of the Government of India
- The value of any benefit or perquisite whether convertible into money or not arising from business or the exercise of a profession
- Any interest, salary, bonus, commission or remuneration due to or received by a partner of a firm
- Interest on securities if the business of the assessee is to invest securities, otherwise interest on securities shall be chargeable to income tax under the head 'Income from Other Source'

- Income from speculative transactions
- Any sum received under a Keyman Insurance Policy including bonus

Computation of income from Business when Profit and Loss Account is given:

The profit and loss account prepared by the assessee may not be correct from the income tax point of view as

- Several such expenses are charged to it which is wholly or partly inadmissible under the Income Tax Act.
- Some admissible expenses are omitted from it.
- Some taxable incomes are not credited to it and
- Some such incomes are credited which are either not taxable at all.

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BUSINESS OR
PROFESSION

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Format for Computation of Taxable Income from Business or Professions

Particulars	₹	₹
Profit as per Profit and Loss A/c.		xxxxx
Add:		
i) Expenses or losses not allowed but claimed/Charged to Profit & Loss A/c i.e. Household expenses, Income Tax, LIP, Bad Debts, Reserves, Interest on Capital, Personal Expenses etc.	xxxxxx	
ii) Income taxable as business income but not credited to P & L A/c. i.e. Interest received on business investments, Sale of Assets used for Scientific Research	xxxxxx	
iii) Expenses in excess of the allowed amount charged to P & L A/c. i.e. Excess Salary paid to relatives.	xxxxxx	

iv) Under valuation of closing stock or over-valuation of opening stock	xxxxxx	xxxxxx
Less:		
i) Expenses or losses allowed but not debited to P & L A/c. e.g. Depreciation	xxxxxx	
ii) Income not taxable as business but credited to the P & L A/c. e.g. Dividend, Profit on Sale of Investments, Rent from House Property.	xxxxxx	
iii) Income exempt from tax but credited to P & L A/C. e.g. Grants and Subsidies.	xxxxxx	

iv) Over-valuation of closing stock and under valuation of opening stock	xxxxxx	Xxxxxx

Taxable Income from Business		xxxxxx

Note :1. If, instead of profit, there is loss as per the Profit and Loss Account, the above rules shall be reversed, i.e. items to be added shall be deducted and those to be deducted shall be added.

Computation of business income when the Cash Book or Receipt and Payment A/c. is available

When we have to assess persons engaged in some profession as doctors, Lawyers, Chartered Accountants etc. and instead of P & L A/c and a summary of their cash transactions is given in the form of each book or receipt and payment A/c. is made available to compute taxable gains of profession.

1. Consider the debit side and sort out the amounts pertaining to the profession and of revenue nature. The aggregate of these amounts is the gross income from the profession. Omit capital receipts e.g. sale of old furniture, equipment etc.
2. Thereafter consider the credit side and sort out the expenses relating to the profession and of revenue nature. Ignore capital disbursements e.g. Computer, Equipment purchased etc.
3. Consider the notes and additional information given to find out the amount of private and domestic expenses found mixed on the credit side of the summary. These amounts should be separated.
4. Take the total of 1 to 3 above and deduct it from (1) above to arrive at professional earnings.
5. Now observe again the debit side of the summary and find out income from other heads/sources etc. and expenses belong to these various incomes should be deducted from respective income.

Check your progress 4

1. Any sum received under a Key man Insurance Policy will be taxed under
 - a. Other sources
 - b. Business or profession
 - c. salary
 - d. Capital Gain

3.6 Expenses allowed as Deduction from Profit and Gain of Business or Profession

1. Expenses relating to Business Premises

- a. Rent, rates, taxes, repairs and insurance for premises and used for the purpose of business or profession.
- b. Any sum paid on account of land revenue, local taxes or municipal taxes.
- c. Insurance premium in respect of goods held in stock.

2. Repairs and Insurance of Machinery, Plant and Furniture - Current repairs and insurance of machinery, plant and furniture used for the purposes of the business of profession.

3. Depreciation - Depreciation is allowed subject to the following conditions:

- a. The assessee is the owner of the asset.
- b. The asset is used for the business purposes.
- c. The asset is used in the relevant previous year. Depreciation is to be allowed as per income tax rules.

Depreciation on New Plant and Machinery - equal to 20% of the actual cost of such machinery or plant shall be allowed as deduction. No de-

HEADS OF INCOME

duction shall be allowed in respect of Machinery or Plant a) before its installation by the assessee and was used by any other person or b) installed in any office premises or any residential accommodation guest house or c) the cost of which is allowed as a deduction by way of depreciation.

4. Expenditure on Scientific Research (Sec.35)

- a. Revenue expenditure incurred by an assessee for scientific research relates to his business.
- b. Where an assessee does not himself carry on scientific research but makes contributions to other institutions for this weighted deduction is allowed on one and on fourth times of payment to a) and approved scientific research association b) to an approved university, college for the use of scientific research related or unrelated to the assessee.

5. Expenditure incurred on the acquisition of Patent Rights or Copy Rights (Sec.35A) - Any capital expenditure incurred (after 28-2-1966 but

Before 1-4-1998) on the acquisition of a patent right or copyright used for the business shall be allowed as a deduction in 14 equal annual installments. Deduction shall be allowed in equal annual installments in as many years as are.

6. Expenditure on Know-how (Sec.35 AB) - Any lump-sum consideration paid by the assessee on or before 1-4-1998 for acquiring any know-how for use for the purpose of his business will be allowed as deduction by spreading it equally over six years.

The expenditure incurred on hi-house research and development by a company engaged in the business of bio-technology, pharmaceuticals, electronic equipment and computer etc. weighted deduction at 150% of the expenditure is allowed up to 31st March, 2007.

7. Capital expenditure to obtain license to operate telecommunication services.

8. Payment to rural development fund (Sec. 35CCA) - 100% deduction is allowed to an assessee who pays any sum to:

- a. The National Fund for the Rural Development (set-up and notified by the Central Government in this behalf).
- b. The National Poverty Eradication Fund (set-up and notified by the Central Government in this behalf).

9. Other Deductions/Expenses

- a. **Insurance Premium:** Any premium paid in respect of insurance against of damage or destruction of stocks or stores used for the purpose of business or profession.
- b. **Insurance Premium for the Health of Employee:** Amount paid for insurance on the health of employees in accordance with scheme framed by the G.I.C. of India or any other insurer and approved by

I.R.D.A. of India approved by the Central Govt. is allowed as deduction.

- c. **Bonus or Commission paid to any Employee:** Any onus or commission paid to an employee for services rendered shall be deductible only if such sum could not in any way be paid or divided. Similarly bonus declared but not paid up to the date of filing Income Tax Return is not allowed for deduction.
- d. **Interest on Borrowed Capital:** The amount of the interest paid or payable in respect of capital borrowed for acquiring a capital assets or a revenue asset for the purpose of the business or profession is allowed as deduction (Sec.43B).
- e. **Interest not “actually paid”:** If any sum payable by the assessee as interest on any loan or advance is converted into loan or borrowing or advance, the interest so converted and not actually paid shall not be deemed as actual payment and not allowed as deduction U/S 43 B. (w.e.f. 1/4/2006)
- f. Contribution to employees provident fund :
- g. Contribution to Approved Gratuity Fund and Superannuation Fund.
- h. Sales tax, Excise duty paid up to the date of filing the Income Tax Return and express incurred in connection with sale tax proceeding including appeals.
- i. Professional tax, central excise and custom duties.
- j. Bad debts incurred in previous year.

Expenses not allowed (u/s 37): In the case of any assessee, the following expenses are not allowed for computing the profit from business.

1. All taxes i.e. Income tax, Wealth tax, Estate & Death Duty except sales tax, Excise duty, Professional Tax and local Taxes.
2. All charities and donations including donations to political parties and others.
3. Interest on outstanding tax liability.
4. All types of provisions and reserves e.g. Provision made for bad and doubtful debts. Reserve Funds, provision for all types of taxes payable except creation of reserve by financial corporations.
5. All types of Personal expenses of the proprietor or partners e.g. salary paid to proprietor, personal life insurance premium.
6. Penalties paid on account of criminal proceedings.
7. Fines paid for breach of the Factories Act.
8. Penalty paid to customs or sales tax authorities in lieu of confiscation of goods or breach of law.
9. Any expenditure incurred on advertisement in any souvenir, brochure, tract, pamphlet etc. published by a political party.

10. All capital expenses except on scientific research. All capital losses.

Check your progress 5

1. The first and foremost condition of charging depreciation is that the assessee the owner of the asset.
- must not be
 - must be
 - None of above

3.7 Expenses Expressly Disallowed (U/S 40)

- Any interest royalty fees for technical services payable outside India if tax thereon has not been either paid or deducted at source.
- Any expenditure not incurred wholly and exclusively for the purpose of the business or profession or expenses relating to other heads of income e.g. municipal taxes paid on house property.
- Excessive or unreasonable payments (in the form of salary or wages or for supply of goods or services) to relatives.
- Payment of expenditure exceeding ₹. 20,000 made other than crossed cheque or bank drafts. However there are some exceptions e.g. Payments made to central and State Govt.
- All types of provisions e.g. Provisions made for bad debts, reserve fund or provisions for all types of taxes payable.
- Contribution to non- statutory funds.

Important:

While computing the income from business or profession it is difficult to remember which expenses are allowed and which expenses are not allowed under the Act. Therefore, while solving the example apply the following general rules.

- All types of revenue expenses related to business are allowed for deductions.
- The expenses should be in respect of a business or profession carried on by the assessee and the profits and gains of which are to be computed and assessed.
- The expenses should not be in the nature of personal expenses of the assessee.
- The expenses should have been paid out or expended wholly and exclusively for the purpose of such business or profession.
- The expenses should not be in the nature of capital expenditure.
- The expenses should relate to the previous year concerned.

Problem with Solution

1. The following is the Profit and Loss account of Mr. Universe, Pune for the financial year ending on 31/3/20.

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Profit and Loss Account**Dr.****Cr.**

Particulars	₹	Particulars	₹
To Salary	1,60,000	By Gross Profit	4,20,000
To Rent & Taxes	60,000	By Commission	42,000
To Commission	16,000	By Sundry receipt	4,200
To Advertisement	15,000	By Dividend.	35,000
To Income tax	8,000	By Gift from Friend	2,900
To Depreciation	22,000		
To Conveyance	8,400		
To Stationary	15,200		
To Bonus	16,000		
To Contribution of R.P.F.	12,500		
To Donation	13,000		
To Net Profit	1,58,000		
	5,04,100		5,04,100

Particulars		
Profit as per profit and loss A/c		158000
Add:-		
Non admissible expenses:		
Income tax	8000	
Donation	13000	
		21000
Less: Non business incomes		179000
Dividend	35000	
Gift form Friend	2900	
		37900
Taxable Income		141800

Check your progress 6

1. Payments _____ made to central and State Govt .above ₹. 20,000 without crossed cheque.
- Can be
 - cannot

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2. The following is the Profit and Loss A/c of X, for the year ended 31-3-2020.

Compute his income from business for A. Y. 2020-'21.

Heads of Income Business or Profession and House Property

Particulars		Particulars	
To opening Stock	15,000	By Sales	2,10,000
To purchases	40,000	By Closing Stock	20,000
To Wages	20,000	By Gift from father	27,000
To Rent	46,000	By Income tax refund	3,000
To Repairs of Motor Car	3,000		
To Wealth Tax paid	2,000		
To Medical Expenses	3,000		
To General Expenses	10,000		
To Motor Car	30,000		
To Provision for Dep. On	4,000		
motor car			
To Advance tax paid	1,000		
To profit for the year	86,000		
	2,60,000		2,60,000

Following further information is given:

- X carries on his business for rented premises half of which is used as his residence.
- The use of the car was 3/4th for the business and 1/4th for personal purposes.
- Medical expenses were incurred during sickness of X for his treatment.
- Wages included ₹. 2,500 on account of X's driver.
- As per rule the rate of depreciation on Motor car is 20%.

Solution:**Statement showing taxable income****HEADS OF INCOME
BUSINESS OR
PROFESSION**

Income from business	₹	₹
Profit as per Profit and loss A/c		86,000
Add: Inadmissible expenses		
a. Wealth tax	2,000	
b. Private expenses (Medical expenses)	3,000	
c. Rent (50% premises are used for own residence)	23,000	
d. Motor car (capital expenditure)	30,000	
e. Advance tax	1,000	
f. Salary of driver (1/4th private purpose)	625	
g. Repairs of motor car (1/4th)	750	
Provision for depreciation $4000 \times 1/4$	4,000	64375
		1,50,375
Less: Income credited to profit and loss A/c		
But not treated as business income.		
a. Gift from father	27,000	
b. Income-Tax refund	3,000	30,000
Less: Expenses allowed: Depreciation on car ($6000 \times 3/4$)		-4,500
Income from business		1,20,375

HEADS OF
INCOME

3. Mr.Sagar is a registered medical practitioner. He keeps his books on cash basis and his summarized cash account for the year ended 31st March, 2019 is as under:

Receipts	Amount	Payments	Amount
Balance b/d	1,22,000	Municipal tax on house property	360
Loan from bank for private purposes	3,000	Cost of medicines	10,000
Sales of Medicines	25,250	Surgical equipment	8,000
Consultation fees	55,000	Motor car	1,20,000
Visiting fees	24,000	Car expenses	6,000
Interest on Govt. Securities	4,500	Salaries	4,600
Rent from house property	3,600	Rent on Dispensary	1,600
		General expenses	300
		Personal expenses	11,800
		Life insurance Premium	3,000
		Interest on Bank Loan	300
		Insurance on house property	200
		Deposit in Tatkal Telephone	30,000
		Balance c/d	41,190
	2,37,350		2,37,350

Compute his income from profession and house property for the A.Y. 2020-'21 taking into account the following further information:

- One third of motor car expenses are in respect of his personal use.
- Depreciation allowed on car is 20% and surgical equipment is @ 25%.

Solution: Computation of Income from Profession and House Property,HEADS OF INCOME
BUSINESS OR
PROFESSION**A) Gross professional earning**

	₹	₹.
Sales of medicines	25,250	
Consultation fees	55,000	
Visiting fees	24,000	
Less Expenses allowed:		1,04,250
Cost of Medicines	10,000	
2/3rd Car expenses (2/3 of Rs. 6000)	4,000	
Salaries	4,600	
Rent of Dispensary	1,600	
General expenses	300	
Depreciation		
Surgical Equipment @ 25% (on ₹ 8000)	2,000	
Motor car @ 20% on ₹. 1,20,000 = Rs. 24,000 × 2/3	16,000	-38,500

3.8 Let Us Sum Up

This unit discusses about the income which is generated from the income from business and profession. This head is one of the biggest head of income, involving so much of sections and its lengthy calculations. Best efforts have been made by the writer to explain the topics in most simple language.

In this unit we have studied about the term profession which implies professed attainments in special knowledge as distinguished from mere skill; special knowledge which is to be acquired only after patient study and application. The words 'profits and gains' are defined as the surplus by which the receipts from the business or profession exceed the expenditure necessary for the purpose of earning those receipts. These words should be understood to include losses also, so that in one sense 'profit and gains' represent plus income while 'losses' represent minus income. We even studied few of the expenses which are expressly disallowed under section 40 of the respective act.

This unit is certainly going to be of great help to the students in estimating the income from business and profession.

3.9 Answer for Check Your Progress**Check your progress 1**

Answers: (1-b)

Check your progress 2

Answers: (1-a)

Check your progress 3

Answers: (1-b)

Check your progress 4

Answers: (1-b)

Check your progress 5

Answers: (1-b)

Check your progress 6

Answers: (1-a)

3.10 Glossary

1. **Vocation** – a person's employment or main occupation, especially regarded as worthy and requiring dedication.
-

3.11 Assignment

What is the permissible deduction under the head Profit and Gains of Business or Profession ?

3.12 Activities

What incomes are chargeable under the head Profit and Gains of Business or Profession ?

3.13 Case Study

Mr. Ram is a chartered accountant and has prepared the following income and expenditure account for the year ending 31-3-2020.

Income and Expenditure Account

Particulars	₹	Particulars	₹.
Office expenses	10,000	Audit fees	70,500
Employees salary	5,000	Gift from father in law	5,150
Magazines	600	Dividend	8,000
Personal expenses	17,000	Profit on sale of Investment	6,450
Donation to N.D.F.	500	Tax consultancy fees	50,000
Interest	700		
Income tax	13,300		
Car expenses	2,000		
Net Surplus	91,000		
	1,40,100		1,40,100

You are required to compute his professional income for the assessment year 2020-21 considering the following points-

1. The car is used equally for official personal purposes.
2. ₹ 1,000 domestic servant's salary is included in employees salary.

HEADS OF INCOME
BUSINESS OR
PROFESSION

3.14 Further Readings

1. Direct Taxes, Gupta and Ahuja.
2. The Economics of Taxation, Bernard Salanié, MIT Press, 1997.
3. The Economics of Taxation, Henry Aaron and Michael J. Boskan, The Brookings Institution, 1980.
4. Taxation: Its Principles and Methods, Luigi Cossa.
5. Taxation and Finance, S.M. Shukla.



: UNIT STRUCTURE :

- 4.0 Learning Objectives**
- 4.1 Introduction**
- 4.2 Basis of Charge (Sec 45)**
- 4.3 Chargeability of Tax**
- 4.4 Some Important Definitions**
- 4.5 What is Capital Gain?**
- 4.6 Types of Capital Gains**
- 4.7 How is Short-term Capital Gain Taxed?**
- 4.8 How is Long-Term Capital Gain Taxed?**
- 4.9 Cost Inflation Index for the Various Financial Years**
- 4.10 How is Long-Term Capital Gain Taxed on Shares and Mutual Funds ?**
- 4.11 Has the Capital Gain Calculation not changed in the Case of Shares ?**
- 4.12 Capital Loss**
- 4.13 Long Term and Short Term**
- 4.14 Seven Pillars of Capital Gain Treatment**
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- 4.16 Let Us Sum Up**
- 4.17 Answer for Check Your Progress**
- 4.18 Glossary**
- 4.19 Assignment**
- 4.20 Activities**
- 4.21 Case Study**
- 4.22 Further Readings**

4.0 Learning Objectives

After learning this unit, you will be able to understand:

- Discuss chargeability of tax.
- Enlist the types of capital gains.
- Explain taxation of short-term and long-term capital gain.
- Define cost inflation index for the various financial years.
- Elaborate on taxation of long-term capital gain on shares and mutual funds.

- Describe the seven pillars of capital gain treatment.
- Practice on the computation of capital gain.

4.1 Introduction

Capital Gain means any profit or gain arising from the transfer of a capital asset. It is treated as income of the previous year in which the transfer takes place.

In general, capital receipts are not taxable. But gains or profits from transfer of certain assets is treated as income chargeable to income tax u/s 45.

Capital gains are subject to taxation as well. Generally capital gains receipts are not of regular nature. Whenever a person disposes off his capital asset he may gain or may lose in that transaction. When he gains it is termed as capital gain and when he loses it is termed as capital loss. The capital gains are subject to taxation but not at normal rates but at special rates. The more elaborate and detailed discussion could be found here in the following discussion.

4.2 Basis of Charge (Sec 45)

Any profit or gain arising from the transfer of a capital asset is chargeable to tax under the head Capital gains in the previous year in which the transfer took place. Capital gains tax liability arises only when the following conditions are satisfied:

1. There should be a capital asset.
2. The capital asset is transferred by the assessee.
3. Such transfer takes place during the previous year.
4. Any profit or gain arises as a result of transfer

Check your progress 1

1. Any profit or gain arising from the transfer of a capital asset is chargeable to tax under the head

 - a. Business profession
 - b. Capital gains
 - c. Other sources

4.3 Chargeability of Tax

The following gains are chargeable to tax under the head Capital gain.

1. Capital gains on the transfer of a capital asset (Sect. 45(1))
Any profits or gains arising from the transfer of a capital asset affected in the previous year shall be chargeable to income-tax under the head Capital Gain.
2. Capital gains on receipt of compensation from insurance co. for damage or destruction etc. of capital asset (sect.45 (1) A)
3. Capital gains on the conversion of a capital asset into stock-in-trade (sect.45 (2)).

HEADS OF INCOME

4. Profits and gains arising from the transfer of a capital asset by a partner to a firm shall be chargeable as the partner's income (Sect.43 (3)).
5. Profits and gains arising from the transfer of a capital asset by a firm to a partner on dissolution or otherwise shall be chargeable as the firm's income.
6. Capital gains on the compulsory acquisition of assets by the Govt.
7. Capital gain on transfer of business.

Check your progress 2

1. Capital gains on the transfer of a capital asset is chargeable under tax.
 - a. u/s Sect. 45(1)
 - b. u/s sec 45 (1) A
 - c. u/s sec 43(3)

4.4 Some Important Definitions

1. **Capital Assets (Sec2 (14)):** Capital Asset means property of any kind held by an assessee, whether or not connected with his business or profession but does not include the following:
 - Stock in trade of raw materials and consumable stores held for the purposes of business or profession.
 - Personal effects of movable nature such as furniture, utensils and vehicles held for personal use by the assessee or any dependent member of his family. However, Jewelry is a capital asset.
 - Agricultural land in India which is not situated in any specified area.
 - Gold bond issued under the gold deposit scheme. 1999 notified by the central Govt.
 - Special Bearer Bonds, 1991 issued by the Govt. of India. These have become irrelevant now as they have been redeemed.
2. **Short-Term Capital Assets (Sect. 2(42A)):** Short-Term Capital Assets means capital asset held by as assessee for not more than 36 months (In case of house property for not more than 24 months or not more than 12 months in case of few exceptions) immediately preceding the date of its transfer is known as a 'short term capital'. Assets.

In case of the following assets this period stands reduced to 12 months.

 - a) Shares; b) Any other security listed in a security listed in a recognized stock exchange in India; c) Units of the U.T.I established under the U.T.I. Act, 1963; d) Units of equity oriented Mutual Fund specified u/s 10(23D) (e) a zero coupon bond.
3. **Long-Term Capital Asset (Sec2 (29B)):** Long-term capital asset means a capital asset, which is not a short-term capital asset. It means that if it is held by the assessee for more than 36 months/12 months/ 24 months, as the case may be, will be treated as a long-term capital assets.

Assets	Holding Period of Assets		Tax Rate	
	Short-term	Long-term	STCG	LTCG
1. Immovable Property e.g. House Property	Up to 2 Years	More than 2 Years	Income Tax Slab Rate	20% + Cess with Indexation
2. Movable Property e.g. Gold/ Jewellery	Up to 3 Year	More than 3 Year	Income Tax Slab Rate	20% + Cess with Indexation
3. Listed Shares*	Up to 1 Year	More than 1 Year	15% + Cess	Exempt
4. Equity Oriented Mutual Funds	Up to 1 Year	More than 1 Year	15% + Cess	Exempt
5. Debt Oriented Mutual Funds	Up to 3 Years	More than 3 Years	Income Tax Slab Rate	20% + Cess with indexation

Notes :

- (1) Tax rates mentioned above are excluding surcharge @ 10% on income between ₹ 50 Lakhs to ₹ 1 Crore and 15% on income above ₹ 1 Crore.
- (2) *Applicable only for the shares sold through stock exchange in India on which security Transaction Tax (STT) has been paid & Capital Gain is upto ₹ 1 lakh.

Illustration :1

Explain giving reason, whether the capital assets is a short-term or long-term in the following cases:

1. Himesh Doshi purchased listed shares of TISCO on 25th March, 2016 and transfers it on 10th September, 2018.
2. Shweta purchases shares (not listed on any recognised stock exchange) of JIO Limited on 5th November, 2017. These shares are transferred by him on 25th December, 2018.
3. Kavisha purchased a house property on 22nd March, 2016 and transfer it on 1st March, 2018.
4. Saloni Purchases Jewellery on 30th September, 2015 and gifts the same to one of his friends Richa Mehta on 21st December, 2016. Richa Mehta transfers the said Jewellery on 2nd October, 2018.
5. Kiritbhai acquires units of a equity oriented mutual fund on 16th June, 2017 and transfers these units on 30th June, 2018.

Solution :

Assessee	Capital Assets	Minimum period of holding for long-term capital asset	Actual period of holding	Type of capital asset
Himesh Doshi	Listed Shares*	12 months or more	25-03-2016 to 10-09-2018 (> 12 Months)	Long-term
Shweta	Unlisted Shares	24 months or more	05-11-2017 to 25-12-2018 (< 24 months)	Short-term
Kavisha	House property	24 months or more	22-03-2016 to 01-03-2018 (<24 months)	Short-term
Richa Mehta	Jewellery*	36 months or more	30-09-2015 to 02-10-2018(>36 months)	Long-term
Kiritbhai	Units of an equity oriented mutual fund	12 months or more	16-06-2017 to 30-06-2018 (>12 months)	Long-term

Notes

1. In case of assets acquired by gift, will etc. the period of holding of the previous owner is also considered
 2. In the case of shares, the purchase date by the broker is taken as the date of acquisition.
 4. **Short-Term Capital Gains (Sec2 (42B)):** Short-term capital gains means capital gain arising from the transfer of a short-term capital asset.
 5. **Long-Term Capital Gains (Sec2 (29B)):** Long term capital gain means capital gain arising from the transfer of a long-term capital asset.
 6. **Transfer of Capital Assets:** Transfer, in relation to a capital asset, includes sale, exchange or relinquishment of the capital asset or in extinguishment of any rights there in or the compulsory acquisition thereof under any law. In case where the asset is converted by the owner into stock in trade, such conversion is also a transfer of capital assets.
However, certain transactions are not regarded as transfer, e.g.
 - Distribution of assets by HUF to its family members at the time of total or partial partition.
 - Distribution of assets by a company to its shareholders on liquidation.
 - Transfer under a will or an irrevocable trust or a gift or deemed gift.
 - Transfer of capital asset by a company to its wholly owned Indian subsidiary company and vice versa but not as stock in trade.
 - Any transfer, in scheme of amalgamation of a capital asset by the amalgamating company, in the amalgamated company (Indian Company).
- Capital Gains Tax - What Is the Capital Gains Tax?

As per AY 2010-11

Dividends that are distributed attract a tax of 15 per cent. Short term capital gains attract a tax of 10 per cent under Section 111A. There is merit in equating the rates and hence increased the rate of tax on short term capital gains under Section 111A 15 per cent.

STT paid will be treated like any other deductible expenditure against business income. Further, the levy of STT, in the case of options, is to be only on the option premium where the option is not exercised and the liability to be on the seller. In a case where the option is exercised, the levy is to be on the settlement price and the liability will be on the buyer.

Commodities Transaction Tax (CTT) introduced on the same lines as STT on options and futures.

Capital Gain Tax / Particular	Short-term Capital gains tax	Long-term capital gains tax
Sale transactions of securities which attracts STT:	15%	NIL
Sale transaction of securities not attracting STT:-		
Individuals (resident and non-residents)	Progressive slab rates	20% with indexation;
Partnerships (resident and non-resident)	30%	10% without indexation (for units/ zero coupon bonds)
Individuals (resident and non-residents)	30%	
Other Foreign companies	40%	20% with indexation;
Local authority	30%	10% without indexation (for units/ zero coupon bonds)
Co-operative society	Progressive slab rates	

A capital gain is income derived from the sale of an investment. A capital investment can be a home, a farm, a ranch, a family business, or a work of art, for instance. In most years slightly less than half of taxable capital gains are realized on the sale of corporate stock. The capital gain is the difference between the money received from selling the asset and the price paid for it.

Capital gains tax is really a misnomer. It would be more appropriate to call it the capital formation tax. It is a tax penalty imposed on productivity, investment and capital accumulation.

INCOME FROM CAPITAL GAINS

Check your progress 3

1. Stock in trade of raw materials and consumable stores held for the purposes of business or profession treated as capital asset.
 - a. is
 - b. Is not
 - c. None

4.5 What is Capital Gain?

When you sell any asset your own (house, land, shares, mutual fund units, gold, debentures, bonds) and you make a profit on the sale, it is known as capital gain. The tax you pay on this profit is called the capital gains tax.

If you make a loss (sell at a lower price than bought it), you incur a capital Loss.

Check your progress 4

1. Excess of sale proceeds of capital asset over its cost is treated as
 - a. capital gain
 - b. capital loss
 - c. None of above

4.6 Types of Capital Gains

Depending on how long you held the asset, the capital gain is classified either as short-term or long-term.

- **Short-term capital gain:** If you sell the asset within 36 months from the date of purchase (12 months for shares or mutual funds) But in case of unlisted shares , Land and Building or both for not more than 24 months on the date of transfer.
- **Long-term capital gain:** If you sell the asset after 36 months from the date of purchase (12 months for shares or mutual funds) But in case of unlisted shares , Land and Building or both for more than 24 months on the date of transfer.

Check your progress 5

1. If you sell the asset within 36 months from the date of purchase, it will be treated as.
 - a. short term capital gain
 - b. long term capital gain
 - c. None of the above

4.7 How is Short-Term Capital Gain Taxed?

This is very simple. A short-term capital gain is added to your total income. Depending on which tax bracket you fall under, you will be taxed.

Check your progress 6

1. A_____capital gain is added to your total income.
 - a. short-term
 - b. long term
 - c. None of above

4.8 How is Long-Term Capital Gain Taxed?

Tax on long-term capital gain (other than shares and mutual fund units), is more complicated. This is because inflation is taken into account. This is good because it reduces the amount of capital gain and the amount you end up paying as tax.

Let's say Mr. Mani purchased a house of ₹ 2, 50,000 on June 20, 2010. He sells it on January 20, 2019, for ₹ 4, 50, 000. Since the house was sold over 36 months after being bought, the capital gain will be long term.

First, you calculate the Cost Inflation Index. These indices are fixed and declared by the Central Government every year (see table below). This is called indexation.

Check your progress 7

1. Inflation index is used in case of
 - a. long term capital gain
 - b. short term capital gain
 - c. None of above

4.9 Cost Inflation Index for the Various Financial Years

FY	CII	FY	CII	FY	CII
2001-02	100	2007-08	129	2013-14	220
2002-03	105	2008-09	137	2014-15	240
2003-04	109	2009-10	148	2015-16	254
2004-05	113	2010-11	167	2016-17	264
2005-06	117	2011-12	184	2017-18	272
2006-07	122	2012-13	200	2018-19	280
				2019-20	289
				2020-21	301

Check your progress 8

1. If an asset has been acquired prior to 2001-02 then what will be the index used for that asset
 - a. No indexing will be done
 - b. 100
 - c. Will be treated as short term capital gain

4.10 How is Long-Term Capital Gain Taxed on Shares and Mutual Funds?

You can pay the tax on long term capital gains on shares and mutual funds either at the rate of 20% or 10%. The choice is yours.

This is how it is done.

Let us say that Mr. Mani purchased 4,000 shares on July 27, 2018 and paid ₹ 10 per share. He sold them on September 15, 2019 for ₹12 per share.

Since the investment is held for more than 12 months, the capital gain will be long-term.

If he computes with indexation using the above method, his capital gain will amount to ₹ 6,824.

Sales consideration 4,000 X ₹ 12 = ₹ 48,000

Less: Indexed cost (4,000 X ₹ 10) X 280/272 = ₹ 41,286

Long term capital Gain = ₹ 6,714

He will have to pay a tax of 20% on ₹ 6,714, which is ₹ 1,342.80

If he computes without indexation, this is the way it is done.

Sale proceeds = ₹ 48,000 (4,000 shares x ₹ 12) Cost of acquisition = ₹ 40,000 (4,000 shares x ₹ 10) Long-term capital gain = ₹ 8,000

Tax payable will be 10% on ₹ 8,000, which is ₹ 800

Check your progress 9

1. You can pay the tax on long term capital gains on shares and mutual funds either at the rate of _____.
 - a. 10%
 - b. 20%
 - c. 20 % or 10 %

4.11 Has the Capital Gain Calculation not Changed in the Case of Shares?

From October 1, 2004, if you sell your shares, equity mutual funds and balanced mutual funds which have an equity component of 50% or more, the computation of tax differs.

If you have a short-term capital gain, the tax will be chargeable at 10%. A long-term capital gain is not taxed.

On the flip side, no longer can you carry forward your long-term capital loss.

Check your progress 10

1. From October 1, 2004, if you sell your shares, equity mutual funds and balanced mutual funds which have an equity component of 50% or more, the computation of tax .
 - a. Differs
 - b. Same
 - c. None

4.12 Capital Loss

The loss incurred when a capital asset (investment or real estate) decreases in value. This loss is not realized until the asset is sold for a price that is lower than the original purchase price.

A capital loss is essentially the difference between the purchase price and the price at which the asset is sold, where the sale price is lower than the purchase price.

For example, if an investor bought a house for ₹.250,000 and sold the house five years later for ₹.200,000 the investor would realize a capital loss of ₹.50,000.

- Long-term capital loss can be set off only against a long-term capital gain.
- Short-term capital loss can be set off against any type of capital gain, long-term or short-term.

You need not incur the loss and gain in one single year. A long-term capital loss can be carried forward for eight years to be set off against a long-term capital gain.

Heads of Income under Capital Gains

A short-term capital loss can be set off against any income under the head capital gains (whether short-term or long-term) and can also be carried forward for eight years.

In both cases, these eight years start after the financial year when the loss is incurred.

In finance, a capital gain is profit that results from the sale or exchange of a capital asset over its purchase price. If the price of the capital asset has declined instead of appreciated, this is called a capital loss. Capital gains occur in both real assets, such as property, as well as financial assets, such as stocks or bonds. For equities, according to each national or state legislation, a large array of fiscal obligations must be respected regarding capital gains and taxes are charged by the state over the transactions, dividends and capital gains on the stock market. However, these fiscal obligations may vary from jurisdiction to jurisdiction because, among other reasons, it could be assumed that taxation is already incorporated into the stock price through the different taxes companies pay to the state, or that tax free stock market operations are useful to boost economic growth.

Check your progress 11

1. _____ is essentially the difference between the purchase price and the price at which the asset is sold. Where the sale price is lower than the purchase price.
 - a. A capital gain
 - b. A capital loss
 - c. None

4.13 Long Term and Short Term

Generally, appreciated capital assets sold by an individual after being held more than one year (long-term capital gain) will be taxed at a maximum rate of 15%. For taxpayers earning less than \$15,000 annually the tax rate on long-term capital gains is only 5% and will be 0% after 2008. For the sale of collectibles and small business stock, the rate of taxation for individuals is a maximum of 28%. Appreciated capital assets that are sold by individuals after being held for one year or less (short-term capital gain) will be taxed as ordinary income, which rises as high as 35% in the U.S. progressive tax system. Capital gains by entities taxed as corporations do not receive preferential treatment and are taxed at a maximum rate of 35 percent.

Check your progress 12

1. Capital gains by entities taxed as corporations do not receive preferential treatment and are taxed at a maximum rate of _____.
 - a. 35 percent
 - b. 10 percent
 - c. 50 percent

4.14 Seven Pillars of Capital Gain Treatment

Seven Pillars of Capital Gain Treatment for deciding if properties were held for investment purposes or primarily for sale to customers in the ordinary course of his trade or business and therefore warranted capital gains treatment under

I.R.C. (Internal Revenue Code) 1201, 1202.

1. The nature and purpose of the acquisition of the property and the duration of the ownership
2. The extent and nature of the taxpayer's efforts to sell the property
3. The number, extent, continuity and substantiality of the sales
4. The extent of subdividing, developing and advertising to increase sales
5. The use of a business office for the sale of the property
6. The character and degree of supervision or control exercised by the taxpayer over any representative selling the property
7. The time and effort the taxpayer habitually devoted to the sales

Other countries

There is currently no capital gains tax after a holding period of more than one year for equities. However, 15% of tax is applied for short term equity-shares gain. This is applicable only for transactions that attract Securities Transaction Tax (STT).

As of 2006, shares / equities are considered long term capital, if the holding period is one year or more. Long term capital gains are taxed either at 10% of earnings or 30% of (earnings - deduction based on inflation index).

Short term capital gains are taxed just as any other income and they can be

negated against short term capital loss from the same business.

Many other capital investment (home, buildings, real estate, bank deposits) are considered long term if the holding period is 3 or more years.

- India
- United Kingdom
- People's Republic of China
- South Africa
- Australia
- France
- Canada
- Indonesia
- Spain

Check your progress 13

1. _____ Capital gains are taxed just as any other income and they can be negated against short term capital loss from the same business.
- a. Long term
 - b. Short term

2.15 Computation of Capital Gain

A) (i.e. gains arising from the transfer of a short term capital assets)

Full value of consideration:

Computation of Short Term Capital Gains

<p>Computation of Short Term Capital Gains</p> <p>Short term capital gain is computed as under.</p> <p>Full consideration on transfer (selling price)</p> <p>Less: 1) Cost of acquisition of Asset</p> <p style="padding-left: 40px;">2) Cost of improvement to the asset</p> <p style="padding-left: 40px;">3) Expenditure on transfer of Assets</p> <p style="padding-left: 80px;">Short term capital gain</p> <p style="padding-left: 40px;">Less Exemption u/s 54</p> <p style="padding-left: 40px;">Short term capital gain (chargeable to tax)</p>		
<p>B) Computation of Long Term Capital Gain</p> <p>(i.e. gain arising from the transfer of L.T.C.A.)</p> <p style="padding-left: 40px;">Full consideration on sale or transfer</p> <p>Less: 1) Indexed cost of acquisition</p> <p style="padding-left: 40px;">2) Indexed cost of improvement</p> <p style="padding-left: 40px;">3) Expenditure on sale/transfer</p>		

HEADS OF INCOME

It means the total price; the transferor of asset receives for giving up his right on the capital asset transferred. The full value' means the whole price paid without any deduction.

Cost of acquisition: The cost of acquisition of an asset is the value for which it was acquired by the owner. The cost includes any expenditure of capital nature incurred for completing or acquiring the title to property.

Indexed cost of acquisition: In case of long term capital gain the amounts to be deducted from the full value of consideration includes indexed cost of acquisition and improvement'.

Indexed cost of acquisition means the amount which bears to the cost of acquisition, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the cost inflation Index for the first year in which the asset was held by the assessee or for the year beginning on April 1, 2001, whichever is later. In short the indexed cost of acquisition is computed as under.

Cost of Improvement: The cost of improvement means any expenditure done for increasing the value of asset. All expenses of capital nature incurred in making any addition / alteration to the capital assets are included in the cost of improvement.

The students should note here that if an assessee chooses option to the substitute to the cost of acquisition of assets with its market value on 1.4.2001, the cost of improvements done before this date shall not be allowed as deduction while computing the capital gain.

Indexed cost of Improvement: Indexed cost of improvement means the amount which bears to the cost of improvement, the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset takes place.

Problems with Solution:

1. Mr. A purchased a residential house for ₹. 3, 50,000 on 15th June 2017. Expenses incurred for purchases of ₹. 10,000. He sold the house on 1st August 2019 for ₹. 4, 13,000. Expenses incurred on sale ₹. 7,000. He made an expenditure of ₹. 15,000 on 7th June 2008 for the construction of an additional bathroom. Compute the capital gain.

Solution:

The house purchased on 15th June 2017, sold on 1st August 2019, i.e. within three years (36 months) so the gain from the house is capital gain. short term

INCOME FROM
CAPITAL GAINS

Particular	amount ₹	amount ₹
Full consideration of house		4, 13,000
Less: i) Cost of acquisition (3, 50,000 + 10,000)	3, 60,000	
ii) Cost of improvement	+ 15,000	
iii) Expenses on sale	+ 7,000	-3, 82,000
Short Term Capital Gain		31,000

2. From the following information compute capital gains for the assessment year 2019-20:

Date of purchase	House I	House II
	May, 1997	Dec, 2000
	₹.	₹
Cost of acquisition	1, 90,000	2, 50,000
Cost of additional construction in 2000	10,000	25,000
Fair Market value on 1st April, 2001	1, 75,000	3, 50,000
Cost of additional construction in 2005-06	51,800	77,700
Sale proceeds of property in 2018-19	6, 50,000	19, 00,000
Cost inflation index are: 2001-02—100; 2005-06—117; 2018-19—280.		

Solution: Computation of Capital Gains	Amount ₹
House I : Selling price	6,50,000
Less: i) Indexed Cost of acquisition before 1.4.2001 Rs. 1, 90,000 + 10,000 or Fair Market value on 1.4.2001 Rs. 1, 75,000 whichever is more. Hence, $\frac{2, 00,000 \times 280}{100} = 5,60,000$	
ii) Indexed cost of improvement in 2005-06 $\frac{51,800 \times 280}{117} = 1,23,966$	6,83,966
L.T.C. Loss	- 33,966
House II: Selling price	19, 00,000

Less: i) Indexed Cost of Acquisition + additional construction Before 1.4.2001 (Rs. 2, 50,000 + 25,000) or Fair Market value on 1.4.2001 Rs. 3, 50,000, whichever is more

$$\text{Hence, } \frac{3, 50,000 \times 280}{100} = 9,80,000$$

HEADS OF
INCOME

ii) Indexed Cost of improvement in 2005-06

$$\begin{array}{rclcl} \frac{77,700 \times 280}{117} & = & + 185949 & & \frac{11,65,949}{\text{₹ } 7,34,051} \\ & & \text{L.T.C.G.} & & \\ & = \text{₹. } 7,34,051 - 33,966 & = \text{₹ } 7,00,085 & & \end{array}$$

Total Long-term Capital Gains

Note: 1. Capital expenditure incurred prior to 1.4.2001 will not be added to arrive at the cost of acquisition as fair market value on 1.4.2001 includes in it.

Note: 2. Actual cost of acquisition is ignored as it is lower than fair market value as on 1.4.2001.

Deductions allowed for capital gains: Short term capital gains are taxable like any other income.

If income under other heads are taxable, the L.T.C.G. is taxable at a flat rate of 20% (plus surcharge) for the A.Y. 2019-'20.

Following deductions are allowed from capital gain:

Any profits or gains arising from the transfer of the following assets are exempt from tax i.e. it will not be included in the income of the assessee for tax purposes.

1. Capital Gains arising on the transfer of property used for residential purpose. (sec. 54) - Any capital gain arising on the transfer of a house or land appurtenant there to exempt subject to the following conditions:

- The building is owned by an individual or HUF.
- Such property was being used as residential house and is chargeable under the head 'Income from house property'.
- The transferor has purchased or constructed upto two residential house property in India within a period of One year before or two years after the date of transfer or has completed within a period of three years from the date such transfer, and With effect from 01-04-2020, an assessee having long-term capital assets upto Rs. 2 crores, arising from transfer of a residential house, an one time opportunity being provided, to utilise such LTCG for the purchase or construction of two residential house in India, at his option.

Notes : In the case of compulsory acquisition of such residential house property the above time limit of 1 year before or 2 years after or 3 years after are applicable from the date of receipt of compensation(including additional compensation)

- The amount of capital gain (if can not be utilized for the acquisition of the new house) is deposited by him on or before the due date of furnishing the return of income; in Capital Gains Account Scheme, 1988.

Quantum of Exemption: Amount of capital gain or the cost of new

residential house purchased or constructed within the specified period whichever is lower.

- The new residential house or houses either purchased or constructed have not been transferred within a period of three years from the date of purchase or completion of construction, in such case, the exemption will stand cancelled in the year of such transfer. Scheme of Deposit in respect of exemption U/s 54: Assessee can deposit unutilised part of capital gain into an account with public sector bank before furnishing return of income.

2. Capital gain arising from the transfer of agricultural land (Sec 54B) - Any capital gain arising on the transfer of agricultural land situated in an urban area is exempt from tax subject to the following conditions:

- The land is owned by an individual.
- The agricultural land was, in the two years immediately preceding the date of transfer being used either by the assessee or his parent (as owner or otherwise) for agricultural purposes.
- The assessee has purchased within a period of two years from the date of transfer or sale any other land for agriculture purposes.
- The amount of capital gain deposited by him on or before the due date for furnishing the return of income in 'Capital Gains Account Scheme, 1988'.
- The new land should not be transferred within three years.

Quantum of Exemption: The capital gain arising from the transfer of such agriculture land is exempt to the extent of the cost of the new agricultural land purchased within the specified period.

3 Capital Gain on compulsory acquisition of lands and buildings (Sec 54 D) - Any capital gain arising on the transfer, by way of compulsory acquisition under any law, of land or building exempt from tax subject to the following conditions.

- The land or building was used by the assessee at least for two years for the purpose of an industrial undertaking
- The assessee has within a period of three years after such transfer purchased any other land or building or constructed it for the purpose of shifting or re-establishing the another industrial undertaking or capital gain and they are that there should be a capital asset. The capital asset is transferred by the assessee. Such transfer takes place during the previous year and any profit or gains arises as a result of transfer.

Later in this unit we discussed the taxability of capital gains and even about capital loss and its treatment. This unit is certainly going to help the students

in understanding the capital gain and make its calculation.

4. Capital gains on transfer of any long-term Capital asset(Sec. 54EC):

This section provides exemption in respect of long term capital assets.

5. Capital gains not to be charged if invested in Units of a Specified

Fund [sec. 54-EE]: Investment made in long-term specified assets by an assessee during any financial year does not exceed Rs. 50 lakhs.

6. Capital gains on transfer of a long-term capital asset other than a residential house property [Sec.54-F]:

The assessee has purchased one residential house property in India within 1 year before or 2 years after the date of transfer, or has constructed within 3 years after the date of transfer.

7. Exemption in respect of Capital Gain on transfer of assets in case of shifting of industrial undertaking from urban area [Sec.54-G]:

within 1 year before or 3 years after the date of transfer capital asserts like plantmachinery, land or building.

4.17 Answer for Check Your Progress

Check your progress 1

Answers: (1-b)

Check your progress 2

Answers: (1-a)

Check your progress 3

Answers: (1-b)

Check your progress 4

Answers: (1-a)

Check your progress 5

Answers: (1-b)

Check your progress 6

Answers: (1-a)

Check your progress 7

Answers: (1-b)

Check your progress 8

Answers: (1-b)

Check your progress 9

Answers: (1-b)

Check your progress 10

Answers: (1-a)

Check your progress 11

Answers: (1-b)

Check your progress 12

Answers: (1-a)

Check your progress 13

Answers: (1-b)

4.18 Glossary

1. **Short term** - Less than one(in case of securities) /three years.
2. **Long term** - More than one year in case of securities /three years.

4.19 Assignment

What is Capital Gain? What are the various types of Capital Gain?

4.20 Activities

Explain the term Capital Assets in detail.

4.21 Case Study

Collect all sections connected with Tax Exemptions. Prepare a table on the collected data.

4.22 Further Readings

1. Direct Taxes, Gupta and Ahuja.
2. The Economics of Taxation, Bernard Salanié, MIT Press, 1997.
3. The Economics of Taxation, Henry Aaron and Michael J. Boskan, the Brookings Institution, 1980.
4. Taxation: Its Principles and Methods, Luigi Cossa.
5. Taxation and Finance, S.M. Shukla.

HEADS OF INCOME

Block Summary

So after going through this block you must have got sufficient exposure to Heads of Income. The block contains one of the most important topics of income tax and even the most complex one. But the efforts have been made by the writer to explain them in most simplest and easy language with sufficient illustrations. On close look of this block we will find that units discuss about the heads of income salary, house property, business or profession. Here detailed discussion has been made on Income from Business or Profession, General Principles governing the computation of taxable income under the head profits and gains of business or profession. On the other hand last unit focuses on capital gains. Here detailed discussion has been made on basis of Charge (Sec 45), Chargeability of Tax, basis of charge, Long Term and Short Term, Seven Pillars of Capital Gain Treatment, Computation of Capital Gain.

From the above discussion the most complexed topics have been explained very simply and easily with sufficient number of exercises by writer. This is certainly going to benefit the students who wish to opt finance and taxation as there area of specialization and career in future.

Block Assignment

Short Answer Questions

1. According to Sec. 17(1) 'Salary' includes what?
2. Business
3. Profession
4. Vocation
5. Income chargeable under the head business.
6. Income from business or profession.
7. Seven Pillars of capital gain treatment.
8. Long term and short term capital loss
9. Capital loss
10. Charge ability of Tax.

Long Answer Questions

1. Which deduction is expressly disallowed under the head Profit and Gains of Business or Profession ?
2. Explain the treatment and calculation of long term capital asset.

HEADS OF
INCOME

Enrolment No.:

1. How many hours did you need for studying the units ?

Unit No.	1	2	3	4
Nos of Hrs				

2. Please give your reactions to the following items based on your reading of the block:

Items	Excellent	Very Good	Good	Poor	Give specific example if any
Presentation Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Language and Style	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Illustration used (Diagram, tables etc)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Conceptual Clarity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Check your progress Quest	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Feed back to CYP Question	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Any Other Comments

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BBAR-501

DIRECT AND INDIRECT TAXES

BLOCK-3 INCOME FROM OTHER SOURCES, ADVANCE PAYMENT OF TAX AND INTEREST AND INCOME TAX AUTHORITY

UNIT 1

INCOME FROM OTHER SOURCES

UNIT 2

ADVANCE PAYMENT OF TAX AND INTEREST

UNIT 3

INCOME TAX AUTHORITY

BLOCK 3 : INCOME FROM OTHER SOURCES, ADVANCE PAYMENT OF TAX AND INTEREST AND INCOME TAX AUTHORITY

Block Introduction

This block covers the topic Income from Other Sources, Advance Payment of tax and Interest and Income Tax Authority.

The first unit discusses about the head of Income from other sources, here discussion has been made on Income from other sources (Sec 56), sufficient problems have been provided with the solution to help the student in understanding the concepts of income tax more thoroughly.

Next unit explains Income with regards to payment of advance tax, when a person becomes liable to pay advance tax, liability for Payment of Advance (Section 208), Stages in Calculation of payment of advance tax, Income tax Authorities, Executive Authorities, Appellate Authorities, Settlement Commission

After study this block the student will certainly be able to understand of Liability for payment of Advance Tax and its calculation and also student can understand about Income-tax Authorities.

Block Objective

- Explains Income from other sources (Sec56)
- Specify the method of accounting.
- Describe interest on securities.
- Explain profit and loss on sale of securities.
- Calculate the tax upon Income from other sources
- Incomes with regard to payment of advance tax
- When a person becomes liable to pay advance tax
- Liability for Payment of Advance Tax (Section 208)
- Stages in Calculation of payment of advance tax
- Calculation of Advance Tax
- Interest for late filing of return [Sec. 234A]
- Interest of non-payment of Advance Tax [Sec.234B]
- Income-tax Authorities
- Executive Authorities
- Appellate (Judicial) Authorities
- Settlement Commission

Block Structure

Unit 1: Income from other sources

Unit 2: Advance Payment of Tax and Interest

Unit 3: Income Tax Authority



: UNIT STRUCTURE :

- 1.0 Learning Objectives**
- 1.1 Introduction**
- 1.2 Income from Other Sources (Sec56)**
 - 1.2.1 Dividends**
 - 1.2.2 Any Winning from Lotteries, Crossword Puzzles or Races**
- 1.3 Method of Accounting**
- 1.4 Interest on Securities**
- 1.5 Basis of Charge**
- 1.6 Kinds of Securities**
- 1.7 Profit and Loss on Sale of Securities**
- 1.8 Tax upon Income from Other Sources**
- 1.9 Problem with Solution**
- 1.10 Let Us Sum Up**
- 1.11 Answer for Check Your Progress**
- 1.12 Glossary**
- 1.13 Assignment**
- 1.14 Activities**
- 1.15 Case Study**
- 1.16 Further Readings**

1.0 Learning Objectives

After learning this unit, you will be able to understand:

- Define income from other sources (Sec56).
- Specify the method of accounting.
- Describe interest on securities.
- Explain profit and loss on sale of securities.
- Calculate the tax upon Income from other sources.

1.1 Introduction

A source of income which does not specifically fall under any one of the other heads of income, viz. Salaries, House Property, Profits and Gains of Business and Profession, Capital Gains such income is taxed u/s 56 under the head Income from Other Sources.

The residuary head of income can be invoked only if all the following conditions are satisfied:

1. There is an income.
2. Such income is not exempt from tax u/s 10 to 13A.
3. Such income does not fall under any of the other 4 heads of income.

1.2 Income from other sources (Sec56)

The following incomes are always chargeable to tax under Income from other sources⁴.

1.2.1 Dividends

Any dividend declared, distributed and paid by a company to its shareholders is chargeable to tax under this head irrespective to the fact whether shares are held by the assessee as investment or stock in trade.

The following distributions or payments made by a company shall be covered by the term dividend.

- 1.2.1.1 Any distribution entailing the release of companies assets.
- 1.2.1.2 Any distribution of accumulated profits in the form of debentures, debenture-stock, deposited certificate and bonus to preference shareholders.
- 1.2.1.3 Distribution of accumulated profits at the time of liquidation of a company.
- 1.2.1.4 Distribution of accumulated profits on reduction of its capital.
- 1.2.1.5 Any payment by way of loan or advance by a closely-held company to shareholder, holding substantial interest, provided the loan should not have been made in the ordinary course of business.

Note:

1. Dividend received from foreign companies is fully taxable in the hands of shareholders.
2. Dividend paid by Indian company is exempted in the hands of shareholders but the company will have to pay dividend-tax at prescribed rate.

Tax treatment: The dividend declared or paid by the domestic company after 31.03.1997 but before 1 April 2002 was exempted from the tax in the hands of shareholders. Dividends declared, distributed or paid by company after 31 March 2002, (i.e. w.e.f. A.Y. 2003-04) was taxable in the hands of the shareholders. Dividend received from non-domestic company is fully chargeable to tax w.e.f. 1.4.2003, i.e. from A.Y. 2004-05, the dividends declared or paid by the domestic company is fully exempted from tax in the hands of the shareholders.

Amendment made effective from the A.Y. 2017-18

In case an assessee (Being an Individual, HUF or a Firm) who is a Resident in India, any income in aggregate exceeding ₹ 10 lakhs, by way of dividends declared, distributed or paid by a domestic company, 10% tax (In additional to the tax payable on other income) is chargeable. For this purpose 'Dividend' shall have the same meaning as per section 2(22) but excludes sub-clause (e) thereof.

Dividend and Income Distribution Tax:

e.g. X Co. distributed or paid dividend ₹ 85,000 Basic DDT Rate is 15%(DDT rate for Equity oriented Mutual Fund is 10%)Calculate effective rate of DDT

$$\text{Basic DDT payable} = \frac{\text{Dividend(R)} \times \text{Rate of Basic DDT}}{100 - \text{DDT Basic Rate}}$$

$$\text{Basic DDT payable} = \frac{\text{R } 85,000 \times 15}{100 - 15} = \text{R } 15,000$$

Basic DDT Payable	15,000
+ Surcharge 12%	1,800
	16,800
Add :Health & Education Cess @ 4%	672
DDT Payable	17472
Effective rate of DDT $= \frac{17472}{85,000} \times 100$	=20.55 %

1.2.2 Any Winning from Lotteries, Crossword Puzzles, Races

Any income winning from lotteries, crossword puzzles, races including horse races, card games and any other games of any sort or from gambling or betting of any form of nature whatsoever is taxable.

Tax treatment: Up to the assessment year 2002-03 winning from lotteries up to ₹. 5000 and in case of wining from races including horse races up to ₹. 2500 were exempted from tax. Now this exemption w.e.f. A.Y. 2003-04 is not available. It is fully taxable at the flat rate of 30% + surcharge (if applicable) + cess. (Provided it exceeds ₹ 10,000). In case of winning from horse-race also, TDS is made only if the amount exceeds ₹ 10,000

Loss under these sources is allowed to be set-off against income from that source only e.g. if there is a loss of 1, 00,000 in the horse race, then it is allowed to be set-off against income from horse-race only. This loss cannot be set-off against income from crossword puzzle.

Besides, the following income is also chargeable under the head Income from other sources‘ .

- a. Income from subletting house
- b. Interest on bank deposits and loans
- c. Income from royalty (if it is not an income from business)
- d. Directors fee
- e. Agricultural income from a place outside India
- f. Directors commission for standing as a guarantor to bankers
- g. Directors commission for underwriting shares of new company
- h. Examination fees received by a teacher from a person other than his employer
- i. Rent on plot of land
- j. Insurance commission

- k. Annuity payable under a will, contract, trustdeed
- l. Salaries payable to a Member of Parliament
- m. Family pension received by family members of deceased employee
- n. In case of retirement, interest on employees contribution if provident fund isunrecognised
- o. Income from undisclosed source
- p. Gratuity paid to a director who is not employee of the company
- q. Annuity payable to the lender of trademark
- r. Any sum received under a keyman insurance Policyincluding bonus[section 56(2)(iii)]
- s. dvance money forfeited on failed negotiation for transfer of capital asset.
- t. Gift value of any sum of money in cash or by cheque which exceed Rs. 50,000 without considerations[Sec. 56(2)(vii) to (x)]

Check your progress 1

- 1. Salaries payable to a Member of Parliament is taxable under the head
 - a. Income from other sources
 - b. Income from salary
 - c. Income from house property
 - d. Income from Capital Gain

1.3 Method of Accounting Income

There are two methods of accounting generally employed by the assessee - mercantile and cash. His income under the head income from other sources for the previous year is computed in accordance with the method of accounting regularly employed by him. If he is employing mercantile system, all the income whether received or not and expenditure related to the previous year whether paid or not is considered. If he is employing cash system of accounting, all income received whether related to the previous year or not and all expenses paid whether due or not are taken into consideration for determination of income.

Check your progress 2

- 1. There are two methods of accounting generally employed by the assessee - mercantile and_____.
 - a. accrual
 - b. cash
 - c. None of Above

1.4 Interest on Securities

The income from interest on securities shall be chargeable to tax under the head 'Income from other sources'. If securities are held as stock-in-trade then interest on it is taxable under the head business or profession.

The following amounts are chargeable to income tax as interest on securities:

- 1. Interest on any security of the Central or State Governments

2. Interest on debentures or other securities issued by local authority or by a company
3. Interest on debentures or other securities issued by a statutory corporation
4. Interest on debentures or other securities issued by a corporation established By Central or State Act

Check your progress 3

1. The income from interest on securities shall be chargeable to tax under the head
 - a. Income from other sources
 - b. Income from business and profession
 - c. Income from Capital Gain
 - d. None of Above

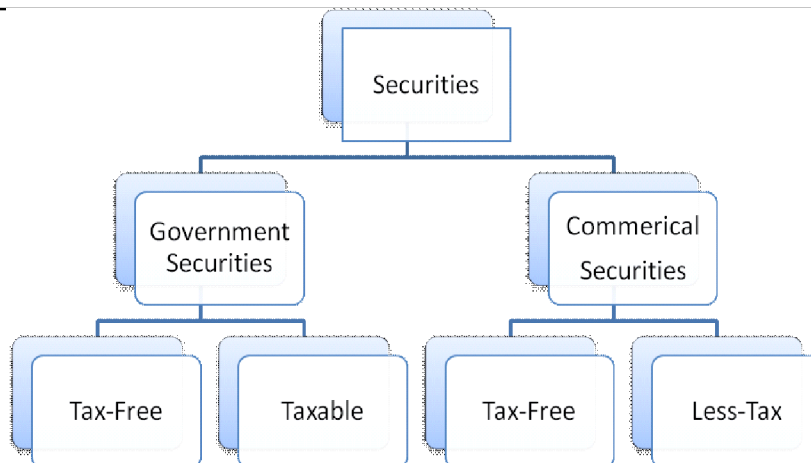
1.5 Basis of Charge

Interest on securities is chargeable to tax on basis of accounting method (cash or mercantile) followed by the assessee. However, where no method of accounting is regularly employed by the assessee, the income from interest on securities shall be chargeable to tax as the income of the previous year in which it becomes though it may be received later. Thus, the date of receipt is immaterial for the purpose.

Check your progress 4

1. Interest on securities is chargeable to tax on basis of followed by the assessee.
 - a. Cash method
 - b. accounting method
 - c. accrual method

1.6 Kinds of Securities



- **Tax free Government Securities:** Interest on such securities is neither included in total income nor it is taxed, i.e. It is fully exempted from tax.
- **Taxable Government Securities:** Such securities are issued either by the Central or State Government. These are taxable securities, but no tax is deducted at source on such securities. Hence, the interest on such securities will not grossed up.

- **Tax-free Commercial Securities:** These are issued by a local authority or statutory corporation or a company, in a form of debentures or bonds. Really speaking their interest is not tax free, because the tax due on this interest is payable by the company or local authority or corporation concerned. These are called tax free, because the assessee has not to pay tax on it from his own pocket.
- **Less-Tax Free Commercial Securities / Taxable Securities:** In the case of these securities, income tax is deducted at source on the amount of interest and balance is paid to the security holder. The net amount of interest received is grossed up and then included in the total income of an assessee.

E.g. interest received on debentures and other securities after deduction of tax at source at 10.4% (including health and education cess at 4%) is ₹. 22,400. Interest to be included in income will be grossed up by applying the following formula:

$$= \frac{\text{Net Interest Received}}{100 - \text{Rate of TDS}} \times 100$$

$$= \frac{22,400}{100 - 10.4} \times 100 = \text{Rs. } 25,000$$

₹ 25,000 as a income from interest on securities will be added in other income.

Tax on ₹ 25,000 at 20% ₹ 5,000
 + Health and Education Cess @ 4%..... ₹ 800
 Total Tax..... ₹ 5,800

	Government Securities		Commercial Securities	
	Taxable	Wholly Tax-free	Less-tax	Tax-free
Tax deducted at source	Not deducted	Not deducted	Tax deducted	Tax deducted
Included in total Income	Included in total income	Not included	Included in total income	Included in total income
Grossing up	No grossing up	No grossing up	Grossing up is required	Grossing up is required

For financial year 2019-'20 the rate of TDS for Interest on Debenture or other security 10% .

Note: No grossing up required in any case where the annual interest income received by an assessee is not more than Rs. 5,000. If the investor fails to provide his PAN, tax will be deducted at 20%

Check your progress 5

1. _____ Government Securities is fully exempted from tax.
 - a. Taxable
 - b. Tax free
 - c. None

1.7 Profit and Loss on sale of Securities

If the purchase and sale of securities is the business of the assessee, then the profit on sale of securities is taxable under the head Profits and Gains of business or profession'. On the other hand if the securities are held as an investment to earn interest thereon the profit on sale of securities is capital gain.

Deductions allowable under the head income from other sources

The income chargeable to tax under the head Income from other sources shall be computed after making the following deductions:

- In respect of dividend and interest, any reasonable expenditure incurred by way of commission or remuneration for realization of such income.
- In respect of family pension a sum equal to 33 1/3 % of the pension or ₹. 15,000 whichever is less.
- In respect of income earned by way of letting out of machinery, plant & furniture with or without building – a) repairs b) insurance c) depreciation of that machinery, plant or furniture.
- Any other expenditure incurred by the assessee, not being capital expenditure, for the purpose of making or earning any income chargeable under this head of income.

Amount not deductible (Inadmissible Expenses) Sect. 58

1. Any personal expenses of the assessee
2. Wealth tax
3. Expenses of the nature described in section 40A.

Interest paid or payable outside India, if tax has not been paid or deducted at source.

Check your progress 6

1. Interest paid or payable outside India, if tax has not been paid or deducted at source is considered
 - a. admissible
 - b. inadmissible u/s58
 - c. None of above

1.8 Tax upon Income from Other Sources

Which income would fall under the head “income from other sources”?

Income of every kind, which is not chargeable to income tax under the heads 1) salary 2) income from house property, 3) profits and gains of business and profession and capital gains can be taxed under the head income from other sources. However such income should also not fall under income not forming part of total income under the IT Act.

The following income shall be chargeable to income tax under the head

Income from other sources, namely:-

1. Dividend
2. Any annuity due or commuted value of any annuity paid under section 280D

INCOME FROM OTHER
SOURCES, ADVANCE
PAYMENT OF TAX AND
INTEREST AND INCOME
TAX AUTHORITY

3. Any winning 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
4. Any sum, received by the assessee from his employees as contributions to any provident fund or Superannuation fund or any fund set up under the provisions of the Employees State Insurance Act, 1948 (34 of 1948), or any officer fund for the welfare of such employees, if such income is not chargeable to income-tax under the head Profits and gains of business or profession.
5. Income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income tax under the head Profits and gains of business or profession.
6. Where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income tax under the head Profits and gains of business or profession.
7. Any sum received under a Keyman insurance policy, including the sum allocated by way of bonus on such policy, if such income is not chargeable to income tax under the heads Profits and gains of business and profession or under the head Salaries. (Keyman insurance policy means a life insurance policy taken by a person on the life of another person who is/ was the employee of the 1st mentioned person or who is/was connected in any manner whatsoever with the business of the 1st mentioned person.)
8. Gift: 'Receipts' (the aggregate value of which exceeds ₹ 50,000) Without consideration

Exceptions: Taxability of gift not apply - Gift from relative, on occasion of the marriage, by way of will etc.

So, basically income from other sources is the residuary head of income, which takes within its ambit any income, which does not specifically fall under any other head of income.

If certain Income is not chargeable to tax under the specific head, can it be taxed under the head "Income from other sources"?

If a receipt falls under one of the specific heads of income, then such receipt can be taxed only in accordance with the provisions relating to that head. Income of every kind, which is not chargeable to income tax under the heads 1) salary 2) income from house property, 3) profits and gains of business and profession and capital gains can be taxed under the head income from other sources. However, this is subject to the condition that such income does not fall under income, not forming part of total income under the IT Act and provided that it is not exempted from taxation under any provision of the I-T Act.

Is the dividend income of all assessees liable to tax?

There are certain assessees who are exempted in respect of the taxability of dividend income and therefore, dividend income in the hands of these particular assessees, to the extent as specified in the section, is not taxable even though the same fall under the head Income from other sources. The dividend income, earned by the following entities or institutions, is exempt from tax, namely:

1. Local Authorities.
2. An approved scientific research association.
3. A venture capital fund or venture capital company from investments made by way of equity shares in a venture capital undertaking.
4. Notified news agency.
5. Pension fund set up by LIC or any other insurer approved by the Controller of Insurance or Insurance Regulatory and Development Authority.
6. Fund established for the welfare of employees.
7. Trust or society approved by Khadi and Village Industries Commission.
8. An authority whether known as Khadi and Village Industries Board or any other name for the development of Khadi and Village Industries.
9. Any body or authority established, constituted or appointed under any enactment for the administration of public, religious, or charitable trusts or endowments or societies for religious or charitable purposes.
10. SAARC Fund for Regional Projects.
11. Secretariat of Asian Organization of Supreme Audit Institutions.
12. Insurance Regulatory and Development Authority.
13. Any person, receiving income on behalf of specified national funds, approved public charitable institutions, educational institutes and hospital.
14. Mutual funds registered under SEBI Act or set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India. However, w.e.f. 1.4.2003, income from units of the UTI and mutual funds will also be taxed.
15. Investor Protector Fund.
16. Credit Guarantee Fund Trust.
17. Infrastructure capital fund.
18. Statutory provident funds, Recognised provident funds, Approved Superannuation funds, approved gratuity funds and approved coal mines provident funds.
19. Registered Trade Unions or association of Registered Trade Unions.
20. Employees State Insurance Fund.
21. Members of a Scheduled Tribe, residing in Manipur, Nagaland, Tripura,

Arunachal Pradesh, Mizoram and Ladakh.

22. Statutory Corporation or a body/ institution financed by the Govt., formed for promoting the interest of Scheduled castes/tribes, minority community.
23. Co-operative societies formed for promoting the interest of Scheduled castes/tribes.
24. Marketing authority, engaged in letting go downs and ware houses.
25. Certain Commodity Boards/Authorities.
26. Political parties.

Would the interest income be assessed as “business income” or as

“Income from other sources”?

Interest Income is either assessed as ‘Business Income’ or as ‘Income from other sources’ depending upon the activities carried on by the assessee. If the investment yielding interest is part of the business of the assessee, the same would be assessable as business income‘ but where the earning of the interest income is incidental to and not the direct outcome of the business carried on by the assessee, the same is assessable as Income from other sources‘. Business implies some real, substantial and systematic or organised course of activity with a profit motive. Interest, generated from such an activity, is business Income; else it would be interest from other sources.

What are the deductions allowed under the head „Income from other sources”?

The income, chargeable under the head ?income from other sources,‘ shall be computed after making the following deductions:

- In the case of interest on securities, any reasonable sum, paid by way of commission or remuneration to a banker or to any other person for the purpose of realising such dividend or interest on behalf of the assessee;
- In the case of income, received by the assessee from his employees as contributions to any provident fund or Superannuation fund or any fund set up under the provisions of the Employees State Insurance Act, 1948, or any other fund for the welfare of such employees, which is chargeable to income tax under the head Income from other sources deductions so far, as may be in accordance with provisions of S 36(1)(va).
- In the case of income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income tax under the head Profits and gains of business or profession or where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income tax under the head Profits and gains of business or profession, deductions, so far as may, be in accordance with the provisions of clause (a), clause (3)of Section 30, Section 31 and subsections

(1) and (2) of Section 32 and subject to the provisions of S38.

- In the case of income in the nature of family pension, a deduction of a sum equal to thirty three and one third per cent of such income or fifteen thousand rupees, whichever is less?
- Any other expenditure (not being capital expenditure) laid out or used wholly and exclusively for the purpose of making or earning such income.

Check your progress 7

1. Any annuity due or commuted value of any annuity paid under section 280D is chargeable to tax under
 - a. Other sources
 - b. Business
 - c. Not taxable

1.9 Problem with Solution

Problem-1

Shri Amichand is a member of parliament from Gujarat. During the previous year 2019-'20 he had the following incomes:

1. As a member of parliament he received a salary of ₹. 25,000 p.m. & daily allowance of ₹. 40,000 for attending various sessions.
2. He held the following investments.
 - a. 10% Preference Shares in Indu Sugar works Ltd., of the face value of ₹. 10,000.
 - b. 2,000 equity shares ₹ 10 each in Tata Finlay Ltd. The company declared & paid a dividend at 15 % on 15th February, 2019.
 - c. A 10% fixed deposit of ₹. 20,000 is held by him in Indian Banks. Interest is credited annually.
 - d. He received dividend of ₹. 1,000 from a co-operative society.
3. He won ₹. 8,000 in crossword puzzles.
4. On 1st September, 2018 he purchased a plot of land from Labdhi infra for constructing his house. On account of shortage of funds, he could not get this house constructed and hence let out the plot at ₹. 3,000 per month from 1st November, 2019.
5. He has let machinery and furniture and also building to Mr. Kiritbhai at a monthly rent of ₹. 10,000. During year he spent ₹. 3,000 for the repair of machinery, furniture and building during the previous year. Depreciation allowed in respect of these assets for the previous year was ₹.20,000.

The Bank charged ₹. 40 as commission on collection of dividends from various companies.

Compute the taxable income of Shri Amichand under the head 'Income from other Sources'.

Solution:

Computation of income of Shri Amichand for the

Individual

P.Y. 2019-20

Ordinary Resident

A.Y. 2020-21

Indian Citizen

PAN :

Sr.No.	Particulars (Income from other sources)	Amount ₹.
1	Salary as Member of Parliament	3,00,000
	Daily allowance (exempted from tax)	----
2a	Dividend on preference shares (exempted)	----
2b	Final dividend on equity shares (exempted)	----
2c	Interest on fixed deposit	2,000
2d	Dividend from co-operative society (No T.D.S.)	1,000
3	Winning from crossword puzzles fully taxable w.e.f. 2003-04	8,000
4	Income from plot of land for 5 months	15,000
5	Rental income from machinery, furniture & building	1,20,000
	Gross Income	4,46,000
	Less: Admissible expenses:	
	Bank commission on collection of dividend (Note 3) Nil	
	Repair expenses 3,000	
	Depreciation 20,000	23,000
	Income from other sources	4,23,000

Note:

1. Winning from crossword puzzles is casual income, Exemption not allowed w.e.f. A.Y. 2003-04.
2. Daily allowance for attending sessions is exempt u/s10(17).
3. Dividend on shares of Indian Companies is exempted from tax w.e.f. 2004- 05 and therefore, the bank commission on collection of dividend is not allowed.

4. Amendment made effective from A.Y. 2017-'18 In case of assessee who is Resident in India, any income aggregate exceeding Rs. 10 lakhs, by way of dividends declared, distributed or paid by a domestic company 10% tax In addition to the tax payable on other income) is chargeable

1.10 Let Us Sum Up

After going through this unit the student should have got a detailed insight of income from other sources.

This unit discusses about the last head of income i.e the income from other sources. This is the fifth and last head of income so any of the income which doesn't finds its place in the other four heads of income is assessed under this head of income. Generally this head of income includes dividend income, winning from lottery, horse races, commission income and income from security. This head even includes the salary income of that person where the ship between the person of payee and payer is not of employee or employer. This is considered to be one of the complexed chapters as it includes income from varied heads and each of them has to be calculated differently. This chapter is considered to be difficult as there are so many types of income which a person can make and all those which doesn't fall in other four head has to come and considered under this head.

Certainly this unit is going to be of great help to the students of finance in understanding the concepts of this very chapter.

1.11 Answer for Check Your Progress

Check your progress 1

Answers:(1-a)

Check your progress 2

Answers:(1-b)

Check your progress 3

Answers:(1-a)

Check your progress 4

Answers:(1-b)

Check your progress 5

Answers:(1-b)

Check your progress 6

Answers: (1-b)

Check your progress 7

Answers: (1-a)

1.12 Glossary

1. **Tax free Government Securities** - Interest on such securities is neither included in total income nor it is taxed, i.e. it is fully exempted from tax.

2. **Taxable Government Securities** - Such securities are issued either by the Central or State Government. These are taxable securities, but no tax is deducted at source on such securities. Hence, the interest on such securities will not gross up.

1.13 Assignment

Discuss the scope of the 'Income from other sources'. State the deductions allowable.

Exercise :

Shri Rupeshbhai has furnished the following particulars of his investment for the year ending 31st March, 2019:

1. ₹ 4,00,000 9% Municipal Debentures.
2. ₹ 4,20,000 7.5% Tax-free Securities of Indian Govt.
3. ₹ 2,00,000 7.5% Port Trust Bonds.
4. ₹ 90,000 10% Tax-free Debentures of Sapana Ltd. (T.D.S. at 10%)
5. ₹ 20,000 6.5% Treasury Savings Deposit Certificates.
6. ₹ 50,000 9% Preference share of Kaivan Ltd.
7. ₹ 40,000 9% Tax-free Debenture of Labdhi Ltd. listed on recognised stock exchange in India (T.D.S. at 10%)

He took a loan for purchasing tax-free securities of Indian Govt. and paid interest of ₹ 3,200. He also paid ₹ 3,000 interests on loan for purchasing debenture of sapna Ltd. He paid ₹ 300 bank commission for collection of interest and ₹ 30 for collection of dividend.

Compute the taxable income for the A.Y. 2019-'20 under the head Income from other sources.

[Ans. Gross Income from Other Sources ₹ 96,500, Less Specific deduction 6,500, Taxable Income from Other Sources ₹ 90,000]

1.14 Activities

Give at least 10 examples of income chargeable to tax under the head Income from other sources'.

1.15 Case Study

Study the different types of securities in the market and their taxation procedure and make a note.

1.16 Further Readings

1. Direct Taxes, Gupta and Ahuja.
2. The Economics of Taxation, Bernard Salanié, MIT Press, 1997
3. The Economics of Taxation, Henry Aaron and Michael J. Boskan, The Brookings Institution, 1980
4. Taxation: Its Principles and Methods, Luigi Cossa
5. Taxation and Finance, S. M. Shukla



ADVANCE PAYMENT OF TAX AND INTEREST

: UNIT STRUCTURE :

2.0 Learning Objectives

2.1 Introduction

2.2 Incomes with regard to payment of advance tax

2.3 When a person becomes liable to pay advance tax

2.4 Liability for Payment of Advance Tax (Section 208)

2.5 Stages in Calculation of payment of advance tax

2.6 Income from previous year (Current Income)

2.7 Calculation of Advance Tax

2.8 Interest for late filing of return [Sec. 234A]

2.9 Interest of non-payment of Advance Tax [Sec.234B]

2.10 Interest for deferment of different instalment of Advance Tax [Sec. 234C]

2.11 Illustration

2.12 Let Us Sum Up

2.13 Answer for Check Your Progress

2.14 Glossary

2.15 Assignment

2.16 Activities

2.17 Case Study

2.18 Further Readings

2.0 Learning Objectives

After learning this unit, you will be able to understand:

- Incomes with regard to payment of advance tax
 - When a person becomes liable to pay advance tax
 - Liability for Payment of Advance Tax (Section 208)
 - Stages in Calculation of payment of advance tax
 - Calculation of Advance Tax
 - Interest for late filing of return [Sec. 234A]
 - Interest of non-payment of Advance Tax [Sec.234B]
-

2.1 Introduction

Central Government collect taxes in various form for economic and balanced development of the nation. The year in which incomes are received or accrued is considered as previous year. As per Income Tax Act liability to

pay tax on parallel basis of origin of income. "PAY AS YOU EARN" "PAYE" SCHEME, We know that income earned during P.Y. shall be charged to tax in A.Y. But assessee is required to pay the liability of tax in advance, on the taxable income of the financial year during the same financial year itself. This can be done by way of Advance Tax T.D.S. (Tax deducted at sources) and T.C.S. (Tax collected at source) Due to this provision of arrangement, difference between tax payable on taxable income and advance payment of tax at the end of previous year is generally not considerable. If assessee has paid less tax, the outstanding would be paid along with interest, and if assessee has paid more tax, the excess tax would be refunded along with interest by government.

Check your progress 1

1. If assessee has paid less tax, the outstanding would be paid along with
 - (a) Interest
 - (b) Discount
 - (c) Not require to pay any additional tax
 - (d) none of above
2. If assessee has paid more tax, the excess tax would be
 - (a) Refunded along with interest by government.
 - (b) Not refunded with interest by government
 - (c) deposited to central government fund
 - (d) None of above

2.2 Incomes with regard to payment of advance tax:

In compliance with the provision of income Tax Act, study of-

- Payment of advance tax by assessee and its circumstances.
- Payment of interest by the assessee and its circumstances.
- Payment of interest by government and its circumstances.
- Corrigible provisions for assessee.
- Power to waive interest by different authorities and their circumstances etc. have been done as below hereafter.

On which incomes is payment of advance tax made?

As per scheme of advance payment of tax, this tax is payable on all types of incomes. It covers income under all the heads of income.

Check your progress 2

1. As per scheme of advance payment of tax on which incomes payment of advance tax is made ?
 - (a) This tax is payable on all types of incomes.
 - (b) This tax is payable on only Salary Income
 - (c) This tax is payable on only Business or profession income.
 - (d) None of above

2.3 When a person becomes liable to pay advance tax

Every person is liable to pay tax if advance tax payable is ₹ 10,000 or more [Sec. 208]. All items of income are liable for payment of advance tax. The scheme of advance payment of tax is also known as ‘pay as you earn’

An individual, who is of the age of 60 years or more at any time during the previous year and who does not have any income chargeable under the head ‘Profit and gain of business or profession’ is not required to pay advance tax [Sec. 207]

Check your progress 3

1. An individual, who is of the age of 60 years or more at any time during the previous year and who does not have any income chargeable under the head ‘Profit and gain of business or profession’
 - (a) Is require to pay advance tax [Sec. 208]
 - (b) Is not required to pay advance tax [Sec. 207]
 - (c) Is require to pay advance tax with interest
 - (d) None of above

2.4 Liability for Payment of Advance Tax (Section 208)

“PAY AS YOU EAR” “PAYE” SCHEME thus advances tax means the tax which is paid in the year in which income is earned. Earning of income and payment of tax go simultaneously. Any amount paid on or before 31st March of the relevant previous year is considered as Advance Tax.

- Due to advance tax government received constant flow to tax thorough the year rather than receiving all payment at the end of the year.
- Advance tax provision is applicable to all type of person I,e, salaried, self-employed irrespective of residential status of the person.
- All assessee are liable to pay advance tax on their total income of the relevant previous year including winning from lotteries ,cross word puzzles and income from capital gains subject to following exception
 - Resident senior citizen who does not have any income from a business would be exempted from payment of Advance tax
 - Assessee who have opted for presumptive tax under section 44AD
 - Assessee need not pay Advance tax less than ₹ 10,000 in the current financial year

As per section 208 liabilities to pay Advance Tax arise when tax liability of assessee is ₹ 10,000 or more in financial year.

Check your progress 4

1. As per section 208, the liability to pay Advance Tax arises when tax liability of assessee in financial year exceeds the following amount.

(a) ₹ 25,000	(b) ₹ 1,50,000
(c) ₹ 10,000	(d) ₹ 2,00,000.

2.5 Stages in Calculation of payment of advance tax

- 2.5.1 Estimate of Income: Determine the taxable estimated amount of tax on the taxable incomes for the financial year for which estimated amount of income for the financial year for which liability for advance payment of tax is to be determined.
- 2.5.2 Calculation of tax : Determine estimated amount of tax on the taxable estimated amount determined as shown in above(1) on the basis of prevailing rates of tax (Rates of tax for the concerned previous year)
- 2.5.3 Calculation of Surcharges: If the provision of surcharge is applied add the amount of surcharge payable on the basis of prevailing rates of surcharge for the concerned previous year to the estimated amount of tax calculated as shown in above
- 2.5.4 Health and Education cess :There are two different circumstances of calculation of this cess
- If surcharge is applied
 - If surcharge is not applied
- 2.5.5 Reliefs: As per section 89 of income tax act, different income such as amount of arrears in salary etc. amount of reliefs received with reference to such income with reference to tax are deducted.
- 2.5.6 Effect of tax deducted at source: While determining advance payment of tax, tax deducted at source from the incomes received by the assessee is deducted from total amount of tax. The amount remaining after deduction of tax deducted at source is considered as advance payment of tax.
- 2.5.7 Execution of section 208 : As per section 208, it becomes compulsory for the assessee to pay advance tax if the amount of advance tax payable is ₹ 10,000 or more with effect from 01-04-2009.

2.6 Income from previous year (Current Income)

Income such as lottery prize is included in the estimate of receivable income of prevailing previous year under the five heads stated in Income tax act 1961.

Deduct the amount of loss not written off from these incomes. Carried forward loss, occurred during the earlier year immediately preceding the previous year.

Then deduct estimate of deductions receivable under section 80C to 80U. The amount called taxable incomes of previous year. Income tax is calculated on current income.

2.7 Calculation of Advance Tax

As actual income and tax determined after completion of the year for payment of Advance tax assessee has to estimate his current income and pay tax on it. It doesn't require submitting the estimates to Assessing officer.

**ADVANCE PAYMENT
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Amount of Advance Tax Payable	Amount ₹
Tax on total income	...
Less: Rebate and Relief(U/s 87A)	...
Add: Surcharge	...
Add: Health and education cess
Gross Tax Liability	...
Less: TDS /TCS	<u>.....</u>
Advance Tax Payable	...

Provision for payment of advance tax has been made under section 208 to 2019. Calculation of payment of advance tax is done on total income. As per provision of section 210, the assessee, who becomes liable for payment of advance tax? Any details, with regards to estimated income calculated, are not to be sent to the related tax authorities.

As assessee re-estimates one's income after payment of first and second instalment of advance tax, recounts advance payment of tax on any kind of differences and makes increase or decrease in the amount of advance tax in the remaining two instalments as per requirement.(As per section 210(2))

Defined dates of advance payment of tax and percentage pf tax payable from total amount of tax (As per section 211)

For the purpose of advance payment of tax, 12 months are divided into four equal parts and assessee is to pay advance tax in four instalments. Moreover, clarifications for the assessee with regard to when to pay what amount of advance tax have been made. Its details are as below:

Due date of Instalments	For all Assessee	Assessee opted Scheme of section 44AD & 44ADA
On or before 15 th June	Up to 15% of Advance tax payable	
On or before 15 th September	Up to 45% of Advance tax payable(i.e. additional 30%)	
On or before 15 th December	Up to 75% of Advance tax payable(i.e. additional 30%)	
On or before 15 th March	Up to 100% of Advance tax payable(i.e. remaining 25%)	100% of Advance tax payable

Notes :

1. If any amount of advance tax payable would have been paid before the previous year, it would be considered as advance payment of tax for the related financial year.
2. If the working of the bank is closed on any date of the above mentioned dates, payment of advance tax can be made on the next working

date. No interest would be charged by the government on such payment.

3. Payment of advance tax in one instalment on or before 15th March instead of four for assesses availing presumptive taxation U/s 44AD & 44ADA.
4. Tax calculation and Tax Deducted at source:
As mentioned earlier, assessee's liability for tax is determined on the basis of estimate of income of previous year. Payment of advance tax can be in two forms:
 - Payment of advance tax by the assessee is done on the basis of estimate of incomes:
 - Deduction of tax from its source of income by the party from whom income is receivable by the assessee.

Let us understand this matter through the following example

Check your progress 5

1. On which dates the individual assessee is required to pay advance tax ?
 - (a) 15th June, 15th Sept, 15th December & 15th March.
 - (b) 15th Sept, 15th December & 15th March
 - (c) 15th March & 31 March
 - (d) 31 March & 31 July.

2.8 Interest for late filing of return [Sec. 234A]

An assessee shall be liable to pay interest U/s 234A @ 1% p.m. or part of the month for late filing of return. Interest is calculated on the amount of tax due i.e. tax assessed on the total income less advance tax, TDS if any

Check your progress 6

1. As per Income tax act, interest u/s 234A is applicable in the following case?
 - (a) Interest for not filing or late filing return before due dates
 - (b) Interest for non-payment or short payment of advance tax
 - (c) Interest for deferment of advance tax
 - (d) All of above

2.9 Interest of non-payment of Advance Tax [Sec.234B]

- 2.9.1 Interest U/s 234B is attracted for non-payment to advance tax of an amount less than 90% of assessed tax (i.e. Tax on total income less TDS)
- 2.9.2 The interest liability would be 1% per month or part of month from 1st April following the financial year up to the date of determination of income i.e. self assessment U/s 140A
- 2.9.3 Such interest is calculated on the amount of different between the assessed tax and the advance tax paid.

2.9.4 Assessed tax is the tax calculated on total income less TDS &TCS.amount of difference between tax and advance tax

ADVANCE PAYMENT OF TAX AND INTEREST

Check your progress 7

1. As per Income tax act, interest u/s 234B is applicable in the following case?
 - (a) Interest for not filing or late filling return before due dates
 - (b) Interest for non-payment or short payment of advance tax
 - (c) Interest for deferment of advance tax
 - (d) All of above

2.10 Interest for deferment of different instalment of Advance Tax [Sec. 234C]

1. Interest U/s 234C is attracted for deferment of instalment of advance tax beyond the due dates.
2. The interest liability would be 1% p.m. For a period of 3 month, or every deferment.
3. However, for the last instalment of 15th March, the interest liability would be 1% for one month.
4. Such interest is calculated on the amount of differences between the Advance tax up to that date and actual tax paid.

Check your progress 8

1. As per Income tax act, interest u/s 234C is applicable in the following case ?
 - (a) Interest for not filing or late filling return before due dates
 - (b) Interest for non-payment or short payment of advance tax
 - (c) Interest for deferment of advance tax
 - (d) All of above

2.11 Illustration

Illustration: 1

Shri Kiritbhai's estimated income from salary and house property is ₹ 8,00,000 and ₹ 4,10,000 resp. ₹ 80,000 of provident fund has been deducted from his salary. Tax deducted on source from salary income is deducted by employer. No information with regard to income from house property is there with the owner. Shri Kiritbhai is insistent of tax planning, Assume these incomes for his financial year 2018-'19 Calculate amount of advance payment of tax of Shri Kiritbhai based on his right tax planning and also calculate how much amount he has to pay with regard to tax on the decided dates. Proposed investment ₹ 70,000

Statement showing calculation of liability for tax of Shri Kiritbhai

Salary income	8,00,000	
Less: Standard deduction	<u>40,000</u>	7,60,000
Income from house property		4,10,000
Total Gross Income		11,60,000
Less: Deduction U/s 80C To 80U		
Provident fund	80,000	
Proposed investment	70,000	1,50,000
Taxable Income		10,10,000
Tax Calculation Tax on total Income		
10,10,000	Zero	
Up to ₹ 2,50,000	Nil	12,500
₹ 2,50,000 To ₹ 5,00,000.....	5%	1,00,000
₹ 5,00,000 To ₹ 10,00,000.....	20%	3,000
₹ 10,00,000 above	30%	
(For ₹ 10,000)		<u>4620</u>
Add: Health and Education cess @ 4%		<u>1,20,120</u>
	7,60,000	
Less: Tax Deducted at source:	<u>80,000</u>	
Total income from salary	<u>6,80,000</u>	
Less: : Deduction U/s 80C(P.F.)		
Taxable income from salary	Zero	
Tax Calculation :	12,500	
Up to ₹ 2,50,000	Nil	34,000
₹ 2,50,000 To ₹ 5,00,000.....	5%	
₹ 5,00,000 To ₹ 10,00,000.....	20% (₹	48,500
6,70,000)		1,940
₹ 10,00,000 above	30%	
		<u>50,440</u>
Add: Health and Education cess @ 4%	10452	
	20,904	
Advance Payment of Tax	20,904	
15% till 15 th June	17420	<u>69,680</u>
45% Till 15 th Sept.		
75% till 15 th Dec.		
100% till 15 th March		

Note : Payment with regard to tax liability for advance payment of tax of ₹ 10,000 or more is compulsory under section 208.

When return of income is deposited after the defined date.

Illustration 2 :

Total income of Himesh for the assessment year 2019-'20 ₹ 10, 00,000. His last date of filing return was 31-07-2019. He filed his return of income on dated 15-10-2019. Assessment of his income was completed on 31-10-2019 (Assessment of this situation). His advance payment of tax is ₹ 60,000 and tax deducted at source is ₹ 15,000. Calculate the amount of interest payable under section 234A for late filing of return.

Ans: Himesh has not filed his return on the defined date but filed thereafter. Hence, interest is payable from the maturity date of filing return to the date of filing return under section 234A

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Statement showing calculation of liability for tax of Shri Himesh

A.Y. 2019-'20

P.Y. 2018-'19

Total taxable income		10,00,000
Tax payable		
Tax Calculation		
Up to ₹ 2,50,000 Nil	Zero	
₹ 2,50,000 To ₹ 5,00,000.....5%	12,500	
₹ 5,00,000 To ₹ 10,00,000.....20%	<u>1,00,000</u>	
₹ 10,00,000 above30%		1,12,500
Add: Health and Education cess @ 4%		4,500
Total Tax		1,17,000
Less: Advance payment of tax	60,000	
Tax deducted at source	<u>15,000</u>	<u>75,000</u>
Remaining amount of tax payable		<u>42,000</u>
Time duration:		
Actual Month of filling return October, 2019		
– Defined month of filling return 31-07-2019		
=3 Months		
Rate of Interest 1% simple interest		
Interest under Section 234A		
= Remaining Tax X 1 X Duration = 42,000 X 1 X 3		
100 100	1260	

Note : As per rule 119A, fraction amount of ₹ 100 from the amount of remaining tax is to be ignored. Hence.

Illustration 3 :

Shweta has not filed return of income for the assessment year 2019-'20. The last date of filing return was 31-07-2019. Assessment of her income was completed on 05-10-2019. Her assessed income are ₹ 12,00,000. Her advance payment of tax is ₹ 1,20,000 and tax deducted at source is ₹ 12,000. Calculate the interest payable under section 234A by Shweta for not filing return of income. What would be the amount of interest?

Ans :

Statement showing calculation of liability for tax of Shweta

A.Y. 2019-‘20

P.Y. 2018-‘19

Particular		Amount ₹
Total taxable Income		12,00,000
Tax Calculation		
Up to ₹ 2,50,000 Nil	Zero	
₹ 2,50,000 To ₹ 5,00,000.....5%	12,500	
₹ 5,00,000 To ₹ 10,00,000.....20%	1,00,000	
₹ 10,00,000 above30%	<u>60,000</u>	1,72,500
(For ₹ 12,00,000)		6,900
Add: Health and Education cess @ 4%		1,79,400
Less: Advance payment of Tax	1,20,000	
Tax deducted at sources	12,000	1,32,000
Less: Tax Deducted at source:		47,400
Remaining amount of tax payable		
Duration :		
Month of Assessment : October,2019		
- Defined month of filing return : July, 2019		
- = 3 Months		
- Rate of interest : 1% simple interest	<u>=47,400 X 1 X 3</u>	=1,422
Interest under = Remaining tax X 1 X Duration section 234A	100	

Note:- Financial year 2020 i.e. for previous year 2021 (ay 2021-22) new tax structure is implemented as a alternative against old tax structure to an individual and stuff. Thus under new structure 5% 10% 15% 20% 25% and 30% slabs are suggested against old tax structure 5%, 20% and 30% under new structure cal calculations will be done according.

2.12 Let Us Sum Up

Income earned during P.Y. shall be charged to tax in A.Y. But assessee is required to pay the liability of tax in advance, on the taxable income of the financial year during the same financial year itself. This can be done by way of Advance Tax, T.D.S. and T.C.S.

As per Section 208 liability to pay Advance Tax arise when tax liability of assessee is ₹ 10,000 or more in financial year

“PAY AS YOU EARN” “PAYE” SCHEME- Thus Advance tax means the tax which is paid in the year in which income is earned. i.e. earning of income &

payment of tax go simultaneously. This scheme also known as “PAY AS YOU EARN” “PAYE” Any amount paid on or before 31st March of the relevant Previous Year is considered as advance Tax.

2.13 Answer for Check Your Progress

Check your progress 1

Answer :(1-a); (2-a)

Check your progress 2

Answer : (1-a)

Check your progress 3

Answer : (1-b)

Check your progress 4

Answer : (1-c)

Check your progress 5

Answer : (1-a)

Check your progress 6

Answer : (1-a)

Check your progress 7

Answer: (1-b)

Check your progress 8

Answer :(1- c)

2.14 Glossary

Advance Payment of Tax - when tax liability of assessee is ₹ 10,000 or more in financial year assessee is liable to pay Advance tax.

Deferment- Delay-Dilatoriness

2.15 Assignment

Explain the advance payment of tax

2.16 Activities

Explain the Liability for Payment of Advance Tax (Section 208)

2.17 Case Study

Stages in Calculation of payment of advance tax

2.18 Further Readings

Bharat’s Handbook on Income Tax

Student guide To INCOME TAX by Vinod Singhania



: UNIT STRUCTURE :

- 3.0 Learning Objective**
- 3.1 Introduction**
- 3.2 Income-tax Authorities**
- 3.3 Executive Authorities**
 - 3.3.1 Central Board of Direct Taxes**
 - 3.3.2 Director General of Income-tax**
 - 3.3.3 Commissioners of Income-tax**
 - 3.3.4 Deputy Commissioners**
 - 3.3.5 Assessing Officers**
 - 3.3.6 Income-tax Inspector**
- 3.4 Appellate (Judicial) Authorities**
 - 3.4.1 Deputy Commissioner (Appeals)**
 - 3.4.2 Commissioner (Appeals)**
 - 3.4.3 Appellate Tribunal**
 - 3.4.4 High Court**
 - 3.4.5 Supreme Court**
- 3.5 Settlement Commission**
- 3.6 Let Us Sum Up**
- 3.7 Answer for Check Your Progress**
- 3.8 Glossary**
- 3.9 Assignment**
- 3.10 Activities**
- 3.11 Case Study**
- 3.12 Further Readings**

3.0 Learning Objective

After learning this unit, you will be able to understand:

- Income-tax Authorities

- Executive Authorities
- Appellate (Judicial) Authorities
- Settlement Commission

3.1 Introduction

The Administration of Income-tax Law is the responsibility of the Central Government. The Government of India has constituted a number of authorities to execute the Income Tax Act and to control the Income Tax Department efficiently.

Section 116 to 138 deal with the following aspects of Income-Tax Authorities:

- I. Appointment and Control
- II. Jurisdiction
- III. Powers
- IV. Disclosure of Information.

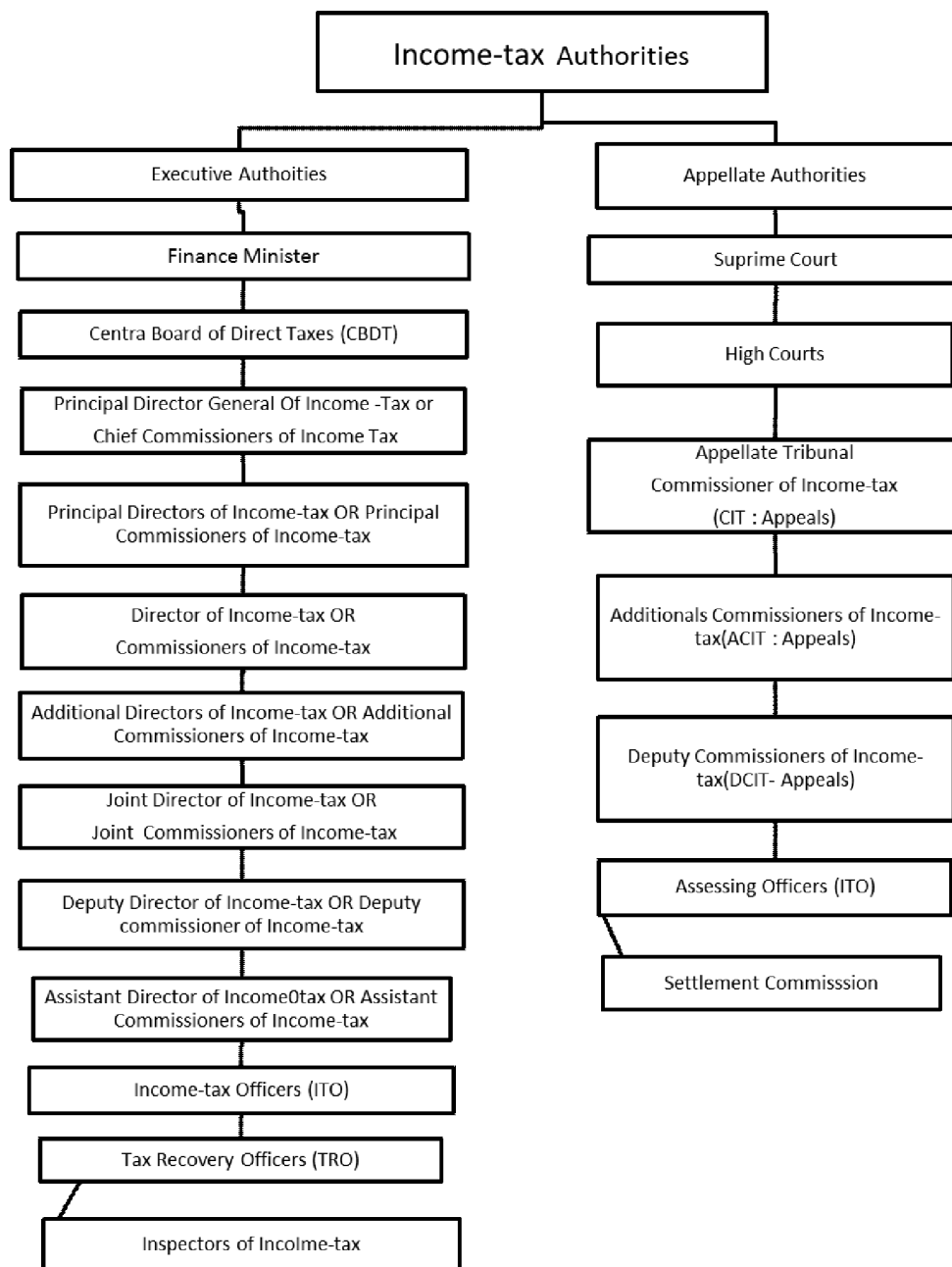
The Central Board of Direct Taxes is the supreme executive authority and has the authority over all the officers and other persons responsible for the administration of the Act. Perhaps the most important authority is the Assessing Officer (Income-tax Officer), who comes in direct touch with the assessee.

Check your progress 1

1. The Administration of Income-tax Law is the responsibility of the
 - a) Central Government.
 - b) State Government
 - c) Foreign Government
 - d) None of Above

3.2 Income-tax Authorities [Section 116]

The authorities constituted to administer the Act are two types: (i) executive, and (ii) judicial. The executive authorities have to see that the provisions of law are properly implemented and people comply with tax laws. The appellate or judicial authorities see to it that proper justice is done to honest tax payer and guilty persons are penalised.



3.3 Executive Authorities (Administrative Authorities)

Appointment of Income-Tax Authorities:

Following are the appointing authorities (Section 117):

- I. Income-Tax Authorities are appointed by the Central Governments.
- II. Income-Tax Authorities below the rank of Assistant Commissioners or Deputy Commissioners are appointed by the Board (CBDT), Director General, Chief Commissioner, Director or Commissioner.
- III. Executives are appointed by Income Tax Authorities authorised by the Board (CBDT).

3.3.1 Central Board of Direct Taxes:

The Central Board is the topmost executive authority for the administration and execution of the Income0tax law. This Board was created under the Cen-

tral Board of Revenue Act 1963. The Board consist of a chairman and six members.

- (1) It has the power to make rules under the Act [Section 295]
- (2) Under section 119, it has the powers to issue order, instructions and directions to all the officers responsible for the execution of the Act and under section 118 they are bound to observe and follow such orders of the Board. The central Government shall cause every order issued by the CBDT to be laid before each House of Parliament. At present the Board, consists of many members, one of them is the Chairman of the Board.
- (3) The board is authorised to accord sanction for assurance of reassessment order.
- (4) The board can declare an organisation as company.
- (5) It can entertain objections in respect of search and seizure under the Act
- (6) It can also approve reduction or waiver of penalty.
- (7) It can issue orders containing guidelines, principles or procedures to be followed by Income-tax authorities, in the work relating to assessment or collection of revenue etc. However, the Board has no power to issue orders, instructions or directions so as to interfere with the discretion of the Appellate Assistant Commissioner or the Commissioner (Appeals) in the exercise of the appellate function.

3.3.2 Director General of Income-tax (Chief Commissioner of Income-Tax)

The Central Government appoint the Directors General Who are required to perform such functions as may be assigned by the Central Board of Direct Taxes. The powers of Director General are as stated below:

- I. To give instruction to Assessing Officer.
- II. To enquire or investigate into concealment of income.
- III. To search and seizure.
- IV. To requisite books of account.
- V. To survey, and
- VI. To make any enquiry.

3.3.3 Commissioners of Income-tax

The Central Government appoints Commissioners of Income-tax. He is the head of the income-tax administration of specified area, which is usually a

state. If the work-load of a particular state is heavy, two or more commissioners may be appointed for that state, e.g. Gujarat, Maharashtra etc. The Commissioner works under the control and supervision of Board and is given powers to Act like a civil court under the Code of Civil Procedure’.

He has the power:

- I. To appoint income-tax officer and also Inspectors of Income-tax.
- II. To transfer any case from one Income-tax officer to another officer
- III. To initiate procedure regarding discovery and inspection, production of books of account, issuing commission etc.
- IV. To waive or reduce any penalty, interest etc.
- V. To make any inquiry under the Act.

3.3.4 Deputy Commissioners

They are also appointed by the Central Government. The main function of Such Deputy commissioners is to detect tax evasion and supervise subordinate officers.

2.3.5 Assessing Officers (Income-Tax Officers)

There are two classes of ITO: Class-I ITO and Class-II ITO, Class-I ITO are appointed by Central Government and Class-II ITO are appointed by Commissioner of Income-tax. Some powers are given to an ‘Assessing Officer’ are as under:

- I. Power to make assessment and issuing notice of demand to an assessee.
- II. Power to instruct an assessee to get his accounts audited.
- III. Power to reassess income which has escaped assessment
- IV. Power to allot Permanent account number.
- V. Power to call for information.

3.3.6 Income-tax Inspector

The income-tax officer is appointed by the Commissioner subject to rules and orders of the Central Government. They are subordinate to the Income-tax Officer. Their main function is to assist the Income-tax Officer or any other Income-tax authority under which they are placed.

The decision of Supreme Court is final in respect of question of law

Check your progress 2

1. Which of the following statement is correct
 - (a) Inspectors of Income Tax are appointed by income Tax Officer
 - (b) Income Tax Officer are appointed by central Government
 - (c) Commissioners of Income Tax are appointed by Central Board of Direct Taxes
 - (d) The decision of Supreme Court is final in respect of question of law.

3.4 Appellate (Judicial) Authorities

The Income-tax officer is an executive authority who assesses the income of the assessee and issues the assessment order. The assessee may be dissatisfied with the assessment. In that case, appellate authorities are appointed by the government who would listen to the appeals and try to give justice.

3.4.1 Deputy Commissioner (Appeals)

The deputy Commissioner is appointed by Central Government. His main function is to hear the appeals filed by an assessee who is dissatisfied with the order of the income-tax Officer. Such appeal is to be made to him within 30 days from the date of order.

3.4.2 Commissioner (Appeals)

Commissioners of Income-tax (Appeals) are also appointed by the Central Government. They are empowered regarding discovery. Production of evidence etc., to call for information, to inspect registers of companies, to set off refunds against tax unpaid, to dispose of appeals and to impose penalty.

3.4.3 Appellate Tribunal

This is an independent body from the executive wing of the Income-tax department. its function is to hear appeals against the order of the Deputy Commissioner(Appeals). The Tribunal is constituted by the Central Government. It functions under the Ministry of Law. Both the assessee and the Income-tax department have a right to make an appeal to it within 60 days from the date on which the order was received by him. The assessee has to pay a fee along with such appeal which is equal to 1% of assessed income subject to a maximum of ₹ 10,000.

3.4.4 High Court

Only questions of law arising out of the order of the Tribunal can be referred to the High Court. IT can be made through the Tribunal. The application to the tribunal for making a reference in the High court is to be made within 60 days from the date of the service order of the Tribunal. If the Tribunal refuses

or refer the case to the High Court on ground that no question of law is involved. Then the applicant may apply to the High Court directly within 120 days from the date on which he is served with notice of such refusal. If the High court is not satisfied with the correctness of the decision of the Tribunal, It may ask the Tribunal to the state the case and to refer it. In that case the Tribunal is bound to do so.

2.4.5 Supreme Court

An appeal can be made to the Supreme Court from any judgement of the High Court given in reference made to it within 90 days period from the date of such judgement. But the High Court should certify that the case is fit for appeal to the Supreme Court.

If on an application made U/s 256, the Tribunal is of the option that on account of a conflict in the decision of High Courts in respect of any particular question of law, it is necessary to make a reference direct to the Supreme Court; the Tribunal can make a direct reference to Supreme Court through its President. The decision of the Supreme Court on The question of law is final.

3.5 Settlement Commission

Settlement Commission was set up on 1st April 1979. The Commission is empowered to settle any case which is pending for disposal before an Income-tax authority. It is not an appellate authority. It is extra legal remedy for settlement of cases. IT consists of a chairman, one or more vice-chairmen and other members who are appointed by the Central Government. The main Bench of the Commission is in New Delhi and three additional benches are in Mumbai, Kolkata and Chennai.

Objects:

- I. The object behind the setting up the Settlement Commission is to create a channel whereby tax disputes can be settled expeditiously and in a spirit of conciliation rather than prolonging them through adversarial attitude.
- II. The commission is not designed to provide an escape route for tax evaders. It is, in fact, designed to provide a balanced resolution of tax disputes with a view to avoid lengthy litigation which helps neither the department nor the member of the Trade and Industry.
- III. In the proceeding before the Commission, there are no adversaries but only parties to the settlement.
- IV. Any assessee can make an application in such form and in such manner as may be prescribed by the commission and containing 'Full & True' disclosure of his tax liability which has not been disclosed before the

proper officer having jurisdiction, the manner in which such liability has been derived.

Powers :

- I. The settlement commission has powers to grant immunity from prosecution for any officer under the Central Excise Act, the Custom Act or under the Indian Penal Code or under any other Central Act for the time being in force in respect of the case covered by the settlement commission.
- II. The commission also has powers to grant immunity either wholly or in part from the imposition of any penalty and fine under Central Excise Act or the Custom Act, s the case may be in respect of the case covered by the settlement Commission.
- III. The proceeding before the settlement Commission shall be deemed to be a judicial proceeding within the meaning of Section 193 and 228, and for the purposes of Section 196 of the Indian penal Code.

Check your progress 3

1. Which of the following statement is not correct ?
 - (a) The power to issue an 'assessment order' rests with the Commissioner of Income tax;
 - (b) Income Tax Officers are appointed by the commissioner of Income Tax;
 - (c) Appointing authority for Commissioner of Income Tax is the Central Government;
 - (d) The authority, whose decision about the facts of a case is considered as final is the appellate Tribunal
2. Which of the following powers is not correct with reference to an Assessing Officer (ITO)?
 - (a) Power to allot permanent account number
 - (b) Power to call for information, to requisition books of accounts, to inspect register of companies etc;
 - (c) Power to issue notice to furnish income returns;
 - (d) Power to waive or reduce any penalty, interest etc. levied by him.
3. Which of the following is not an Income Tax Authority under the Income Tax Act ?
 - (a) The central Board of Direct Taxes (CBDT);

- (b) The Income Tax Appellate Tribunal;
 - (c) The Inspector of Income Tax;
 - (d) The Assessing Officer (Income Tax Officer)
4. Which of the following statement is correct is correct regarding circulars issued by the Central Board of Direct taxes (CBDT) ?
- (a) They are binding only on assessees;
 - (b) They are binding only on Income Tax Authorities;
 - (c) They are binding on assessee as well as Income Tax Authorities;
 - (d) They are neither binding on Income Tax Authorities nor on the assessee.
5. Which of following is authorized to appoint 'Income Tax Authority below the rank of Deputy Commissioner of Income Tax ?
- (a) The Central Board of Director Taxes (CBDT) only;
 - (b) The Central Government;
 - (c) The Supreme Court;
 - (d) The CBDT/ Director General / Chief Commissioner/ Commissioner if authorized by the CBDT.
6. Which of the following powers is not given to an assessing officer?
- (a) Power to dispose off any appeal;
 - (b) Power to impose penalty for non-payment of self-assessment tax;
 - (c) Power to reassess income which has escaped assessment;
 - (d) Power of search and seizure, if authorised
7. Which of the following is the correct time limit for filling of first appeal against an order issued by Income-tax Officer?
- (a) Within 30 days from the date of Order;
 - (b) Within 30 days from the date of serving of the Order;
 - (c) Within 1 month from the date of serving the Order;
 - (d) Within 60 days from the date of serving the Order.

3.6 Let Us Sum Up

The Administration of Income-tax Law is the responsibility of the Central Government. The Government of India has constituted a number of authorities to execute the Income Tax Act and to control the Income Tax Department efficiently. The authorities constituted to administer the Act are two

types: (i) executive, and (ii) judicial. The executive authorities have to see that the provisions of law are properly implemented and people comply with tax laws. The appellate or judicial authorities see to it that proper justice is done to honest tax payer and guilty persons are penalised.

3.7 Answer for Check Your Progress

Check your progress 1

Answer: (1- a)

Check your progress 2

Answer: (1- d)

Check your progress 3

Answer: (1- a),(2-d),(3-b),(4-b),(5-d),(6-a),(7-b)

3.8 Glossary

Seizure-The action of capturing someone

Appellate-Judicial Authority

Tribunal-A court of justice, Arbitrator

3.9 Assignment

What are various income-tax authorities? What are their powers?

3.10 Activities

Who has right to appoint Income-tax Authorities?

3.11 Case Study

Role of Central board of Direct Taxes.

3.12 Further Readings

1. Student guide To INCOME TAX by Vinod Singhanian
2. Bhrat's Practical Approach To Income Tax by Dr. Girish Ahuja & Dr. Ravi Gupta
3. Taxman's Income Tax Mini Ready Reckoner

Block Summary

The best efforts have been made to explain the topics in very easy language and in most interesting ways. Sufficient illustrations and pictures have been added to make the content more interesting and easy understandable. The whole block has been divided into three units

Unit one explains the Head of Income "Income from other sources". Generally this head of income includes dividend income, winning from lottery, horse races, commission income and income from security. This head even includes the salary income of that person where the relationship between the person of payee and payer is not of employee or employer.

Unit two explains the Advance Payment of Tax and Interest. Here detailed discussion about assessee is required to pay the liability of tax in advance on taxable income of the financial year during the same financial year itself. This can be done by way of advance Tax, T.D.S. and T.C.S.

Unit three explains Income Tax Authority the Administration of Income Tax law is responsibility of Central Government. The Government of India has constituted a number of authorities to execute the Income Tax Act and Control the Income Tax Department efficiently.

This block will certainly prove itself to be of great importance for the students of this stream in getting this subject in a much better way.

Block Assignment

Short Answer Questions

1. Interest on securities.
2. Dividend
3. Deductions allowed from income from other sources.
4. Kinds of Securities.
5. Method of Accounting.
6. When advance tax is payable?
7. How would you deal with TDS and advance tax paid to determine interest payable by assessee?
8. Interest U/s 234 A is about late payment of advance tax
9. Who has right to appoint Income-tax Authorities?
10. Role of Central Board of Direct Taxes.
11. Powers of Income tax Officers.

Long Answer Questions

1. Discuss the types of income categorized under income from other sources
2. Explain section 234 A, 234 B and 234 C
3. What are various income-tax authorities? What are their powers?

Enrolment No.:

1. How many hours did you need for studying the units ?

Unit No.	1	2	3	4
Nos of Hrs				

2. Please give your reactions to the following items based on your reading of the block:

Items	Excellent	Very Good	Good	Poor	Give specific example if any
Presentation Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
Language and Style	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
Illustration used (Diagram, tables etc)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
Conceptual Clarity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
Check your progress Quest	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
Feed back to CYP Question	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

3. Any Other Comments

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**Dr. Babasaheb
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BBAR-501

DIRECT AND INDIRECT TAXES

BLOCK-4 GOODS AND SERVICE TAX

UNIT 1

GOODS AND SERVICE TAX – I (INTRODUCTION)

UNIT 2

GOODS AND SERVICE TAX – II (MODEL OF GST, SILENT FEATURE AND BENEFIT OF GST)

UNIT 3

GOODS AND SERVICE TAX - III (DEFINITIONS, EXEMPTIONS, TAX RATES AND INPUT TAX CREDIT OF GST)

BLOCK 4 : GOODS AND SERVICE TAX

Block Introduction

This block covers the topic Goods and Service tax. It discusses Goods and Service tax is one of the most important indirect tax as it is collected from the buyers by the seller and then deposited in the government account by the seller. The writer has tried his best to explain the topics in very easy language and in most interesting ways. Sufficient illustrations have been added to make the content more interesting and easily understandable. The whole block has been divided into three units.

In this block Unit 1 covers the Goods and Services Tax-I. It gives a brief introduction of the act, History and Concept of GST, Model of GST, Unit 2 Model of GST and Silent feature of GST, Unit 3 Definition, Exemption from GST, GST Rate, Input tax credit

After study of this block the students will certainly be able to understand Concept of GST.

This block is going to be of great help for the students of management who want to opt. taxation and finance as their field of career.

Block Objective

After learning this block, you will be able to understand:

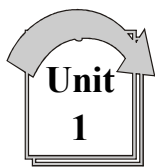
- History and Concept of GST
- Component and Basic Idea of GST
- Model of GST
- Silent feature
- Role of central board of excise and customs
- Definition, exemption from GST, GST Rate, Input tax credit.

Block Structure:-

UNIT 1 : GOODS AND SERVICE TAX – I (INTRODUCTION)

UNIT 2 : GOODS AND SERVICE TAX – II (MODEL OF GST, SILENT FEATURE AND BENEFIT OF GST)

UNIT 3 : GOODS AND SERVICE TAX - III (DEFINITIONS, EXEMPTIONS, TAX RATES AND INPUT TAX CREDIT OF GST)



GOODS AND SERVICES TAX (GST)-INTRODUCTION

: UNIT STRUCTURE :

- 1.0 Learning Objective
- 1.1 Introduction
- 1.2 History of Indirect Taxation
- 1.3 Concept of goods and services (GST):
- 1.4 The year wise evolution of GST in India
- 1.5 Components of GST
- 1.6 Limitations of Old Indirect Tax Structure
- 1.7 Basic Idea of GST
- 1.8 Example for concept of GST
- 1.9 Let Us Sum Up
- 1.10 Answer for Check Your Progress
- 1.11 Glossary
- 1.12 Assignment
- 1.13 Activities
- 1.14 Case Study
- 1.15 Future Reading

1.0 Learning Objective

After learning this unit, you will be able to understand:

- Concept of goods and services (GST)
- Components of GST
- Limitations of Old Indirect Tax Structure
- Basic Idea of GST

1.1 Introduction

The present indirect tax structure includes varied of restrictions in the form of different points of taxation, different rates of taxes, different threshold limits, lack of uniformity and transparency, cascading effect of tax, administrative difficulties, narrow tax base and nature of transactions. The introduction of Goods and Service Tax (GST) shall be proved as a landmark step in the field of Indirect Taxation. GST would definitely enhance the business opportunities as it would provide the Indian goods and services industries an extra edge, by aliening different indirect taxes imposed at central and state levels in to a single tax law and enhancing the benefits of tax credit. The ultimate consumer shall be benefitted with reduction in the overall tax obligation on goods and services thereby leaving a positive outcome on price. The goods and services can be made available on competitive prices in the

domestic as well as international markets. The Government shall also be benefitted in terms of broadening of tax base, enhanced levels of volumes and tax compliance. One of the most important benefits shall be the administrative relaxation over a period of time.

Check Your Progress 1

1. The present indirect tax structure Includes varied of following restrictions in the form of different points of taxation
 - (a) Different rates of taxes
 - (b) Different threshold limits
 - (c) Lack of uniformity and transparency
 - (d) All of above

1.2 History of Indirect Taxation

As per the tax structure of India, the Government collects different taxes directly and indirectly. The direct taxes are on Income or profits while indirect taxes are on goods and services. An Indirect tax is a tax which is paid to the Government by one entity in the total supply chain, but ultimately it is passed on to the customer-consumer by adding the same in the price of goods or services. The ultimate consumer of product or service is paying the tax by paying more for the product or service. The Government of India has mooted an idea to replace the present indirect taxes by a new and common Indirect tax namely goods and services tax- GST 1st jul,2017 an idea to replace the present indirect taxes which were applicable in India have made the structure very clumsy due to cascading effect of tax, difficult and lengthy procedural compliance, administrative and technical limitations etc. There were varied indirect taxes applicable before implementation of GST.

Central Level

Sr. No.	Tax	Taxable Event	Rate	Constitutional
1	Excise Duty-It decides the taxability of manufacturing event.	Manufacturing	Median Rate=12.50%	Entry no. 84 List-I of Schedule VII
2	Service Tax- It decides the taxability of service event.	Provision of Service	Single Rate=15%	Residuary Entry no.97 List-I of Schedule VII
3	Custom Duty- It decides the taxability of Import/Export event.	Import and Export of goods	Median Rate=24%	Entry no. 83 List-I of Schedule VII

State Level

GOODS AND SERVICES TAX (GST)- INTRODUCTION

4	Central Sales Tax- It decides the taxability of ownership transfer event.	Sales – Trading Inter-state	Different Rates ranging from 0%, 4%, 12.50% & 20%	Entry no.92A List-I of Schedule VII
5	Value Added Tax (VAT) - It decides the taxability of ownership transfer event.	Sales-Trading within the State i.e. Intra State	Different Rates ranging from 0%, 4%, 12.50% & 20%	Entry no. 54 List-II of Schedule VII
6	Octroi and Entry Tax	Tax no Entry in all forms	Different Rates	--
7	Entertainment Tax	Tax on Entertainment (Except imposed by Local Authority)	Different Rates	--
8	Other taxes Purchase Tax, Electricity Duty, Luxury Tax, Taxes on Lottery, Gambling and betting		Different Rates	--

Different types of taxes lead to conflicts and increase in work burden for governments, tax payers, tax authorities, customers, international market and judiciary system also. In India due to limitations and over work burden of above mentioned taxes in place of them new tax is implemented. These old tax-acts were formed about before 60 years. The limitation of old tax acts are discussed subsequently. To eliminate these limitations of new tax Goods and service tax is introduced by the Indian government. Central Government and State Governments are subsumed in to Goods and Services Tax(GST) are explained as follows with the help of following figure.

Cancellation of Taxes	
Central Government <ul style="list-style-type: none"> ➤ Central Excise Duty ➤ Custom Duty ➤ Service Tax ➤ Surcharges & Cesses 	State Government <ul style="list-style-type: none"> ➤ State Value added tax ➤ Sales Tax ➤ Central Sales Tax ➤ Purchase Tax ➤ Luxury Tax ➤ Octroi ➤ Tax on Advertisement ➤ Tax on lottery, Gambling ➤ Surcharges & Cesses

Check Your Progress 2

1. The direct taxes and indirect taxes are calculated on.
 - (a) Income or profits and Goods and services
 - (b) Goods and services and Income or profits
 - (c) Both are only on Income
 - (d) None of Above

- | | |
|--|------------------|
| 2. Following taxes are cancelled by Central government | |
| (a) Central Excise Duty | (b) Custom Duty |
| (c) Service Tax | (d) All of above |

1.3 Concept of goods and services (GST):

Meaning of “Goods and Services” under clause (12A) of Article 366 of constitution of India is as follows:

“Goods and Services Tax” means any tax supply on goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.

The Alcoholic liquor for human consumption has been kept out of GST. Thus existing provisions of state Excise and VAT shall apply in the case of alcoholic liquor for human consumption.

‘Goods’:

Clause (12) of Article 366 of constitution defines “goods” as follows:

“goods” includes all materials, commodities and articles.”

‘Services’:

Clause (26A) of Article 366 of constitution defines “Services” as follows:

‘Services’ means anything other than goods.

Under article of 366 of the Indian constitution, Definition of ‘goods’ and ‘services’ are given.

As per the Central Goods and services Tax Act, 2017, definition for ‘goods’ and ‘services’ are as follows.

Goods (u/s. 2(52) of (GST)): ‘Goods’ means every kind of movable property other than money and securities, but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be served before supply or under a contract of supply.”

Characteristics:-

- (i) Money and securities are not included in goods.
- (ii) All movable property are included in goods.
- (iii) Actionable claim, Growing crops, grass and things alcohol to or forming part of the land, which are included in supply agreement are included in goods.

Services (u/s. (102) of (GST)): ‘services’ means anything other than goods, money and securities but includes activities relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

Characteristics:

- (i) Goods, money and securities are not included in services.
- (ii) Any activity of money used is included in services.
- (iii) The conversion from one currency or denomination to another currency or denomination is included in services.

(iv) Separate consideration is charged for above mentioned (ii) and (iii).

Check Your Progress 3

1. Which liquid for human consumption is not included in GST?
 - (a) Milk
 - (b) Alcoholic liquor
 - (c) Mineral Water
 - (d) None
2. 'Services' means
 - (a) Materials
 - (b) Commodities
 - (c) Anything other than goods
 - (d) Articles

1.4 Many countries have introduced GST. The year wise evolution of GST in India is as under:

No.	Date	Particulars
1.	2004	Idea given by Kelkar committee
2.	28-02-06	Union minister put forward idea of GST from April 2010 in budget speech 2007-08.
3.	19-12-14	Constitutional (122 Amendment) Bill 2014 introduced in Lok sabha.
4.	06-05-15	Constitutional (122 Amendment) Bill 2014 passed in Lok sabha.
5.	03-08-16	Constitutional (122 Amendment) Bill, 2014 in Rajya sabha.
6.	27-03-16	Central Legislation – CGST Bill, 2017, IGST Bill, 2017, UTGST Bill, 2017, GST (Compensation to state) Bill 2017 are introduced in Lok sabha.
7.	29-03-16	All the bills passed in Lok sabha.
8.	12-04-17	All the bills received assent of president.
9.	09-04-17 12-06-17	All states have passed their GST Bill.

Due to introduction of GST several Central and state taxes are subsumed. Instead of having different taxes only one tax came in to existence across the country. With introduction of GST the single biggest tax transformation began. In India GST was launched with the slogan of 'One nation one tax.'

1.5 Components of GST:

GST is unique in nature. It includes different types of taxes collected by Governments. Now the burden of all government is significantly reduced in the context of all kinds of tax related activities.

GST is a single tax on the supply of goods and services or both, right from the manufacturer to the end users. Credits of input taxes paid of each stage are available in the subsequent stage of value addition, which makes GST essentially a tax only on value addition of each stage.

The several Components of GST can be clearly understood with the help of following presentation. For each tax has its own GST ACT.

GOODS AND SERVICE TAX

- (1) CGST – It is called central GST.**
 - It is levied by the Centre Government.
 - It is levied on Intra state supply of goods or services or both.
 - Different taxes collected by centre are subsumed in this tax.
- (2) SGST – It is called state GST.**
 - It is levied by the respective state Government.
 - It is levied on Intra state supply of goods or services or both.
 - Different taxes collected by state are subsumed in this tax.
- (3) UTGST – It is called Union territory GST.**
 - It is levied by the Centre Government.
 - It is levied by Intra state supply of goods or services or both.
 - It is sum of CGST and UTGST
- (4) IGST – It is called integrated GST.**
 - It is levied by the Centre Government.
 - It is levied on Intra state supply of goods or services or both.
 - CST subsumed here.
 - IGST is sum of CGST and SGST.

(5) GST (Compensation to state):

This Tax is to provide for compensation to the state for the loss of revenue arising on account of implementation of GST. For the purpose of calculating the compensation amount payable in any financial year during the transition period, (Period of five years from the transition date), The financial year ending of 31st march, 2016, shall be taken as the base year. The projected nominal growth rate of revenue will be 14%. To determine base year revenue for a state shall be the sum of the revenue collected by the state and local bodies, during the base year. The net sum of taxes will be considered for revenue of base year, which are follows.

- Value added tax, sales tax, purchase tax etc.
- Central sales tax
- The taxes on luxuries including taxes on entertainments, amusements, betting and gambling etc.
- The entry tax, Octroi, local body tax etc.
- Any cess or surcharge or fee leviable by the states.

This compensation will be given for transition period to the respective state. The compensation payable to a state shall be provisionally calculated and released of the end of every two months period, and shall be finally calculated for every financial year after the receipts of final revenue figures, as audited by the comptroller and auditor- general of India.

Check Your Progress 4

1. Inter-State supply of goods or services mean supply of goods or services
 - (a) Between dealers of two or more States only
 - (b) Between dealers of two or more Union Territory only
 - (c) Between dealers of two or more State or more Union Territory
 - (d) Between dealers of one State or Union Territory only
2. In case of Inter-State supply of goods and services,, _____ tax is applicable.

(a) CGST	(b) SGST/UTGST
(c) IGST	(d) Both CGST & SGST /UTGST
3. In case of Intra-State supply of goods and services,, _____ tax is applicable.

(a) CGST	(b) SGST/UTGST
(c) IGST	(d) Both CGST & SGST /UTGST

1.6 Limitations of Old Indirect Tax Structure

The existing indirect tax structure has the following limitation

- (1) **Cascading effect of Tax:** There were varied and multiple taxes on the same goods due to multiple levels of central and state levies. This resulted into cascading effect of Tax. The old structure did not allow taking tax credit of state VAT paid against Central Sales tax collected. Ultimately, it increased overall burden of tax in the hands of end consumer, user, customer, buyer or acquirer of goods or services.
- (2) **Multiple Point of Taxation:** The major grey area of old tax structure was multiple points of taxation. For example, Excise duty was imposed on Manufacturing and collected when goods were removed from factory irrespective of the fact that goods were removed due to sale or otherwise. The same product would be taxed for multiple times till it reaches to ultimate consumer
- (3) **Different Threshold Limit:** Under different old Indirect tax laws, there were different threshold limits based on Turnover. For Example, in case of Service Tax, the limit was ₹. 10, 00,000 while in case of Gujarat VAT, the limit was ₹. 5, 00,000. In complexities, with other countries, the tax base of indirect tax was narrow.
- (4) **Administrative difficulties:** According to the old applicable indirect tax laws, one businessman had to approach different tax administrative offices. These resulted in to increase in compliance cost, created complexities, and consumed more time and efforts in procedures.
- (5) **Concessions and Exemptions:** All business entities were enjoying different types of Concessions, reliefs and exemptions due to different levies. This had resulted into misrepresentation of law by breaking the chain of value Added Tax. The same product would be taxed at differ-

ent rates in different states also played a critical role in old structure of Indirect Taxation.

- (6) **Lack of Uniformity:** The old Indirect tax structure suffered from lack of uniformity in various aspects. In addition to different rates applicable on the same goods, there were dissimilarity in procedure, credit provisions and administrative matters.
- (7) **Transparency:** There was no device developed to cross verify the claim of CENVAT credit under Excise and service tax. These resulted into lack of transparency about taxes paid in business fraternity.
- (8) **Nature of Transactions:** There was concrete distinction among goods and services. But, now a days, the good and service are being marketed as a package deal as a part of supply chain arrangements. Under old system, neither central nor State had power to apply combine tax on such a package deal. This has created overlapping of tax.

Check Your Progress 5

1. Limitations of Old Indirect Tax Structure
 - (a) Cascading effect of Tax:
 - (b) Different Threshold Limit
 - (c) Lack of Uniformity
 - (d) All of above

1.7 Basic Idea of GST

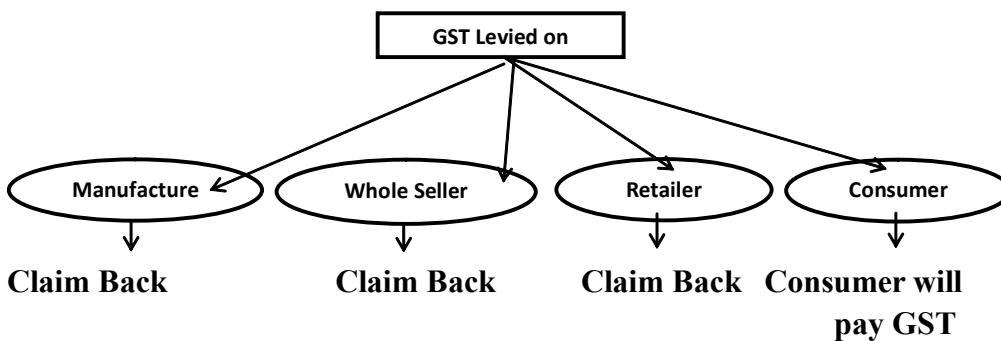
The Basic idea of GST is described with following features:

- (1) **An Extension of VAT:** GST is nothing but an extension of Value Added Tax which is imposed on manufacture, sale and consumption of goods and services. Previously, the Government has introduced VAT by replacing State level Sales tax. The other indirect taxes such as Excise duty Customs Duty were continuing on the goods. At the same time the Service tax was also applicable on the services.
- (2) **Tax Credit:** It provides continuous and comprehensive chain of tax credit from manufacture or service provider's point to the ultimate consumer's point by charging tax only on the value added at each stage of supply chain.
- (3) **Set-off-Benefits:** The supplier at each stage is allowed to get the credit of tax paid on purchases or services and can get the benefit of Set-off the said credit against tax payable on the supply of goods and services. Thus, the burden is only on the ultimate consumer with Set-off benefits.
- (4) **Removal of Cascading effect:** Under GST, only value added at each stage is taxed. The adverse effect of Tax on tax in old structure shall be removed. There is no differentiation between goods and services under GST, so both are taxes at single rate.

1.8 Example for concept of GST

In order to understand the basic idea behind imposing the GST by replacing a numerous Indirect Taxes, the following example is described covering three different situations viz.

(1) Old Structure of Indirect Taxes, (2) concept of VAT (3) Effects in GST. The Manufacturer (M) manufactures the goods and sales the same to wholesale or Semi-wholesale Dealer (W), who in turn adds his level of expenses and profit and sales to the Retailer (R). The ultimate Consumer or Customer (c) gets his product from the Retailer. The following data shows per unit production cost and price of the product subject to assumption of 10% tax at any level.



(1) Old Indirect Tax Structure

Cost-price Structure	M	W	R	C
Material	30	110	165	275
Add: Labor-Overheads-Expenditure	60	20	35	-
Add: Profit	10	20	50	-
Basic Price	100	150	250	275
Add: Tax @ 10% (Excise/Sales Tax)	10	15	25	-
Net Selling Price	110	165	275	275

The product with manufacturing cost amounts to only ₹. 100 but the ultimate consumer gets the same product at the price of ₹. 275. The major limitations of old structure were Cascading Effect (Tax on Tax) as can be seen In the above example, no input credit available for some indirect taxes paid against collected thereby increase in the price ultimately charged the customer.

(2) The Basic Concept of VAT

Cost-price Structure	M	W	R	C
Material	30	110	154	247.50
Add: Labour-Overheads-Expenditure	60	20	35	-
Add: Profit	10	20	50	-
Basic Price	100	150	239	247.50
Add: Tax @ 10% Only on Value Added by				
Any One in a Supply Chain	10	4	8.5	-
Net Selling Price	110	154	247.5	247.50
Tax on Tax = Cascading Effect No Credit Required = Total Saving		11	16.5	27.5

GOODS AND SERVICE TAX

The idea of imposing the value Added Tax was to remove Cascading effect (Tax on Tax) at the same time the Dealer at any stage would require to charge tax only on his portion of Value addition thereby reducing the price charged from the ultimate consumer, which can be seen in the above example. The Major limiting factor was that no input tax credit made available for some indirect taxes paid against collected thereby increase in the price ultimately charged from the customer. The concept of VAT was introduced to remove the cascading effect to the extent possible but Excise duty CENVAT was not available as credit against State level VAT paid by the dealer. Again, VAT was not covering the Services.

(3) Under GST

Cost-price Structure	M	D	R	C
Material	30	110	154	247.50
Add: Labour-Overheads-Expenditure	60	20	35	-
Add: Profit	10	20	50	-
Basic Price	100	150	239	247.50
Supply Value without Input Tax	100	140	225	
Add: Tax @ 10%	10	14	22.5	-
Only Difference Tax Payable with Input				
Tax Credit		4	8.50	-
Net Selling Price	110	154	247.5	247.50
Tax on Tax = Cascading Effect No Credit Required = Total Saving		11	16.5	27.5

1.9 Let Us Sum Up

Goods and services Tax (GST) shall be proved as a landmark step in the field of Indian Taxation. The present Indian tax structure includes The present indirect tax structure Includes varied of restrictions in the form of different points of taxation, different rates of taxes, different threshold limits, lack of uniformity and transparency, cascading effect of tax, administrative difficulties, narrow tax base and nature of transactions.

GST would definitely enhance the business opportunities as it would provide the Indian goods and services industries an extra edge, by aliening different indirect taxes imposed at central and state levels in to a single tax law and enhancing the benefits of tax credit. The ultimate consumer shall be benefited with reduction in the overall tax obligation on goods and services thereby leaving a positive outcome on price.

1.10 Answer For Check Your Progress

Check your progress 1

Answer: (1- d)

Check your progress 2

Answer: (1- a); (2 -d)

Check your progress 3

Answer : (1-b);(2-c)

Check your progress 4

Answer : (1-c);(2-c);(3-d)

Check your progress 5

Answer: (1-d)

1.11 Glossary

Excise duty: It decides the taxability of manufacturing event

Custom duty: It decides the taxability of Import/ Export event

Service Tax: It decides the taxability of Service event

Sales Tax/ Vat: It decides the taxability of event of ownership transfer

1.12 Assignment

Write limitations of old indirect Tax Structure

1.13 Activities

Explain concept of GST

1.14 Case Study

Basic Idea of GST

1.15 Future Reading

1. Student Guide To Income Tax Including GST By Dr. Vinod K. Singhanian & Dr. Monica Singhanian
2. Goods and Service Tax Foreword by Dr. Harsh Vardhan
3. GST Act's Rules & Forms by CA Ashok Batra



: UNIT STRUCTURE :

- 2.0 Learning Objective**
- 2.1 Introduction**
- 2.2 Model of GST**
- 2.3 Salient features of GST**
- 2.4 Benefits of GST**
- 2.5 GST and centre state financial Relation**
- 2.6 Role of centre board of excise and customs.**
- 2.7 Let Us Sum Up**
- 2.8 Answer for Check Your Progress**
- 2.9 Glossary**
- 2.10 Assignment**
- 2.11 Activities**
- 2.12 Case study**
- 2.13 Further Reading**

2..0 Learning Objective

After learning this unit, you will be able to understand:

- Model of GST
- Salient features of GST
- Benefits of GST
- GST and centre-State Financial Relation
- Role of central Board of excise and customs

2..1 Introduction

GST is not a new concept world-wide. World first country to implement GST law in the year 1954 was France. Thereafter, the GST law in some form or other has been implemented by 159 other countries. During the budget 2006-'07, the Government of India has mooted an idea to replace the present indirect taxes by new and common Indirect tax namely "Goods and Service Tax – GST", the journey of GST has started in the year 1986. For implementation of "Goods and Service Tax –GST "by replacing all Indirect Taxes. In this chapter will have discussed Model of GST, Salient features of GST and benefits of GST.

**GOODS AND SERVICE
TAX-II**

(MODEL OF GST, SAILENT
FEATURE AND BENEFITS OF GST)

Check your progress 1	
1. World first country to implement GST law in the year 1954 was.	
(a) India.	(b) France
(c) USA	(d) None
2. The journey of GST has started in the year	
(a) 1986.	(b) 1989
(c) 1992	(d) None

2..2 Model of GST

The GST Modal is the dual model with Centre and States imposing taxes concurrently. The GST model covers the following three categories.

Sr.	GST	Transaction	Replacement of Existing Taxes
1	State Level GST- SGST	Intra-state supply of Goods or services.	Purchase Tax, Entertainment Tax, Luxury Tax, Octroi and Entry Tax, Taxes on Lottery, Gambling and betting state VAT, Surcharges and cesses on supply of goods or services imposed by States.
2	Central level GST- CGST	Intra-state supply of Goods or services.	Central Excise duty, Additional Excise duty, Excise duty on Medicinal Toiletries preparations, Service Tax, Countervailing Custom duty(CVD) Special additional custom duty@4% (SAD), Surcharges and cesses on supply of goods or services imposed by center
3	Integrated GST- IGST	Inter-state Supply Of Goods or services	All above taxes in the course of Interstate supply of goods and services.

The following taxes are not being replaced by the GST.

Basic Custom duty-Protective duty on Important of Goods, Export Duty, Road & passenger Fees (toll tax), Property Tax, Stamp Duty and Electricity duty.

Check your progress 2	
1. The GST Modal is the dual model with Centre and States imposing taxes concurrently. The GST model covers the following three categories.	
(a) State Level GST	(b) Central level GST
(c) Integrated GST	(d) All of above

2..3 Salient Features of GST

(1) **One nation – one tax concept:** The GST is a common indirect tax for the entire country which shall provide one integrated market. It is a single tax on the supply of goods and services, right from the manufacturer to the ultimate customer. By integrating a huge number of cen-

tral and state taxes into a single tax, GST would minimize double taxation in a most important manner and thereby create a common national market.

- (2) **Destination based consumption Tax:** The principle of origin based taxation was applicable in the old structure of indirect taxation. However, the GST is destination based consumption tax. The same shall be applicable on the supply of goods or services as against the old concept of tax on the manufacturing and sale of goods or provision of services. The Destination based consumption tax simplifies the Indirect tax structure and the Government administrative inconvenience shall be easier which shall indirectly benefitted to the consumer in long run.
- (3) **Supply: Services Vs Goods Controversies:** GST would be applicable on “supply” of Goods or Services as against the old concept of tax on the manufacture of goods or on sale of goods or on provision of services. Now a days, the good and services are being marketed as a package deal as a part of supply chain arrangements. “Supply” includes – all forms of supply of goods or services or both such as a sale, transfer, barter, exchange, license, rental, and lease for a consideration in the course of or furtherance of business.
- (4) **Dual Model:** The dual GST model been created with the centre and the states simultaneously levying GST on a common base. The GST to be charged by the centre is called centre GST i.e. CSGT and that to be imposed by states including Union territories with legislature is called state GST i.e. SGST. Union territories not having legislature shall impose Union territory GST i.e. UTGST.
- (5) **Integration:** In the case of Inter-state supply of goods or services including transfers of stock, an Integrated GST known as IGST shall be imposed. Imported of goods shall be considered as interstate supplies and would be subject to IGST. IGST shall be in addition to the applicable customs duties on these transactions. Import of services shall be also considered as inter-state supplies and subject to IGST.
- (6) **Merger of Central Indirect Taxes:** GST has replaced the various indirect taxes imposed and collected by the Centre. The merger of following indirect Taxes which were previously applicable to the manufacturing industries. Basic excise duty. (ii) Duties of Excise on Medicinal and Toilet Preparations (iii) Additional Duties of Excise on Goods of special Importance. (iv) Additional Duties of Excise on Textiles and textiles products. The merger of indirect Taxes includes taxes on import and export of goods. (i) Additional Duties of Customs known as Counter Veiling Duty i.e. CVD, (ii) Special Additional Duty of Customs i.e. SAD. And this merger has covered service Tax, Cesses, surcharges to the extent related to supply of goods or services.
- (7) **Merger of State Indirect Taxes :** The following indirect taxes imposed by the various state Governments are subsumed by the GST. The taxes on Goods (i) State level Value added Tax (ii) Central Sales

Tax. The general taxes. (i) State level cesses & surcharges to the extent related to the supply of goods. (ii) Purchase Tax (iii) Entertainment Tax except those levied by the local authorities (iv) Luxury Tax (v) Entry Tax in all forms like Octroi (vi) Taxes on advertisements (vii) Taxes on lotteries, betting and gambling.

- (8) **The taxes not covered by GST :** The following indirect taxes are not imposed by the various state Governments are subsumed the GST. (i) Basic customs Duty. (ii) Duty on Export (iii) Stamp Duty (iv) Property Tax (v) Electricity Duty (vi) Toll Taxes (vii) Road Tax (viii) Professional Tax (ix) Tax on petroleum Products such as Crude , Petrol , Diesel, Natural gas & ATF. (x) Tax on Alcoholic liquor for human consumption. However, the Tobacco and tobacco products are subject to GST in addition to the Central Excise duty imposed by Centre.
- (9) **Common Threshold Limit:** A common threshold exemption is applicable in case of both CGST and SGST. Taxpayers with an annual turnover of RS.20 lacks are exempted from GST. In case of special category States as specified under article number 279A of the Constitution, the exemption limit is Rs. 10 lacks. The threshold exemption is optional.
- (10) **Compounding or composition scheme:** Compounding means an option to pay tax at a specified fixed rate without getting any credits of tax paid against tax collected. This option is given to small taxpayers including those specified category of manufacturers and service providers having an annual turnover up to Rs. 75 lacks. The compounding scheme is optional.
- (11) **Registration:** Application for registration is to be filled within 30 days from the date on which the shares hold limit is crossed. Those who were already registered under excise, service tax and local sales tax or value added tax authorities; provisional registration is to be granted to such existing taxpayers. Registered person shall be granted State wise PAN based 15 digit GSTIN or UIN. If there is any deficiency in the application, the scheme shall be communicated within prescribed time limit otherwise said application is deemed to be granted.
- (12) **Rates of taxes:** CGST, SGST, UTGST & IGST are imposed at rates as mutually agreed upon by the centre and state under the guidance of the GST council. GST council has classified various HSN – harmonized Systematic Nomenclature codes for goods as well as SAC – Systematic Accounting Codes for Services. Various rates of GST are imposed ranging from 0%,5%,12%, 18%, and 28% Special rates for those opted for composition scheme.
- (13) **Payment of Tax:** Various mode of payment of tax are made available to the taxpayer by introducing the concept of Electronic cash ledger and electronic credit ledger. Electronic cash register represent any

amount deposited by taxable person toward tax, Interest, penalty, fee etc. using credit card, internet banking life national Electronic Funds Transfer i.e. NEFT, Real Time Gross Settlement i.e. RTGS or any other mode. Electronic Credit Register represents the amount of input tax credit by way of self-assessment by the taxpayer. Interest is payable for any delay in payment of tax, at the rate 18%.

- (14) **Input tax credit:** Every registered person shall be entitled to take credit of input tax charged on supply of goods/services which are used to intended to be used in course of furtherance of business. Condition for availing tax credit are provided which shall be adhered to. As per the rule of availing the GST credit, the credit of CGST paid on inputs may be used only for paying CGST on the output as well as the credit of SGST or UTGST paid on inputs may be used only for paying SGST or UTGST. There has been an extension of scope of Input Tax Credit. However, in the old structure of indirect taxes, the scope of ITC was very narrow in the sense that only a few indirect taxes paid could be available as settled between the centre and the state to make sure that the credit of SGST utilised for the payment of IGST is transferred by the originating state to the centre.
- (15) **Exemption:** The list of exempted goods and services has been provided. This list is kept at a minimum and it would be synchronized, as far as possible, for the centre and the states and Intra states.
- (16) **Returns:** The GST law requires for electronic filling of returns by different class or classes of taxpayers. Normal taxpayers, Taxpayers under Composition scheme, casual taxpayer, non-resident taxpayer, TDS detectors, and input service distributors are required to file Separate e-returns. Different cut-off dates have been provided for returns under GST for the regular assessee covered by section 37 to 43 with different forms GSTR – 1 to GSTR – 11.
- (17) **Tax Deducted at Source:** The GST has provided for T.D.S. as an obligation on certain persons who are recipients of supply. The provision of TDS shall be applicable to government departments, local authorities and government agencies. The requirement is to deduct tax at the rate of 1% from the payment made or credited to the supplier if the total value of supply exceeds Rs. 2, 50,000 under a particular contract.
- (18) **Tax collected at sources:** The GST has provided for T.C.S. as an obligation on e-commerce operators and service providers. Such e-commerce operators are required to collect tax at source, at the rate not more than 2% of net value of taxable supplies. This TCS shall be out of payments to suppliers supplying goods or services through their portals.
- (19) **Compliance and other producer under GST:** GST provides the self-assessment system of the taxes payable by the registered person. In order to verify compliance with the provision of Act, the audit of registered person is required to be conducted. GST provides for an anti-

profiteering clause in order to make sure that business passes on the benefit of reduce tax incidence on goods or services or both to the ultimate consumers by reducing prices of goods and services. Detailed transitional provision has been provided by the GST for smooth transition of existing taxpayer under old structure of Indirect taxes to GST system.

(20) Other silent features of GST: The other features including the following.

Refund of tax to be claimed by the taxpayer within two years from the relevant date. In the case of short-payment, non-payment or erroneous claim of refund, the limitation period for rising demand is 3 & 5 years in normal case and fraud case respectively. Different ways of collecting arrears of tax from defaulters like detaining and selling the goods and movable or immovable property of defaulters. Restrictive power of inspection, search, seizure and arrest are given to officers. Goods and services tax Appellate Tribunal have been constituted for hearing appeals against the orders passed by the Appellate Authority or the Revision Authority. Penalty clause has been provided for breach of any provisions of the GST laws. In order to allow the taxpayers to ask for requisite clarity on taxation matters from the department, the Advance Ruling Authority have been constituted by states.

Check your progress 3

1. Which following Salient Features of GST is not True ?
 - (a) One nation – one tax concept
 - (b) Destination based consumption Tax
 - (c) Single Model
 - (d) Merger of Central Indirect Taxes

2..4 Benefits of GST

GST is beneficial to different parties with different benefits. The main parties are Businesses, consumers and governments. The benefits of these parties are described as follows:

(A) Benefits to Business:

- (1) **Reduction in compliance cost:** Before GST, there were different indirect taxes applicable requiring numerous compliance to be followed by a single entity. Now, no multiple records are required to be kept for a variety of taxes because of single tax “GST”. So, investment of resources and manpower in maintaining records would be saved to a great extent which can be utilized to increase the productivity of the business.
- (2) **Simple tax administration structure:** The business providing Goods and services too, were required to follow different rules and regulations in old structure of indirect Taxes. Now, GST shall provide simpler tax administration with a fewer exemptions. Removal of the mul-

tiplicity of taxes of old indirect tax system shall provide simplification and uniformity the businesses.

- (3) **Common procedures:** GST provides common tax base, common procedures for registration, refund of taxes, uniformity formats of tax return, common system of classification of goods and services. This shall provide the businesses a greater faith to taxation system.
 - (4) **Self-governing tax system:** GST has made it possible to enjoy the simplified and computerized procedures for various processes such as registration, returns, refunds, tax payments, etc. All interaction shall be required through the common online platform i.e. GSTN. This shall minimize public interface between the taxpayer and the tax administration thereby reduction in mal-practice in Businesses.
 - (5) **Non-Interfering electronic tax system:** GST shall improve the environment of compliance. This is because of the fact that all returns are required to be filed online. The taxpayer can verify (ITC) input tax credits online. This shall easily provide tract of all the transactions.
 - (6) **Transparency and Reliability:** GST has provided timelines for important activities like obtaining registration, refunds, etc. The businesses have to be cautious for the same throughout India. This shall not allow any business units to postpone or undue delay in any procedure indirectly affecting the other business units because GST required the electronic matching of input tax credits all-across India. This shall make the process more transparent and accountable.
- (B) **Benefits to consumers:**
- (1) **Reduction of price:** As due to GST, the cascading of taxes i.e. Tax on Taxes shall be removed. Secondly, the ITC – Input Tax Credit shall be available on all goods and services at each and every stage of supply chain. So, now the final price of goods/services is expected to be lower due to seamless flow of input tax credit between the manufacturer, retailer and service provider. This shall lead to reduction of cost thereby reduction in the prices charged to the ultimate consumers.
 - (2) **Uniformity of prices:** It was not possible in old structure if indirect taxes to charge the uniform price for the same product/service made available to same consumer in different states or any part of the country. This is because of the reason that there were different rates prevailing in different states due to different indirect taxes being applied. But, due to GST being One nation – one tax, the prices of the goods or services shall be uniform in the whole of the country.
 - (3) **Benefit of Exemption and low tax rates:** Under GST, a relatively large section of small retailers are either exempted from tax or falls in the category of vary low rate of taxes due to adopting “compounding scheme”. Now, as a consumer, any purchases from such entities will cost lower than the same in old structure of Indirect taxes.

- (4) **Trust in Simpler Tax system:** The previous Indirect tax structure was very complicated to understand for a layman. GST must increase the level of transparency and trustworthiness of the consumer on the tax administrators as well as Businesses. This shall boost the trust of consumers in the simplified tax system.
- (5) **Satisfy more demand of goods/services:** Under GST, the company's average burden of tax shall be reduced. This shall positively affect the prices to reduce. Now, lower prices shall increase the demand as the ultimate consumers can afford more consumption at reduced prices.
- (C) **Benefits of Government**
- (1) **Prevention of cascading Effect of Taxes:** GST shall definitely put a stop to cascading of taxes as ITC – Input Tax Credit shall be available on all goods and services at each and every stage of supply chain.
- (2) **Harmonization of laws:** There were different Indirect taxes applicable in India before Implementation of GST. Now, there shall be harmonization of such laws in to “Single Law”. The procedures and rates of tax are simplified for the smooth functioning of such laws.
- (3) **Development of States:** With the object of GST to have “One Nation – One market” there shall be an improvement in the overall investment environment in the country which shall naturally benefit the development in the states.
- (4) **Uniformity:** The rates of GST are uniform as SGST and IGST throughout India. This shall reduce the encouragement for evasion of the practice of eliminating rate arbitrage between intra and intra-state sales and between neighbouring states.
- (5) **Growth of GDP:** It will enhance the manufacturing and export activities, which shall generate more employment opportunities. This shall help to increase GDP with profitable employment leading to remarkable economic growth in India.

Check your progress 4

1. GST is beneficial to different parties with different benefits. The main parties are....
- (a) Businesses (b) consumers
- (c) governments (d) All

Poverty Eradication: Ultimately it will definitely help in eradication of poverty. This shall be generating more employment opportunities and more financial resources with the passage of time.

2..5 GST and Centre – state financial Relation

- (A) **Centre- state Financial Relation before implementation of GST:** Before implementation of GST, the fiscal powers between the centre and the states were clearly distinguished in the Indian Constitution. There was no overlap between the respective provinces.

GOODS AND SERVICE TAX

- (1) The centre had the powers to levy tax on the manufacture of goods excluding the tax on alcoholic liquor for human consumption, opium, narcotics etc.
- (2) The states had the powers to impose the tax on sale of goods.
- (3) In case of inter-state sales, the centre has the power to impose a tax in the name of central sales Tax but, but the collection and retention of such tax was entirely by the originating states.
- (4) In case of services, it was the centre only that was empowered to impose service-tax.
- (5) In case of Importation and Exportation of goods/services to/from India, the states were not empowered to impose any tax; the centre levied and collected such tax as additional duties of customs, which was in addition to the Basic customs Duty.

Thus, the additional duty of customs in the name of CVD – Counter-veiling Duty and SAD – Special Additional Duty were imposed to adjust the loss of excise duties, sales tax, state VAT and other taxes imposed on the similar domestic goods. This had resulted into different laws in force for the similar types of taxes on goods and services.

(B) GST and centre-state Financial Relations: With the introduction of GST, there was an acute requirement for amendments in the Indian constitution in order to empower the centre and states to impose and collect the GST concurrently.

- (1) For the very purpose of having a concurrent jurisdiction of the centre and the states for the imposition of GST, a unique institutional system was required.
- (2) This a unique institutional system would make sure that decision about the structure, design and operation of GST are taken jointly by the two.
- (3) And, in order to be effective, such a system also needed to have enforcement by the Indian Constitution.

(C) Constitution (101st Amendment) Act, 2016: In order to assign concurrent powers to centre and states to impose GST on all supplies as a single Tax system, the constitution Amendment Bill was passed by Rajya sabha on 3rd August, 2016 & Loksabha on 8th August, 2016. It was notified as “constitution (101st Amendment) Act, 2016” (CAA) with effect from 8th September, 2016. The following are a few features of CAA with respective Articles and clauses of the said Act.

- (1) Article 246A – Introduced concurrent jurisdiction for imposition and collection of GST by the Centre & the states.
- (2) Article 279A – In case of supplies in the course of inter – state trade or commerce including imports, the centre is empower to impose and collect IGST.
- (3) Article 269A – Formation of GST council for the smooth functioning of GST.

- Clause 19 – On the Recommendation of GST council (GSTC), the compensation for loss of revenue to states shall be allowed for five years.
- On recommendations of GSTC, the GST on petroleum crude, HSD, Petrol, natural gas & aviation turbine fuel to be imposed in future.

2..6 Role of central Board of Excise and Customs

The Central Board of Excise and Customs has been an important body segregated originally from the Central Board of Revenue Act, 1963. It has played important role as custodian of Centre's fiscal providence in relation to different indirect taxes in India. Now, as the majority of indirect taxes are merged with the GST, the CBEC has important functions too.

- (1) **Policy Making:** CBEC has provided input in case of drafting of GST Law, its Rules & standard procedures. The focus is specifically on the laws of CGST, UTGST & IGST as an exclusive province of the Centre.
- (2) **To cope up with challenges:** New things always find their own challenges in various aspects. The CBEC would be required to be compatible in order to meet the challenges of implementation of GST. The new unexpected challenges in the time to come shall also be dealt with by CBEC.
- (3) **Strong IT Infrastructure:** Under GST, the number of taxpayers is likely to increase significantly. The existing IT infrastructure of CBES would also need to be Suitably scaled up to handle such large volumes of data. The software of CBEC namely automated Central excise & service tax – ACES would be required to be re-engineered by CBEC so as to meet the legal provisions and procedure of GST. The IT project of CBEC under GST known as 'SAKSHAM' has already been started active by the steering committee of DG systems. To develop link between CBEC – GST system with GSTN – GST Network.
- (4) **Training of officials:** For smooth and effective implementation of GST as well as to handle taxpayers' base in GST spread across the country, improved organizational structure and development of more human resources are required. In the field of Accountancy and Information Technology, the need of capacity building for the departmental officers has to be taken up by the CBEC extensively. Under the leadership of NACEN, a substantial four – tier training programme has been conducted with the object of imparting on GST law and procedures to CBEC officers, commercial TAX officers of state Governments and officers of the office of CAG.
- (5) **Knowledge Sharing Programmes:** The reform like GST can be popularized and familiarized to the trade and industry because they are the important stakeholders in successful implementation of GST. This has been done by conducting knowledge sharing programs by various formations of CBEC

- (6) **Multiple Administrative Body:** CBEC would be responsible for administration of the CGST and IGST law. Additionally, for imposition and collection of central excise duty on five specific petroleum products and on tobacco products, excise duty would be continued to be administered by the CBEC. CBEC shall also continue to deal with imposition and collection of customs duties.

Check your progress 5

1. Which following important functions is not included in the CBEC (central Board of Excise and Customs)
- (a) Policy Making (b) To cope up with challenges
(C) Single Administrative Body (d) Strong IT.

Provision of information and updates: The following information is made available on the CBEC website www.cbec.gov.in. Presentation on GST, Concept & status of GST laws including CGST, IGST, UTGST and GST (Compensation to states) Act and nine finally approved rules for GST. FAQs on GST in Hindi, English and a few regional languages. Assessment, Audit, Anti-evasion & enforcement under CGST & IGST Law. Any Latest updates of GST.

2..7 Let Us Sum Up

The GST is a common indirect tax for the entire country which shall provide one integrated market. It is a single tax on the supply of goods and services, right from the manufacturer to the ultimate customer. By integrating a huge number of central and state taxes into a single tax, GST would minimize double taxation in a most important manner and thereby create a common national market. GST is beneficial to different parties with different benefits. The main parties are Businesses, consumers and governments. Before implementation of GST, the fiscal powers between the centre and the states were clearly distinguished in the Indian Constitution. There was no overlap between the respective provinces.

The Central Board of Excise and Customs has been an important body segregated originally from the Central Board of Revenue Act, 1963. It has played important role as custodian of Centre's fiscal providence in relation to different indirect taxes in India. Now, as the majority of indirect taxes are merged with the GST, the CBEC has important functions too.

2.8 Answer for Check Your Progress

Check your progress 1

Answer: (1- b); (2 – a)

Check your progress 2

Answer: (1- d)

Check your progress 3

Answer : (1- c)

Check your progress 4

Answer : (1- d)

Check your progress 5

Answer: (1- c)

GOODS AND SERVICE TAX-II

(MODEL OF GST, SAILENT
FEATURE AND BENEFITS OF GST)

2.9 Glossary

SGSSGST- State Level GST

CGSCGST- Central level GST

IGS IGST- Integrated GST

2.10 Assignment

Write in details about salient features of GST

2.11 Activities

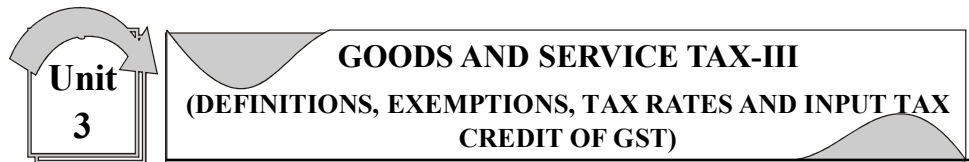
Explain benefits of GST

2.12 Case Study

Study Centre – state financial Relation

2.13 Further Reading

1. Student Guide To Income Tax Including GST By Dr. Vinod K.Singhania & Dr. Monica Singhania
2. Goods and Service Tax Foreword by Dr. Harsh Vardhan
3. GST Act's Rules & Forms by CA Ashok Batra



: UNIT STRUCTURE :

- 3.0 Learning Objective**
- 3.1 Introduction**
- 3.2 Definition**
- 3.3 Exemption from GST**
- 3.4 GST Rate**
- 3.5 Input Tax credit**
- 3.6 Let Us Sum Up**
- 3.7 Answer for Check Your Progress**
- 3.8 Glossary**
- 3.9 Assignment**
- 3.10 Activities**
- 3.11 Case Study**
- 3.12 Further Reading**

3.0 Learning Objective

After learning this unit, you will be able to understand:

- Various type of GST definition
- Exemption from GST
- Exempted Goods and Services
- GST Rate
- Input Tax Credit

3.1 Introduction

This Act came into existence w.e.f. 2017. Tax collected under this Act is the revenue for central Government. Central taxes like central excise duty, Additional excise duty special excise duty, Central Sales Tax; Service Tax etc. are subsumed under CGST. This tax is levied on interstate supply of goods or services or both. In this chapter basic definition like Aggregate turnover, Business U/s 2(17), Central Tax, Cess U/s 2(22), Composite supply, Integrated Tax, Input Tax Credit, Exemption from GST, GST Rate and Input Tax Credit are discussed.

Check your progress 1

1. This GST Act came into existence with effect from
 - (a) 2017.
 - (b) 2018
 - (c) 2019
 - (d) None

2. Which following tax is not subsumed under CGST ?
- (a) Central excise duty, special excise duty,; etc.
 - (b) Income tax
 - (c) Central Sales Tax
 - (d) Service Tax

3.2 Definition

The Central Goods and Services Tax act, 2017 of parliament received the assents of the president on the 12th April, 2017 and it is published for general information – as the Central Goods and Services Tax Act, 2017.

Section 2 of this act deals with definition. Definitions which are as follows:

- (1) **Aggregate turnover:** Under section 2(2) “aggregate turnover means the aggregate value of all taxable supplies, exempt supplies, exports of goods or services or both interested supplies of persons having the same permanent Account Number to be computed on all India basis but excludes central tax, state tax, Union territory tax, integrated tax and cess.

Explanation:

Aggregate turn over means:

- (a) On all India basis, the sum of the following.
 - All taxable supplies.
 - Exempt supplies.
 - Exports of goods and/or services.
 - Interstate supplies of a person having the same PAN.

But aggregate turnover does not include

- (b) The value of inward supplies on which tax is payable by a person on reverse charge basis.

(2) Business Under Section 2(17):

“Business “Includes –

- (a) Any trade, commerce, manufacture, profession, vocation, adventure, wages or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) Any activity or transaction in connection with or incidental or ancillary to sub-clause(a);
- (c) Any activity or transaction in the nature of sub-clause(a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) Supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) Provision by a club, association, society, or any such body of the facilities or benefits to its members;

GOODS AND SERVICE TAX

- (f) Admission, for a consideration, of persons to any premises;
- (g) Services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation.
- (h) Services provided by a race club by way of totalisator or a licence to book maker in such club; and
- (i) Any Activity or transaction undertaken by the Central Government, a state Government or any local authority in which they are engaged as public authorities;
- (3) **Central Tax:** Under Section 2(21), Central Tax means the central goods and services tax levied under section 9.

Central tax levied on interstate supply of goods or services or both.

- (4) **Cess Under Section 2(22) “cess” shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to state) Act:**

As per section 2 (1)(C) cess means the goods and service tax compensation cess levied under section 8.

GST cess is a compensation cess levied under section 8 of the goods and services Tax, Act, 2017. GST cess is levied on intra state supply of goods and services and inter-state supply of goods services to provide compensation to state for loss of revenue due to implementation of GST in India.

- (5) **Composite supply under section 2(30) “Composite supply”** means a supply made by a taxable person to a recipient consisting of two or more taxable suppliers of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;
- (6) **Exempt supply Under Section 2(47):** Supply of any goods or services or both which attracts nil rate of tax on which may be wholly exempted from tax under section 11 or under section 6 of the integrated goods and services tax Act, and includes non taxable supply.
- (7) **Goods Under Section 2(52): “goods”** means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
- (8) **Integrated Tax Under Section 2(57) ‘Integrated Goods and Services Tax Act’** means the integrated goods and services tax act, 2017;(58) “Integrated tax” means the integrated Goods and Services tax levied under the Integrated Good and Services Tax Act:
- (9) **Under Section 2(62) “input tax”** in relation to a registered person, means the Central tax, State tax, integrated tax or Union territory tax

GOODS AND SERVICE TAX-III

(DEFINITIONS, EXEMPTIONS, TAX RATES AND INPUT TAX CREDIT OF GST)

charged on any supply of goods or services or both made to him and includes-

- (a) the integrated goods and services tax charged on import of goods;
 - (b) The tax payable under the provisions of sub-sections (3) and (4) of section 9;
 - (c) The tax payable under the provision of sub-section (3) and (4) of section 5 of the integrated goods and services Tax Act;
 - (d) The tax payable under the provision of sub-section (3) and (4) of section 9 of the respective State goods and services Tax Act; or
 - (e) The tax payable under the provision of sub-section (3) and (4) of section 7 of the Union territory Goods and services Tax Act; but does not include the tax paid under the composition levy;
- (10) **Input tax Credit under Section 2(63)** : “input tax credit” means the credit of input tax.

CANVAT Credit Rules, 2004 provides for taking and utilization of duty/tax payable on excisable goods/services subject to such conditions as may be prescribed. But the tax paid on sales cannot be taken back by the service provider or manufacturers. The state VAT Acts provide for taking and utilizing of input tax credit’. The credit inputs and input services cannot be taken or utilized under VAT act. In GST regime the law allows to take ‘input tax credit’ on central tax, state tax, Union territory tax and integrated tax subject to such condition prescribed.

- (11) **‘Mixed supply-2’** (74) means two or more individual supplies of goods or services, or Any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.
- (12) **“Non-taxable supply” 2(78)** means a supply of goods or services or both which is not leviable to tax under this Act under the integrated Goods and Services Tax Act;
- (13) **“Non-taxable territory” 2(79)** means the territory which is outside the taxable territory;
- (14) **“Notification” 2(80)** means a notification published in the official Gazettes and the expression “notify” and “notified” shall be constructed accordingly;
- (15) **“Other territory” 2(81)** includes territory other than those comprising in a state and those referred to in sub-clauses (a) to (e) of clause (114);
- (16) **“Output tax” 2(82)** in relation to a taxable person, means the tax chargeable under this act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;
- (17) **“Reverse charge” 2(98)** means the liability to pay tax by the recipient

GOODS AND
SERVICE TAX

of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act;

- (18) **“Revisional Authority” 2(99)** means an authority appointed or authorized for revision of decision or orders as referred to in section 108;
- (19) **“Schedule” 2(100)** means a schedule appended to this Act;
- (20) **“Securities” 2(101)** Shall have the same meaning as assigned to it in clause (h) of section 2 of the securities contracts Act, 1956;
- (21) **“Services” 2(102)** means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- (22) **“State” 2(103)** includes a Union Territory with Legislature;
- (23) **“State tax” 2(104)** means the tax levied under any state Goods and Services Tax Act;
- (24) **“Supplier” 2(105)** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;
- (25) **“Tax period” 2(106)** means the period for which the return is required to be furnished;
- (26) **“Taxable person” 2(107)** means a person who is registered or liable to be registered under section 22 or section 24;
- (27) **“Taxable supply” 2(108)** means a supply of goods or services or both which is liable to tax under this act;
- (28) **“Taxable territory” 2(109)** means the territory to which the provision of this Act apply;
- (29) **“Union Territory tax” 2(114)** means the Union Territory goods and services tax levied under the Union territory Goods and services Tax Act;

Check your progress 2

1. The Central Goods and Service Tax Act, 2017 of Parliament received the assent of the President on _____
 - (a) 11th April, 2017.
 - (b) 12th April, 2017
 - (c) 13th April, 2017
 - (d) None
2. _____ means a supply of goods or services or both which is liable to tax under this act.
 - (a) Taxable supply
 - (b) Exempted supply
 - (c) Zero Rated supply
 - (d) None of above

3.3 Exemption From GST

The purpose of formation of any act is for betterment of general public. As and when the formation of Act or due to its execution if it create any negative impact of interest of general public to eliminate these kind of negative impact is necessary provisions of exemptions are made. These kinds of provisions are also made under any tax related act. GST act also has this arrangement i.e. provision of exemptions.

Under Section 11 of CGST, Section 6 of IGST, Section 8(1) of UTGST and section 11 of SGST necessary powers are given for exemptions. All these supplies are known as exempted supply.

Exempt Supply:

Under Section 2(47) of CGST ‘exempt supply’ means “supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11 or under section 6 of the Integrated Goods Services Tax Act, and includes non-taxable supply.

Under Section (4) of UTGST ‘exempt supply means supply of any goods or services or both which attracts nil rate of tax on which May be exempt from tax under section 8, or under Section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply.

Power to grant Exemption under Section 11.

(1) Exemption in public Interest by notification :

Central Government by notification exempt any Goods or Services or both of any specified description. But the following conditions are to be observed.

- I. Exemption shall be declared on the recommendation of GST council.
- II. Exemption will be declared in the interest of public.
- III. Exemption shall be approved by notification in official gazette.
- IV. Exemption shall be restriction free or shall be based on certain conditions.
- V. Exemption may be whole or any part of the tax leviable.
- VI. Exemption shall be allowed from the date of declaration of notification or from the date which is disclosed in the notification.

2. Exemption in public interest by special under circumstances of an exceptions nature.

Government may pass order to exempt any goods of services or both on which GST is livable. But the following conditions are too observed.

- Exemption will be declared in the interest of public.
- Exemption shall be declared on the recommendation of GST council.
- Special order to be passed for each case.
- Exemption allowed in special circumstances, the exceptional nature of circumstances to be started in such order.

Government may insert an explanation in the above notification or order for clarifying its scope.

Any notification issued under section 11(1) or any order issued under section 11(2) for that the Government may, insert an explanation in such a notification and order as the case may be, by notification at any time within one year of issue of the notification under section 11(1) and order under section 11(2) and every such explanation shall have effect as if it had always been part of the first such notification or order, as the case may be.

Exempted goods and services:

The government has issued notification No. 2/2017 – Central Tax (Rates) date 28-06-2017 and notification No. 12/2017- Central Tax (Rates) dated 28-06-2017 for list of exempted goods and services receptively.

Some exempted goods: as per different Tariff chapter:

Live animals, Meat and edible meat, Fresh milk, and pasteurized milk, cream, curd, buttermilk, paneer, bird's eggs, Natural honey, live frees, potatoes, tomatoes , onion, garlic, cabbages, cauliflowers, Dried makhana, unprocessed green leaves of tea, unbranded cereals, soya beans, seeds, ground nuts, sunflower seeds, papad, breads, prasadam (supplied by religious place), water (other than purified in a selected container) neem, salt (including table salt and denatured salt) uranium ore concentrate, human blood and its consumptions, kajaal, kumkum, bindi, sindur, municipal waste, plastic bangles, condoms, Judicial/ non judicial stamp papers, court fee stamps, cheque book, printed books, newspapers / journals and periodicals, children's pictures/ drawing/ colouring books, Raw silk, silk waste, Gandhi topi, Khadi-yarn, Khadi Fabric, Indian national flag, Glass bangles, charkha, Puja samgri etc.

Some expected services:

- (1) **Charitable Trust:** Services by an entity registered under section 12 AA of Income Tax Act, 1961, by way charitable trust.
- (2) **Transfer of concern:** services by way of transfer of a going concern, as a whole or an independent part thereof.
- (3) **Pure services to Government:** pure services provided to the central Government/ state Government/ Union Territory/ Local Authority/ Governmental authority.
- (4) **Services Provided by Government:** services provided to the central Government/ state Government/ Union Territory/ Local Authority/ Governmental authority (Except the certain exception).
- (5) **Services provided by Government to small business entity :** Services provided by the central Government, state Government, Union Territory or a local Authority to business entity
 - i. With an aggregate turnover of up to ₹ 20 lakh (₹. 10 lakh) in the case of a special category state) in the proceeding Financial Year.
 - ii. Where the consideration of such services does not exceed ₹ 5000.

- (6) **House construction for Pradhan Mantri Awas Yojana:**
Service provided by way of pure labour contracts of construction, erection etc. pertaining to Beneficiary Led (Individual House) construction or enhancement (BLC) under the housing for All (Urban) Mission of Pradhan Mantri Awas Yojana.
- (7) **Renting of Residential House:** Services by way of renting of residential dwelling for use as residence.
- (8) **Religious Ceremony :** Services by a person by way of
- Conduct of any religious ceremony.
 - Renting of precincts of a religious place meant for general public (owned managed by a charitable or religious trust having income-tax exemption).
- (9) **Hotel room Upto ₹. 1000:** services provided by a hotel inn, Guest house, club or composite by whatever name called, for residential or lodging purpose .However, the exemption available only if declared tariff on a unit of accommodation less than ₹. 1000 per day equivalent.
- (10) **Transportation of passengers:** Services of transportation of passengers by-
- Railways in a class other than (i) first class or (ii) AC coach
 - Metro, monorail, tramway
 - Public transport.
 - Metred Cub or auto rickshaws, (including e-rickshaws.)
- (11) **Transportation of Goods:** Services by way of a transportation of goods –
- (a) By Road (except the services (i) A goods transportation agency or (ii) a courier agency)
 - (b) By inland waterways.
- (12) **Services by RBI:**
- (13) **Health care of animals/birds:** Services by a veterinary clinic in relation to health care of animals or birds.
- (14) **Exhibition outside India:** Services by an organiser to any person in respect of a business exhibition held outside India.
- (15) **Rice:** Services by way of loading, unloading, packing, Storage or Warehousing of rice.
- (16) **Slaughtering of animals:** Services by way of slaughtering of animals.
- (17) **Foreign diplomatic mission:** Services by a foreign diplomatic mission located in India.

Check your progress 3

1. Which following goods is not exempted goods as per different Tariff chapter
 - (a) Live animals
 - (b) pasteurized milk
 - (c) Natural honey
 - (d) Ghee
2. Which following services are not considered as some expected services?
 - (a) Charitable Trust.
 - (b) Hotel services more than ₹ 1,000 per day
 - (c) Pure services to Government
 - (d) Services Provided by Government

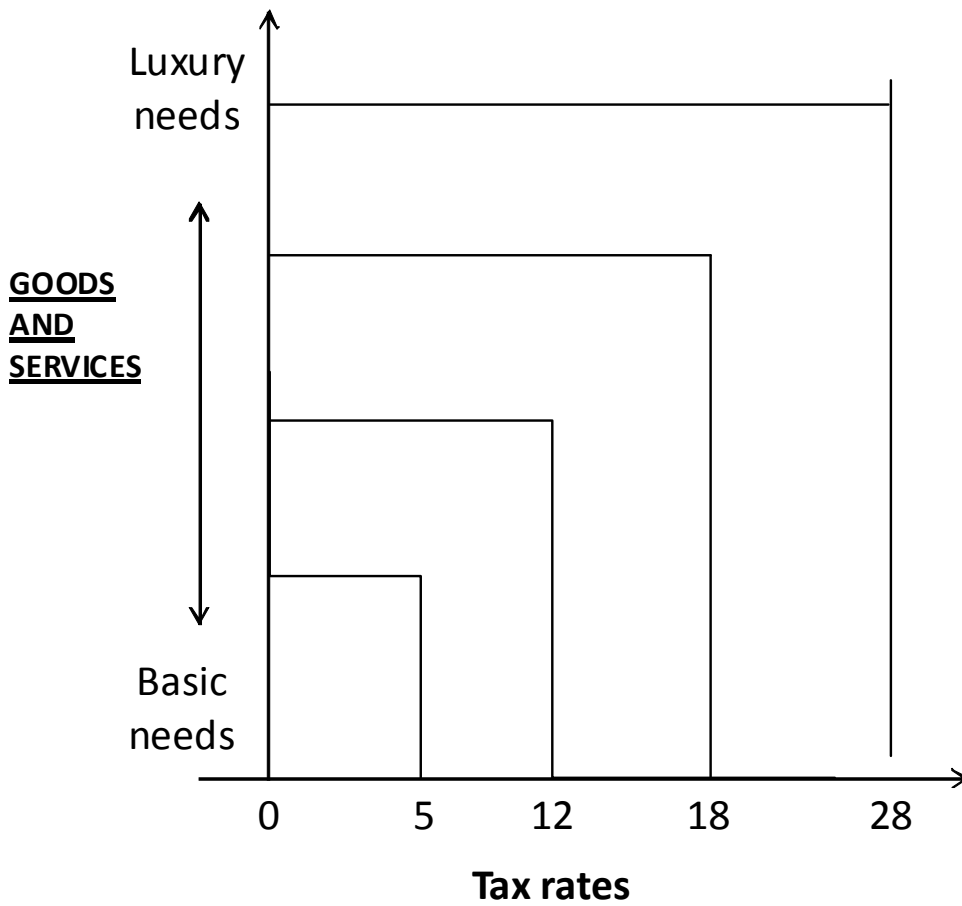
3.4 GST Rate

Under IGST, CGST, SGST and UTGEST different 6 types of rates are notified. These rates are between 0.25% to 28%, keeping in the necessity of different goods and services these rates are determined. The tax collection under these acts is done on the basis of (i) Interstate supply and (ii) Intra state supply. Incase of interstate supply IGST is levied while in case of intrastate supply CGST and SGST/UTGST are levied. This classification is given in the following table.

Schedule and Tax rate	Infer State supply IGST	Intra State Supply		
		CGST	SGST/UT GST	CGST + SGST UTGST
Schedule 1 5%	5%	2.5%	2.5%	5%
Schedule 2 12%	12%	6%	6%	12%
Schedule 3 18%	18%	9%	9%	18%
Schedule 4 28%	28%	14%	14%	28%
Schedule 5 3%	3%	1.5%	1.5%	3%
Schedule 6 25%	25%	0.125%	0.125%	0.25%

There are certain goods and services which are linked with basic needs of human being. These goods and services are covered under Zero rate. Different tax rates and needs are shown in the following graphs.

GOODS AND
SERVICE TAX-III
(DEFINITIONS,
EXEMPTIONS, TAX RATES
AND INPUT TAX CREDIT
OF GST)



The GST council in its 23rd meeting on November 10, 2017 recommended widespread changes in the goods and services tax (GST). The council has decided to keep the highest 28% tax on luxury and sinful items as a result 177 items have been shifted to the 18% bracket. GST on many items has also been reduced.

Tax rate wise categorization of goods and services in brief is as follows:

No.	Tax rate in %	Goods	Services
1.	0 (No Tax)	Inte ,freshmeat, fish chicken, eggs, milk, butter milk, curd, natural honey, fresh fruits and vegetables, flour, basen, bread, Prasad, salts, bindi, sindoor, stamps, judicial papers, printed books, newspapers, bangles, human hair, khadi purchased from khadi and village industries stores, charkha etc.	Hotels and Lodges with tariff below ₹. 1000
2.	5	Fishfillet, apparel below ₹. 1000, packaged food items, foot wear below ₹. 500, Cream, skimmed milk powder, branded paneer, frozen vegetables, coffee, tea, spices, pizza, bread, rusk, sabudana, kerosene, coal, medicines, stent, cashunut with nut, biogas, insulin, agarbatti, kites, postage or revenue stamps, branded foog, walnuts, dried cakes, cotton quilts (quilt not exceeding ₹. 1000 per piece), Rosa rise and prayer beads, Hawn samagri, khakhra and chapatti/Roti, branded nankeen, Ayurvedic, Unani, Homeopathy medicines, LPG supply to households domestics consumers by private LPG distributors, Tailoring services etc.	All restaurants, restaurants of hotels with room tariff of less than ₹. 7500, Food parcels, Textile job work, Transport services (Railway, air transport) supply of e-waste.
3.	12	Apparel above ₹. 1000 frozen meat products, butter, cheese, ghee, dry fruit in packaged from, fruit juice, tooth powder, umbrella, sewing machine, ketchup and sauce, exercise books and note books, spoons, forks, spectacles, playing cards, chess board, carom board, Table and kitchenware, sprinklers, cotton quilt (exceeding ₹. 1000 per piece), statues, statuettes, pedestals, ceramic articles, porcelain items etc. condensed milk, Refined sugar and sugar cubes, pasta, diabetic foods, printing ink, hand bags and shopping bags of jute and cotton, parts of specified agriculture, horticultural, forestry, harvesting or threshing machinery, sugar boiled confectionary, drinking water packed in 20 litre bottles etc	State run lotteries, Non AC Hotels, Business class air ticket, etc.
4.	18	Footwear costing more than ₹. 500, bidi patta, biscuits (call categories) flavoured refined sugar, corn flakes, pastries, preferred vegetables, jams, soups, ice cream, instant food mixes, tissues, envelopes, steel products, camera, speakers, kajal pencil sticks, aluminium foil, weighing machine, custard powder, wire, cables, electrical plugs, switches, sockets, fuses, relays electric connectors, shampoos, hair cream, hair dues, lamp and light fitting, Razor and razor blades, etc.	Restaurants in hotel premises having room tariff of ₹. 7500 and above, telecom services, IT services, branded garments, and financial services, outdoor catering.
5.	28	Bidis, molasses, Pan masala, aerated water, paint, sunscreen, Wall paper, ceramic tiles, water heater, dishwasher, washing machine, and vacuum cleaner.	Private run lotteries authorised by the states, race club betting, cinema etc.

Check your progress 4

1. What is the maximum tax rate applicable under GST?
- (a) 5% (b) 12%
- (c) 18% (d) 28%

3.5 Input Tax credit

On the basis of certain conditions to eliminate cascading effect on taxes under central GST Act, state Act, Integrated GST Act and UTGST Act an arrangement of input tax credit is made. As per section 2 (63) of CGST and SGST input tax credit means “input tax credit as the credit of input tax”.

To claim input tax credit certain criterions are developed which are known as eligibility to take input tax credit. This eligibility is as follows:

- (i) Under section 16(2) registered person shall claim the credit of any input tax in respect of any supply of goods or services or both.
- (ii) A registered person shall be entitled to take credit of input tax charged on inward supplies of goods or services or both to him if such inward supply is used or intended to be used by him in the course or furtherance of his business.
- (iii) Input tax credit shall be credited to electronic credit ledger other than amount of reverse charge.
- (iv) Amount available in electronic credit ledger can only be utilized for the payment of tax chargeable on outward supplies of registered person and cannot be utilised against tax which is payable by recipient on inward supplies under reverse charge mechanism.
- (v) Section 2(82) clearly states that output tax does not include amount of tax payable on reverse charge basis.

Check your progress 5

1. Input Tax credit as credited in Electronic Credit ledger can be utilized for the payment of _____
- (a) Interest (b) Penalty
- (c) Fine (d) Taxes

3.6 Let Us Sum Up

This Act came into existence w.e.f. 2017. The purpose of formation of any act is for betterment of general public .Tax collected under this Act is the revenue for central Government. All Service Tax are subsumed under CGST. We learn clear idea about Aggregate turnover, Exempted from GST and Input tax credit.

3.7 Answer for Check Your Progress

Check your progress 1

Answer: (1- a); (2 – b)

Check your progress 2

Answer: (1- b); (2-a)

Check your progress 3

Answer : (1-d) ; (2-b)

Check your progress 4

Answer : (1-d)

Check your progress 5

Answer: (1- d)

3.8 Glossary

Aggregate turnover: Means the aggregate value of all taxable supplies, exempt supplies, exports of goods or services or both interested supplies.

Exempt Supply: Means “supply of any goods or services or Both which attracts nil rate

3.9 Assignment

Explain the following definitions

- a) Aggregate turnover
- b) central Tax
- c) Services

3.10 Activities

What is Input Tax Credit ? Explain

3.11 Case Study

Browse through the Internet and make a list of Tax rate wise categorization of goods and services

3.12 Further Reading

1. Student Guide To Income Tax Including GST By Dr. Vinod K.Singhania & Dr. Monica Singhania
2. Goods and Service Tax Foreword by Dr. Harsh Vardhan
3. GST Act’s Rules & Forms by CA Ashok Batra

Block Summary

One nation – one tax concept: The GST is a common indirect tax for the entire country which shall provide one integrated market. It is a single tax on the supply of goods and services, right from the manufacturer to the ultimate customer. By integrating a huge number of central and state taxes into a single tax, GST would minimize double taxation in a most important manner and thereby create a common national market. GST is not a new concept world-wide. World first country to implement GST law in the year 1954 was France. Thereafter, the GST law in some form or other has been implemented by 159 other countries. During the budget 2006-'07, the Government of India has mooted an idea to replace the present indirect taxes by new and common Indirect tax namely “Goods and Service Tax – GST”, the journey of GST has started in the year 1986. The whole block was divided into three units and first unit covers r the basic introduction of GST it covers History of Indirect Taxation, Concept of goods and services (GST), The year wise evolution of GST in India, Components of GST, Limitations of Old Indirect Tax Structure, Basic Idea of GST, Example for concept of GST. Unit second gives the Model of GST, Salient features of GST, Benefits of GST, GST and Centre state financial Relation, Role of Centre board of excise and customs. Unit third gives the Definition, Exemption from GST, GST Rate, Input Tax credit.

This block is going to be great help for all the reads who intend to build the career in this respective line.

Block Assignment

Short Answer Questions

Write Short Notes

1. Concept of goods and services (GST)
2. Limitation of Old Indirect Tax Structure
3. Basic Idea of GST
4. Salient Features of GST
5. Role of central Board of Excise and Customs
6. Input Tax credit
7. Definition: Aggregate turnover
8. Goods Under Section 2(52): “goods”
9. ‘Mixed supply-2’ (74)
10. “Reverse charge” 2(98)t de

Long Answer Questions

1. Explain the concept of GST with Example
2. Benefits of GST
3. Exemption From Goods and Service Tax

GOODS AND
SERVICE TAX

Enrolment No.:

1. How many hours did you need for studying the units ?

Unit No.	1	2	3	4
Nos of Hrs				

2. Please give your reactions to the following items based on your reading of the block:

Items	Excellent	Very Good	Good	Poor	Give specific example if any
Presentation Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Language and Style	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Illustration used (Diagram, tables etc)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Conceptual Clarity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Check your progress Quest	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Feed back to CYP Question	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Any Other Comments

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