



INCOME TAX THEORY LAW & PRACTICE

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BASIC CONCEPTS

Under the Constitution of India Central Government is empowered to levy tax on the income. Accordingly, the Central Government has enacted the Income Tax Act, 1961. The Act provides for the scope and machinery for levy of Income Tax in India. The Act is supported by Income Tax Rules, 1961 and several other subordinate and regulations. Besides, circulars and notifications are issued by the Central Board of Direct Taxes (CBDT) and sometimes by the Ministry of Finance, Government of India dealing with various aspects of the levy of Income tax. Unless otherwise stated, references to the sections will be the reference to the sections of the Income Tax Act, 1961. Income tax is a tax on the total income of a person called the assessee of the previous year relevant to the assessment year at the rates prescribed in the relevant Finance Act.



DEFINITION

Income tax is a type of **tax** that governments impose on **income** generated by businesses and individuals within their jurisdiction. **Income tax** is used to fund public services, pay government obligations, and provide goods for citizens.

PREVIOUS YEAR

PREVIOUS YEAR- S. 2(34) & S. 3

Definition:

Section 3 defines "Previous year" as "the financial year immediately preceding the assessment year". Income earned in one financial year is taxed in the next financial year. The year in which income is earned is called the "previous year" and the year in which it is taxed is called the "assessment year"
Common previous year for all source of income:

A person may earn income from more than one sources but previous year will always be common for all the sources of income. This will be so even if a person maintains records or books of accounts separately for different sources of income.

Total income of a person from all the sources of income will be taken together and considered in the previous year or the financial year immediately preceding the assessment year.

ASSESSMENT YEAR

ASSESSMENT YEAR – S. 2(g) Section 2(g)

defines an “Assessment year” as “the period of twelve months starting from the first day of April every year.” An assessment year begins on 1st April every year and ends on 31st March of the next year. For example, Assessment year 2012-13 means the period of one year beginning on 1 st April, 2011 and ending on 31st March, 2012. In an assessment year, income of the assessee during the previous year is taxed at the rates prescribed by the relevant Finance Act. It is therefore, also called as the “Tax Year”

PERSON

PERSON –Section 2(31)

The term “person” includes:

- an individual;
- a Hindu undivided family (HUF);
- a company;
- a firm;
- an Association of Persons(AoP) or a Body of Individuals,(BoI) whether incorporated or not;
- a local authority; and every artificial juridical person not falling within any of the preceding categories.

These are seven categories of persons chargeable to tax under the Act. The aforesaid definition is inclusive and not exhaustive. Therefore, any person, not falling in the abovementioned seven categories, may still fall within the four corners of the term “person” and accordingly may be liable to tax.

ASSESSEE

ASSESSEE–S. 2(7)

Definition : U/s 2(7) "Assessee" means a person by whom income tax or any other sum of money is payable under the Act and it includes:

- ✓ every person in respect of whom any proceeding under the Act has been taken for the assessment of his income or loss or the amount of refund due to him
- ✓ a person who is assessable in respect of income or loss of another person or who is deemed to be an assessee, or
- ✓ an assessee in default under any provision of the Act

A **minor child** is treated as a separate assessee in respect of any income generated out of activities performed by him like singing in radio jingles, acting in films, tuition income, delivering newspapers, etc. However, income from investments, capital gains on securities held by minor child, etc. would be taxable in the hands of the parent having the higher income (mostly the father), unless if such assets have been acquired from the minor's sources of income.

ASSESSMENT

ASSESSMENT - S 2(8)

An assessment is the procedure to determine the taxable income of an assessee and the tax payable by him. S. 2(8) of the Income Tax Act, 1961 gives an inclusive definition of assessment "an assessment includes reassessment" U/s 139 of the Act, every assessee is required to file a self declaration of his income and tax payable by him called "return of income".

INCOME

INCOME- S 2(24)

Definition; Although, income tax is a tax on income, the Act does not provide any exhaustive definition of the term "Income". Instead, the term 'income' has been defined in its widest sense by giving an inclusive definition. It includes not only the income in its natural and general sense but also incomes specified in section 2 (24).

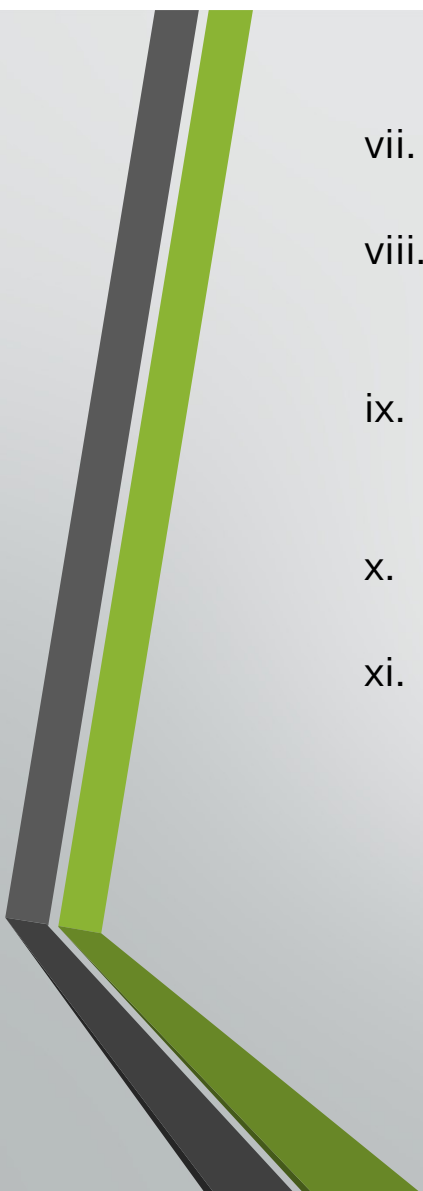
Broadly the term "Income includes the following:

- i. profits and gains ;
- ii. dividend;
- iii. voluntary contributions received by certain institutions
- iv. Receipts by employees the value of any benefit or perquisite, whether convertible into money or not.
- v. Incomes from business – s-28
- vi. any capital gains chargeable under section 45;

DR P VIJAYA BANU

16-02-2021

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- vii. any sum earlier allowed as deduction and chargeable to income-tax under Section 59 5
 - viii. any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever ;
 - ix. any contribution received from employees towards any provident fund or superannuation fund or Employees State Insurance Act, 1948 , or any other fund for the welfare of such employees ;
 - x. any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.
 - xi. any sum of money or value of property received as gift –S 56(2) and Shares of closely held companies transferred to another company or firm are covered in the definition of gift except in the case of transfer of such shares for reorganization of business by amalgamation or demerger etc

Total Income is the **income** on which **tax** liability is determined. It is necessary to compute **total income** to ascertain **tax** liability. Section 80C to 80U provides certain deductions which can be claimed from **Gross Total Income** (GTI).

Taxable income is the amount of **income** used to calculate how much tax an individual or a company owes to the government in a given tax year. It is generally described as adjusted **gross income** (which is your **total income**, known as “**gross income**,” minus any deductions or exemptions allowed in that tax year).

Casual income means **income** in the nature of winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, gambling, betting etc. Such winnings are chargeable to **tax** at a flat rate of 30% under section 115BB.

According to section 2(14) **of** the **Income-tax** Act, the word '**capital** asset' means, 'property **of** any kind held by an assessee'. ... As per the **definition of capital** assets under section 2(14) **of** the Act, any kind **of** property held by an assessee would come within the **definition of 'capital** asset'.

Revenue is the total amount of income generated by the sale of goods or services related to the company's primary operations. **Revenue**, also known as gross sales, is often referred to as the "top line" because it sits at the top of the income statement.

RESIDENTIAL STATUS & INCIDENCE OF TAX

Under the Income **Tax** Act, the **residential status** of an individual is determined on the basis of period of stay of taxpayers in India. **Tax incidence** on a taxpayer in India depends upon his **residential status**. ... However, the Income **Tax** Act, 1961 (Act) does not provide **tax** benefits on the basis of a person's citizenship.

The **residential status** of taxpayers plays a key role in determining the scope of taxable income for a financial year in India and there by the **tax** payable. For an **individual** the **residential status** is determined solely by his/her physical presence in India during the financial year.

Tax incidence on an **assessee** depends on his **residential status**. ... Therefore, the determination of the **residential status** of a person is very significant in order to find out his **tax** liability.

INCOMES EXEMPTED UNDER SECTION 10

Section 10(1)	Income earned through agricultural means
Section 10(2)	Any amount received by an individual through a coparcener from an HUF
Section 10(2A)	Income received by partners of a firm, as shared between them
Section 10(4)(i)	Any interest that has been paid to a person who is not a resident Indian
Section 10(4)(ii)	Any interest that has been paid to the account of a person who is not a resident Indian
Section 10(4B)	Any interest that has been paid to a person who is not a resident Indian, but of Indian origin
Section 10(5)	Concession on travel given to an employee who is also a citizen of India
Section 10(6)	Any income earned or received by a non Indian citizen

DR. P. VIJAYA BANU

16-02-2021

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Section 10(6A), (6B), (6BB), (6C)	Government tax paid on the income of a foreign firm
Section 10(7)	Allowances received by government employees stationed abroad
Section 10(8)	Income earned by foreign employees in India under the Cooperative Technical Assistance Program
Section 10(8A)	Income earned by a consultant
Section 10(8B)	Income earned by a consultant's staff or employees
Section 10(9)	Income earned by any family member of a foreign employee in India under the Cooperative Technical Assistance Program
Section 10(10)	<u>Gratuity</u>
Section 10(10A)	The commuted value of the pension earned by an individual
Section 10(10AA)	Any amount earned via encashment of leave at the time of retirement
Section 10(10B)	Compensation paid to workers due to relocation
Section 10(10BB)	Any remittance obtained as per the Bhopal Gas Leak Disaster Act 1985
Section 10(10BC)	Any compensation obtained in the event of a disaster

DR P VIJAYA BANU

16-02-2021

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Section 10(10C)	Compensation in lieu of retirement from a PBC or any other firm
Section 10(10CC)	Any income received through taxation on perquisites
Section 10(10D)	Any amount acquired via a life insurance policy
Section 10(11)	Any payment received via the Statutory Provident Fund
Section 10(12)	Any payment received via a recognised or authorised Fund
Section 10(13)	Any payment received through a Superannuation Fund
Section 10(13A)	House Rent Allowance
Section 10(14)	Allowances utilised to meet business expenses
Section 10(15)	Income received in the form of interest
Section 10(15A)	Income received by an Indian firm through the lease of an aircraft from a foreign firm or government
Section 10(16)	Income in the form of a scholarship
DR P VIJAYA BANU Section 10(17)	Allowances granted to MLCs, MLAs or MPs

16-02-2021

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Section 10(17A)	Income received in the form of a government award
Section 10(18)	Income received in the form of pension by winners of awards for heroism
Section 10(19)	Income received by family members of the armed forces in the form of pension
Section 10(19A)	Income received from a single palace of an exruler
Section 10(20)	Income received by a localised body or authority
Section 10(21)	Income received by an association involved with scientific research
Section 10(22B)	Income earned by a news or broadcasting agency
Section 10(23A)	Income earned by certain Professional Institutes
Section 10(23AA)	Income acquired through Regimental Fund
Section 10(23AAA)	Income acquired through an employee welfare fund
Section 10(23MB)	Insurance pension fund income

DR P VIJAYA BANU

16-02-2021

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Section 10(23B)	Income earned by village industry development institutions
Section 10(23BB)	Income earned by state level Khadi and Village Industries Board
Section 10(23BBA)	Income earned by regulatory bodies of institutions affiliated with religion and charity
Section 10(23BBB)	Income received by the European Economic Community
Section 10(23BBC)	Income received through SAARC funded regional projects
Section 10(23BBE)	Income received by the IRDA
Section 10(23BBH)	Income received through Prasar Bharti
Section 10(23C)	Income received by any individual through certain specified funds
Section 10(23D)	Income earned via Mutual Funds
Section 10(23DA)j	Income earned via a Securitisation Trust
Section 10(23EA)	Income earned through an IPF
Section 10(23EB) DR P VIJAYA BANU	Income received by the Credit Guarantee Trust for Small Industries

16-02-2021

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Section 10(23ED)	Income exemption of IPF
Section 10(23DFB)	Income exemption of specified income received by Venture Capital Firms, Funds or Businesses
Section 10(24)	Income earned by authorised trade unions
Section 10(25)	Income earned via provident funds and superannuation funds
Section 10(25A)	Income earned via Employee's State Insurance Fund
Section 10(26), 10(26A)	Income earned by Schedule Tribe Members
Section 10(26AAN)	Income earned by an individual of Sikkimese origin
Section 10(26AAB)	Marketing regulation with regards to agricultural produce
Section 10(26B)	Income earned by corporations established for the upliftment of backward tribes and classes
Section 10(26BB)	Income earned by corporations established for the protection of Minority interests
Section 10(26BBB)	Income earned by corporations established for former servicemen
Section 10(27) DR P VIJAYA BANU	Income earned by cooperative societies established for protection of scheduled castes and tribes interests

16-02-2021

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Section 10(29A)	Income received by Community Boards
Section 10(30)	Income earned in the form of subsidies via the Tea Board
Section 10(31)	Income earned in the form of subsidies via the concerned Board
Section 10(32)	Income earned by a child in accordance with Section 64 of the Income Tax Act
Section 10(33)	Income earned through Unit Trust of India capital asset transfer
Section 10(34)	Income earned in the form of dividends through an Indian firm
Section 10(34A)	Income earned by a shareholder through the buyback of unlisted companies
Section 10(35)	Income received through the sale or transfer of Unit Trust of India units as well as other mutual funds
Section 10(35A)	Income from a securitisation trust that is exempt
Section 10(36)	Income received on the sale of shares under specific conditions
Section 10(37)	Any capital gains made on the mandatory acquirement of land in relation to urban agriculture
Section 10(38)	Any long term capital gains made from share and security transfers that fall under the purview of Security Transaction Tax

DR P VIJAYA BANU

16-02-2021

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Section 10(39)	Any income received from any international event or function relating to sports
Section 10(40)	Any income acquired in the form of a grant from a company deemed to be a subsidiary of the parent company
Section 10(41)	Any income received on any asset transfer of a company or project that conducts power distribution, generation and transmission
Section 10(42)	Any income earned by any authority that has been established by more than one country
Section 10(43)	Any income in relation to reversal of mortgage
Section 10(44)	Income generated through the NPS Trust
Section 10(45)	Any allowance or perks granted to the chairman or any member of the UPSC
Section 10(46)	Any income that comes under the category of 'specified income' with regards to specific authoritative bodies
Section 10(47)	Any income that is exempt under the category of infrastructure debt fund
Section 10(48)	Any income earned by a foreign firm or company due to crude oil sales within India
Section 10(49)	Any income earned by the NFHC (National Finance Holdings Company)