**ANNAI VAILANKANNI ARTS AND SCIENCE COLLEGE, THANJAVUR**

**POST GRADUATE DEPARTMENT OF COMMERCE – COMPUTER APPLICATIONS**

**III BCOM CA**

**INCOME TAX THEORY LAW AND PRACTICE**

**BY**

**Dr.S.VIJAYAKUMAR.,M.Com.,M.Phil.,NET.,Ph.D.,**

**Asst. Prof. in Commerce (CA),**

**PG & Research Department of Commerce(CA),**

**Annai Vailanlanni Arts and Science College,**

**Bishop Sundaram Campus,**

**Thanjavur – 613007.**

**INCOME TAX(DIRECT TAX)**

* In India, Income Tax was first introduced in **1860 by Sir. James Wilson.**
* The Income Tax Act, **1961,** which came into force from **1st April, 1962**.
* Income Tax Act applies to the **whole of India and Sikkim and J&K.**
* It is a comprehensive Act with **298 Sections** and **XII schedules.**
* The **Central Board of Direct Taxes (CBDT**) frames rules from time to time for carrying out the purposes of the **I.T. Act and Finance Act**. These rules are collectively called **Income Tax Rules 1962.**
* **Section 4** of the Income Tax Act is the **Charging Section** and back bone of the LAW of Income Tax Act.
* **Objectives of Taxation –** Objective of raising revenue, Regulatory Objectives, Developmental Objectives, Objectives of Reducing inequality **Cannons of Taxation –** Cannon means general law, rule, and principle. **Adam Smith’s Four Cannons of Taxation –** Equality, Certainty, convenience, Economy
* **Cannon of other Western Economists –** Productivity, Elasticity, Diversity, Simplicity, Expediency (Suitability), and Co-ordination
* **Rates of Tax: Assessment Year 2019-2020; Previous Year 2018-2019.**

|  |  |  |  |
| --- | --- | --- | --- |
| **Individual** | **Senior Citizen (60 Years or more)** | **Super Senior (80 Years or more)** | **Rates** |
| **Up to 2,50,000** | Up to 3,00,000 | Up to 5,00,000 | **NIL** |
| 2,50,001 To  5,00,000 | 3,00,000 To  5,00,000 | ----- | **5%** |
| 5,00,001 To  10,00,000 | 5,00,000 To  10,00,000 | 5,00,000 To  10,00,000 | **20%** |
| Above 10,00,000 | Above 10,00,000 | Above 10,00,000 | **30%** |

**Education Cess: 4% (3% on tax on income + 1% SHEC)**

**Company – Indian 30%; Foreign 40%**

**Short-term Capital Gain on Shares** which are subject to STT: **15%**

**Long-term Capital Gain: 20%**

**Casual Income (**Lottery, Races, Puzzles etc.): **30%**

**Surcharge for individuals** has been **abolished** w.e.f. the **assessment year 2010-2011.**

**Surcharge** means if income exceeds 1 crore. The tax on tax is **15%**

**BASIC CONCEPTS**

**Previous Year (Section 3)**

Income earned in a year is taxable in the next year. The year in which income is earned is known as previous year.

Previous year means the financial year immediately preceding the assessment year.

**Assessment Year (Section 2 (9))**

The tax payer’s income of the previous year is assessed to tax in the assessment year.

Assessment year means the period of 12 months beginning from 1st April every year and ending on 31st March of the immediately following year.

The Current **Assessment year is 2019-2020;** Relevant**Previous Year is 2018-2019.**

**Person (Section 2 (31))**

1. An Individual
2. A HUF (Hindu Undivided Family)
3. A Company
4. A Firm
5. An Association of Persons **(AOP)**
6. Body of Individuals **(BOI)**

**Example: A Company –** Reliance Industries, Punjab National bank, Kalyani Publishers ltd. And LIC; **Artificial Juridical Person –** Madras University, RBI; **Local Authority** – Kumbakonam Municipality;

**Income (Section 2 (24))**

1. Profits and Gains
2. Dividends
3. Voluntary Contributions
4. Perquisite
5. Allowance
6. Any Capital Gains
7. Profits and Gains of any business
8. Any winnings
9. Any sum received under key man insurance

**Assessee (Section 2 (7))**

Assessee means a person by whom any tax or other sum of money is payable under this Act. Assessees are classified into 3 types. 1. Ordinary Assessee 2.Representative or Deemed Assessee 3. Assessee-in-default

**Deemed Assessee**

**Deceased Person –** If a person dies after writing his will, the executors of the property are deemed assessee.

**Deceased Person (Without Will) –** In case a person dies without writing his will his eldest son or other legal heirs are deemed assessee.

**Lunatic or idiot or minor –** Their guardian is deemed as assessee.

**Non-resident –** The person acting on his behalf is deemed as assessee.

**Exceptions to the general rule that only previous year income is assessed to tax in assessment year**

1. Income of any non-resident from shipping business (Section 172)
2. Income of individual leaving India (Section 174)
3. Assessment of AOP or BOI or artificial juridical person formed for a particular event or purpose (Section 174A)
4. Transfer of Property to avoid Tax (Section 175)
5. On discontinuance of Business or Profession (Section 176)

**INCOME EXEMPT FROM TAX**

* **Exempted incomes** are those incomes on which **Income Tax is not charged.**
* Incomes excluded from Total Income and exempted from Tax **(Section 10,11,12,13,13A)**
* Incomes forming part of Total Income but exempted from Tax **(Sec. 86)**Income absolutely exempt from Tax under **section 10****Agricultural Income is Fully exempted u/s 10 (1).**
* Incomes of newly established industrial undertakings in **Free Trade Zones** under section **10 A**.
* Special provision in respect of newly established **100% Export-oriented** undertakings **u/s 10B**
* Industrial undertaking in **North Eastern Region u/s 10C**
* Exemptions of Income from property held for **charitable or religious** purposes u/s **11,12 and 13**
* Income of **Political Parties u/s 13A**

1. Scholarship granted is fully exempted; 2. Allowances of MP/MLA are fully exempted; 3. Income of non-profit seeking **educational institutions**, financed by government is exempt from income tax if its annual receipts do not exceed **RS.1 Crore. 4. Casual income is fully taxable.** 5. Income from sale of household furniture is exempted income.

|  |  |  |
| --- | --- | --- |
| Income | **Agricultural Income** | **Business Income** |
| Manufacturing of Tea  (Rule 8) | **60%** | **40%** |
| Coffee grown, cured, roasted, grounded and manufactured in India (Rule 7 B(1) | **60%** | **40%** |
| Coffee grown and cured | **75%** | **25%** |
| Rubber (Rule 7 A) | **65%** | **35%** |

**RESIDENTIAL STATUS or INCIDENCE OF TAX**

**Residential Status of an Individual (Section 6)**

**Resident (Ordinarily Resident) – Section 6 (1)**

**Basic Conditions**

1. An individual is in India during the relevant previous year for a period amounting in all to **182 days or more**

**(OR)**

1. An individual is in India for a period or periods amounting in all to **365 days or more** during the **four years preceding** the relevant previous year **and**he is in India for a period of **60 days or more** during the **previous year.**

**Additional Conditions for Ordinarily Resident**

A resident individual becomes ordinarily resident in India if he satisfies **both the following additional conditions** besides satisfying **any one of the basic conditions**

1. He has been resident in India in al least **2 out of 10** previous years **preceding the relevant previous yearand**
2. He has been in India for at least **730 days** in all during the **7 previous years preceding the relevant previous year.**

**Resident but Not Ordinarily Resident [Section 6 (6)]**

If an individual satisfies **any one of the basic conditions** and **one or none of the two additional conditions**, he is considered to be **Not Ordinarily Resident.**

**Non-Resident [Section 2 (30)]**

If an individual **does not satisfy any of the basic conditions**, he is said to be Non-Resident. Additional conditions are irrelevant in relation to Non -Residents.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Resident** | **Not ordinarily resident** | **Non-**  **resident** |
| Indian Income: Received in India or |  |  |  |
| outside India; Earned or Accrued in India or outside India | **TAX** | **TAX** | **TAX** |
| Foreign Income: Business controlled or Set up in India | **TAX** | **TAX** | **-** |
| Business controlled or set up outside India | **TAX** | **-** | **-** |
| Any other foreign income | **TAX** | **-** | **-** |
| Past Income remitted to India | **-** | **-** | **-** |

**HEADS OF INCOME**

Total income is computed on the basis of residential status of the assessee. The income is classified in to the following **five heads.**

1. Income under the head “Salary”. (Section 15 to 17)
2. Income under the head “House Property”. (Section 22 to 27) **3.**Income under the head “Profits and gains of Business or Profession”. (Section 28 to 44)
3. Income under the head “Capital Gains”. (Section 45 to 55)
4. Income under the head “Income from other sources”. (Section 56 to 59)

**SALARY INCOME**

**Meaning**

According to Section 17 (1), salary includes wages, any annuity or pension (Family Pension received by heirs of an employee is taxable under income from other source), any gratuity, any fees, commission, perquisites or profit lieu of or in addition to any salary or wages, any advance of salary, leave encashment and recognised provident fund.

**ALLOWANCES & PERQUISITIES**

**Allowances [Section 17 (3)]**

The term allowance has been derived from the word ‘to allow’. The word allowance means “any amount or sum allowed regularly.” An allowance is a cash payment to the employee on a regular basis in addition to basic salary to meet certain expenses.

**Fully Exempted**

1. Foreign Allowance only in case of Government employees posted outside India.
2. House Rent Allowance given to judges of High Court and Supreme Court
3. Allowances from UNO

**Fully Taxable**

1. Dearness Allowance 2. City Compensatory Allowance 3. Capital Compensatory Allowance 4. Lunch Allowance 5. Tiffin Allowance 6. Marriage

Allowance 7. Family Allowance 8. Deputation Allowance 9.Project Allowance

10. Overtime Allowance 11. Fixed Medical Allowance 12. Entertainment Allowance for Non-Government Employee 13. Water and Electricity

Allowance 14. Servant Allowance 15. Holiday Trip Allowance

**Partially Taxable**

1. **House Rent Allowance**

House Rent Allowance Received XXX

**Least of the following is exempted**:

* 1. Actual HRA Received XXX
  2. ii. Rent paid minus 10% of salary XXX
  3. iii. 40% of Salary (50% in Metro cities) XXX XXX

Taxable HRA XXX

Salary = Basic + DA (Service Benefits)/DP + Commission on Turnover

1. Entertainment of Government Employee
2. **Transport Allowance** – **RS.800** per month is exempted. For handicapped/blind **RS.3,200** per month is exempted.
3. **Children Education Allowance** – It shall be exempted up to **Rs.100 per month per child maximum for 2 children.**
4. **Hostel Expenditure Allowance -** It shall be exempted up to **Rs.300 per month per child maximum for 2 children.**

**Perquisites [Section 17 (2)]**

A perquisite means any casual emolument, fee or profit attached to an office or position, in addition to salary or wages.

**Types of Perks**

1. Perks exempted for all employees
2. Perks taxable only for specified employees – An employee is said to be a specified employee in any of the following cases: a. If he is **Director** of the Company **or** b. he has substantial interest in the affairs of the company i.e., he holds at least **20% of the voting power** (Equity Shares) in the company **or** c. his monetary annual salary income is more than **RS.50,000 per annum.**
3. Perks taxable for all employees

**Rent Free Accommodation [RFA]**

1. **Govt. Employee –** License fee fixed by the Government.
2. **Other Employee**

**A.House owned by Employer**

**i.**Population above 25 Lakhs = 15% of Salary **ii.**Population 10 to 25 Lakhs = 10% of Salary **iii.**Population less than 10 Lakhs = 7.5% of Salary

**B.House Hired By Employer**

Rent paid or 15% of salary whichever is lower is taxable

**Gratuity**

Gratuity means a payment to an employee in respect of service rendered to employer. Gratuity refers to a lump-sum payment made by an employer to his employee at the time of leaving job in appreciation of his long and loyal services.

1. **Government** Employee Sec.10(10)(i) – **Fully exempted** from tax.
2. **Non-Government Employee** 
   1. Employee covered POGA, 1972 – Least of the following is exempted.
   2. Gratuity received
   3. Notified Limit RS.10,00,000
   4. 15 days salary x completed years of service
   5. Employee NOT covered POGA, 1972 – Least of the following is exempted.
   6. Gratuity Received
   7. Notified Limit RS.10,00,000
   8. ½ average salary x completed year of services

**Pension**

Pension is a periodical payment received by an employee subsequent to retirement.

**Uncommuted** pension (Monthly pension) – **Fully taxable** for all employees.

**Commuted Pension**

1. Government Employee – Fully exempted from tax
2. Non-Government Employee
   1. Gratuity Received = 1/3 exempted
   2. Gratuity not received = 1/2 exempted

**Deduction u/s 16**

1.Entertainment Allowance to Government Employee u/s 16 (ii) Least of the following is exempted:

* 1. Statutory Limit Rs.5,000 (Maximum)
  2. 1/5th of Basic Salary
  3. Actual amount of Entertainment Allowance received

2.Tax on Employment u/s 16 (iii)

**PROVIDENT FUNDS**

To encourage savings for the social security of employees, the Government has set up various kinds of Provident Funds.

1. Statutory Provident Fund (Act 1925) – Employer Contribution is fully exempted. Employee Contribution is fully qualifies for deduction u/s80C
2. Recognised Provident Fund –Employer Contribution to RPF over 12% of Salary is taxable. Employee Contribution is fully qualifies for deduction u/s80C. Interest of RPF Excess of 9.5% is taxable.
3. Unrecognised Provident Fund (URPF)
4. Public Provident Fund (PPF)

**INCOME FROM HOUSE PROPERTY**

Income from **sub-letting** is an **INCOME FROM OTHER SOURCES.**

**Self-occupied house**

Gross Annual Value taken as Nil.

**Let-out house**

Municipal Rental Value **(MRV)** xxx

Fair Rental Value **(FRV)** xxx

|  |  |  |  |
| --- | --- | --- | --- |
|  | Whichever is **HIGHER** | xxx |  |
|  | Standard Rent | xxx |  |
|  | Whichever is **LOWER** | xxx |  |

Actual Rent minus Unrealised Rent xxx

Whichever is **HIGHER** xxx

(-) Vacancy xxx

Gross Annual Value xxx

(-) Municipal Taxed paid by OWNER xxx

**NET ANNUAL VALUE (NAV) xxx**

**Deduction u/s 24**

**30%** of NAV xxx

Interest on Housing Loan xxx **xxx**

**INCOME FROM HOUSE PROPERTY**

**Interest on Housing Loan**

Actual Interest for the previous year 2013-2014 + **1/5th** Pre-Construction Interest **(PCI).**

**Self- occupied house 1.4.99** Kd;g[ tPl;Lfld; th';fp ,Ue;jhy; mjpfglr; tlo;ahf 30/000 klL;k ;fHpf;fntz;Lk;.

**Self- occupied house 1.4.99**gpwF[ tPl;Lfld ;th';fp ,Ue;jhy ;mjpfglr; tlo;ahf 1/50/000 klL;k ;fHpff; ntz;Lk.;

Let out property limitfpilahJ. tlo; bjhifiamg;gonafHpf;fyhk;.

**PROFITS & GAINS FROM BUSINESS OR PROFESSION**

|  |  |  |  |
| --- | --- | --- | --- |
| Net Profit as per Profit & Loss  (+) Inadmissible Expenses   1. Personal Expense 2. All Provisions and Taxes |  |  | xxx |
| 3.Fines & Penalty |  |  | xxxxxx |
| (-) Expenses allowed but not debited to P&L Account |  |  | xxx |
|  |  |  | Xxx |
| (-) Inadmissible Income |  |  | xxx |
| **Business Income**  **Profession**  1.Doctor 2. Lawyer 3. Chartered Accountant |  |  | **xxx** |
| Professional Receipt | xxx |  |  |
| (-) Professional Payment | xxx |  |  |
| Professional Income | **xxx** |  |  |

**Depreciation [Section – 32]**

The method of depreciation accepted by the Income Tax Act is **Written Down Value Method**.

Depreciation is allowed half the rate if the asset is used less than 180 days

**Rates of Depreciation**

1.Residential Building = 5%

|  |  |  |
| --- | --- | --- |
| 2.Non-Residential Building | = | 10% |
| 3.Furniture | = | 10% |
| 4.A.C., Surgical Equipment | = | 15% |

**Scientific Research Expenditure**

1. Revenue Expenses are fully deductible
2. Amount donated for social science or statistical research is allowed

@125%.

1. Amount donated to a company for scientific research is allowed @ 125%.
2. Amount donated for scientific research is allowed @175%.
3. Contribution made to National Lab, Indian Institute of Technology (IIT) and a university for scientific research is deductible @200%.

**Preliminary Expenses** – Deductible in **5 equal** instalments.

**Expenditure on Patents, Copy rights and know-how** – Depreciation **@25%.** Expenditure exceeding RS.20,000 – It shall be paid by an account payee cheque or an demand draft. If paid by cash, 100% of the amount is disallowed.

**CAPITAL GAINS**

**Capital Assets**

Property of all kind other than exempted assets.

Example of capital assets; Land. House Property, Jewellery, Plant & Machinery, Shares, Debenture, Government Security etc.

**Exempted Capital Assets**

The term capital assets does not includes stock-in-trade, personal effect (Household articles), Rural agricultural land, Gold Bond, Special Bearer Bond, Urban Agriculture Bond Acquired by Government.

**Short-term Capital Assets**

Gain on sale of assets for a period held up to 36 months (Shares or Debentures 12 Months).

**Long-term Capital Assets**

Gain on sale of assets for a period held above **36 months.**

**CII – Cost Inflation Index**

**No Indexing** for **short-term capital assets, bond and debentures**.

CII for 1981-1982 – 100; CII for 2013-2014 – 939.

Indexed Cost of Acquisition = Cost of Assets\_\_\_\_\_\_\_ X CII for year of Sale

CII for year of purchase

**Exemption u/s 54**

1. Sale of Residential House Property – Section 54
2. Sale of Self-cultivated Urban Agriculture Land – Section 54B
3. Compulsory acquisition of Capital Assets – Section 54D
4. Sale of long-term capital assets and invested in specified bond within 6 months – Section 54EC

National Highway Authority of India (NHAI) Bond and Rural

Electrification Corporation of India.

1. Sale of Long-term Capital Asset and invested in a residential house – section 54F
2. Shifting of factory – Section 54G
3. Transfer of assets of an Industrial undertaking shifting from an Urban area to SEZ – Section 54GA
4. **Long-term capital gain on transfer of residential house property and invested in the equity shares of an eligible company – Section 54GB**

**(w.e.f. Assessment Year 2013-2014 but up to 2019-2020)**

**INCOME FROM OTHER SOURCES**

* **Dividend** – Dividend from foreign company & Co-operatives is taxable. Dividend from Indian Company is exempted from tax.
* **Casual Income –** Lottery up to **10,000** is not taxable. Horse race up to **5,000** is not taxable. **Grossing up = Net amount X100**

**100-Tax Rate**

* Interest on Securities – TDS 10%
* Interest on Bank Deposits
* **Family Pension** – **1/3rd** of Family Pension or **15,000** whichever is lower is exempted.
* Income of letting out of Furniture, Plant & Machinery along with building
* Royalty incomes
* Receipts by cricketers
* Income by **sub-letting** of **house property**
* Income by maintenance of horse
* Income from **agricultural l**and situated **OUTSIDE India****Salary received by MP, MLA**
* **Gift** received in **excess of Rs.50,000** from persons **other than relatives**.
* Income received by leasing out of non-agricultural land
* Director fees
* Examiner ship remuneration received by teachers
* Ground rent received
* Any other income not taxed under other heads.
* **Undisclosed Sources of Income (Deemed Income)**

1. Cash credit (Section 68)
2. Unexplained Investment (Section 69)
3. Unexplained cash, jewellery (Section 69A)
4. Partly explained investment (Section 69B)
5. Unexplained Expenditure (Section 69C)
6. Payment of Hundi, money in cash (Section 69D)

**Deductions and Rebates allowed**

**Deduction under chapter VI i.e., u/s 80**

1. **80C** – LIC, NSC, NSS, Tuition fees, Housing Loan (Principal) purchases of share (infrastructure) term deposit with in scheduled bank.
2. **80CCC** – Pension fund of LIC (or) other insurer.
3. **80CCD** – Amount contributed towards pension of employee of Central Government (Amount contributed by employee and employer (or) 10% of salary which every less).

Amount of Deduction considered in 80C, 80CCC and 80CCD. Actual amount or 1,00,000 whichever is less is allowed.

1. **80CCF** – Investment in long term infrastructure bond. (Amount invested (or) 20000 whichever is less).
2. **80CCG** – Investment in eligible equity shares (50% of amount invested or Rs.25,000 whichever is less)
3. **80D** – Health insurance or medi-claim (Amount paid (or) 15,000(senior citizen 20,000) which every less).
4. **80DD** – Physically handicapped dependent - limit 50,000 but, severe disability – 1,00,000
5. **80DDB** – Notified Disease - limit – 40,000 (senior citizen – 60,000) or actual amount paid W.E.Less
6. **80E** – Payment of interest on loan taken for the purpose of any education (8 years)
7. **80G** – **Donation** to approved fund and institution.
8. **80GG** – Payment of house rent. – Least of a. 2000 p.m. b. Rent paid – 10% of GTI c. 25% of GTI
9. **80GGA** – Donation given for rural development programme or scientific research by an assessee other than those who have income under the head profits and gains of business or profession.
10. **80GGB** – **Donation** given to **political party** given by an **Indian Company**
11. **80GGC** – **Donation** to **political party** by an assessee **other than a company**
12. 80P – Income of Co-operative societies
13. 80U – Income of medically handicapped or mentally retorted Assessees.

**COMPUTATION OF GTI**

**Under Section 14** the term **“Gross Total Income”** means aggregate of incomes computed under the following FIVE heads.

1. Income under the head “Salary”.
2. Income under the head “House Property”.
3. Income under the head “Profits and gains of Business or Profession”.
4. Income under the head “Capital Gains”.
5. Income under the head “Income from other sources”.

After aggregating income under various heads, losses are adjusted and the resultant figure is called **“Gross Total Income.”**

**SET-OFF AND CARRY FORWARD OF LOSSES**

4 years – Speculation loss and loss from other sources

8 years – House property, Business and Any Capital Loss

No Limit - Unabsorbed Depreciation, Capital Expenditure on

Scientific Research and Family Planning Expenditure.

# INCOME TAX AUTHORITIES

Section **116** of the Income Tax Act, 1961 provides for the **ADMINISTRATIVE AND JUDICIAL** authorities for administration of this Act. The **Direct Tax Law (Amendment) Act, 1987** has changes in the organisational structure.

**I.Administrative Authorities**

1. The Central Board of Direct Taxes (CBDT) – It is the **highest executive authority** whose powers of administration, supervision and control over the whole Income Tax, Department. It is constituted under the **Central Board of Revenue Act, 1963.**
2. **Director General/Chief Commissioner of Income Tax –** The Central Government may appoint such persons.
3. **Director of Income Tax/Commissioners of Income**

**Tax/Commissioners of Income Tax (Appeals) -** The Central Government may appoint such persons.

1. Additional Directors of Income Tax/Additional Commissioners of Income Tax - The Central Government may appoint such persons.
2. Joint Directors of Income Tax/Joint Commissioner of Income Tax - The Central Government may appoint such persons.
3. Deputy Directors of Income Tax/Deputy Commissioners of Income Tax
4. Assistant Directors of Income Tax/ Assistant Commissioner of Income Tax
5. Income Tax Officers/Tax Recovery Officers
6. Inspectors of Income Tax

**II. Judicial Authorities**

1. **Central Board of Direct Taxes (Common for Administrative and Judicial functions)**
2. **Appellate Tribunal**
3. **Commissioner of Income Tax (Appeals)**

The Supreme Court and High Courts of different states in India are also important part of Judicial Authorities in relation to Income Tax

**Assessing Officer (Deputy Commissioner/Assistant**

**Commissioner/Income Tax Officer)** – The Assessing Officer is the **most important authority** in the organisation structure of Income Tax Department.

He is the **primary authority to initiate assessment proceedings** and make assessment. He is the **only authority to collect tax**. He is the **authority with comes into contact with the public**.

**Income Tax Inspector –**They are **appointed by Chief Commissioner or Commissioner** and are subordinate

to Assessing Officers. They assist Assessing Officers in performance of their duties.

# POWERS

**Powers of CBDT**

1. Power to make rules 2. Power to issue orders, directions and instructions 3. Power to appoint I.T. Authorities below the rank of Assistant Commissioner 4. Power to authorise I.T. authority 5. Power to determine and jurisdiction 6. Granting authority regarding search and seizure

**Powers of Director General, Chief Commissioner and Commissioner**

**1.** Issue Orders 2. Transfer of any case 3. **Search and Seizure** 4. Notice of Re-assessment

**Powers of Assessing Officer**

1. Power of Civil Court 2. Powers of Search and Seizure 3. Power of

Assessment 4. Power to call for information 5. Power of survey

# FILING OF RETURNS

**Filing of return (Section 139 (1))**

i. Every person being a company or a firm; whether it has any income or

loss during the previous year or ii. Every person other than a company or a firm whose total income or total income of any other person in respect of which he is assessable under the

Act exceeds the exempted limit iii. If Gross Total Income exceeds the exempted limit, he shall be

required to file his return of income before due date prescribed u/s 139(1).

**Due Dates of Filing of Return**

1. For **Company**assessee – **30th day of September of the Assessment year**
2. For all **non-corporate persons** whose accounts are subject to audit and working partners of a firm whose accounts are subject to audit -

**30th day of September of the Assessment year**

1. For **all other persons** – **31st day of July of the assessment year**.
2. For a company as well as non-corporate persons who are required to furnish a report under u/s **92E** – **30th day of November** of the assessment year.

**Section 92E** refers to a report from an accountant to be furnished by person entering into **international transactions.**

**Compulsory filing of return (Section 139 (1) Proviso)**

The **1/6th Scheme** have been abolished with effect from **assessment year**

**2007-2008**

**Penalty for non-filing of return (271F)**

In case a person fails to submit his return u/s 139(1) or under one by six scheme on or before due date, a penalty of **RS.5,000** shall be imposed on such person.

**Forms of Returns of Income**

|  |  |  |
| --- | --- | --- |
| **Form No.**  **ITR -1** | | For individuals having Income from salary/Pension/One house property (except brought forward loss previous year)/other sources (except winning from lotter and race horses) |
| **Form No.**  **ITR – 2** | | For individuals and HUFs not having Income From Business or Profession |
| **Form No.**  **ITR – 3** | | For Individuals/HUFs being partners and not carrying out business or profession under any proprietorship |
| **Form No.**  **ITR – 4** | | For individuals and HUFs having income from a proprietary business or profession |
| **Form No.**  **ITR – 4S** | | For individual/HUFs having business income computed in accordance with the provision of Sections 44AD and 44AE |
| **Form No.**  **ITR – 5** | | For Firms, AOPs and BOIs and other persons (other than Individual, HUF, Company and other persons required to furnish return in ITR -7) |
| **Form No.**  **ITR - 6** | | For companies other than companies claiming exemption under section 11. |
| **Form ITR – 7** | **No.** | For persons including Companies required to furnish return under section 139 (4A0 or section 139 (4B) or section 139 (4C) or section 139 (4D) |
| **Form ITR -V** | **No.** | Where the data of the return of income in forms ITR-1, ITR-2, ITR-3, ITR-4. ITR-4S, ITR-5 and ITR-6 transmitted electronically without digital signature. |

**Permanent Account Number (PAN) [Section 139-A]**

PAN is a code number issued by the Income Tax Department to every assessee. An assessee covered under Income Tax Act, 1961 is identified by the code. This PAN is an alpha-numeric code having 10 characters and is issued in the form a laminated card.

# TYPES OF ASSESSMENT

1. **Self-Assessment (140A)**– Every assessee liable to pay income tax is required to submit his return u/s 139, 142, 148, 153A
2. **Enquiry Before Assessment (142 (1))** – Before finalising the assessment of an assessee, the Assessing Officer may be interested to go through certain books, accounts, documents, statements of the assessee and certain other inquires, which the Assessing Officer may think desirable before finalising the Assessment.
3. **Assessment on the basis of return filed** – When a return has been filed

(143 (1) (a); Assessment on the Basis of enquiry i.e. scrutiny (143 (2) and 143 (3))

1. **Best Judgement Assessmen**t – This is also known as “Ex-parte”

Assessment. A. Compulsory Best Judgement Assessment B.

Discretionary Best Judgement Assessment

1. **Income Escaping Assessment or Re-assessment (147)**

# WEALTH TAX ACT, 1957

Wealth Tax is a **Personal and Direct Tax. Wealth Tax** is applicable to Individual, HUF and Company. The rate of 1% of the amount by which net wealth exceeds 30,00,000.

**Asset (Section 2(A)) –** Guest House, Residential House, Commercial Building

**Net Wealth (Section 2 (M)) –** Excess of assets over the debt (liability).

# CONCEPT OF TAX PLANNING

Tax Planning can be defined as an arrangement of one’s financial and economic affairs by taking complete legitimate benefit of all deductions, exemptions, allowances and rebates. So, that tax liability reduces to minimum.

# OBJECTIVES

**Objective of Tax planning**:**-**

* Claim Deductions under sections 80C to 80U,
* It will reduce your tax liability and you have to pay less tax,
* Minimize the war between Tax Payer and Tax Administrator, Tax payer wants to pay less tax and Tax Administrator wants to extract most of the tax, by using Tax Planning this war is minimized as tax payer is using all legal ways to reduce tax liability,
* Makes Investment:- By tax planning, an Tax payer will invest his money in some good funds which will result in productive returns for tax payer and transfer money to government for investment too.
* Helps in growth of economy,
* Makes society grow,
* Money saved by you will result in investment which will result in employment generation.

# SYSTEMS AND METHODS

1. **Short Term Tax Planning:** Short range Tax Planning means the planning thought of and executed at the end of the income year to reduce taxable income in a legal way.
2. **Long Term Tax Planning:** Long range tax planning means a plan chalked out at the beginning or the income year to be followed around the year. This type of planning does not help immediately as in the case of short range planning but is likely to help in the long run ;
3. **Permissive Tax Planning :** Permissive Tax Planning means making plans which are permissible under different provisions of the law, such as planning of earning income covered by Sec.10, specially by Sec. 10(1) , Planning of taking advantage of different incentives and deductions, planning for availing different tax concessions etc.
4. **Purposive Tax Planning:** It means making plans with specific purpose to ensure the availability of maximum benefits to the assessee through correct selection of investment, making suitable programme for replacement of assets, varying the residential status and diversifying business activities and income etc.

# FACTORS IN TAX PLANNING

**1. Residential status and citizenship of the assessee:** 2. **Heads of income/assets to be included in computing net wealth** 3. **Latest legal position:** 4. **Form vs Substance**:

(a) Form of transaction: (b) Genuineness of transaction: (c) Expenditure:

# TAX AVOIDANCE

The planning of tax is done strictly according to **legal requirement**.

Tax avoidance means reducing your tax liability without breaking any law. In this an individual look for loopholes in the law and make most of those loopholes to reduce the tax liability.

In simple word you can say that Tax Avoidance is a legal means to reduce your tax liability by taking advantage of lack of provision in the law and it will result in less tax paid by you. By using Tax Avoidance you satisfy all provisions of law but in same time you reduce your tax liability too.

In tax avoidance no penalties or such things is imposed on you as you are not breaking any law you just using loopholes in laws. However, now legislature has added a provision in Direct Tax laws to check tax avoidance.

# TAX EVASION

When any individual make false claims to reduces his total income or by not providing any information regarding his total income then it is called Tax Evasion. By doing so his tax liability is reduced this will result that he has to pay less tax. Tax Evasion is an illegal act and it is also an immoral, anti-social and anti-national act. To deal with such kind of activities, Direct Tax Laws has made strict provisions which will results in heavy penalties or even tax evaders can be put behind the bars.

All methods by which tax liability is illegally avoided are termed as tax evasion. Tax evasion may involve stating on untrue statement, submitting misleading documents, not maintaining proper accounts of income earned and omission of facts on assessment.

# PERSONAL TAX PLANNING & VARIOUS SAVINGS SCHEMES

Refer to Unit 19 – Deductions u/s 80C To 80 U.