

1. BASIC CONCEPTS OF INCOME TAX

COMPONENTS OF INCOME TAX LAWS		DEFINITION OF PERSON
<p>Income Tax Act, 1961</p> <ul style="list-style-type: none"> ▪ 1st April, 1962 ▪ 298 sections ▪ XIV schedules ▪ Proviso → Gives Exceptions to the provision contained in the respective section. ▪ Explanation → Gives clarification related to the provision contained in the section <p>Annual Finance Act: Gives applicable rates of tax.</p> <p>Income Tax Rules: issued by CBDT for proper administration of the Act.</p> <p>Notifications: subordinate legislation issued by CG.</p> <ul style="list-style-type: none"> ▪ CBDT is also empowered to make & amend rules by issuing notifications. ▪ Binding on everyone. [Assessee + Income Tax department] <p>Circulars: They deal with certain specific problems.</p> <ul style="list-style-type: none"> ▪ Issued by CBDT to clarify doubts regarding scope & meaning of provisions. ▪ Binding on the department but not on the assessee. ▪ However assessee can take advantage of beneficial circulars. <p>Case Laws (Judicial Decisions)</p> <ul style="list-style-type: none"> ▪ Supreme Court Decisions becomes Judicial Precedent (Law) & are binding on all the courts, Appellate Tribunal, Income Tax Authorities & on Assesseees. ▪ Decision of a High Court cannot bind other High Court. 	<p>1. Individual: → A Natural Human Being (Male/Female/Minor/Unsound Mind).</p> <ul style="list-style-type: none"> ▪ Income of Minor & unsound Person → Assessed in hands of Manager/Guardian <p>2. HUF: Status in HUF is received by birth & not by operation of law.</p> <ul style="list-style-type: none"> ▪ HUF is not defined under IT Act. However, as per Hindu Law, it consists of all males lineally descended from common ancestor & includes their wives & unmarried daughters. Even a single male member can have HUF. ▪ Only Co-parceners have the right to Partition. ▪ All Co-parceners are Members but all members need not be co-parceners. ▪ Coparceners → HUF may contain many members, but only members within 4 degrees including KARTA are called co-parceners (including daughters). [Note: wife/daughter -in-law cannot be co-parceners; but they can be members] <p>3. Company - It means:</p> <ul style="list-style-type: none"> ▪ Any Indian Company defined in section 2(26); ▪ Any Body Corporate incorporated under the foreign laws [Foreign company]; ▪ Any institution, association or body (incorporated/not) whether Indian or non-Indian, declared by general or special order of CBDT to be a company. <p>4. Firm (registered/not) (including LLP): Same Tax Treatment for both.</p> <p>5. Association of Persons (AOP)/Body of Individuals (BOI)</p> <p>6. Local Authority (LA)</p> <p>7. Every Other AJP (not falling in above categories): Ex: Idol/deity</p>	
<p>Asessee: It includes –</p> <p>(a) Tax Payable: Every Person by whom any tax or any other sum of money is payable under this Act (with/without any proceeding).</p> <p>(b) Proceeding started: Any Person against whom any proceeding has started (whether or not any tax, interest or penalty is payable by him).</p> <p>(c) Deemed Assessee: A person assessable for income of some other persons.</p> <p>(d) Assessee in default: Any person who</p> <ul style="list-style-type: none"> (i) does not deduct tax or (ii) fails to pay advance tax (iii) after deducting tax, fails to pay tax deducted to the government or 	<p>Person having SUBSTANTIAL INTEREST in the Company [Sec 2(32)]</p> <ul style="list-style-type: none"> ▪ Any beneficial owner of shares carrying at least 20% of voting power. <p>Average Rate [SEC 2(10)]:</p> $\frac{\text{Income Tax on Total Income using applicable slab rate}}{\text{Total Income}}$ <p>Maximum Marginal Rate [SEC 2(29C)]:</p> <ul style="list-style-type: none"> ▪ Highest Slab Rate of Tax (including SC) applicable to Individual or AOP/BOI 	

INCOME & ITS CONSTITUENTS [SECTION 2(24)]

Illegal/tainted income → Illegal Income is also taxed.
Disputed Income → Taxable to recipient till the dispute is settled.
Contingent Income → A contingent income is not income & thus not taxed.
Pin Money → Income x ; [Any property acquired using such money/savings → CA].
Income must come from Outside : A person cannot earn income from himself.

Relevance of Method of Accounting followed by the Assessee:

(i) Salary; (ii) HP; (iii) CG	Method of A/cing is irrelevant .
(i) PGBP; (ii) IFOS	Method of A/cing followed by assessee is relevant .

Capital Receipt Vs Revenue Receipt:

Capital Receipts	Not Taxable unless expressly provided.
Revenue Receipts	Always Taxable unless expressly exempt.

- ☞ **Liquidated damages** → **Capital receipt**. Amount received towards compensation for sterilization of profit earning source is not in ordinary course of business.
- ☞ **Compensation on Termination of Agency** → Capital receipt. Receipt of compensation on termination of agency business being the only source of income by the assessee. But if assessee has several agencies & one of them is terminated & compensation is received, it would be revenue receipt since taking agencies & exploiting them for earning income is the ordinary course of business & loss of one agency would be made good by taking another.
- ☞ **Compensation received from employer** or from any person for **premature termination** of the service contract is a capital receipt but is taxable as profit in lieu of salary u/s 17(3) or IFOS u/s 56(2)(xi), respectively.
- ☞ Compensation received or receivable in connection with **termination/modification of T & Cs** of any contract relating to its business shall be taxable as business income.

Application of Income	Diversion of Income
<ul style="list-style-type: none"> ☞ If assessee applies (uses) his income to discharge his obligation ☞ after the income reaches the assessee, it is application of income ☞ Such Income is taxable to the assessee. 	<ul style="list-style-type: none"> ☞ If there is overriding charge on the source of such income which diverts the income before it reaches the assessee, it is diversion of Income. ☞ Such Income cannot be treated as income & thus Not Taxable.

FINANCIAL YEAR, PREVIOUS YEAR & ASSESSMENT YEAR

- ☞ FY - Year starting on 1st April & ending on 31st March.
- ☞ PY [Sec 3] - FY in which the income is earned.
- ☞ AY [Sec 2(9)] - FY in which income is assessed to tax.

Dual Role of a FY: Each FY is both PY as well as AY.

First PY for Newly Set-up Business/Profession during FY

1st PY = From date of setting up of business & ending on last day of that FY (31st Mar).
 1st PY of newly set-up business/profession will be either 12 months or < 12 months. It cannot exceed 12 months. [Same provision is applicable for New Source of Income]

Uniform PY: All Assessee are required to follow FY as PY uniformly for every year.

CASES WHERE INCOME OF THE PREVIOUS YEAR IS ASSESSED IN PY ITSELF

- Shipping business of non-residents [Sec 172]**
 - ☞ Ship of NR is allowed to leave the port only when tax has been paid or satisfactory arrangement has been made for payment thereof.
 - ☞ **Income = 7.5% of freight paid/payable whether in India or o/s India.**
- Person Leaving India [Sec 174]**
 - ☞ If a person is leaving India & he has no present intention of returning to India,
 - ☞ Income from the expiry of last PY upto the probable date of his departure from India is taxable in that PY itself.
- AOP/BOI/AJP formed for a particular event/purpose [Sec 174A]**
 - ☞ If AO think that AOP/BOI is likely to be dissolved in same year or in next year,
 - ☞ he will assess income upto date of dissolution in the relevant PY itself.
- Persons likely to transfer property to avoid tax [Sec 175]**
 - ☞ Total income of such person for the period from the expiry of PY to the date when AO commences proceedings is taxable in that PY.
- Discontinued Business [Sec 176]**
 - ☞ Income from the end of last PY upto the date of such discontinuance may, **at the discretion of AO** may be charged to tax in that PY itself.

Note: Section 176 is a **Discretionary power**. AO may choose not to apply it & wait till the end of PY.

PREVIOUS YEAR FOR UNDISCLOSED SOURCES OF INCOME**1. Cash Credits [Sec 68]**

- Where any sum is found credited in books of the assessee & assessee offers **no/unsatisfactory explanation** about **nature & source**,
- sum so credited may be charged as income of the assessee of that PY.

2. Unexplained Investments [Sec 69]

- If in any FY assessee has made **investments** which are **not recorded in books of A/c** & Assessee offers **no/unsatisfactory explanation** about **nature & source of investment**,
- Value of investments are taxed as income of assessee of such FY.

3. Unexplained Money/Bullion/Jewellery [Sec 69A]

- Where in any FY, assessee is found to be **owner of any money, bullion, jewellery etc.** &
- Such asset is **not recorded** in books of A/c & assessee offers **no/unsatisfactory explanation** about nature & source,
- Money & Value of bullion etc. will be deemed to be income of the assessee for such FY.
- Ownership is important & mere possession is not enough.**

4. Amount of Investments not fully disclosed in books [Sec 69B]

- Where in any FY, assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article &
- AO finds that **Amount spent** on making such investments > **Amount recorded in books of A/c** of the assessee & assessee offers **no/unsatisfactory explanation** for the **difference**,
- Such excess may be deemed as income of the assessee for such FY.

5. Unexplained Expenditure [Sec 69C]

- Where in any FY, Assessee has incurred any expenditure & he offers no/unsatisfactory explanation about the source of such expenditure,
- AO may treat such unexplained expenditure as income of the assessee.

6. Amount borrowed or repaid on Hundi [Sec 69D]

- Where any amount is **borrowed** on hundi or is **repaid** (thereon) **other than through A/c Payee Cheque**,
- Amount so **borrowed or repaid** shall be deemed to be income of the borrower or repaying of PY in which amount was borrowed/repaid.
- Amount repaid shall include interest paid on amount borrowed.**

Note: But if any amount borrowed on hundi has been taxed as income of the person, he will not be taxed again on **repayment** of such amount.

Rate u/s 68 & 69 [SEC 115BBE] = 60% + SC @ 25% + HEC @ 4% = 78%.
Neither BEL nor set off of any loss shall be allowable against such income.

TAX RATE FOR DIFFERENT PERSONS [Sec 2 of FA-2018]

TI → Total Income after all deductions except Incomes Taxable at Specified Rates.

Individual/HUF/AOP/BOI/AJP [R/NRI]		
TI	Upto 2,50,000 [BEL]	2.5 L – 5 L
Rate	Nil	5%
		20%
		30%

(i) For Resident Senior Citizen (Age: 60 years or more but < 80 years) → BEL = 3 Lacs.

(ii) For Resident Super Senior Citizen (Age: 80 years or more) → BEL = 5 Lacs

Surcharge: [Check for Marginal Relief u/s 89]

Income > 50 Lacs but ≤ 1 Cr

Income > 1 Cr

10% of IT

15% of IT

Marginal Relief (Sec 89): If SC is applicable on TI, Marginal relief is available.

Steps to calculate Marginal Relief:

- Calculate Tax (including surcharge) on Total Income of the Assessee.
- Tax payable on Rs. 50 Lacs/ 1 Cr/ 10 Cr as the case may be. **[Depends on levy of SC]**
- Calculate **"Extra Tax Payable"** because of Income above 50 Lacs/1 Cr/10 Cr. **[1-2]**
- Marginal Relief = Extra Tax Payable – Income above Rs. 50 Lacs/ 1 Cr/ 10 Cr.

PC NOTE: If **Extra Tax > Extra Income**, **Difference between them is Marginal Relief.**

Rebate u/s 87A

Assessee	Resident Individuals whose Total Income ≤ Rs. 3,50,000
Rebate	Lower of (i) Income Tax payable on Total Income OR (ii) Rs. 2,500

Note: Rebate u/s 87A shall be before adding 4% of HEC.

Note: Rebate u/s 87A is not available in respect of tax payable @ 10% on LTCG u/s 112A.

Firms/LLP/LA	Whole Income is taxable @ Flat 30% without any BEL.	
Co-operative Societies	Total Income	Upto 10,000
	Rate	10%
Company	Domestic	If Turnover/GR in PY 2016-17 ≤ 250 Cr
	Foreign (Companies other than Domestic Company)	In other case
		25%
		30%
		40%

SURCHARGE

Assessee	Rate of Surcharge if Total Income ↓
	>1 Cr but ≤ 10 Cr
1. Firms/LLP/Co-operative society/LA	12 % of IT
2. Domestic Companies	7 % of IT
3. Foreign Companies	2 % of IT

◆ **Health & Education cess** → @ 4% is levied on **Total Income tax + SC - Rebate u/s 87A.**

2. RESIDENTIAL STATUS

1. INDIVIDUAL

Basic Conditions: [Satisfy ANY ONE → Resident]

- (a) Total stay in India during PY \geq 182 days; **OR**
 (b) (i) Total stay in India during PY \geq 60 days &
 (ii) Total stay in India during last 4 PYs \geq 365 days.

ADDITIONAL CONDITIONS: [Satisfy BOTH → ROR]

- (i) Total stay in India in last 7 years \geq 730 days AND
 (ii) Resident in Any 2 PY out of last 10 PYs.

Exceptions: Following Individuals → Residents only if Period of Stay during PY \geq 182 days

[i.e 2nd Condition → Not Applicable in their cases]

- (i) Indian Citizens who leaves India during PY as a member of crew of Indian ship;
 (ii) Indian Citizens who leave India for employment outside India;
 (iii) Indian Citizen or Person of Indian Origin who comes on visit to India in PY. (Such person must be engaged in employment/business/profession outside India).

Person of Indian Origin: If the person or his parents or his grandparents were born in UNDIVIDED INDIA. Grandparents include both maternal & paternal grandparents.

Rule 126: Individual who is Citizen of India & member of crew of Foreign going ship.

Period of Stay in India shall not include the following period:

Period Commencing from	Ending on
Date entered into CDC for joining ship	Date entered into CDC for signing off

☞ Date of Arrival & Departure → Considered in India for counting no. of days in India.

☞ Individual can be resident in more than 1 country, but he can be citizen in Only 1 Country.

2. HUF:

If Control & Management of HUF is situated wholly/partly in India	Resident
If Control & Management of HUF is situated wholly outside India	NR

Note: C&M is situated at a place where the head & brain is situated.

Determination of status of ROR/RNOR

Status of Karta will determine whether HUF is ROR/RNOR.

- If KARTA is ROR → HUF is ROR &
- If KARTA is RNOR → HUF is RNOR.

3. FIRMS/AOP/LA/AJP

If Control & Management of HUF is situated wholly/partly in India	Resident
If Control & Management of HUF is situated wholly outside India	NR

4. COMPANY

A Company shall be Resident in India if:

- (i) It is an Indian company; **OR**
- (ii) POEM of the company is in India in that PY.

POEM: A Place where key management & commercial decisions necessary for the conduct of the business of an entity as a whole are substantially made.

Circular: NR Seafarer receiving Remuneration (salary) in NRE (Non-Resident External) A/c maintained with Indian Bank for services rendered **outside India** on a foreign going ship (with Indian flag or foreign flag) → Not taxable in India.

SCOPE OF TOTAL INCOME [SECTION 5]

Indian Income	1. Income Received/Deemed to be received in India OR 2. Income Accrued/Deemed to be accrued in India.		Income		Tax Treatment	
	Foreign Income	Income which is Neither Received nor Accrued in India.	ROR	ROR	ROR	NR
			Taxable	Taxable	Taxable	Taxable
			Taxable	** [Given on Left Side]	** [Given on Left Side]	Not Taxable
OTHERS		Income	Tax Treatment		Tax Treatment	
		Indian	ROR	Taxable	ROR	NR
		Foreign	Taxable	Taxable	Taxable	Taxable

** Following 2 Foreign Incomes are taxable to RNOR even if it accrues o/s India:

- Business Income which is controlled wholly/partly from India.
- Income from profession set up in India.

☞ No other foreign Income (Salary, Rent, Interest etc.) is taxable in India to RNOR.

INCOMES DEEMED TO ACCRUE OR ARISE IN INDIA [SECTION 9]

<p>1. Income (of a NR) from Business Connection in India</p> <ul style="list-style-type: none"> ➤ Business connection includes any business activity carried out through a person acting on behalf of NR. Ex: Branch office, Agent, factory of NR in India. ➤ Person Acting on behalf of NR (Agent) must satisfy follⁿ conditions: <ul style="list-style-type: none"> ▪ Agent of NR must have Authority to conclude contracts on behalf of NR ▪ he habitually maintains stock of goods/ merchandise from which he regularly deliver goods/merchandise in India on behalf of NR. ▪ Where he habitually secures orders in India for NR. ➤ [2 NR → 1 Agent]: Business connection for other NR is established if: <ol style="list-style-type: none"> such other NR controls the NR or such other NR is controlled by the NR or such other NR is subject to same control as that of NR. ➤ Significant Economic Presence of NR in India Constitute Business Connection. [To cover digitalized business not requiring physical presence/agent in India] ➤ Cases of No Business Connection → Independent Agent. <ul style="list-style-type: none"> ▪ Agent's authority is limited to purchase of goods for NR 	<p>5. Salary Income → Deemed to accrue at the place where services are rendered.</p> <p>Exception: Salary payable by Government to citizen of India for services rendered o/s India → Deemed to accrue in India & thus will be taxable to everyone. <i>But Allowances & Perquisites paid o/s India by Government is exempt u/s 10(7).</i></p> <p>Note: Pension payable o/s India by Government to its officials & Judges who permanently reside outside India → not deemed to accrue in India & thus NO TAX.</p> <p>6. Interest, Royalty, FTS → Deemed to accrue in India in follⁿ cases & taxable to everyone:</p> <ol style="list-style-type: none"> If Payable by 'Government of India'. [Govn. → NR] If Payable by 'Resident in India' [R → NR] <p>Exceptions: [Not taxable to Recipient NR in such cases]</p> <ol style="list-style-type: none"> If Borrowed money is used for business/profession outside India. If Royalty or Technical fees given are for business/profession outside India. <p>Payable by 'Non-Resident in India' [NR → NR]</p> <ol style="list-style-type: none"> If borrowed money is used by NR for Business/Profession in India. If Royalty or Technical fees given are for Business/Profession in India. <p>Exception: Interest on money borrowed by NR for any purpose other than Business/Profession → Not Deemed to accrue in India.</p> <p>PC Note: If Used for Business/Profession/Earning Income in India → Deemed to accrue in India & thus Taxable to Everyone. [Remember this logic for Correct Answer Always]</p>
<p>2. Income from Property or Asset situated in India → Always Taxable to Everyone.</p> <p>3. Capital Gain from Capital Asset in India → Always Taxable to Everyone.</p> <p>4. Dividends paid by Indian company outside India → Always Taxable to Everyone.</p>	

- ❖ **Receipt** → First occasion (time) when the recipient gets money under his control. Any Further Remittance/Transmission of the received amount to another place/person does not result in "Receipt" in the hands of subsequent recipient & thus will not be taxable to Recipient.