



**MATS**  
UNIVERSITY

NAAC  
GRADE **A<sup>+</sup>**  
ACCREDITED UNIVERSITY

# MATS CENTRE FOR OPEN & DISTANCE EDUCATION

## Income Tax Law and Other Practices -II

Bachelor of Commerce (B.Com.)  
Semester - 4



**SELF LEARNING MATERIAL**



**ODL/DSC012**  
**INCOME TAX LAW AND PRACTICE -II**

**MATS University**

**INCOME TAX LAW AND PRACTICE -II: ODL/DSC012**

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## **MODULE INTRODUCTION**

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Course has five Modules. Under this theme we have covered the following topics:

**MODULE I Deductions allowed from Gross Total Income**

**MODULE II Assessment of Individual**

**MODULE III Tax Management**

**MODULE IV Income Tax Authorities**

**MODULE V Appeals and Revision**

These themes are dealt with through the introduction of students to the Income tax law & Practice -II.

The structure of the MODULES includes these skills, along with practical questions and MCQs.

The MCQs are designed to help you think about the topic of the MODULE.

We suggest that you complete all the activities in the modules, even those that you find relatively easy

This will reinforce your earlier learning

We hope you enjoy the MODULE.

If you have any problems or queries, please contact us: School of Business Studies, MATS University Aarang – Kharora, Highway, Arang, Chhattisgarh 493441



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## **MODULE I**

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Income Tax  
Law and Other  
Practices

### **STRUCTURE:**

**UNIT 1: Deductions**

**UNIT 2: Rates of Income Tax**

**UNIT 3: Deemed Incomes**

**UNIT 4: Set off and carry forward of losses**



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## UNIT 1

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### **DEDUCTIONS AND COMPUTATION OF TOTAL INCOME**

#### **Objectives**

- To understand various deductions allowed under Income Tax Act
- To learn computation of total income after applying eligible deductions
- To comprehend the provisions of deemed incomes and clubbing of income
- To understand set off and carry forward of losses
- To familiarize with tax rates, rebates and marginal relief

#### **Deductions Permitted from Gross Total Income**

##### **Deduction under Section 80C**

Investments of up to ₹1.5 lakh in specified financial instruments and expenses qualify for deduction under Section 80C of the Income Tax Act for individuals and Hindu Undivided Families (HUFs). This feature promotes long-term savings and investments, minimizing tax-based costs. Investments in Employee Provident Fund (EPF), Public Provident Fund (PPF), National Savings Certificates (NSC), Equity-Linked Savings Schemes (ELSS) and Tax-Saving Fixed Deposit (with a 5-year lock-in period) make that cut as eligible investments. Life insurance premium for policies on self, spouse or children also qualifies, but the premium must not exceed 10% of the sum assured. Certain expenses such as children education tuition fees (coaching fees not included), principal repayment home loans, and stamp duty/registration charges for property purchase are also allowed. Lock-in periods differ depending on the instruments — ELSS has the lowest (3 years), while PPF is for 15 years. This deduction will help salaried people reduce their tax liability as it is also a way of saving and investing money in a well-diversified portfolio. But taxpayers need to make sure that these investments align with their financial goals, liquidity needs, and risk appetite as most of them have long lock-in periods.

### **Deduction under Section 80CCC**

Note: Taxpayer Contributions to a Pension Fund - Section 80CCC As per this rule, individuals can avail deductions to the maximum of ₹1.5 lakh for the premium paid towards annuity plans taken from an insurance company — LIC Jeevan Nivas, ICICI Pru LifeTime Pension or HDFC Life Pension Super Plus. This deduction is designed to incentivize saving for retirement and independent living in post-retirement life. This contribution is tax-deductible, but the same amount will also be taxable when you are paid from the pension. But these plans generally come with long-term lock-in periods until retirement, and tax implications and penalties for early withdrawal. The pension is taxable as income in the year received. The contribution made under section 80CCC will be treated as part of the total limit of ₹1.5 lakh allowed under section 80CCE, which also includes sections 80C and 80CCD(1). This implies that taxpayers should strategically allocate their investments across the eligible sections to maximize tax benefits. Such deductions also offer individuals nearing retirement an opportunity to build a pension corpus while enjoying early tax advantages. For example, pensions structured under this section typically consist of two phases: the accumulation phase, where funds are systematically invested over time, and the development or post-retirement phase, where the accumulated amount is accessed. These pension schemes are designed to optimize long-term financial security and are often supported by tax incentives to encourage retirement planning.

### **Deduction under Section 80CCD**

Section 80CCD tax deduction: Investments in an NPS account are eligible for tax deductions under section 80CCD, which has two subsections. Employees can claim deductions up to 10% of their salary (basic + DA) for their own contributions under Section 80 CCD (1) and self-employed individuals can deduct up to 20% of their gross income under the same section. There is a limit of ₹1.5 lakh on this deduction, which is included in the overall limit under Section 80CCE. Therefore, as per section 80CCD(1B), taxpayers get a unique deduction of up to ₹50,000 for NPS contributions on top of the ₹1.5 lakh limit. If an employer contributes to an employee's NPS, Section 80 CCD (2) allows





## Deductions and Computation of Total Income

deductions for these contributions up to 10% of salary (14% for government employees), which does not count toward the employee's limit under Section 80CCE. This three-tiered structure renders NPS particularly tax-efficient. The NPS functions on the basis of defined contribution, meaning that a corpus is created based on the amount contributed and the returns generated through investments made. On retirement at 60, subscribers are required to invest at least 40% of the corpus to purchase an annuity that will provide regular pension payments, and they can withdraw the remaining amount as a lump sum. Partial early withdrawals are allowed after 3 years for specific necessities such as children's schooling, home purchase, or Medical treatments. As far as investment options you can invest in equity, corporate bonds, government securities, and alternative assets through NPS and can choose between active and auto choice.

### **Deduction under Section 80CCE**

Section 80CCE results in an overall ceiling or aggregate limit for the deductions available under Section 80C, 80CCC and 80CCD. Under this comprehensive cap, which is capped at ₹1.5 lakh for individual assessee and members of Hindu Undivided Families (HUF) with respect to each financial year. That is, no matter how much you invest in different instruments that are covered under all these three sections combined, ₹1.5 lakh is the maximum tax deduction you could strive for on those investments. This section serves as a capsulation mechanism to limit the aggregate tax benefits from long-term savings and investments. This maximum does not take into account the extra deduction of ₹50,000 for national pension scheme (NPS) contributions under section 80CCD(1B), or NPS contributions made by an employer under section 80CCD(2). Investors must consider this overall limit when formulating their investment planning, and tax planning must be done keeping this limit in mind. Someone can, for example, put ₹50,000 in the public provident fund (PPF) under Section 80C, ₹50,000 in a pension plan under Section 80CCC, and ₹50,000 in their contribution to the national pension system (NPS) under Section 80CCD(1)—totalling maximum allowable ₹1.5 lakh under Section 80CCE. This section in a lot of senses raises the walls and makes sure that taxpayers at least do not claim excessive deduction with regards to investments

across categories of the different sections and definitely provides a level playing field towards tax-deductible savings.

### **Deduction under Section 80CCG**

Section 80CCG, that is Rajiv Gandhi Equity Savings Scheme (RGESS), was facilitated to invite first-time retail investors to the securities markets. This deduction was set off against resident individuals whose gross total income did not exceed ₹12 lakh and were new entrants to the equity market. Under this provision, investors could claim 50% of the investment amount made in specified equity shares or equity-oriented mutual funds, up to ₹25,000 per financial year. The product had a tenor of three years-- a fixed lock-in of 1 year and a flexible lock-in of 2 years. In a flexible lock-in period, investors are allowed to trade any number of shares but must maintain a minimum required investment. But this section has been withdrawn from the Financial Year 2017-18 (Assessment Year 2018-19) as per Finance Act, 2017. People who had already taken deductions before it was discontinued were allowed to take deductions on the remaining period of investment. The scheme aimed to broaden India's capital markets, widen the base of retail investors, and strengthen the equity culture in the country. Despite its discontinuation, this section was an important policy initiative to direct household savings into productive capital markets instead of physical assets such as gold. Its abolition was one of the steps the government took to rationalise tax deductions and make the process of taxation simple.

### **Deduction under Section 80D**

Moreover, Section 80D allows taxpayers to claim tax deductions for premiums paid for health insurance policies and preventive health check-ups, encourages individuals to become proactive about their health, and protects individuals financially against any medical emergencies. A tax deduction for ₹25,000 is allowed for insurance covering self, spouse, and dependent children, for individuals below 60 years. Senior citizens (aged 60 years and above) can claim a maximum of ₹50,000. Furthermore, taxpayers can claim ₹25,000 for premiums paid for parents below the age of 60 or ₹50,000 if the parents are senior citizens. Hence it effectively allows a maximum deduction of ₹100,000



## Deductions and Computation of Total Income

for a family with senior citizen parents. The section also provides for deduction of up to ₹5,000 (within the overall limits) paid towards preventive health check-ups, in cash. For policies covering specified critical illnesses, there is an additional deduction of up to ₹25,000. For senior citizens who don't have coverage of health insurance, medical expenditure is also deductible up to ₹50,000. All premium payments are to be made through noncash and with the exception of preventive health check-up. The premiums paid for health insurance policies do not have any lock-in period like investments that come under Section 80C but provide tax benefits while also giving you the basic coverage for hospitalization, etc. This deduction is especially useful in India, as the cost of healthcare is increasing quickly, while government healthcare infrastructure is not as available. This segment encourages effective financial planning for health care get needs whilst lowering the tax liability.

### **Deduction under Section 80DD**

Allowance of Expenses on Maintenance and Medical Treatment of Dependant Disability – Section 80DD Resident individual taxpayers in this case can claim fixed deductions of ₹75,000 for dependents with disability (40% or more) and ₹1,25,000 for dependents with severe disability (80% or more) under this provision. Dependents are defined as a spouse, child, parent, brother, and sister, who are wholly or mainly dependent on the taxpayer. The section under reference covers the expenditure incurred for treatment, nursing of the disabled dependents and training and rehabilitation. Alternatively, tax payers can claim deduction for deductible amounts paid towards insurance policies or deposited in specified schemes like LIC or UTI for the benefit of a disabled dependant for a disabled dependant. In order to apply for this deduction, taxpayers must get a disability certificate from an accredited medical body. Furthermore, because it is a flat deduction (and not a reimbursement), the benefit is available regardless of whether the amount spent is less than the prescribed limit. If the deceased dependent was disabled and died before the policyholder, then the payout from the policy will be taxable. This provision provides meaningful tax relief to account for the significant cost of caring for dependents with disabilities. While most other deductions are based on one-off outflows, Section 80DD addresses

the ongoing nature of expenditure in disability care, thereby acknowledging the lifetime commitment to such care.

### **Deduction under Section 80DDB**

Thus, Section 80DDB of the Income Tax Act provides tax relief to an assessee incurring medical treatment cost to specified diseases/ailments for himself or in respect of the dependent family members. This deduction recognizes the high cost of treating serious medical conditions. Resident people can claim deductions for real medical costs incurred up to ₹40,000 for treatment of self or dependents aged less than 60 years, and up to ₹1,00,000 if the patient is a senior citizen (aged 60 years or above). Depending on the taxpayer for support  $\geq 50\%$ , they are eligible. Under this section, the list of diseases and ailments is as follows: neurological diseases, malignant cancers, AIDS, chronic kidney failure, and hematological disorders, including thalassemias and hemophilia and other defined conditions. To avail this deduction, a taxpayer needs to get a prescription from a physician (specialist) qualified in the respective systems of medicine and a certificate in Form 10-I from the physician (specialist) who has prescribed the medicine. The deductible is decreased by the amount paid by insurance companies or employers. Then again, this work-around is very useful, considering the exorbitant cost of treatment for serious diseases in India and the lack of insurance coverage for some conditions. The section differs from preventive healthcare expenses that are covered under Section 80D, as this section specifically includes actual treatment costs for life threatening diseases, thus offering some relief to taxpayers when their financial resources are under the greatest strain due to a medical emergency.

### **Deduction under Section 80E**

To promote higher education and skills development there is a tax benefit for interest paid under an education loan taken under Section 80E. This deduction is for loans acquired from financial entities or sanctioned charitable associations for self, spouse, children, or a student whose legal guardian the person is. Higher education can include full-time studies in any graduate or postgraduate program in the fields of engineering, medicine, management, applied sciences, or any other specialized field. Section 80E is one of the few deductions that clearly



## Deductions and Computation of Total Income

allows deducting such entire interest amount without the upper limit. The principal repayment, however, is not deductible. The deduction may be claimed for a period up to a maximum of eight years beginning with the year in which such interest payment begins or ends when the interest has been fully paid, whichever is earlier. This reduces a lot of burden in the formative years when salary may not be as high after education. The provision only applies to education loans and not personal loans borrowed for educational expenses. You need to submit documents like loan sanction letters, interest certificates from lenders, and the proof of relationship with the student. This deduction comes in really handy in India, where the cost of education is rapidly increasing and taking education loans is becoming commonplace. Section 80E encourages investment in human capital by making quality education more accessible, reducing the effective cost of education(interest on the loan) per se.

### **Deduction under Section 80G**

Section 80G promotes donations and charitable contributions by offering tax benefits on donations made to certain funds, charities, and governments. The limit as applicable ranges from 100% deduction with no qualifying limit, availability for contributions to the Prime Minister's National Relief Fund and the National Defence Fund, to 50% deduction (without limit) - PM's Drought Relief Fund and Jawaharlal Nehru Memorial Fund, 100% deduction subject to a qualifying limit of 10% of Adjusted Gross Total Income (Government/ local authority funds for purchase of family planning), and 50% deduction subject to qualifying limit (donations to other approved institutions). To be eligible, donations must be made in cashless modes such as cheques, bank transfers or digital payments only to registered organizations (with valid 80G certificates) in amounts greater than ₹2,000. Only cash donations (up to ₹2,000) qualify. Firstly, you have to prove the donations made to the right organizations by keeping receipts of the donations, where you can see the registration number, PAN, 80G certificate number, etc. This provision does not apply to donations with reciprocal benefits, contribution in kind, repaid donations, or donations to foreign organizations that are not specially authorized. It declines to impose tax on the part of a person's income which they dedicate to philanthropic activity and so reduces the cost of this activity in promoting the welfare and

development of other individuals. It allows taxpayers to, instead of just paying taxes, pay for things they actually care about and get tax benefits for their efforts.

### **Deduction under Section 80GG**

Those who pay rent for their accommodation but do not receive House Rent Allowance (HRA) from employers can avail a tax benefit under Section 80GG. This scheme mainly benefits self-employed and unemployed persons along with employees who don't fall under HRA bracket. The deduction is the lowest of: actual rent paid minus 10% of total income; ₹5,000 per month; or 25% of total income. The taxpayer must not be the owner of a residential property in the area of working, residing or business of the taxpayer; the taxpayer should not claim any other residential property anywhere else; in case the taxpayer claims the property in joint ownership, it should not be situated in the same area of citizenship where the taxpayer currently resides; The formal declaration in the form of Form 10BA must be submitted. Mentions documentation such as rent receipts, rental agreement, and proof of tax filing by the landlord if monthly rent exceeds ₹1,00,000. This deduction helps to balance the cost inequities between those who receive HRA benefits and those who don't. For instance, if a self-employed individual earning ₹6,00,000 a year is paying monthly rent of ₹15,000, they can claim a deduction of ₹60,000 ( $₹5,000 \times 12$ ), reducing their taxable income to ₹5,40,000. Housing costs are among the largest expenses for all individuals, regardless of whether they are currently employed or not, and this provision helps ensure equity across the tax code by allowing individuals who would not have had an employer cushion to receive tax relief as well.

### **Deduction under Section 80GGA**

Section 80GGA of the Income-tax Act provides for a deduction for any donations made for scientific research or rural development, establishing legal provisions for contributing to research progress and rural welfare through private partnership. This provision is available to all taxpayers, except individuals with business or professional income. Donations are eligible – contributions to approved research associations (or universities or colleges or institutions engaged in scientific social science or statistical research) payments



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to approved universities or colleges or institutions for carrying out approved scientific research programs contributions to public sector companies (or local authorities or approved associations) for the carrying out of an eligible rural development program or payments to approved institutions for carrying out programs of conservation of natural resources or afforestation Section permits 100% deduction for qualifying donations, with no ceiling. For donations above ₹2,000, they are required to be paid only through non-cash methods such as cheque, draft, electronic transfers, or other banking medium. The documents needed are donation receipts containing PAN and Approval No and payment proof. This deduction is even more useful for individual taxpayers without business income seeking to finance research and development work. As opposed to Section 80G, which provides benefit for general donations to charitable organizations, Section 80GGA specifically seeks to promote, via personal income tax concessions, national objectives in scientific advancement and rural development. It also mobilizes private resources to tackle important development challenges in science and rural programming.

### **Deduction under Section 80GGB**

Section 80GGB: Domestic companies can claim a deduction for the donations made to political parties/electoral trusts. What makes this provision even more draconian is that it essentially recognizes corporate political funding as a working expense while lowering the standard for political funding transparency. Under this section, any Indian resident company can claim 100% deduction for any amount paid at any time during the year to any political party registered under the Representation of the People Act, 1951, or to an electoral trust. NOTE: The contribution has to be made by any manner other than cash such as cheque, demand draft, electronic clearing system and so on through banking channels. This non-cash demarche makes traceability possible and eliminates anonymous donations. Unlike medical or child tax credits, there is no max on the deduction amount — companies can give any dollar amount and deduct it. At the same time, the money is to come from the company's own pocket and reflect the books. This deduction does not apply to foreign companies. The provision is in line with wider attempts to formalise political funding in India through measures such as electoral bonds. Necessary documents consist of receipts



received from political parties or electoral trusts along with their registration, and reflect entry in the statements of company accounts. This deduction has important implications for corporate governance and political-corporate relations. It legalizes political donations by businesses but requires transparency, allowing business to participate in the democratic process without losing our right to know how politics is funded.

### **Deduction under Section 80GGC**

There are two provisions in the Income-tax Act, which can be availed by individual or HUF for Political Contributions: — It is just like Section 80GGB which is for companies where they also receive tax incentives for transparent participation in the democratic process. Under this section, Everyone other than local authorities and artificial juridical persons (wholly or partly funded by the government) can claim a 100% deduction for contributions made to registered political parties or electoral trusts. The donation must be in non-cash form: payment by cheque, bank draft, electronic/electronic funds transfer or other banking method — cash contributions are prohibited, regardless of whether receipt issuers account for cash donations. This serves to make sure anonymous political funding isn't allowed, as well as traceability. There's no cap on the deductible amount, so people can give based on their ability and their beliefs. Taxpayers will need payment receipt from the political party or electoral trust containing their registration number and proof of non-cash payment as due process to claim this deduction. This provision was introduced with the aim of legisla-ting political funding, while creating tax incentives for political participation. Kennedy & Matz 7 3. It is part of a wider set of reforms for electoral finance, which aim at reducing black money in politics. This deduction, from a taxpayer perspective, provides an incentive to help the democratic process, and the political beliefs favored, along with a tax break, reducing the taxpayer "cost" of political engagement.

### **Deduction under Section 80TTA**

Section 80TTA grants tax deduction on interest earned in a savings account with a bank, post office, or cooperative society. This helped promote banking habits as well as financial inclusion while also offering tax benefits, albeit at a very





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paltry sum in “interest earnings”. This provision allows individual taxpayers (other than senior citizens under Section 80TTB) and Hindu Undivided Families (HUF) deductions of interest on savings account up to ₹10,000 in a financial year. This deduction applies to total interest earned across all savings accounts owned by the taxpayer. Interest on fixed deposits, recurring deposits or any other time deposit does not qualify under this section. For example, if interest earned on savings accounts is ₹12,000 for the year, a taxpayer is allowed a deduction of ₹10,000, and only the balance of ₹2,000 will be taxable. It also requires documentation, such as bank statements or interest certificates with the interest credited. This deduction is especially helpful for smaller to medium savers whose interest income is low." It efficiently establishes a tax-free limit for savings account interest — encouraging the bank activity among lower and middle-class people. It recognises that savings accounts yield lower returns compared to fixed deposits and other investments, and that the tax exemption helps to mitigate the impacts of inflation on such near-cash savings. For higher-income earners, this deduction may appear trivial yet it denotes significant tax relief to those with minimal savings.

### **Deduction under Section 80U**

Meanwhile, Section 80U allows individual taxpayers to claim a tax deduction if they have a disability, ensuring that they have adequate financial assistance to help them financially. This deduction is allowed to a resident individual who has been certified as a person with disability under the Persons with Disabilities Act, 1995 or similar enactment. The actual deduction varies according to the level of disability: ₹75,000 in respect of an individual with disability (40% or more) and ₹1,25,000 for an individual with severe disability (80% or more). This is a set amount regardless of actual expense incurred to recognize that disability-related costs are ongoing. For availing this benefit, Individual needs to produce a disability certificate issued by a medical authority in a prescribed form. Unless permanent, the certificate must be renewed periodically. This would be over and above the normal deduction of ₹2.5 lakh (basic exemption limit), thereby raising the tax-free income limit for persons with disabilities. Section 80U is claimed by the disabled himself or herself, while Section 80DD (which covers the cost of the dependent being disabled) is claimed for disabled



dependents. This provision is an important aspect of disability-inclusive taxation policy, recognizing that persons with disabilities have higher living costs and are more likely to experience income limitations. Its simple flat deduction structure makes the claim process a breezy experience, no need at all to document individual disability-related expenses. This tax relief assists in covering extra expenses, such as specialized equipment, accessible transportation, medical supplies, and assistive care, all of which are normal expenses for individuals with disabilities.



### **Rates of Income Tax**

Advanced Income Tax in India has a progressive system, and tax rates increase with income levels. Tax Slabs for Individual Taxpayers Based on Age and Residential Status Individual taxpayers are classified based on their age and whether they are residents, and tax slabs varying for each classification. Currently, we have the option between the old regime retaining all deductions and exemptions with higher tax rates, or, a new simplified regime with lower tax rates. For resident individuals below 60 years of age, under the old regime, income till ₹2.5 lakhs is tax exempt, income from ₹2.5-5 lakhs is taxed at 5%, income in the slab of ₹5-10 lakhs is taxed at 20% and income above ₹10 lakhs is taxed at 30%. People aged 60-80 years enjoy a higher basic exemption limit of ₹3 lakhs, and those above 80 years of age (super senior citizens) can avail a limit of ₹5 lakhs. A 4% health and education cess is applicable on total tax liability. New tax regime, effective by default from FY 2023–24, provides six slabs with rates ranging from 0% to 30%, with the basic exemption limit increased to ₹3 lakhs. This system basically aims to simplify the tax calculation since it does away with many deductions but offers lower tax rates. Importantly, taxpayers still have the option to choose either regime, making it Variable which one is most beneficial to their particular financial scenario. Surcharges are levied progressively on the income slabs of higher income brackets, 10 per cent when total income exceeds ₹50 lakhs, 15 per cent when total income exceeds ₹1 crore, 25 per cent when income exceeds ₹2 crores, and 37 per cent if income exceeds ₹5 crores. There are other rebates like Section 87A, which provides relief to lower-income taxpayers. The tax system aims to generate revenue while being mindful of socioeconomic implications, with vulnerable populations receiving exemptions, and supporting the greater burden on those with the means to pay more.

## **Tax Rates for HUF**

Hindu Undivided Family (HUF) taxation is an important feature of the unique Indian tax code, crafted to cater to the traditional joint family system in Hindu, Buddhist, Jain and Sikh communities. An HUF consists of a separate pool of assets, separate from that of individual family members, and the senior-most male member is termed as 'Karta', or the manager who represents the HUF for the purposes of tax matters. HUFs are taxed at the same rates applicable to individuals under the old regime, with income up to ₹2.5 lakhs non-taxable and then at 5% for income between ₹2.5-5 lakhs, 20% for income between ₹5-10 lakhs, and 30% for income exceeding ₹10 lakhs. HUFs are also required to pay 4% health and education cess on the total tax payable, similar to individuals. HUFs can also go for the new tax regime with lower slab rates and few deductions. The same rates apply for surcharges on HUFs - 10% when income exceeds ₹50 lakhs, 15% when income is above ₹1 crore, etc. Similar to a normal individual, an HUF can claim deductions under Chapter VI-A for investments made under Section 80C, health insurance premiums paid in the name of family members under Section 80D and donations made under Section 80G, etc. But, this deduction is not allowed in case HUF chooses the new tax regime. Since the income of an HUF is taxed in the hands of each member, potential tax benefits can be obtained, which would not be possible to avail of through individual taxation. Income from assets received through heritage, gifts by relatives, or ancestral property acts as the corpus of the HUF and is taxed at HUF level versus in the hands of respective members. Even with tax laws reforming recently to simplify and provide wider coverage, this set-up still presents tax planning opportunities.

## **Firm and Corporate Tax Rates**

Empowered trusts and companies are subject to different taxation structures in India based on their business format and mechanisms. Partnerships (including LLP) are taxed at a flat 30% on the total income, with a 12% surcharge applicable when the income exceeds ₹1 crore, as well as the universal 4% health and education cess. Presumptive taxation schemes are available to individuals, but not to corporate taxes — unless for taxpayers in specified professions under



Section 44ADA. Significant corporate tax reforms in India with the launch of the concessional tax regime u/s 115BAA, which allows domestic companies to pay tax at a lower rate of 22% (effective rate of 25.17% including surcharge and cess) in exchange for waiving certain deductions and incentives. New manufacturing companies which are incorporated after 1st October 2019 are entitled to a further reduced rate of 15% (effective rate 17.16%) under section 115BAB provided they commence manufacturing before 31st March 2024 and comply with other specified conditions. Those companies which do not choose to avail the concessional regime will be subject to tax rates of 30% (companies with turnover above ₹ 400 crores) or 25% (for a company with a turnover less than ₹ 400 crores) with applicable surcharges of 7% (income between ₹ 1–10 crores) or 12% (income greater than ₹10 crores) and the 4% cess. Foreign companies are taxed at a higher rate of 40 percent plus surcharge and cess. Other noteworthy points are 15% Minimum Alternate Tax (MAT) for companies not opting for concessional rates, abolition of Dividend Distribution Tax (DDT) — dividends are now taxable in recipients' hands — and stay on various sector-specific incentives encouraging manufacturing, exports, etc. It should reflect a balance between our international competitiveness, need for revenue generation as well as encourage the business community to formalize and comply.

### **Rate of Special for Certain Income**

In India, some categories of income are charged with a special rate of tax, varying from the conventional progressive slabs which apply to normal income. Short-term capital gains (STCG) from transfer of equity shares or equity-oriented mutual funds on which Securities Transaction Tax (STT) has been paid are charged at a flat rate of 15% under Section 111A, while long-term capital gains (LTCG) above ₹1 lakh from such assets come with a concessional rate of 10% without indexation benefit under Section 112A. Tax on other long-term capital assets is normally 20% with indexation but certain bonds and debentures are taxed at 10% without indexation. The income from winnings of lottery, crossword, horse races, and gambling is taxed at a flat rate of 30% and no basic exemption or deduction is allowed for the same. Likewise, casual income such as game show cash and prizes is taxed at this flat 30% rate. This includes interest earned by non-residents or resident individuals from infrastructure debt

funds which is taxed at a concessional rate of 5% provided that the shareholders do not invest in more than 20% in the companies which generate the interest; and royalties and fees for technical services paid to non-residents can be taxed at 10% depending on the provisions contained within the relevant tax treaty. “Pass-through” treatment is specific for income received by specified investment vehicles by way of “specified” investments where Category I and Category II Alternative Investment Funds (AIF) are taxed on the nature of their income.

Under the presumptive taxation schemes, businesses eligible to have their turnover of not more than ₹2 crores can declare their income on the basis of their turnover under Section 44AD at 8% of turnover (6% in case of digital transactions) and professionals with gross receipts up to ₹50 lakhs can declare only 50% of their receipts as their income under Section 44ADA, thereby ensuring lesser compliance. Income earned in respect of such patents developed and registered in India, which is taxed at 10% under the "Patent Box" regime (Section 115BBF), also creates a sound basis for innovation and development of intellectual property. These economic objectives of promoting capital market investments, fostering research and development, easing compliance burden on small businesses, providing relief under tax treaties and taxation of a one-time exceptional income, were achieved through this targeted tax policy approach.

### **Rebate under Section 87A**

#### **Overview of Income Tax Rebate under Section 87A**

Section 87A of the Income Tax Act is a significant tax relief given as a rebate to individual taxpayers with a lower income. A tax rebate is a direct reduction of tax liability after tax has been calculated, unlike tax deductions which reduce taxable income. There was also this provision to provide relief to small taxpayers, which has undergone changes from time to time through different Finance Act. The rebate and the income qualifying limit have periodically been adjusted to give more lower level income taxpayers relief. The Section 87A rebate is especially noteworthy as it offers a significant advantage to individuals with lower earnings, granting them a substantial relief to their total income taxes. Such a provision is consistent with the overarching goal of any



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government, which aims to maintain a progressive structure in the tax payment system, where the burden is distributed relatively to ability to pay (and hence, will increase with income level). This rebate for many small taxpayers can reduce or even completely eliminate their tax liability.

### **History and Development**

Income Tax Rebate was allowed under Section 87A by the Finance Act, 2013 for the first time in order to provide relief to individual taxpayers in the low-income tax bracket. At the time of introduction, the rebate was restricted to ₹2,000 for people whose total income did not exceed ₹5 lakhs. In the following years, both the rebate amounts and qualifying income limits were amended several times. As announced in the Union Budget 2016-17, the amount of rebate has now been increased to ₹5,000 for taxpayers whose income does not exceed ₹5 lakhs, thereby providing additional relief. The Finance Act, 2017 later on reduced the rebate to ₹2,500 but retained the ₹5 lakhs as the income threshold. A big shift happened on the front when the Interim Budget 2019 raised the rebate amount to ₹12,500 and raised the income threshold over which you can claim this rebate to ₹5 lakhs. Major changes As per Finance Act, 2023, the amount of rebate has been increased to ₹25,000, and the eligible income limit has also been increased to ₹7 lakhs under the new tax regime. This was another indication of the government's ongoing commitment to ensuring relief was available to lower-income taxpayers.

Section 87A falls under Chapter VIII of the Income Tax Act, 1961, Title of "Rebates and Reliefs". The exact statute is titled "Rebate of income-tax in case of certain individuals." This provision applies only to resident individuals whose total income does not exceed the prescribed limit. Section 87A is inserted in the legal text and it states that an eligible taxpayer shall be entitled to a deduction from the amount of income tax (as computed before giving effect to the deductions under this Chapter) on his total income. The amount of the rebate is limited to the lesser of the income tax otherwise payable or the maximum rebate allowable. According to the statutory provision itself, the rebate is available only to resident individuals and not to non-resident or other categories of taxpayers

such as HUF or firms or companies. It ensures that rebate benefits are sharply targeted at the demographics intended by the legislature.

## **Section 87A Rebate Eligibility**

### **Residency Status Requirement**

One of the most important eligibility criteria for availing rebate under Section 87A is the residency status of the taxpayer. The rebate is only applicable to resident individual (in the case of resident individual, it includes Resident (ROR) and Resident but Not Ordinarily Resident (RNOR) categories). This rebate is not for non-resident individuals at any income level. Section 6 of the Income Tax Act lays down the criteria for determining the residency status of an individual based on the number of days (stay) he/she has stayed in India during the relevant financial year and in the earlier years. A person is a resident in India in the case that he/she meets any of the following requisite conditions:

- They have stayed in India for 182 days or more during the financial year, or
- They have spent 60 days or more in India during the relevant financial year and 365 days or more during the four years before the relevant financial year.

However, the second condition has some exceptions in respect of Indian citizens working abroad, Indian citizens who leave India for employment, and persons of Indian origin coming to India.

### **Income Threshold Limitations**

The second important qualification factor concerns the taxpayer's overall income. As it is current, the rebate will only apply if your total income does not exceed the specified threshold. In the new tax regime, the limit for income is fixed at ₹7 lakhs for the Assessment Year 2023-24 and the further years. For this purpose, total income is calculated as income computed after claiming all permissible deductions under Chapter VI-A (Sections 80C to 80U) and set-off and carry forward of losses but before deducting the rebate under Section 87A, if any, which means that a taxpayer whose gross income exceeds such threshold may still qualify for the rebate if their total income (after all deductions) is





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below the limit. Cared to mention that a somewhat nuanced yet significant point to note is that if the total income exceeds the threshold even by one rupee, the entire rebate is eliminated. For example, if a taxpayer's net taxable income is ₹7,00,001 for FY 2023-24 under the new tax regime, he will be denied any rebate under Section 87A.

### **Individual Taxpayer Category**

The Section 87A rebate applies only to individual taxpayers. The rebate is also not available to other categories of taxpayers such as Hindu Undivided Families (HUFs), Association of Persons (AOPs), Body of Individuals (BOIs), companies and firms, irrespective of their income level. This limitation is consistent with the underlying purpose of tax relief for individual taxpayers with lower income levels. The intention of the provision is to relieve the tax burden for natural persons instead of artificial persons or groups. This distinction highlights the personal nature of the relief afforded by Section 87A. Under category of individual taxpayers, there is no differentiation between a taxpayer based on age, gender, or source of income. The rebate is available for senior citizens, super senior citizens, as well as regular taxpayers, as long as they all meet the residency and income threshold conditions.

### **Tax Regime Considerations**

The introduction and subsequent amendments of the new optional tax regime post-Finance Act, 2020, have renewed the question of which tax regime to choose, also with respect to the Section 87A rebate. Under the new tax regime vis a vis old regime, the last date for tax calculation against income under taxation for such eligible higher rebate amount under the Finance Act, 2023. According to the newly introduced tax regime, a rebate is allowed on total income up to ₹7 lakhs, which is capped to ₹25,000. However, maximum rebate of ₹12,500 was limit under old tax regime under total income of ₹5 lakhs. But taxpayers will have to assess and determine which one of the tax regime would be beneficial for them; apart from Section 87A, considering the applicable tax rates or the availability of various deductions and exemptions. The new tax regime does offer higher rebate and lower tax rates but adopts limited deductions and exemptions as compared to the old regime.

## A. Calculation of Rebate under Section 87A.

### Basic Formula and Methodology

The rebate under Section 87A is determined using a simple calculation process. The amount of this rebate is the lesser of:

- The total tax on the total income (before cess and surcharge), or
- The highest allowed rebate amount contained in Section 87A.

The implication is that if the tax bill is smaller than the maximum rebate, the rebate will equal the tax bill, effectively bringing the tax bill down to zero. Alternatively, should the tax liability be greater than the maximum rebate amount, the rebate would be limited to this maximum amount. So this can be summarized in the form of a formula for Section 87A Rebate:  $\text{Section 87A Rebate} = \text{Min} (\text{Income Tax Liability, Maximum Rebate Amount})$ . Please note that the rebate is computed before the health & education cess, which is charged at 4% of the total income tax computed. The rebate is subtracted from the income tax payable, resulting in net income tax, on which cess is charged.

### Maximum Rebate Amount

Section 87A has been revised multiple times since its introduction to modify the rebate amount. Under the new tax regime, for assessment year 2023-24 and beyond, the maximum amount of rebate provided is ₹25,000. Such taxpayers should have a total income of not more than ₹7 lakhs. With respect to the old tax regime, the maximum amount of rebate is still capped at ₹12,500 for taxpayers whose total income is up to ₹5 lakhs. This two-fold stratification gives rise to differentiation according to the tax regime adopted by the assessee. Under the new tax regime, most deductions and exemptions are eliminated, which makes tax computation easier for the taxpayers; so when the maximum rebate amount increased, it was to encourage taxpayers to opt for the new tax regime. The aim of this step is to entice more people to shift to the new tax regime, especially for people with low income, which in turn would provide a higher rebate from tax.



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### Worked Calculation Examples

To gain insight into how the Section 87A rebate is calculated, let us examine a few example

**Example 1:** total income below the threshold, tax liability is below the max rebate

For example, let's take an example of a resident individual, who earns ₹5,50,000 total income under new tax regime for FY 2023-24.

Computation of tax liability:

- Income up to ₹3,00,000: Nil (exempt)
- Income between ₹3,00,001 and ₹5,50,000 (₹2,50,000):  $₹2,50,000 * 5\% = ₹12,500$

Income tax before rebate = ₹12,500 Rebate under section 87A = Min (₹12,500, ₹25,000) = ₹12,500 Income tax after rebate = ₹0 Health and education cess = ₹0 Total tax liability = ₹0

In this case the entire tax (₹12,500) is within the maximum rebate (₹25,000), so the rebate offsets the entire tax, which makes the tax liability zero.

**Example 2 — Income Under Threshold, Tax Liability Greater Than Maximum Rebate**

Take for example a resident individual earning a total income of ₹ 6,80,000 under the new tax regime FY 2023-24.

Computation of tax liability:

- Income from ₹0 to ₹3,00,000: Nil (exempt)
- Income between ₹3,00,001 and ₹6,00,000 (₹3,00,000):  $₹3,00,000 * 5\% = ₹15,000$
- Income between ₹6,00,001 & ₹6,80,000 (₹80,000):  $₹80,000 * 10\% = ₹8,000$

Total income tax before rebate: ₹15,000 + ₹8,000 = ₹23,000 Rebate under Section 87A: Min (₹23,000, ₹25,000) = ₹23,000 Net income tax after rebate: ₹0 Health and Education Cess: ₹0 Total tax liability: ₹0

Here, the tax liability (₹23,000) is lesser than the maximum rebate amount (₹25,000), hence, the entire tax is alleviated by way of rebate.

Example 3: Total income at threshold limit

Let's take the example of a resident individual earning a total income of ₹7,00,000 under the new tax regime for FY 2023-24.

Computation of tax liability:

- Income up to ₹3,00,000: Nil (tax-free)
- Income between ₹3,00,001 and ₹6,00,000 (₹3,00,000):  $(₹3,00,000 * 5\%) = ₹15,000$
- Income between ₹6,00,001 and ₹7,00,000 (₹1,00,000):  $₹1,00,000 * 10\% = ₹10,000$

Sum total of income tax before rebate: ₹15000+₹10000=₹25000 Rebate under section 87A: Min (₹25000, ₹25000) =₹25000 Net income tax post rebate: ₹0 Health and Education Cess: ₹0 Total tax outgo: ₹0

In this case, the tax bill is equal to the maximum rebate, therefore net tax liability is 0.

#### Example 4: Exceeding the maximum income

Take an individual resident with a total income of ₹7,05,000 in the FY 2023-24 tax year, under the new tax regime.

Computation of tax liability:

- ₹0 — ₹3,00,000: Nil (exempt)
- Income between ₹3,00,001 and ₹6,00,000 (₹3,00,000):  $₹3,00,000 * 5\% = ₹15,000$
- Income between ₹6,00,001 to ₹7,05,000 (₹1,05,000)—  $₹1,05,000 * 10\% = ₹10,500$

Gross Income Tax before Rebate: ₹15,000 + ₹10,500 = ₹25,500 Rebate as per Section 87A: ₹0 (Ineligible, since total income > ₹7,00,000) Net Income Tax: ₹25,500 Health and Education Cess (4%): ₹1,020 Total Tax Liability: ₹26,520



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Here, in the given case, as net income exceeds the threshold of ₹7,00,000, no rebate is available under section 87A and the tax liability is simply ₹26,520.

### **Marginal Relief for this Financial Year**

One thing to note is marginal relief for the Section 87A rebate. Although there is no specific provision for marginal relief in Section 87A, the way the rebate is structured leads to a situation where a small amount of income over the income threshold could lead to an inordinately large amount of different income tax payable. It means, in the case above, the individual has zero tax liability, as his total income is lesser than ₹7,00,000 (also for example, he has no tax liability due to Section 87A rebate). But if their income goes even by ₹1 to ₹7,00,001, they lose the entire rebate, and their tax outgo zooms to about ₹26,000 (including cess). This implies ₹1 of additional income attracts ₹26,000 of additional tax, which is brazenly disproportionate.” This “cliff effect” has been discussed in tax policy circles for some time now. Some experts say tapering the rebate amount down and gradually as income approaches the threshold would facilitate a smoother transition and eliminate the cliff effect. But currently, this is not the case in the law, and taxpayers hovering around that threshold should be especially careful of their overall income.

### **Practical Implications and Applications**

#### **Tax Planning Strategies**

There are a number of tax planning opportunities available eligible taxpayers in relation to the Section 87A rebate. Taxpayers may be able to use smart income and deductions planning to try to get the most benefit from this rebate. The most effective way to do that is to keep the total income under the eligible limit. Tax payers with an income marginally above the threshold will benefit by making higher investments in tax saving instruments or contributions to reduce their taxable income to below the threshold. This might comprise of investments towards tax-saving instruments under Section 80C, including Public Provident Fund (PPF), Equity-Linked Savings Schemes (ELSS) or National Pension System (NPS). Another approach is to be mindful while choosing between the old tax regime and the new one. The new tax regime, giving a higher rebate amount and higher limit, but without most deductions and exemptions.

Taxpayers who have a considerable number of deductions available to them under the old regime could end up getting a bigger benefit by remaining under the old regime even if their rebate amount is lower. Self-employed persons and professionals have more operational freedom in this sense, by timing the recognition of that income and claiming applicable business expenses. If they keep track of their business-related expenses and claim them correctly, they might still keep their taxable income just below the ceiling and qualify for the rebate.

### **In Other Income Levels**

The rebate under section 87A applies differently for each of the income groups. For taxpayers whose income is well below the threshold, the rebate often cancels their tax liability altogether, which is a big benefit. For individuals with income just below the threshold, the rebate is valuable in reducing their tax burden, but this requires precise planning to make sure they remain eligible. For middle-income taxpayers who are just above the threshold, there is no rebate, and they must bear the full tax liability. This results in a scenario in which the effective tax rate rises rapidly once income exceeds some threshold, leading to a deterrent to increasing income at that level. Any taxpayer with income above the threshold amounts will not be impacted by the section 87A rebate because the individual's income is way above the eligibility levels. Instead, their tax planning was directed towards other provisions of the tax code. The rebate is especially advantageous for first-time job seekers, pensioners with modest income as well as small-business owners whose income falls below the threshold. For these groups, the rebate is a large tax cut, increasing disposable income.

### **Mistakes and Misunderstandings**

The rebates for section 87A keep stirring confusion, let us talk about common misconceptions and mistakes:

The Section 87A rebate is often confused by many taxpayers with Chapter VI-A deductions. Rebate lowers the tax liability after it is calculated, whereas deductions reduce income on which tax is calculated.



**Misunderstanding Income Threshold:** Many taxpayers misunderstand the income threshold as their gross income instead of their income after deductions. The eligibility mentioned is based on total income as defined in the Income Tax Act (what you will get after all applicable deductions).

**Ignoring Residency Requirement:** Many Non-resident Indians make a mistake of claiming the tax rebate without considering that the tax rebate is only applicable to resident individuals. The residency status — as in you have to be physically present in India for more than 182 days in a year, and it's not at all based on raw nationality factors.

**Focusing on Parent Adjusted Gross Income (AGI):** Parents sometimes calculate their AGI without taking into account certain forms of income, such as interest income or capital gains, that, while may likely accrue in small amounts, will render them above-reimbursement threshold income.

**Rebate Calculation Misconception:** Certain taxpayers incorrectly believe they are entitled to the full rebate amount regardless of their taxes owed. But, if a taxpayer has a lower tax liability than that minimum maximum amount, the rebate will be limited to the actual tax liability.

Taxpayers who are aware of these misconceptions in mind and correctly apply the Section 87A rebate are less likely to make mistakes in their tax planning and filing process, and save a significant amount of taxes as a result.

### **Sub-section 87A — Keeping in Perspective the Composite Tax Structure**

#### **Relevance to Basic Exemption Threshold**

The Section 87A rebate works in tandem with the basic exemption limit to effectively give a higher income threshold than the basic exemption limit, below which no tax is payable. While the basic exemption limit states that no tax is payable on income up to a level (presently ₹3,00,000 in the case of new tax regime for regular taxpayers), the Section 87A rebate ensures that taxpayers whose income is even beyond this limit may still be hugely tax free. Under the new tax regime, for instance, a resident individual with income up to ₹7,00,000 pays nil tax on a net basis due to the combined effect of the basic exemption limit and the benefit under Section 87A. This establishes an effective higher

tax-free income level for qualifying taxpayers. While the basic exemption limit applies to all individual taxpayers (with certain persons enjoying higher limits, based on age), Section 87A rebate is not available to certain resident individuals whose income is below the threshold mentioned. This results in an effective tax-free income threshold that varies depending on residents. This interdependence of category of basic exemption limit and quantum of Section 87A rebate is a cardinal aspect of progressive tax architecture, which warrants that the tax outflow for the individuals in lower income brackets remain rather minimal or nil.

### **Comparison with Other Tax Reliefs**

The Section 87A Rebate section, while providing direct tax relief in the form of tax reduction, can be compared to other tax relief available under the Income Tax Act to highlight its relative significance and benefits. Chapter VI-A (Sections 80C to 80U) deductions are not deducted from the tax liability, but the taxable income. The deduction can yield a benefit depending on what your tax rate is. Deductions are significantly more valuable for taxpayers in higher tax brackets than for those in lower tax brackets. Such as Section 10 – Tax exemptions completely exclude types of income from taxation. These can be even more advantageous for certain kinds of income from taxpayers that qualify for rent-exempt purposes. Tax treaties reduce instances of double taxation, which can be a concern for non-residents or individuals with foreign income. These reliefs are different from Section 87A rebate and serve a different purpose. The Section 87A rebate is unlike other forms of tax relief in that it directly reduces the tax liability by a fixed amount for all eligible taxpayers, irrespective of their tax bracket. This is especially beneficial for taxpayers who earn lower incomes, since it could potentially wipe out their tax liability altogether.

### **Future Trends and Policy Objectives**

Policy objectives of Section 87A rebate under the broader tax regime Its main goal is to help people who earn less get a lower tax burden, which will boost their disposable income and purchasing power. This relates to the concept of vertical equity in taxation, which deals with taxing individuals at different





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income levels differently. The rebate is also labour-saving because it will make disposable income available to a large proportion of the population which can be used to stimulate favourable economic outcomes for the aggregate economy. This could increase consumption and demand, leading to economic growth.

Moreover, the rebate simplifies tax compliance for small taxpayers by potentially removing their tax liability and the settlor makes it convenient for taxpayers and tax authorities. In terms of looking ahead, additional increases to the Section 87A rebate is also on the table as the Government continues with its tax reforms. This may mean increasing the amount of the rebate, increasing the income limit, and/or establishing a stepped rebate structure to resolve the cliff effect mentioned above. Additionally, the increase in the rebate amount and threshold under the new tax regime, as compared to the old regime, shows a propensity towards pushing for acceptance of the new tax regime. It is expected that this trend of aligning with new tax regime will stay on, as the government is on a reform path to minimize the tax structure introducing various exemptions and deductions.

### **Balancing Compliance and Procedural Aspects**

#### **How to Claim the Rebate in Income Tax Return**

It is a fairly simple process to claim the Section 87A benefit in the income tax return. Based on what the taxpayer enters in their income tax return filing software / portal, the rebate is computed automatically. But, it must be ensure that all income details and deductions are correctly entered for the calculation of total income and then the eligibility for rebate accordingly. The rebate is claimed in the income tax return forms under the head of tax liability itself. The rebate is shown under "Tax Payable and Refund" in ITR-1, a return form most commonly used by salaried individuals.

Taxpayers filing the return should confirm the following:

- It is the total income which has been calculated after taking into account all the income sources and applicable deductions.
- The correct tax regime (old or new) is selected as the rebate amount and eligibility threshold are different between the two regimes.

- The amount of the rebate is calculated correctly then reflected on the tax computation section.

In the case of filing through the income tax e-filing portal, the system automatically computes the rebate based on the income details entered. If you are using other offline utilities or third-party software, it is recommended to cross-check your rebate calculation.

### **Documenting & Keeping Records**

There are no additional documents to submit specifically for claiming the Section 87A rebate; however, taxpayers must ensure that they keep proper documentation for all income details and claims made in their tax return. This matters for getting the right total income, which is key to determining eligibility for the rebate.

Certain documents to keep include:

TDS on salary or other income = Form 16 or Form 16A

Proof of interest from banks/financial institutions.

Rental income: Rent receipts or rent agreements

Statements of capital gains for investment earnings.

Tax-saving investments or expenditures, tax-saving receipts or certificates

These documents are required not only to compute income and tax correctly but also to answer any verification or assessment proceedings carried on by the tax department. Although the rebate itself under Section 87A cannot be specifically examined, the eligible income on the basis of which that amount is ascertained can be verified.

As a good practice, these documents should be preserved for a period of at least seven years from the end of the relevant assessment year, which is also the normal limitation period for reassessment under the Income Tax Act.



## **Impacts of Advance Tax and TDS**

Section 87A rebate impact on advance tax and TDS Because the rebate reduces the final tax liability, it must be taken into account when calculating advance tax payments or deciding on whether TDS is adequate to meet tax liability. In the case of salaried individuals, the employers calculate the tax deduction at source (TDS) under Section 192, and the employer takes into account Section 87A rebate if the projected income of the employee is eligible. But the TDS calculation may not be accurate, if the employee has another source of income which is unknown to the employer. Only those who are self-employed or professionals are required to account for the rebate when determining their advance tax. When determining their advance tax installments, they can include the rebate, as long as it makes their estimated total income fall in the eligible range.

Also, if a taxpayer's income turned out to be higher than the privilege limit for the rebate, he'll still have to pay tax on the amount in the excess bracket. This may also give rise to interest under Sections 234B and 234C for short payment or deferment of advance tax. Hence, taxpayers must keep reviewing their income projections throughout the financial year and make any necessary adjustments to their advance tax payments to avoid any surprise tax liability at the time of filing the return.

## **Judicial Precedents and Case Studies**

### **Key Cases and Their Interpretations**

The Section 87A rebate provision is quite simple but there are few cases and interpretation have given clarity. These cases are limited, as the statutory language is clear, but still demonstrate how the rebate is interpreted and applied in practice. In some cases, questions have been about how "total income" is calculated for the purposes of determining whether a person is eligible for the rebate. Tax authorities have uniformly taken the view that "total income" means the total income calculated under the Income Tax Act provisions after considering all of the deductions under Chapter VI-A but before giving effect to the rebate under Section 87A. Clarifications have also been made regarding the rebate's availability to non-residents. And tax authorities and the tribunals have

consistently confirmed the clear legal wording, and refuse rebate to non-residents, even where the income is within the limit. A further aspect of judicial interpretation relates to the rebate's operation when income slightly exceeds the threshold. The threshold limit is strictly applied, and it has been held by the courts that even if the income is only slightly more than the threshold, the entire rebate is lost. However, for now, there is judicial support, albeit limited, which suggests that the statutes relating to the Section 87A rebate should be read literally, providing certainty to taxpayers as to its applicability.

### **Hypothetical Scenarios and Analysis**

To help illustrate how the Section 87A rebate might work in practice, let's run through a few example scenarios:

#### **Example 1: More than 1 Source of Income**

For FY 2023-24 Mr. Ram is a resident individual having a salary income of ₹6,50,000 and ₹30,000 as Fixed Deposit interest income. There are no deductions under Chapter VI-A, so he chooses the new tax regime.

His Gross Income is ₹6,80,000, which is below the threshold ₹7,00,000. The tax liability would be:

- On first ₹3,00,000: Nil
- On next ₹3,00,000: ₹15,000 (5% ₹3,00,000)
- On balance ₹80,000: ₹8,000 (10% of ₹80,000) Total Tax: ₹23,000

Since his total income is below the threshold and the tax liability is less than the maximum rebate of ₹25,000, he will be eligible for a rebate of ₹23,000 which will lead them to have zero tax liability.

#### **Example 2: Change in residency status during the year**

Sita is an Indian citizen who lived abroad for several years as a non-resident. She comes back to India on 15th October, 2023 and becomes a resident u/s 182 day rule for FY 2023-24. For the entire year, her income is ₹6,00,000, and she chooses the new tax regime.

As a resident for FY 2023-24 with total income below the tax threshold of ₹7,00,000, she would also be eligible for the Section 87A rebate. Lots of terms,



but basically, the only thing you are required to do in this area is be a resident for the whole financial year — therefore the fact that she became a resident half way through does not matter, as long as she meets the residency requirements for the entire financial year.

### **Example 3: Income Just Above the Threshold**

Under the new tax regime for FY 2023-24, Rajiv is a resident individual with an income of ₹7,01,000. For instance, if his income only exceeds the threshold by ₹1,000, he would not qualify for any rebate under Section 87A, as shown in the earlier example — a scenario that illustrates the cliff effect where there is a sudden jump in tax burden when a taxpayer crosses the limit.

### **Example 4: Choosing Old v. New Tax Regime**

Assume Meera is a Resident Individual having a gross income of ₹8,00,000 for FY 2023-24. She has eligible deductions of ₹2,00,000 from different provisions of Chapter VI-A.

Under the old tax regime:

- Gross income: ₹8,00,000
- Deductions: ₹2,00,000
- Total income: ₹6,00,000
- Tax liability: About ₹33,800 (includes cess)
- Section 87A rebate: ₹12,500 (because income is < ₹5,00,000)
- Net tax liability: ₹21,300

Under the new tax regime:

- Gross income: ₹8,00,000
- Deductions: Not available
- Total income: ₹8,00,000
- Tax payable: About ₹46,800 (after cess)
- Rebate u/s 87A: Nil (income is more than ₹7,00,000)
- Net tax liability: ₹46,800

Thus, in this case where the new tax regime has a higher rebate amount and a higher threshold than the old tax regime, Meera can avail the old tax regime

owing to the higher deductions available. Such hypothetical examples showcase the differences taxpayers may need to consider while determining the effect of the Section 87A rebate on their total tax liability.

### **International Comparison of Practices**

Although tax systems differ widely from jurisdiction to jurisdiction, netting of income tax with a rebate structure for taxpayers with lower income is common in a number of jurisdictions similar to the Section 87A rebate mentioned above. Studying these practices comparatively draws a larger picture in understanding the Indian practices. In the UK, the Personal Allowance means that we pay no income tax at all as long as we remain under a certain threshold of income. This is somewhat similar in concept to the combined effect of the basic exemption limit and the Section 87A rebate in India, though the execution is quite different. The U.S. has the Earned Income Tax Credit (EITC) — a refundable tax credit for low to moderate income working individuals and couples, especially those with children. The EITC can produce a refund to the taxpayer even if the taxpayer has no tax liability, unlike the Section 87A rebate. Australia has the Low and Middle Income Tax Offset (LMITO), which allows a tax offset for taxable income below a given limit. It works very much like the Section 87A rebate does, the difference being that the offset amount changes with income level, not a fixed rate. The Basic Personal Amount, a non-refundable tax credit available to all individuals, is in effect in Canada. The credit amount depends on the taxpayer's income, giving less well-off people more relief. In contrast to these international practices, the Section 87A rebate in India is simple in its application with a fixed rebate amount and a clear income threshold. But unlike in some other countries, the amount of the relief is not progressive based on the level of income or size of family. And unlike refundable tax credits in some countries, the Section 87A rebate is not available in a form that exceeds tax liability — which means that very low-income taxpayers pay little or no tax even before the rebate and cannot benefit from it.

### **Recent Changes & Looking Forward**

#### **Changes in Budget 2023**



In Budget 2023, the Finance Act, 2023 brought some key changes in this regard, especially in terms of the new tax regime under Section 87A rebate. The key changes include:

- **Higher Income limit:** The income limit for under the new tax regime was enhanced from ₹5 lakhs to ₹7 lakhs. This implies that resident individuals with a total income up to ₹7 lakhs are now eligible for the rebate in the new tax regime.
- **Higher Rebate:** Under the new tax regime, the maximum rebate amount was raised from ₹12,500 to ₹25,000. This ensures that people earning up to ₹7 lakhs pay no income tax in the new regime.

**Different Treatment of the Section 87A Rebate** — The changes introduced a clear distinction between the old and new tax regimes with respect to the Section 87A rebate. The higher rebate amount and threshold are both applicable in the new regime but the old regime follows the earlier limits of ₹5 lakhs for the income threshold and ₹12,500 for the maximum rebate.

These modifications are in line with the government's wider goal of motivating taxpayers to choose the new tax regime, which has reduced tax rates along with fewer deductions and exemptions. To this new regime, the government intends to make it more attractive by offering a relatively more generous rebate.

## 1.4 Marginal Relief

### Concept and Purpose

- **Marginal Relief:** A tax provision available to individual taxpayers whose income marginally exceeds the threshold limit of a higher tax slab. The abstract discusses the so called "cliff effect," which happens when a slight increase in income pushes a taxpayer into a higher tax level, potentially magnifying a tax rise, leaving them with less post-tax income than a taxpayer with only slightly lower pre-tax income.
- Marginal relief is primarily designed to provide tax equity and fairness. "They create what is called a kink in the utility curve," meaning without such relief a taxpayer whose income exceeds a threshold by only a minor amount may wind up paying vastly more in taxes, having less money to

spend and possibly making them worse off than if they had made less. As a result, this violates the principle of progressive taxation, which seeks to tax more on higher income segments, but does not discourage earning more income if someone already gets a high tax rate.

- Marginal relief acts as a transitional tool that slowly brings in the lower tax rate instead of implementing it in one go. This also smooths the transitions between tax brackets and mitigates the potential for regressive outcomes whereby earning more leads to lower after-tax income. This gives tax authorities that necessary relief in that it ensures the effective tax burden moves with income, maintaining the integrity of the structure.
- This is particularly useful for taxpayers whose taxable income just exceeds the relevant limits (such as the basic exemption limit or the threshold at which surcharge is levied). It also reflects an acknowledgement by tax agencies that changes to tax brackets should not create artificial barriers —or disincentives—to the advancement of a market economy and increasing incomes.

### Calculation Method

Marginal relief is a mechanism to alleviate the steep rise in tax that occurs when the income crosses a certain limit, and its calculation vintage steps on a systematic way. The formula for calculating marginal relief is generally given by:

- This, however, means that we are now getting tax liability on the next hot money that you had of making money there.
- It ensures that the extra tax paid on the additional income is less than or equal to the additional income earned, meaning a taxpayer would always be better off with higher pre-tax income.
- For illustrative purposes to show how you calculate it with a hypothetical example: Let's assume you have a tax system with a basic exemption limit of ₹300,000 and a 10% tax rate on income above this limit but below ₹500,000. Then for income beyond ₹500,000, your tax





rate goes up to 20% for the whole (not just the part beyond ₹500,000) of the income.

- Take an example of taxpayer with income of ₹ 510,000:
- Without the marginal relief: Tax @ 20% for ₹510,000 = ₹102,000
- Regular bracket calculation: Tax @ 10% on ₹200,000 (₹500,000 – ₹300,000) = ₹20,000
- Extra tax because of crossing threshold = ₹102,000 – ₹20,000 = ₹82,000
- Other income in excess of threshold = ₹510,000 – ₹500,000 = ₹10,000
- As additional income (₹10,000) is less than additional tax (₹82,000), marginal relief would apply.
- Marginal Relief = ₹82,000 – ₹10,000 = ₹72,000
- So, actual tax payable = Tax payable – Tax deductions = ₹102,000 – ₹72,000 = ₹30,000.

This means that the taxpayer will not be disproportionately taxed simply because their income barely surpasses a limit. Other than that the actual calculation method may differ according to the in force tax laws and thresholds for taxation in a respective area or tax calculation year. In theory, tax authorities may offer simplified methods or tables to calculate marginal relief, but the principle remains the same: crossing a tax threshold should not render a taxpayer worse off after tax. This preserves the progressive nature of the income tax while also avoiding cliff effects that would get created otherwise.

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## UNIT 3

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### Deemed Incomes

#### Unexplained Investments

Unexplained investments are financial expenses or asset purchases that either definitively exceed the amounts explained in terms of known sources of income, or cannot be satisfactorily traced back to known sources of income. Under tax laws, such investments are “deemed” to be income, and are taxable, regardless of their actual source. It is an anti-tax evasion provision, aimed at bringing hidden income into the tax net. This provision can be invoked when the taxpayer makes investments that are disproportionate to their stated income and cannot explain satisfactorily about the source of funds. The unexplained amount of the investment is then added to the taxpayer's income in its full amount and taxed at the marginal tax rate(s), which are, typically, much heavier than the taxation rate for regular income to discourage people from evading taxes this way, and the resultant cost of taxation is then added to whatever has been managed to be legitimised.

The taxpayer bears the burden of proving their investments came from disclosed income sources or from non-taxable funds. Acceptable reasons may be:

- Tax on previously taxed income
- Income received from relatives
- Inheritance
- Financial institution loans

Having papers mitigate anyone about the sourced funds in accordance with such investments. Bank statements, records of loan agreements, gift deeds and inheritance-related documents are some of the financial transactions that need to be properly documented by taxpayers. From the standpoint of tax authorities, unexplained investments are a major weapon in their arsenal against black money and tax evasion. It allows them to investigate big purchases — such as real estate, stock market investments, or high-priced asset purchases — if those seem out of sync with the taxpayer's reported income. Generally, courts have upheld the validity of treating unexplained investments as deemed income



because of the necessity to prevent tax evasion. But they have also stressed that tax authorities should make proper inquiries and provide taxpayers with a reasonable amount of time and opportunity to explain the source of their investments before making additions to taxable income.

### **Unexplained Money**

Unexplained money means cash, bank deposits or other monetary assets in the possession or control of a taxpayer which are not satisfactorily explained by referring to their declared sources of income. Tax laws also classify this unexplained money as “deemed income,” tangentially bringing it under the purview of taxation based on the fact that it existed, and therefore must have come from somewhere. This clause addresses unreported cash that could present itself as secret cash reserves, “coincidental” bank deposits, or sudden surges in cash reserves. This means that, when tax authorities may discover these funds through investigations, scrutiny, or even searches and the taxpayer cannot provide a reasonable explanation about their origin, the totality of the amount is incorporated into the taxpayer's taxable income. The term unexplained money is distinct from unexplained investments because money can be in the form of liquid assets, whereas investments are in physical assets or securities. But the basic premise is the same – to tax income that has avoided the tax net because it has not been disclosed.

Some common situations in which provision of unexplained money might apply include:

- Cash without any explanation during searches or surveys
- Bank deposits out of proportion with verifiable sources of income
- Abnormal decrease in liabilities with no explainable reason
- Undocumented foreign remittances

To avoid being taxed under this provision, taxpayers have to keep detailed records of all financial transactions, detailing the origin of each deposit in the bank. These need to be interpretable, so legit sources of unexplained funds might be prior taxation, tax-exempt income, loans from established sources,

gifts from designated relatives or well-documented legitimate business transactions. Tax authorities typically pay particular attention to patterns of deposits, especially multiple small deposits that look like they were made with the intent of avoiding reporting requirements. This provision is a deterrent for money laundering and to bring the unaccounted money into the fold of the formal economy. The question of unaccounted money has come into sharper focus in recent years as financial transactions have been digitized and swims into many databases available to tax authorities. It has made it harder for taxpayer to not report unexplained money [and] emphasize the critical importance of proper disclosure of financial information and record-keeping.

### **Unexplained Expenditure**

Unexplained deposit is spending out of a taxpayer that cannot be reasonably explained by its declared income, assets and known sources of funds. Tax statute treats these kinds of spending as “deemed income,” and taxes them at whatever rates apply to such income, usually higher than rates on earned income. This section is aimed at high-end or extravagant expenditures that don’t seem to match a taxpayer’s reported income profile. This provision may be invoked if a person’s lifestyle or spending pattern is so far beyond what his declared income can sustain that the tax authorities might warrant an investigation in order to tax the undisclosed income that funds such expense.

The range of unexplained expenditure is wide and could be:

- Over-the-top weddings or social events
- High-priced trips abroad
- High-value personal acquisitions
- Costly home renovations
- Uncharacteristically large donations for charity not matching the income profile
- Inflated education-related expenses relative to income reported

It is then up to the taxpayer to prove that these expenses are funded from income sources that have been disclosed, tax-free funds, or legitimate borrowings. If



such satisfaction is not provided, then the entire unexplained expenditure is included in the total income of the taxpayer for the relevant assessment year. Generally speaking, the tax authorities are informed of your unexplained expenditure through various intelligence formats, including information from third parties, social media activities, real estate registrations, travelling as well as your credit card statements. As transactions are increasingly digitized, tax departments can track spending patterns and flag discrepancies. Taxpayers should keep accurate records of all major expenses and the documents showing what funds were used. This means keeping hold of bank statements, loan papers, gift documentation, and proof of savings that was established before the expenditure. It is a key piece of legislation in developing tax authorities' toolbox to deter tax evasion and make sure consumption income is not tax-exempted. This aligns with other anti-evasive measures like those for unexplained investments and unexplained money, forming a detailed bill against manifestations of hidden money. And courts have traditionally sided with tax authorities in treating unexplained expenditure as taxable, but only if the authorities make a prima facie case that taxpayers are engaging in disproportionate spending and then the burden of explaining the difference falls to the taxpayer.

### **On Hundi: Amount borrowed or repaid**

Amounts borrowed or repaid on hundi are a form of deemed income as per the tax laws, aimed at indigenous credit instruments, historically those would accelerate undisclosed transactions. Hundi is an informal financial instrument of credit used by traders in the traditional trading community resembling those possessed by a promissory note/ bill of exchange but both instruments are not done by banking. Hundis are specifically addressed in tax laws because they can be used to conceal financial activities. If the taxpayer borrows money from the hundi and does not satisfactorily explain the nature and source of the borrowed money borrowed, or if it repays the loan of the hundi without proving to the satisfaction of tax authorities the nature and source of the original borrowing, then these amounts can be considered as income for the taxpayer.

This provision is characterized by the following features:

- Any claim charged as borrowed on a hundi, including a promissory note or similarity instrument, shall be accepted as income unless it was borrowed from a financial institution or other appropriate documentation was available.
- Reciprocally, if the original loan transaction is unverifiable, any repayment of a loan allegedly taken on the hundi is treated as an income.
- This provision applies irrespective of the hundi being payable on demand or after a specified period.

This deemed income provision has several functions in the tax framework:

- It deters the use of informal systems of credit that bypass the formal banking system
- It disallows laundering of black money via bogus loan transactions
- It covers a potential gap in which undisclosed income could be written off as loans
- It promotes money transfer through properly documented and traceable means

Taxpayers should also keep proper documentation of any hundi transactions to avoid taxation under this provision, which can include:

- Proof of the original loan providing the lender is identified
- Evidence that the transaction was included in the relevant tax returns
- Net worth documentation
- Documentation providing the reason or need for using a hundi instead of formal banking channels

The provision is meant to address the tax authorities' fear that hundis may be used to bring unaccounted income into the normal financial flow disguised as loans, or take money out for this sort of undisclosed income disguised as loan redemption. Because of the traditional thousands have been seen in the course of the Indian business practice and while still they do exist, their use has



declined with the modern bank's system. The tax provision is nonetheless relevant; such informal credit instruments are still out there, under different names and guises, in different trading communities.

### **Clubbing of Income**

#### **Income Transfer Without Asset Transfer**

It is the first section of the Income Tax Act that provides for transfer of income without transfer of asset meaning that if a taxpayer tries to evade tax by transferring income but retaining the ownership of income generating asset. This is an anti-avoidance provision designed to ensure that income is taxed in the hands of the person who is the true economic owner of an asset and not to allow splitting of income arising from ownership. Normally under this self-same rule, if you simply transfer the income (or right to receive income) from an asset but do not transfer the asset itself, that income is still taxable to the person transferring the income (transferor). Such arrangements are ignored for tax purposes under Joint Policy, as they are viewed as attempts to avoid tax liability through paper transactions without economics.

Some of the key elements of this provision include:

This makes no difference whether the transfer of income can be revoked or not and whether the transfer was carried out before or after the so-called relevant tax law became effective.

It includes, among other types of arrangements to transfer income:

- Allot interest income but not the principal amount
- Surrender of dividend rights while retaining shareholding
- Assignment of rent without assignment of premises
- Transaction of royalty revenue while maintaining intellectual property rights

A true change of economic ownership is present when there is a genuine transfer of the asset along with the income it generates -- the provision thus does not apply in such cases. The rationale is that income always follows ownership of the

income generating asset, and separating the two under tax laws will not be accepted. It reflects the doctrine of “substantial ownership” versus “legal ownership” for tax. As an illustration, if a taxpayer is a shareholder in a company and assigns the right to receive dividends from the shares to their spouse, who is subject to lower tax rate but retains beneficial ownership of the shares, the tax on the dividend income is still payable by the taxpayer. This provision has regularly been enforced by the courts, which have made a distinction between an overriding title that causes diversion of income (effective for tax purposes) and a mere application of income after it has accrued to the transferor (which is ineffective for tax purposes). The income is only taxable in the hands of the transferee when the income is diverted prior to that income accruing to the transferor via a legally enforceable obligation. This rule is an important safeguard that helps to preserve the integrity of the tax system by ensuring that income splitting arrangements with no purpose other than for avoiding tax are not allowed.

### **Earnings from Property Given to Partner**

The part about income from assets transferred to spouse relates to manoeuvring against taxes by transferring assets in a family. This clubbing proviso makes sure that the income earned in respect of the assets transferred from one of the spouse to another without consideration remains in the domain of the transferor spouse. The logic is to deter the minimization of taxes through the transfer of income generating assets in the marriage unit. Double taxation of income paid to the receiving side may occur between; also, if the receiving side receives these kinds of equitable and divisible properties more than the basic exemption amounts, he/she/it has to pay the double tax charge on this accounted asset. An equitable payment such as cash. The general idea that you heard is that by transferring assets to a lower-income spouse or non-earning spouse your spouse the transferor may be relieved from tax high rates Basic exemption amounts and doubling, otherwise.

Some of the features of this provision include:

- Coverage: The provision covers property, investment, securities, and all types of business property that can produce income.





- **Trigger:** Where assets are transferred directly or indirectly to a spouse for inadequate or no consideration, the clubbing is triggered.
- **Tax Treatment:** Income arising from the assets transferred would be charged as the income of the transferor spouse and would be taxed as such.
- **Exceptions:** The provision does not apply in certain cases:
  - When assets are transferred pursuant to a legally enforceable agreement to separate
  - Which assets are transferred prior to marriage
  - When assets are transferred for a reasonable exchange of consideration, i.e. in a bona fide transaction made at arm's length between spouses
  - Assets transferred in accordance with a court order
- **Perpetual Nature of Clubbing:** The clubbing provision, once triggered, remains applicable even for the subsequent years, provided the asset continues to reside with the transferee spouse and continues to yield income.

For instance, assume the husband transfers shares to his wife gratuitously; the dividends that arise from such shares would be considered to be income of the husband from the stock. Likewise, if a wife transfers a rental property in favour of her husband without adequate consideration, the rental income would be clubbed with wife's income for tax purpose. The provision applies to direct transfers as well as indirect transfers via third parties or trusts. Courts have been strict in interpreting this provision, emphasizing the substance of transactions instead of their form. Tax authorities can challenge any transfer that appears to be for consideration on paper to determine whether the consideration was real and sufficient. The inclusion of this provision in clubbing of resources is significant from an anti-avoidance perspective within the context of family concerns, allowing a suppression of tax driven transactions at the expense of the economic unit of marriage. It buttresses the principle that tax liability should follow true economic ownership and control of income-generating assets.

## Rental Income from Properties Transferred to Son's Wife

- The provision with respect to income from assets transferred to a son's wife deals with a type of intra-family tax planning. For this clubbing provision, someone who gives the house to the bahu (daughter-in-law) without receiving sufficient money in return and there is income from it will tax it to this person, it will not transfer to bahu (daughter-in-law)
- The provision therefore expands the anti-avoidance framework beyond direct spouse transfers to potentially include transfers between the wider family group, noting that tax avoidance strategies could include transfers further down the line. It recognizes the close genetic relationship between parent and child, as well as the possibility of contagion: asymmetric control over resources that parents-in-law might exert over the formal transfer of assets to their son's wife.

The main aspects of this provision are:

- **Scope and Application:** The Non-allowable Assets shall include all wealth-generating assets transferred, directly or indirectly, to the daughter-in-law of the transferor without proper consideration.
- **Indirect Transfers:** The rule quite specifically targets indirect transfers, which can include diverting assets through intermediaries or trusts to mask the reality of the transaction.
- **Tax Treatment:** The income derived from such transferred assets is part of the total income of the transferor (father-in-law or mother-in-law) and taxed accordingly irrespective of who actually receives the income.
- **Exceptions:** The clubbing provision does not apply when:
  - The transfer was made in exchange for sufficient consideration
  - That the transfer was made prior to the taking place of the relationship of petr's wife (i.e., the prior marriage)
  - The asset pays no cash flow
- **Ongoing Application:** The clubbing provision follows the asset with the son's wife through tax years.



Suppose a father transfers a portfolio of dividend-paying stocks to his son's wife for nothing in return; the dividend income would be reported as the father's taxable income. Likewise, if, for example, a mother transfers ownership of a rental unit to her son's wife, then the rental income would be attributed to the mother for income tax purposes. This provision applies especially where the senior family members try to parametrically distribute the income-generating assets among the family but retain control over the assets. The tax law's treatment of income is clubbed is justified by the economic reality of family relationships and their not being used to escape tax. Courts have construed the provision broadly, considering the substance instead of the form of transactions. While a transfer may look valid on paper, tax authorities can scrutinize whether it was motivated primarily by tax considerations instead of true family gifting or estate planning. This is a provision for clubbing and is a pillar of the overall framework crafted to ensure that income is taxed in the hands of the person to whom it actually economically belongs, so that income is not artificially split amongst the family.

### **Income of Minor Child**

The income of minor child provision is rooted in preventing taxpayers from transferring income-generating assets to children (under the age of majority) to avoid taxes. The clubbing provision ensures that income earned in the hands of a minor child (other than in certain situations) is clubbed in the income of the parent and considered for taxation. The basic theory reflects the idea that minor children are usually not economically independent and do not control assets in their name, which are controlled by parents. Without this type of provision, parents could allocate assets between their minor children to utilize the basic exemption limit of each child and thereby avail lower tax brackets.

Some key elements of this provision include:

This is based on a simple rule: If the minor child has any income, it will be clubbed with the parent whose total income (before including the income of the minor) is greater. If the marriage has broken down, the income is aggregated with the parent who has care of the minor.

- Exceptions: This provision does not apply to:

- Any income of a minor child through manual work or any activity involving specialized skills, knowledge, experience, or qualification
- Minor child income with explicit disabilities
- Earned income before the child becomes a minor
- Minor Child Exemption: A small exemption (normally a very small amount) is exempted Per minor child income is clubbed, therefore offering a small relief from the full impact of the clubbing provisions.
- More than 1 Children: In the event of more than 1 minor children, the provision of clubbing applies separately to them and exemption is available to each children separately.
- Types of Income covered: All forms of income earned by a minor can be subject to clubbing.
  - Deposits or investments that earn interest
  - Dividend income
  - Rental income
  - Capital gains arising from investments in the name of the minor
  - Income and from trusts established in Favor of the minor

For instance, if parents open fixed deposits in the name of their minor child, the interest earned will be clubbed with the income of the parent with a higher income. Likewise, in case of dividend income arising to shares held in a name of junior members in a family, they would be clubbed with the income of the parent. This is an anti-avoidance provision aimed at recognizing the economic reality of family units and preventing abuse via artificial income splitting. It recognizes that decisions about a minor's property are generally made by the parents, and so the tax treatment should reflect that. Courts have generally upheld this clubbing provision, finding that it is necessary to combat tax avoidance. However, they have also denied the exceptions strict interpretation, particularly in income generated on behalf of the minor using the minor's own skill -though stamping an independent income earned by a talented minor in their own hands.



### **Conversion of Self-Acquired Property to HUF\_RTM**

This particular provision we are referring to is related to conversion of self-acquired property as property attached to Hindu Undivided Family (HUF), it is a form of tax planning from the perspective of Hindu family systems. This clubbing provision ensures that when an individual (who is a member of the HUF) transfers/sells his self-acquired property without adequate consideration to the HUF, then the income from that property remains taxable in the hands of the individual transferee. The Hindu Undivided Family is a distinctive entity that is recognized under Hindu law and tax law, which means a family unit comprising of all persons lineally descended from a common ancestor, including the wives and unmarried daughters. The HUF is treated as one separate taxable entity and possess its own tax identification and is also assessed separately. This arch-makes it an anti-abuse mechanism aimed at cases where a person may try to minimize their tax payables by making the personal property, property of a HUF and thus avail benefits for:

- The HUF is treated as a separate tax entity
- Income segregation in individual and HUF tax-payer units
- Relevant tax slabs and exemption limits for the HUF

Highlights of this provision include:

- **Scope:** When an individual transfers his self-acquired property to an HUF without any adequate consideration. It could be both direct transfers and conversions by integrating the asset with existing HUF assets.
- **Tax Treatment of Income:** Income arising from such property i.e. the property being transferred is included in the total income of the transferor individual and, therefore, taxed accordingly, despite the property being legally owned by the HUF.
- **Continuing Application:** The clubbing provision continues to be applicable till the property transferred continues in the hands of HUF and generates income.

- Exceptions: The provision does not apply where:
- Was the transfer made for adequate consideration
- Acquired the property by inheritance (not self-acquired)
- The transfer was made in circumstances such as such that other clubbing provisions apply

For example, if an individual buys a piece of land from their own pocket and then gifts it to their HUF (which is a separate entity) without any consideration, any rental income from the said land will be included in the taxable income of the individual and not taxed as HUF income. This provision was introduced as a specific anti-abuse measure, given the unique situation of HUF conversions and the fact that HUF could be used for income-splitting structuring. The law therefore clubs such income, preventing artificial tax avoidance, while treating HUF as a separate entity for taxes on other bona fide gains and properties acquired in the normal course of life. Such transfers have gotten the benefit of judicial scrutiny, with emphasis on where the money used to purchase the property was from and what the genuine motive for the conversion was. It reinforces the idea that for tax purposes, consequences should follow from economic reality rather than legal form because in these individual transactions, part of the reason the transaction exists at all is because the controls and benefits of the given structure might remain with the transferor even if the legal ownership changes.

## **Further Details on Marginal Relief**

### **Historical Evolution**

Marginal relief is an essential feature of tax policy, providing taxpayers with a safety net as their income rises, and has been adjusted and adjusted to reflect the shift to graduate taxation over the years. Greater flexibility This evolution is mirrored in a changing understanding of the role and structure of tax systems, and the need for them to remain fair and progressive. In the early tax systems, the shift from one tax bracket to a higher bracket was sometimes a cliff, so that a very slight rise in earnings could cause a significant increase in taxes owed. As tax systems matured, however, policymakers increasingly understood the



disincentives created by these abrupt jumps. The signal recognition brought with it the gradual implementation of marginal relief options across a host of different jurisdictions. Marginal relief is something that has evolved alongside developments in economic thought and tax policy. At times when the marginal tax rate was high, the significance of these provisions was more substantial since the gap between tax brackets was more pronounced. By the time many nations were progressing toward levelling their tax arbitrage in response to a demand for middle classes to stop being taxed at a higher rate than the wealthy and for closing tax loopholes, the use of marginal relief became more targeted but it was still a necessary adjunct to fair tax design. The move to implement marginal relief has also been aided through technology. With modern computational tools come more nuanced and disaggregated methods of calculating relief that go well beyond the simple formulas of earlier times. This has enabled tax authorities to devise more targeted measures, including, where appropriate, at particular transition points in the tax system.

### **International Approaches: Comparison**

The specific rules and mechanisms for marginal relief differ from one country to another, depending on their tax systems and policy priorities. Though the basic idea is the same — avoiding cliff effects in tax liability — the details of the implementation differ greatly between jurisdictions. Marginal relief in some countries is limited principally to the basic exemption threshold; entry into the tax net at a low level should not produce disproportionate burdens. Other countries apply their relief principles to higher income thresholds, and particularly to upper income brackets where surcharges or higher rates apply. The international variation in the formula used to calculate marginal relief. Some jurisdictions use simple deduction-based approaches, while others use more sophisticated computational methods that phase out the relief gradually as income grows above the threshold. These distinctions reflect differing philosophies about how lapidary the change between tax rates should be. Some systems of corporate taxation include similar mechanisms of marginal relief (or a pay-out of tax in the event of loss of preferential rate) for small businesses, where the transition through preferential rates into corporate tax systems needs

to fee-accounted for. This ensures small businesses adjacent to said thresholds do not incur punitive effective tax rates which could hinder their growth.

### **Criticisms and Limitations**

Although the idea of marginal relief has its advantages quite a few limitations and criticisms of the same have been raised which need to be noted. The cynics say that marginal relief is a measure which adds complexity to tax systems that would be better off if their bracket structures were completely reformed instead. From an administrative perspective, marginal relief provisions can also be difficult to explain to taxpayers and they may have difficulty understanding how those calculations would impact them overall. This complexity may raise compliance costs and leave room for mistakes in tax returns. Some economists argue that marginal relief is just a patchwork solution to the problems rooted in how tax brackets were designed. They argue that a gradual rate progression across the income distribution would avoid the necessity of special relief provisions and would meet the fairness goals in terms of effective tax rates. A second critique highlights how marginal relief is time-limited for most taxpayers. As income rises considerably above a threshold, the relief is usually phased out entirely, perhaps producing another type of "kink" in the effective tax rate function at the point where relief vanishes. Policy analysts have also found that the marginal relief provisions can interact in complicated ways with other parts of the tax system, including tax credits, deductions and alternative minimum taxes. However, sometimes such interactions yield unintended consequences that erode the original intent of the relief. So when we look at the deemed incomes, we can give a reasonably comprehensive analysis on them.

### **Application of Statutory Provisions to the Case**

The system of deemed incomes exists in Botswana, but it must be seen within a broad legal framework to ensure that all forms of economic ability that are within jurisdiction of collection be subjected to the tax net. The legislative framework in relation to deemed incomes is generally contained in several sections of a particular assessment law, in relation to which various types of unexplained assets, expenses or transactions are grouped in separate clauses. These provisions are typically structured as deeming fictions — tax bubbles that





treat certain transactions or discoveries as income for tax purposes despite any actual characterisation under law. Such sections frequently use the language "shall be deemed to be," signifying that, in certain instances, the legislature intended the presumption to be irrebuttable.

The statutory framework typically provides:

- The circumstances when the deeming provision apply
- Assessment year in which said amounts shall be taxable
- The burden of proof standards
- Applicable tax rates (usually more than the rate at our common income)
- Penalties and prosecution for concealment

Such provisions are usually supplemented with rules of procedure dealing with how tax authorities need to make out their prima facie cases, the nature of acceptable evidence for disproving presumptions, and the time limits within which assessments under these provisions can be made. The legal framework surrounding deemed income provisions has developed over time through both legislative modifications and judicial scrutiny, with the judiciary influencing the scope and applicability of such provisions. Although deemed income concepts are regarded as valid, yet the courts have also laid down necessary safeguards against making additions arbitrarily while reiterating that tax authorities should follow due process before making additions.

### **The Evidentiary Dimensions and Burden of Proof**

The deemed income rules include some special provisions related to evidence and burden of proof that are not the same as for ordinary income tax assessments. In general, when tax authorities form a prima facie case – for instance by citing unexplained investments, money or expenses – the burden of explaining the same falls upon the assessee.

This reversed burden of proof is a clear departure from the general principle that the tax department must prove taxability. The basis for this change is that in practice, the taxpayer is in the best position to explain the ownership of the assets or expenditures that are in the taxpayer's possession or control.

The evidentiary standards are a few key elements:

- Preliminary evidence for tax authorities to prove a prima facie case
- What constitutes a “satisfactory explanation” from the taxpayer
- The type and quality of documentary evidence necessary to support the explanations
- The timing of explanations (what you need to record contemporaneously)
- Partial explanations extended for amounts

These matters have created a detailed jurisprudence, and tax authorities are often required to make detailed inquiries before any additions can be made. Meanwhile, courts require taxpayers to provide evidence rather than just explanations or statements. Deemed income presumptions can usually be rebutted only by primary evidence such as bank statements, properly documented loans, gift deeds and other such clarifying material. The evidentiary system acknowledges pragmatic difficulties in some situations. For instance, judges have recognized that cash sales that are prevalent in certain industries or cultural practices like marriage ceremonies can make it genuinely challenging to keep comprehensive records. In some of these circumstances, courts sometimes apply a reasonableness standard that is fact and circumstance dependent.

### **Incorporation into Anti-Money Laundering Regulations**

Deemed income provisions, in contemporary tax systems, work in concert with anti-money laundering (AML) requirements to form a comprehensive toolkit to stem both tax and money laundering. This step in integration reflects the understanding that unexplained assets and financial transactions are commonly signs of either tax non-compliance or potential money laundering activity.

Some key features of this integration are:

- Exchange between tax authorities and financial intelligence units
- Harmonization of reporting obligations across tax and anti-money laundering regimes
- Standardization of documentary evidence
- Combined investigation and enforcement mechanisms
- Risk Assessment Methodologies in Common



Reports of suspicious transactions collected under the AML regulation by financial institutions frequently serve as significant intelligence for tax authorities carrying out investigations for suspected cases of deemed income. On the other hand, tax investigations that lead to additions of deemed income often lead to AML investigations of the source of funds. This integration also applies to regulatory frameworks controlling types of specific transactions. For instance, property registrations, large-scale acquisitions, and cash-heavy deals could promote reporting duties that address tax compliance and AML goals. The result are points-of-data that tax authorities can leverage to identify potential deemed income events. The incorporation of international cooperation has solidified this integration, increasing the exchange of tax information between jurisdictions and enabling mutual legal assistance treaties (MLATs) to allow for borderless cross-border investigations into unexplained wealth. In conclusion, the global trend towards greater transparency and the introduction of Common Reporting Standards have significantly increased the effectiveness of deemed income provisions, as it has become increasingly challenging to hide undeclared foreign assets. This new layer of scrutiny is not just for tax or AML reasons but generally signifies a form of collaborative enforcement with significant scrutiny at the origins of potential suspicious activity whether it be for tax or otherwise.

### **Attributing Credit: Theoretical Foundations of Attribution Rules**

Such attribution rules can be justified by a nuanced understanding of economic substance, the economics of family and the policy goals of tax. Club provisions are all about "substance over form" in taxation — the doctrine that tax consequences should attach to economic reality, not legal arrangements shaped predominantly for tax advantage. These provisions ensure that income is taxed at the progressive rates consistent with the actual economic owner of the income by looking through formal ownership and to the true economic owner.

We drive on several theoretical underpinnings:

The "Fruit and Tree" Doctrine: A meta-principle that separates the asset that produces income (the tree) from the income (the fruit). Clubbing provisions acknowledge that the owner of the tree should be taxed on its fruit, no matter how nominal arrangements may direct the fruit in another direction.

**The Economic Unit Theory:** In several instances in clubbing provisions, particularly with respect to family taxation, the family is considered as one economic unit for certain purposes. This theory recognizes that decision-making within the family implicates resource sharing and thus makes it reasonable to pool some income for tax purposes.

**Control theory:** The one who enjoys the economic benefits of an asset should be taxed, regardless of legal ownership. Clubbing provisions typically focus on control rather than title to determine tax liability.

**Adverse-Inference Principle:** Attribution rules are a legislative acknowledgment that absent those rules progressive rate structures would be easily evaded by income-splitting devices with no motive other than tax minimization.

These theoretical principles have evolved through the range of judicial interpretations which distinguishes between legitimate transactions having economic substance and a wholly artificial structure for the primary purpose of obtaining tax benefits. Courts have long held that while tax planning is not only permissible, but encouraged, tax avoidance through contrived arrangements is not legitimate. The theoretical foundation of the clubbing provisions seeks to balance the competing considerations of the right of individuals to order or organise their affairs (including family financial planning) with the desirability of tax equity and the protection of progressive rate scales. Such balance is reflected in exceptions embedded into clubbing provisions that carry recognition of legitimate arrangements that serve independent economic purpose.

### **The Critical Implementation Challenges in Administrative**

**Administrative challenges:** When clubbing provisions are applicable, tax authorities and taxpayers need to ensure that any underreporting of income across two separate sources does not occur. They stem both from the complicated structure of family financial arrangements, and the difficulties involved in tracing asset transfers through time, as well as the evidential questions involved in proving the true nature and purpose of transactions.

From a tax administration perspective, critical challenges include:



- Identification of Relevant Transactions under Clubbing Provisions With of Indirect Transfers
  - Following the movement of assets through intricate ownership structures
  - Assessing genuine transfers for non-tax purposes versus tax-motivated arrangements
  - Deploying resources in a way that effectively enforces clubbing provisions without imposing unreasonable compliance burdens
  - Construct accurate forms and information needs that capture relevant data complexity neurorecording far too little.
  - Taxpayers have to face administrative burdens under clubbing provisions like below:
  - Keeps track of asset transfers among family units — sometimes for multiple years
- Sensitivity to how different clubbing provisions might apply and interact at the same time.

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## UNIT 4

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### Loss offset and Carry forward

The provisions relevant to taxpayers to set off losses against income and to carry forward losses which cannot be set off in the current year are covered under the Indian Income Tax Act. These rules may lighten the tax burden by permitting losses from one source to be offset against profits from another source. Understanding these provisions is crucial for effective tax planning and compliance.

#### Intra-head Set Off

Intra-head set off refers to the set-off of loss from one source against income from another source under the same head of income. There are five heads of income under the Income Tax Act:

- Income from Salary
- Income from House Property
- Profits or Gains from Business or Profession
- Capital Gains
- Income from Other Sources

Section 70 of the Income Tax Act allows set off of losses in one source of income against an income under another source within the same head subject to certain exceptions. Now, let us look at the provisions for each head:

**Income from Salary:** There can be no loss from this head because the salary is always positive or zero. So, the issue of set off intra-head does not arise.

**Income from House Property:** Loss from a single house property can be offset from income from other house property. For example, if a taxpayer possesses two houses, one that has incurred a loss of ₹50,000 and the other of earning ₹70,000 then the income from house property would be computed as ₹20,000 (₹70,000 - ₹50,000).

**Profits and Gains from Business or Profession:** Losses in one business can be set off against profits in another business. For instance, consider a taxpayer who



owns 2 businesses, one making a loss of ₹2,00,000, and the other a profit of ₹3,50,000, then the net business income would be ₹1,50,000 (₹3,50,000 – ₹2,00,000).

**Capital Gains:** The set off in this head is restricted to the following:

- Short-term capital loss can be adjusted against both short term and long-term capital gains.
- Long-term capital loss can be settled off only against long-term capital gains.

For example, if a taxpayer has a short-term capital loss of ₹30,000 and a long-term capital gain of ₹50,000, they can adjust their short-term capital loss against the long-term capital gain and arrive at a net long-term capital gain of ₹20,000.

**Other Sources:** Losses from one source under this head can be adjusted against income from another source in the same head except for losses from the ownership and maintenance of race horses, which can only be adjusted against income from the same.

### **Inter-head Set Off**

The process of setting off the loss of one head of income against income from another head, is termed inter-head set off. Section 71 of the Income Tax Act allows such set off, subject to certain conditions and exceptions:

For income under any head, loss under any other head (except loss from house property and capital loss) can be set off against income under any other head in the same assessment year.

1. Loss from house property can be adjusted against income under any other head upto ₹2,00,000 in a financial year.
2. Losses from capital cannot be set off against income from any other head. As per the mentioned rules, they can only be offset against capital gains.
3. Loss from speculative business can be set off only against speculative business income.

4. Loss from the activity of owning and/or maintaining race horses can only be offset against income from that activity.
5. Loss from specified business under Section 35AD can only be offset against income from another specified business.

To exemplify inter-head set off, consider the following:

For the Financial Year 2024-25, a taxpayer has the following incomes and losses:

- Salary Income: ₹8,00,000
- Loss from House Property: ₹2,50,000
- Business Loss: ₹1,00,000
- Short-term Capital Gain: Rs. 50,000
- Long term capital loss: ₹75,000

The inter-head set off will be as follows:

- Out of the loss from house property of ₹2,50,000, loss is set off from salary income (up to ₹2,00,000).
- The business loss of ₹1,00,000 can be adjusted against the balance salary income.
- The ₹75,000 long-term capital loss cannot be offset against the short-term capital gain as per the rules.

Upon launch, the taxable income would be:

- Salary Income: ₹5,00,000 (₹80,00,000 – ₹20,00,000 – ₹10,00,000)
- Income from House Property: Nil (loss of ₹50,000 to be carried forward)
- Profit and Gains of Business or Profession: Nil
- Short term Capital Gain: ₹50,000
- Short term Capital Loss: ₹75,000 (to be carried forward)

### **Set off of Losses against Income under Different Heads**

Where losses cannot be fully set off in the current assessment year, the Income Tax Act permits the carry forward of such losses to subsequent years. The provisions for carry forward differ based on the head of income:





Loss from House Property:

- Lease carry forward for 8 assessment years
- It can be carried forward for a maximum of 7 years and can be utilized only against the house property income in the subsequent years.
- No filing of return of income required by due date to carry this loss forward
- Loss from Business or Profession (other than Speculative Business):
- ITC can be carried forward for a maximum of 8 Assessment Years.
- It can subsequently be set off only against income from business or profession.

Losses from Speculative Transactions:

- Available for carry forward for 4 assessment years.
- It can thereafter only be adjusted against income from speculative business.
- It is indeed to carry forward this loss that return of income should be filed on or before the due date.

Loss from Specified Business under Section 35AD

- Does not expire and can be carried forward indefinitely.
- It can only be set off against income from the specified business in subsequent years
- The due date to file the return of income should be as per the due date for carry-forward of this loss.

Loss from Capital Gains:

- Can be carried forward for 8 assessment years.
- Short term capital loss can be adjusted against short-term and long-term capital gain in the following years.
- Long-term capital loss can be adjusted only against long-term capital gain
- For carrying forward this loss, the return of income should be filed by 'due date'.

**Loss from the Ownership and Care of Race Horses:**

- Can be carried forward for maximum 4 assessment years
- It can only be set off against income from the same activity in the following years.
- In order to carry forward this loss the return of income should be filed on or before the due date.

**Loss from Playing Card Games, Gambling or Betting:**

- Cannot be carried forward.
- Unable to set-off from any income at all, not even from similar activities.

**Time Limit for Carry Forward**

The time limit for loss carry forward differs according to the type of losses:

**Eight Assessment Years:**

- Loss from house property
- Loss of business or profession (not being a speculative business)
- Loss from capital gains

**Four Assessment Years:**

- Speculative business loss
- Loss from owning and maintaining race horses

**Indefinite Period:**

- Loss from specified business under section 35AD

The timeframe is calculated from the assessment year after the year in which the loss was incurred. For instance, consider a business loss sustained during FY 2024-25 (AY 2025-26) —it can be carried forward till AY 2033-34.

**Conditions for Carry Forward and Set Off**

For carry forward and set off of losses, the following conditions must be fulfilled:



**Filing of Return** - Except by loss from house property, the assessee shall be liable to file the return of income before the completion of the time-line specified u/s 139(1) of the Income Tax Act.

**Same Assessee:** The loss can be carried forward and set off only by such assessee who has incurred the loss. However, for succession, merger or demerger of businesses a specific provision has been enumerated.

**Continuity of Business:** In the case of business losses (other than bad debts and unabsorbed depreciation), the business in which the loss occurred must be continued in the year in which it is set off. The loss cannot be set off against income from a new business if the business is discontinued.

**Unabsorbed Depreciation:** Unlike other business-related losses, unabsorbed depreciation can be carried forward indefinitely, such that it can be set off against income from any head.

**Change in shareholding:** As per the provisions of Section 79 of the Income Tax Act for closely held companies, any change in shareholding exceeding 49% would disallow the carry forward and set-off of accumulated business losses (other than unabsorbed depreciation).

**Order of Set Off:** A specific order is followed while setting off carried forward losses:

- Current year's depreciation
- Business loss shall be carried forwarded
- Unabsorbed depreciation
- Other losses

For illustration, consider the following example:

The company has the following for Assessment Year 2025-26:

- Business income for the current year before depreciation: ₹10,00,000
- Depreciation for the current year: ₹2,00,000
- Business loss brought forward from AY 2022-23: ₹3,00,000
- Unabsorbed depreciation from AY 2020-21 = ₹1,50,000

The Seeding would be as follows:

- Business income of the current year before depreciation: ₹10,00,000
- LESS: Depreciation for the current year: ₹2,00,000
- Balance: ₹8,00,000
- Less: Set Off brought forward business loss: ₹3,00,000
- Balance: ₹5,00,000
- Less: Unabsorbed depreciation: ₹1,50,000
- Taxable business income: ₹3,50,000

### **Calculation of Aggregate Income**

The total income is calculated based on the ascertainment of taxable income under all heads with the respective provision for set off and carry forward of losses and total tax chargeable after the respective provision for deduction and exemption.

### **Steps in Computation**

It is the process of computing the total income in a systematic way:

#### **Step 1: Calculate Income in each head**

Income or loss under five heads of income:

- Income from Salary
- Income from House Property
- Capital Gains
- Income from Other Sources

Now notice, you will apply the provisions to calculate the taxable income for each head based on the exemptions, deductions etc as per that head.

#### **Step 2: Deduct intra-head set off provisions**

Under each head, losses arising from one source can be set off against income from another source of income, subject to the restrictions discussed above. Those leads to the net income/loss under each head.

#### **Step 3: Deduct provisions of inter-head set off**



Off loss under one head against income under another head, subject to the conditions and restrictions discussed above. This is the gross total income.

#### **Deductions Step 4**

Subtract from the gross total income the amounts qualified for deductions under Sections 80C to 80U of the Income Tax Act. Such deductions pertain to investment in specified instruments, health insurance premium payment, charitable institution donation, etc.

#### **Step 5: Add up all the incomes**

This is the income after deductions u/s Chapter VI-A, and this income is termed as the total income or taxable income.

#### **Step 6: Calculate what is owed in tax**

Compute the tax due on the net income as per the relevant tax rates, for the AY. Deduct rebates, surcharge, and cess as applicable.

#### **Step 7: Weighing tax credits and estimated tax payments**

Below we adjust tax deducted at source (TDS), tax collected at source (TCS), advance tax payments and self-assessment tax against the tax liability to arrive at the final tax payable or refundable.

#### **Practical Examples**

To get a clearer idea about how total income is calculated, let us look at some practical examples:

##### **Example 1: Individual With Multiple Income Sources**

Mr. Sharma has the undermentioned income and losses during Financial Year 2024-25:

- Salary Income: ₹7,50,000
- Income from House Property (self-occupied) : (₹2,00,000)
- Income from House Property: Let-out Property: ₹1,20,000
- Long-term Capital Gain on sale of shares (listed and STT paid): ₹1,00,000
- Short-term Capital Loss on sale of asset: (₹60,000)

- Interest on FDs: ₹30,000
- Interest on Savings Account – ₹15,000

#### Chapter VI-A Deductions:

- Section 80C (LIC premium, PPF, etc.): ₹1,50,000
- Section 80D (Health Insurance Premium): ₹25,000
- Section 80TTA (Interest on Savings Account): ₹10,000

#### Computation of Total Income:

Step 1: Compute income in each head

Income from Salary: ₹7,50,000

Income from House Property:

- Self-occupied Property: (₹2,00,000)
- Let-out Property: ₹1,20,000
- Income from House Property: (₹80,000)

Capital Gains:

- Total long-term capital gain: ₹1,00,000
- o Short Term Capital Loss : (₹60,000)
- Adjustment of Set Off = Towards Previous Year [a] - ₹60,000 [b] = [a] - [b] = - ₹60,000; [emi] = - ₹10,000 [emi] = - ₹10,000 [emi] = - ₹40,000 [d] - ₹40,000 [g] - ₹40,000 [b] - ₹60,000 [i] - ₹10,000.

Income from Other Sources:

- Interest Income on Fixed Deposits: ₹30,000
- o Interest on SB A/C: ₹15,000
- Other Income: ₹45,000

Step 2: Apply provisions of inter-head set off

- Salary Income can be set off against Loss from House Property (₹80,000).
- Gross Total Income:
  - Salary Income: ₹7,50,000 - ₹80,000 = ₹6,70,000



## Income Tax

### Law and Other Practices

- Income from House Property: Rs. Nil
- Capital Gains: ₹40,000
- o Income from Other Sources: ₹45,000
- Total: ₹7,55,000

#### Step 3: Claim Deductions under Chapter VI-A

- Section 80C: ₹1,50,000
- Section 80D: ₹25,000
- Section 80TTA: 10,000 (max)
- Total Deductions: ₹1,85,000

#### Step 4: Now Calculate the Total Income

- Gross Total Income: 7,55,000
- Less: Chapter VI-A deductions: ₹1,85,000
- Total Income: ₹5,70,000

Since long-term capital gain on listed shares is taxable at a special rate (10% over ₹1,00,000), the income would be bifurcated as follows:

- Long-term Capital Gain (notional at special rate): ₹1,00,000
- Other Income (taxable at normal rates) ₹4,70,000

In this example, the entity is a business with losses the previous years that have been carried forward.

For the Financial Year 2024-25, ABC Ltd. has the following particulars:

- Business Income (current year): ₹15,00,000
- Unabsorbed Depreciation (b/f from AY 2023–24): ₹3,00,000
- Business Loss (b/f from AY 2022-23): ₹5,00,000
- Long-term Capital Gain toward sale of land: ₹4,00,000
- Long-term Capital Loss (b/f from AY 2023-24): ₹1,50,000
- Income from Other Sources: ₹1,20,000

#### **Computation of Total Income:**

First, you need to calculate income under each head.

Profits and Gains of Business or Profession :

- Business Income for current year: ₹15,00,000

Capital Gains:

Common careers suitable for them are o Short-term Capital Gain: ₹24,000 o

Long-term Capital Gain: ₹4,00,000

- LESS: Brought forward Longterm Capital Loss: ₹1,50,000
- Net Capital Gains: ₹2,50,000

Other Income: ₹1,20,000

The set off of the brought forward losses.

- Business Income: ₹15,00,000
- Income: For business loss brought forward from earlier business: ₹ 5,00,000
- (Less: Unabsorbed Depreciation) ₹3,00,000
- Net Business Income: ₹7,00,000

Stage 3: Find your gross income

- Business Income: ₹7,00,000
- Capital Gains: ₹2,50,000
- Income from Other Sources: Rs 1,20,000
- Gross Total Income: ₹ 10,70,000

Step 4: Deduct Chapter VI-A deductions

- Companies face limits on how much they can deduct. Assuming no deductible write offs.

Step 5: Sum up the income

- Total Income: ₹10,70,000

Long-term capital gains are taxed at a special rate (20% for companies), so the income would be bifurcated as:

- Income Tax on Long-term Capital Gain (taxable at special rate):  
₹2,50,000





- Other Income (subject to normal rates of tax): ₹8,20,000

#### Individual with Speculation Business and Other Income

Mr. Verma has the following incomes and losses in the Financial Year 2024-25:

- Salary Income: ₹6,00,000
- Business Income: ₹2,50,000
- Loss from Speculation Business ₹(1,80,000)
- Loss of House Property: (₹1,50,000)
- Short term Capital Gain (other than covered under Section 111A): ₹70,000
- Capital Gain —Long-term on sale of land: ₹1,20,000
- Dividend Income: ₹40,000

Deductions allowable only under Chapter VI-A:

- Section 80C: ₹1,20,000
- Income tax exemption under section 80G (Donations): ₹30,000

Computation of Total Income:

Step 1: How to calculate income owner in each head

Income from Salary: ₹6,00,000

Profits and Gains from business or Profession:

- Business Income: ₹2,50,000
- o Loss on Speculation Business (₹1,80,000)
- Net Business Income: ₹70,000 (Speculation loss CBI not set off against normal business income hence it will carry forward)

Income from House Property: (₹1,50,000)

Capital Gains:

- o Short-term Capital Gain: ₹70,000
- Capital Gain Tax Long-Term: ₹1,20,000

Net Capital Gains: ₹1,90,000

Income from Other Sources:

- Dividend Income: ₹40,000

Step 2: Apply rules for inter-head set off

- Loss from House Property (₹1,50,000) is allowed to be set off against the Salary Income, Business Income.
- Gross Total Income after set off:
  - Salary Income:  $6,00,000 - 1,50,000 = 4,50,000$
  - Business Income: ₹ 70,000
  - Income from House Property: Nil
  - Capital Gains: ₹1,90,000
  - Other Sources of Income: ₹40,000
  - Total: ₹7,50,000

3: Deductions under Chapter VI-A

- Section 80C: ₹1,20,000
- Section 80G (assuming 50% of donation is eligible): ₹15,000
- Total Deductions: ₹1,35,000

Step 4: Total Income

- Gross Total Income ₹7,50,000
- Deduction as per Chapter VI-A: ₹1,35,000
- Total Income: ₹6,15,000

Since capital gains attract differential rates of tax, the income would need to be bifurcated as under:

- ₹70,000 Short-term Capital Gain (taxable at normal rates)
- Long term Capital Gain (20% taxable): ₹1,20,000
- Other Income (Normal rates): ₹4,25,000

So, the computation of total income is one of the most important components of tax compliance and planning. Taxpayers can now have better insight into their tax liability and appropriately comply with the tax laws with the knowledge of provisions relating to set off and carry forward of losses.

Example 4: Partnership Firm Engaged in Multiple Businesses



XYZ Partnership Firm has the following gains and losses for Financial Year 2024-25.

- Income from Manufacturing Business — ₹8,00,000
  - Loss from Trading Business: (₹3,50,000)
  - Consultancy Services Income: ₹4,20,000
  - Specified Business losses u/s 35AD: (₹2,80,000)
  - Capital Gain Long-term machinery sale: ₹1,50,000
1. • Interest on Fixed Deposits: ₹60,000

Computation of Total Income:

Step 1: Computing income under respective head

Profits / Gains from Business or Profession

- Business Income from Manufacture: ₹8,00,000
- o Trading Business Loss: (₹3,50,000)
- Fees from Consultancy Services : ₹ 4,20,000
- Loss from Specified Business : ₹2,80,000
- Net Business Income: ₹5,90,000 (Loss from specified business can be set-off only against Income from specified business. It shall be carried forward)

Capital Gains:

- Income from Long term Capital Gain: ₹1,50,000

Income from Other Sources:

- Fixed Deposits Interest: ₹60,000

Step 2: Gross Total Income This means that the net income of the person, also known as the total income, is the taxable income after adding together all the income from all sources.

- Business Income: ₹5,90,000
- Capital Gains: ₹1,50,000
- Income from Other Sources: 60,000
- Gross Total Income: ₹8,00,000

Deductions under chapter vi-A 2023-24.

- Since no deduction is allowed for eligible deduction from partnership firm.

Step 4: Sum up the amount of income

- Total Income: ₹8,00,000

Since long-term capital gains are taxed at a separate rate (20 percent for corporations), this income would be separated out as:

- Long-term Capital Gain (taxable @ 20%): 1,50,000
- Other Income (taxable at normal rates)—₹ 6,50,000

The loss of ₹2,80,000 for the year from the specified business under Section 35AD will be carry forward until it is set-off against the income from specified business only in the subsequent years.

Income tax return for HUF with income from agriculture and other sources

The following are the income & losses of Hindu Undivided Family (HUF) for the Financial Year 2024–25:

- Income from Agriculture (exempt under Section 10(1)): ₹3,50,000
- Business Income: ₹5,80,000
- Loss from House Property: (₹1,20,000)
- Short-term Capital Gain [covered under Section 111A]: Rs 90,000
- Long-term Capital Loss: (₹60,000)
- Interest on Saving Account: ₹18,000
- Dividend Income: ₹50,000

W.H.I.T.D.A: DEDUCTIONS UNDER CHAPTER VI-A

- Section 80C: ₹1,00,000
- Section 80G (Donations) ₹20000
- Section 80TTB (Interest on Savings Account): ₹18,000 (not exceeding actual amount)

Computation of Total Income:

Head-wise Income Calculation Step 1



Profits and gains from business or profession:

- Business Income (Gross): ₹5,80,000

Income from House Property: (₹1,20,000)

Capital Gains:

- Short-term Capital Gain (covered u/s 111A): ₹90,000
- Short term Capital Gain: ₹40,000 o short term Capital Loss: 0 o Long-term Capital Gain: 40,000 o Long-term Capital Loss: (₹60,000)
- Net Capital Gain: ₹90,000 (Long term capital gain cannot be set off against short term capital gain under Section 111A)

Income from Other Sources:

- Interest on SB A/C: ₹ 18,000
- Dividend Income: ₹50,000
- o Income from Other Sources: ₹68,000

Step 2: Inter-head set off provisions apply

- Loss from House Property (₹1,20,000) can be adjusted against Business Income.

Set off of loss under Income Heads, @ Gross Total Income

- Income from business: ₹ 5,80,000 - ₹ 1,20,000 = ₹ 4,60,000
- Salary from House Property: Nil
- Capital Gains: ₹90,000
- o Income from other sources: ₹68,000
- Total: ₹6,18,000

Application of Chapter VI-A deductions in Step 3

- Section 80C: ₹1,00,000
- Section 80G (applied to 50% of the donation): ₹10,000
- Section 80TTB: ₹18,000
- Total Deductions: ₹1,28,000

Step 4: Add all the income

- Gross Total Income: ₹6,18,000
- Less: Chapter VI-A Deductions: ₹1,28,000
- Total Income: ₹4,90,000

Short-term capital gains under Section 111A, being chargeable to tax at a special rate (15%), is to be bifurcated as:

- Short-term Capital Gain u/s 111A (Taxable @ 15%): ₹90,000
- Other Income (taxable at normal rates) : ₹4,00,000

Thu: As per rule, agri income is exempt from income tax, however it form part of total income in order to determine the rate for calculation of tax liabilities of individuals, HUFs, AOPs, BOIs and artificial juridical persons.

Illustration No. 6: Person Earning Professional Income and Owning Rental Properties

Dr Mehta, a medical practitioner, has the following income and losses for the Financial Year 2024-25:

- Income from Profession: ₹12,00,000
- Income from Self-occupied House Property : (₹2,00,000)
- Income from Let-out House Property 1: ₹1,80,000
- Income from Let-out House Property 2: (₹1,50,000)
- Long-term Capital Gain on sale of residential house property: ₹3,00,000
- Interest on Saving A/c: ₹12,000
- Income Tax Refund Interest: ₹8,000

Chapter VI-A Deductions:

- Section 80C: ₹1,50,000
- 80D (Health Insurance Premium): ₹35,000
- Section 80TTA (Savings Account Interest): ₹10,000

Computation of Total Income:

Step 1 — Compute the income under each head

Profits and Gains from Business or Profession:



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Salary: ₹12,00,000

Income from House Property:

- Self-occupied Property: (₹2,00,000)
- o Let-out Property 1: ₹1,80,000

↓ Let-out Property 2: (₹1,50,000)

Income from House Property: (₹1,70,000)

Capital Gains:

Short-term Capital Loss: (₹30,000) o Long-term Capital Gain: ₹3,00,000

Income from Other Sources:

- Savings Account Interest: ₹12,000
- Interest Received on Income Tax Refund: ₹8,000
- Profit from Other Sources: ₹20,000

Step 2: Set-off of inter-head set off provisions

- Professional Income – ₹5,20,000 and set off ₹1,70,000 (Loss from House Property).
- Gross Total Income after set off:
  - Prof Income: ₹12,00,000 - ₹1,70,000 = ₹10,30,000
  - o Income from House Property: No.
  - Capital Gains: ₹3,00,000
  - Revenue from Other Sources: ₹20,000
  - Total: ₹13,50,000

Step 3: Tax Deductions under Chapter VI-A

- Section 80C: ₹1,50,000
- Section 80D: ₹35,000
- Section 80TTA: ₹10,000
- Total Deductions: ₹1,95,000

Step 4: Sum total income

- Gross Total Income\*: ₹13,50,000

- Less: Deductions under Chapter VI-A: ₹1,95,000
- Total Income: ₹11,55,000

Because long-term capital gains on residential property are subject to a preferential rate (20%), the income would be divided as follows:

- Long-term Capital Gain (Chargeable to tax at 20%): ₹3,00,000
- Other Income (to be taxed at ordinary rates): ₹8,55,000

Note: If Dr. Mehta reinvests the long-term capital gain earned from the sale of his residential property into another residential property or specified bonds up to a total of Rs. 50 lakh under the provisions of Section 54 or 54EC, he may claim exemption on such invested amount to help reduce his overall tax burden. Taxpayers should be mindful of provisions related to set off and carry forward of losses and the sequences involved in the computation of total income for optimizing their tax liability within the framework of the law. They facilitate effective tax planning and, similar to the earlier provisions, help in reducing the tax liability, especially for those with multiple incomes, both at business and individual status. The right use of these sections, and other deductible and exempted expenditures, can help homestead substantial taxation savings without transgressing any taxation rules.

## SELF ASSESSMENT QUESTIONS

### Multiple Choice Questions

1. **The maximum limit of deduction under Section 80C is:**
  - a) ₹1,00,000
  - b) ₹1,50,000
  - c) ₹2,00,000
  - d) ₹2,50,000
2. **Which of the following is *not* eligible for deduction under Section 80D?**
  - a) Health insurance premium
  - b) Preventive health check-up
  - c) Medical expenses for senior citizens
  - d) Treatment of specified disease





3. **The maximum limit for deduction under Sections 80C, 80CCC, and 80CCD(1) combined is:**
  - a) ₹1,00,000
  - b) ₹1,50,000
  - c) ₹2,00,000
  - d) ₹3,00,000
4. **Which section provides deduction for interest on education loan?**
  - a) Section 80E
  - b) Section 80G
  - c) Section 80EE
  - d) Section 80D
5. **Loss from house property can be carried forward for:**
  - a) 4 years
  - b) 8 years
  - c) 9 years
  - d) Indefinitely
6. **Income of a minor child is clubbed with the income of:**
  - a) Father only
  - b) Mother only
  - c) Parent with higher income
  - d) Equally between both parents
7. **Speculation business loss can be carried forward for:**
  - a) 4 years
  - b) 8 years
  - c) 9 years
  - d) Indefinitely
8. **Rebate under Section 87A is available to:**
  - a) All individual taxpayers
  - b) Resident individuals with total income up to the prescribed limit
  - c) Senior citizens only
  - d) All taxpayers including firms and companies
9. **Which of the following cannot be set off against any other head of income?**
  - a) Loss from house property

- b) Loss from business or profession
- c) Long-term capital loss
- d) Short-term capital loss

**10. The maximum amount of deduction allowed under Section 80GG for rent paid is:**

- a) ₹5,000 per month
- b) ₹60,000 per annum
- c) 25% of total income
- d) Least of: ₹5,000 per month, 25% of total income, or excess of rent paid over 10% of total income

**Short Questions**

1. Explain the provisions of deduction under section 80D for health insurance premium.
2. What are the conditions for claiming deduction under section 80G for donations?
3. Distinguish between set off and carry forward of losses.
4. Explain the concept of marginal relief with an example.
5. What are the provisions for clubbing income of minor children?
6. Explain the deduction available under section 80E for interest on education loan.
7. What is meant by deemed income? Give two examples.
8. Explain the provisions of section 80TTA for deduction on interest from savings account.
9. What is the time limit for carry forward of business losses?
10. Explain the rebate available under section 87A.

**Long Questions**

1. Explain in detail the various deductions available under Chapter VI-A of the Income Tax Act to an individual assessee.



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2. Discuss the provisions relating to set off and carry forward of losses under different heads of income with suitable examples.
3. Explain the provisions relating to clubbing of income under the Income Tax Act. How is the income of spouse and minor children clubbed?
4. Calculate the total income and tax liability of Mr. X from the following information: [Provide detailed problem with all sources of income, investments, deductions, etc.]
5. Explain the concept of deemed income under the Income Tax Act. What are the anti-tax avoidance provisions relating to unexplained investments and expenditure?
6. Discuss the provisions of section 80C with reference to the eligible investments and deposits. What is the significance of section 80CCE?
7. Explain the current rates of income tax for individual assesseees. How is tax calculated for a resident individual below 60 years, senior citizen, and super senior citizen?
8. Discuss the various losses that can be carried forward and set off in subsequent years. What are the conditions and time limits for such carry forward?
9. Elaborate on the deductions available for medical treatment and insurance under sections 80D, 80DD, and 80DDB.
10. Mr. Y has the following income and investments for the financial year. Compute his total income and tax liability: [Provide detailed problem covering various heads of income, deductions, and tax calculation]

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## **MODULE II**

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### **STRUCTURE:**

**UNIT 5: Computation of Total Income & Tax Liability-  
Individual**

**UNIT 6: Taxability of Share income**



**ASSESSMENT OF INDIVIDUAL**

**Objectives**

- To understand the concept of assessment of individuals under Income Tax Act
- To learn the computation of total income and tax liability of individual assessee
- To comprehend the taxability of share of income from HUF and from Firm
- To develop practical skills in income tax assessment of individuals

**Individual Assessment — Basics**

The entire architecture of income tax in India is based on residential status, which is a basic parameter to determine the range of liability of the taxpayer. In India, taxpayers are classified under one of the following three statuses under the Income Tax Act – Resident and Ordinarily Resident (ROR), Resident but Not Ordinarily Resident (RNOR), Non-Resident (NR). A person is a resident if they are physically present in India for 182 days or more in the previous year or 60 days or more in the previous year and 365 days or more in the preceding four years. However, for Indians travelling for work or on board Indian vessels, the 60-day ceiling is stretched to 182 days. Resident and Ordinarily Resident (ROR status) require an individual to be resident in 2 out of 10 years old and be present in India for 730 days or more in the 7 continuous year. Residents who fail the additional conditions become RNOR, while those who do not meet the basic residency requirements become NRs. This classification has a direct effect on their tax liability, as RORs are taxed on their global income, while RNORs and NRs enjoy exemptions for particular types of foreign income.

## **Residential status and the scope of total income**

There is a tiered system according to residency on taxable income. Tax net for Resident and Ordinarily Residents (RORs), is very wide, covering income accruing, arising or received in India and all income earned outside India whether remitted to India or not. RNORs are only liable on Indian income and foreign income from businesses which are controlled in India or professions grounded in India. For Non-Residents (NRs), the tax liability is the least, restricted to income accruing, arising, or received in India only. Such income is income derived from property, assets or sources in India, and income from businesses controlled or professions set up in India. These distinctions are made to ensure that individuals are taxed on the basis of economic and physical presence in India in a manner that strikes a balance between the taxing rights of the country against internationally acceptable norms of taxation.

## **Tax Year and Previous Year Concept**

At the heart of India's unique income tax system is the concept of the "previous year" and the "assessment year". The previous year (PY) is the financial year (April 1 to March 31) in which income is earned, while the assessment year is the year immediately following the previous year during which this income is assessed and is taxable. For instance, income generated in FY 2024-25 (previous year) would be disclosed and taxed in AY 2025-26. This bifurcated approach creates an easy timeline for both taxpayers and tax authorities. If you are a new business or new source of income, the previous year is measured from the date you are established or when income first becomes due. Moreover, there are exceptions provided under the Income Tax Act and they do not apply to a resident allowing assessment of a previous year in the current year, they apply to a non-resident or a person leaving India permanently. These timeframes are important from a compliance point of view, as all tax filings, advance tax payments, tax deduction at source, etc. are governed by them.

## **2.2 Computation of Income Under Different Heads**

### **Income from Salary**

#### **The basic components of salary**



## Assessment of Individual

There are few basic components which make up the salary income in India. Wealth in its simplest form, basic salary refers to the amount paid to employees, that is fixed, which has been guaranteed in the contract between employer and the employee and this amount is usually the deepest part of the total remuneration. Wages, one of its main elements, typically apply to hourly or piece-rate workers, not salaried employees. Taxable income for employers -- Annuity payments, or regular fixed amounts paid out to employees, are fully taxable if funded by employers. Pension is classified as salary if received during the course of service, and post-retirement pension is taxed as salary if the employee is participating in government service and "income from other sources" if the employee is not. Tax Exemption for Gratuity (Payment of Gratuity Act): Gratuity, a lump-sum payment paid for long service, is taxed as per the exemption rules laid by the tax department for a government employee, a person covered under the Payment of Gratuity Act, or one who does not fall under either of these categories. Fees, commissions, and bonuses represent other salary components, especially performance-based bonuses often found in sales and management positions. Importantly, all salary components are taxed as they become "due" or when they are "received" by employees, with the earlier event determining when tax will be due even if they are not paid.

### **Allowances**

Allowances are extra payments made to employees over their basic salary, and each type of allowance has different implications for tax, depending on what it is for. House Rent Allowance (HRA) is partially exempt to the extent of the minimum of actual HRA received; rent paid less 10% of salary; and 50% of salary (40% in case of any non-metro city). Conveyance or transport allowance received for official duties is fully exempt, subject to proper documentation, while the standard transport allowance is exempt up to ₹1,600 per month for commuting. Children's education allowance — Exempt ₹100 per month per child (max two children) and hostel expenditure allowance — Exempt ₹300 per month per child. Medical allowance is fully taxable, but reimbursements are treated differently. Partial exemptions are given for hill areas, border areas and tribal areas. Entertainment and foreign service allowances are exempted partially only when given on an official basis with proof. Allowances paid to

government employees in India but serving outside are fully exempt. From a taxation perspective, allowances need to strike a balance between acknowledging bona fide employee expenditures and ensuring that compensation is not disguised as tax-free allowances.

### **Perquisites**

Perks, or perquisites, are non-monetary employee benefits given to employees at the executive level over and above their regular salary and wages. The Income Tax Act classifies perquisites as taxable, tax-free or tax-exempt, depending on the category of employee and the nature of the benefit. Taxable perquisites range from rent-free accommodation (15% of salary for unfurnished Govt. accommodation, 7.5-10% for furnished accommodation depending on organisations in private sector) to concessional accommodation, company car for personal use (tax will be computed depending on vehicle engine capacity (CC) and whether vehicle is provided with chauffeur) and tax-free interest loans of over ₹20,000, concessional loans, subsidised meal (if more than ₹50 a day), gift vouchers (over ₹5,000 in the year), club membership fees, reimbursement for personal expenses, etc. Tax-exempt perquisites also include medical facilities (subject to conditions), refreshments during working hours, laptops and computers for personal and official use, employer contributions up to ₹1.5 lakh annually to approved superannuation funds, and health insurance premiums paid by employers. These valuation rules are carefully tailored to reflect the true benefit received while excluding nominal benefits that contribute to workplace productivity.

### **Retirement Benefits**

They generally comprise pension plans, which are expected to secure a steady income for beneficiaries when their active professional life terminates. Employer contributions toward statutory provident funds and recognized provident funds up to 12% of salary qualify for exemption at the point of contribution itself, while the interest earned is also exempt from tax as per laid down conditions, and withdrawal after a continuous service of five years in the organization is tax-free in general. Gratuity, a reward for long service, gets to enjoy substantial tax exemptions: Government employees are fully exempt,





employees covered under the Payment of Gratuity Act get an exemption up to ₹20 lakh, and all other employees get an exemption up to ₹20 lakh calculated based on 15 days' salary for each completed year of service. Leave encashment is wholly taxable while in service and government employees get a full exemption and others get exemption up to ₹3 lakh at the time of retirement. If gratuity is received, one-third of the old pension structured as commuted (lump-sum) is exempt for others; if no gratuity is received, one-half is exempt. The voluntary retirement compensation, commonly known as a “golden handshake”, is tax exempt up to ₹5 lakh under section 10(10C) subject to the fulfillment of certain conditions and schemes.

### **Salary Allowance Deductions**

The Income Tax Act offers limited but important deductions from salary income, providing some relief to salaried taxpayers. The major deduction under section 16(ia) is the Standard Deduction for all salaried employees which is ₹50,000 which was introduced in recognition of the previous transport and medical reimbursement limits. This is a static deduction regardless of actual incurred expense. State governments levy Professional Tax on professions, trades and employments, and it is allowed as a deduction under Section 16(iii) only if paid while filing the income tax return of the previous year with a limit not exceeding ₹2,500 per year. This deduction recognises the compulsory character of professional tax and avoids double taxation. Entertainment Allowance – Deduction u/s 16(ii) available only to government employees, lowest of (i) actual allowance received, (ii) 20% of basic salary, (ii) ₹5,000 – as they incur official entertainment expenses. Significantly, this deduction is not available to the employees of the private sector even if they have entertainment allowances. All such deductions need to be claimed while calculating gross total income, prior to the application of Chapter VI-A deductions (such as Section 80C investments). Unaffiliated with allowable business deductions, salary income allows no deductions for expenses incurred to carry out employment responsibilities; a policy distinction between employees and self-employed individuals.

## **Income from House Property**

### **Annual Value Determination**

Annual Value, which is the basic concept in calculating income from house property, is the rental potential of the property and not the rent actually received. For rented properties, Annual Value (AV) is calculated and considered as the highest of Municipal Value (MV-Value assessed by local authorities), Fair Rent (rent comparable properties would fetch), Standard Rent (Maximum rent permissible under rent control laws) and Actual Rent. However, if the property is unoccupied and actual rent falls below the expected rent, the Annual Value shall be the actual rent. The Annual Value is taken as nil in case of self-occupied properties used for personal residence, but provided, the taxpayer is not having more than two number of self-occupied properties. The 2019 Budget changed the rules and allowed taxpayers to declare two houses as self-occupied with nil Annual Value. In case of properties that are unoccupied throughout the year due to employment conditions or business considerations in another location, taxpayers can declare them as "deemed self-occupied" with nil Annual Value (AV) but the overall limit remains two properties. Reiterating that the delay of up to two years for owning property as stock-in-trade to not attract income tax allowed builders time to identify potential buyers or tenants, the court held: 'The properties are stock-in-trade owned by the builders'.

### **Deductions Available**

Specific deductions from the Annual Value of house property, to enable taxpayers to reach net taxable income from such source, are provided by the Income Tax Act. The municipal taxes paid during the financial year itself can be claimed as a full deduction, as these are obligatory from the asset holder standpoint. But there's no deduction for unpaid municipality taxes or taxes for tenants. Section 24 allows taxpayers to claim a mandatory 30% deduction on the Net Annual Value without the need for any supporting documents for maintenance etc. This presents the easy answer for compliance and also recognizes that property ownership, like anything else, is subject to depreciation and maintenance costs over time. The interest payable on or after the completion of the house on a loan taken for the purchase/ construction/ repair/



renovation of the property will qualify for a deductions on the house property and interest on loans taken to even before the construction of the house gets completed is amortized over a period of five years starting from the year of completion. In the case of self-occupied properties, interest is allowed as a deduction — ₹2 lakh per annum for loan taken after 1st April 1999, and an additional ₹50,000 under Section 80EEA subject to conditions applicable to the first-time home buyers. Also, the principal repayment cannot be claimed as the deduction under house property income but can separately be claimed as Section 80C investments, creating a composite framework that recognizes both the ownership costs and the value of investments.

### **Self-Occupied Property Treatment**

Indian tax laws treat self-occupied properties differently, balancing the need for tax revenue with a social objective of encouraging home ownership. If there is one self-occupied property (two properties were allowed to be self-occupied from the financial year 2019-20), the Annual Value would be considered as nil, which can be interpreted as meaning that a property where an individual resides does not earn any income. This concession applies even if the property is otherwise unoccupied due to the taxpayer's employment or trade elsewhere. While income is not computed for such properties, tax-payers can claim interest on housing loans as a deduction of up to ₹2 lakh per annum under Section 24(b). If two properties are claimed as self-occupied, this cap is applicable cumulatively. If you are a first-time homebuyer of affordable housing (of value not exceeding ₹45 lakh), you can claim an additional interest deduction of up to ₹1.5 lakh under Section 80EEA, provided that the loan is sanctioned during the period of April 1, 2019 to March 31, 2022. In it, the interest deduction limit for loans taken before 1 April 1999 is ₹30,000. The taxpayers who owned more than two house properties and have all been used for self-occupation, the same shall be treated as such for the purposes of the income tax, however, for the taxpayers, who owned more than two house properties out of which two shall be treated as self-occupied property and the others must be treated as let-out properties and a notional rental income shall be calculated irrespective of their actual rental status.

## **Treatment of Let out Property**

There is a detail-oriented taxation system implemented for all let-out properties to encompass the potential for rental income, whether real or not. However, in case of such properties, the Annual Value shall be higher of Municipal Value or Fair Rent or Standard Rent (in case Standard Rent applies) or Actual Rent Received/Receivable. In case the actual rent falls below the Expected Rent, i.e., the maximum of Municipal Value, Fair Rent, or Standard Rent, as a result of vacant months, the Annual Value could be decreased. The municipal taxes paid by the owner during the financial year can be deducted from the Gross Annual Value to get the Net Annual Value. Thereafter, two significant deductions allowed are: a standard deduction (without the need of any documentation) of 30% for maintenance and the actual interest on housing loans paid without any limit (as against self-occupied property where interest deduction is limit). Irrent rent can be deducted as irrecoverable if reasonable steps to recover have been taken to no avail and either of the tenants has left the premises or legal proceedings have been initiated. Revenue from jointly owned properties is split among co-owners based on predefined shares. Properties that are rented for a portion of the year are treated in a similar manner, with self-occupancy being calculated for that duration and the period of letting computed according to let-out property rules.

## **Profits and Gains from Business or Profession (Section 28)**

### **Admissible Expenses**

Under the Income Tax Act, various expenses can generally be deductible against business (or professional) income, as long as they are incurred “wholly and exclusively” for the conduct of the business. Rent, rates and taxes on properties used to conduct business are fully deductible, including GST paid not available as input credit. Deductions on essential repairs and insurance of business assets are covered under this head but repairs that involve capital improvement are counted as capital expenditure. If you pay the employees’ salaries and bonuses so can deduct the employee compensation, including salaries and bonuses is deductible and contributions to an approved fund, subject to conditions relating to the timing of payments for certain contributions. Borrowed capital is



chargeable to deduction on accrual basis while the interest incurred on the money borrowed for carrying out the business is deductible on payment basis. When bad debts are written off, they are always deductible, while any later recoveries are taxable in the year of receipt. Tangible and intangible assets are depreciated at prescribed rates using the block of assets method, while manufacturing firms can claim an additional depreciation on newly purchased plant and machinery. Under certain circumstances, research and development expenses are given enhanced deductions. Expenses incurred for business promotion, including advertisement, are typically deductible; however, spending on corporate social responsibility (CSR) is specifically not deductible despite being mandatory for certain companies. These deductions acknowledge the need for expenditures in the generation of business income and create appropriate boundaries to prevent abuse.

### **Inadmissible Expenses**

The Income Tax Act specifically lists various expenses that are not deductible in computing taxable income, even though they form part of books of account maintained in the business. Household expenses, that of the proprietor, partners, proprietors, or owners, are purely non-deductible in nature, avoiding the infusion of business and personal expenses. Personal taxes paid, such as income tax and wealth tax, are not deductible against business income (however, GST & other business related taxes are deductible). Expenses that are against the law, such as bribes and illegal payments, as well as compensation for harassment on preparation safety laws, are also not allowed. Capital expenditure, which represents the disbursement of capital which creates long standing benefits to the business beyond the year it was incurred, is generally a non-deduction unless it is recognized through depreciation or amortization devices. For payments in cash in excess of ₹10,000, Section 40A(3) disallows the same as a deduction in accounts, which encourages the use of banking channels and reduces unaccounted transactions. Generous payments to related parties are test for the arm's length principle under section 40A(2) and the excess is disallowed. Unquantified expenses and contingent liabilities are not deductible until they crystallize into actual liabilities. In particular (and reflecting the difference between owners and employees), interest, salary, or commission paid to a

proprietor or partner is prohibited. The expenditure on Corporate Social Responsibility (CSR), though mandatory under Companies Act, 2013 is specifically non-deductible.

### **Deemed Profits**

When we talk continuity of deemed profits we are talking about profits that can be deemed to be had by a taxpayer based on some other circumstances even though real profit or loss may be incurred. This idea works on the basis that particular company tasks, by their really nature, continually earn a profit; and that the tax law specifies fixed portions of invoices as taxable earnings. Deemed profit provisions often apply in industries such as shipping, oil exploration, and certain international activities. This mechanism is often enacted by tax authorities to make tax collection easier, to lower compliance burdens, and to protect against tax avoidance via advanced accounting practices. This deemed profit rate differs across business sectors and jurisdictions and is generally between 5% to 40% of gross receipts. It may tax a foreign shipping company, for instance, 7.5 per cent of its freight earnings in a country regardless of its costs or profits in reality. Such provisions are extremely beneficial in cases where ascertaining actual profits is tricky on account of operations across borders or the taxpayer has little to no physical presence in the tax jurisdiction. Deemed profit taxation, for example, which provides certainty and administrative ease, may lead to a tax liability that is in some cases higher than the amount that would have been due based on actual profits, which could be particularly relevant for high operating cost businesses.

### **Schemes of Presumptive Taxation**

Presumptive taxation regimes provide implied means of determining the income from small businesses and professionals subject to taxation with minimum bookkeeping requirements. These programs use standardized formulas to determine income based on indicators such as gross receipts, type of business, or physical attributes of the business. Presumptive taxation — which is essentially pushed as a means to ensure the informal sector is included within the tax net, all while compliance costs are kept low — recognises the challenges inherent in small entities maintaining detailed accounting records. For example,



small retailers may be taxed on 8% of their turnover, or transportation companies may be taxed according to vehicle type and capacity, as opposed to real earnings. These schemes generally have eligibility thresholds based on turnover, where businesses that exceed those limits must keep ordinary accounts. Presumptive schemes provide simplicity and certainty, but may not correspond with actual profitability of the business. Taxpayers, in general, can more or less avoid presumptive schemes by keeping good books and paying tax on actual profits, but this comes with added compliance burden. Presumptive schemes generally have minimum alternative taxation provisions so that even if businesses show losses or meager profits, they still contribute a minimum amount of tax.

### **Capital Gains**

Capital Gain is the profit earned on sale or transfer of capital assets (real estate, securities, collectibles, business assets) The taxation of capital gains is separate from that of ordinary income, and is usually governed by specialized rules concerning its calculation, the rates that apply to it, and any deductions available for it. In general, capital gains are computed by deducting the cost of acquisition, costs incurred on improvement, and transfer costs from the consideration received (selling price). The approach to taxing capital gains differs widely across countries, though most make a distinction between short- and long-term gains in order to incentivize holding investments. Some tax systems, including the federal government in the US, treat capital gains more favorably than regular income, and the rationale for this has ranged from boosting economic growth to incentivizing savers to adjust for inflation to encouraging capital formation. There are other exemptions related to capital gains, and whether they are applicable, including: (i) exemption of one income from sale of the primary home; (ii) reinvestment of the sales proceeds of business assets; (iii) indexation, a mechanism that allows the adjustment of the acquisition cost of a particular asset for inflation over the time period between the acquisition and alienation of the asset; and (iv) special rules for involuntary conversions, including insurance policies. Taxing your national value in terms of capital gains (which is the most widely proposed alternative) raises theoretical



difficulties of definition of income and practical difficulties of valuation, timing, and enforcement.

**Short-term capital gains:** As for short-term capital gains, they relate to the sale or disposal of capital assets that had been owned for a relatively short period of time prior to this. The holding period which defines “short-term” differs by jurisdiction and, at times, by asset class, but is typically less than one year or less than three years. These gains are usually treated less favorably for tax purposes than long-term gains and may be taxed at ordinary income tax rates. One with a higher tax rate for short-term gains to disincentivize speculative trading, thus encouraging investment horizons whose contribution to the economy is more substantial over time, leading to greater long-term growth. The calculation of short-term gains is determined by deducting costs of acquisition, enhancement, and transfer from the consideration of sale and does not have significant adjustments for inflation. Specific categories of short-term gains, such as those from listed securities or certain financial instruments, could be subject to special rates. For businesses, there may also be different treatment on short-term gains of operational assets vs investment assets. Tax planning in respect of short-term gains tends to involve an element of the timing of disposals to offset gains against capital losses, or deferment of sales to secure long-term treatment. International trendsGlobal trends have been towards greater alignment of short-term capital gains tax rates with rates applicable to ordinary income.

**Long-term Capital Gain:** When you sell a capital asset you have held for a considerable amount of time, usually over 12 months depending on your jurisdiction, you are said to have a long-term capital gain. Those gains are typically treated more favorably for tax purposes than short-term gains and ordinary income, with lower tax rates that are meant to promote patient capital and long-term investment. This preferential treatment recognizes that long-term investments create economic stability, offset the effects of inflation, and encourage capital formation. Long-term gains are computed with many benefits which may not be available in the case of short-term gains, like indexation benefits which is a calculation that helps adjust the cost at which you bought the asset for inflation, thus only the real gains and not nominal gains are taxed.





## Assessment of Individual

There can be different rules that apply to different classes of long-term assets; for example, equity investments may be taxed differently than real estate or collectibles. Many tax regimes work within a stepped-rate structure; specifically, the applicable tax rate is reduced as the holding period extends past the particular cutoff points. Long-term capital gains rates were also affected by international tax competition, as many countries lowered these rates to attract investment capital. Certain types of retirement accounts and pension funds even offer extra tax breaks for long-term capital gains to promote retirement saving.

**Exclusions and Deductions:** The capital gains tax includes many exemptions and deductions to help achieve its social goals while also providing relief to taxpayers in certain circumstances. One of the most significant capital gains tax reliefs for homeowners is the primary residence exemption, which allows a homeowner to exclude gains from the sale of their principle home, if the homeowner meets certain ownership period and usage requirements. Taxpayers may defer or even eliminate taxation on capital gains if the proceeds are reinvested in similar or specified assets, like with real estate or small business investments, through reinvestment provisions. Exclusions on small business stock provide incentives to invest in eligible start-ups and growth enterprises where the proceeds can be partially or fully exempted. Tax exemptions for seniors provide even more advantages to older citizens who sell assets they have held for a long time. Indexed cost of acquisition adjustments are inflation-adjusted increases in the cost basis of assets held long term. Loss offset rules allow losses to be offset against profits, subject to carry-forward periods and limits. Distress sale exemptions offer relief when assets are sold under duress or financial distress. It is important to know the exemptions and deductions for effective tax planning and maximizing the after-tax returns on investments.

### **Other streams of income**

“Income from Other Sources” is a residuary head of income capturing all taxable receipts which are not otherwise covered under the income headings. This classification guarantees comprehensive taxation by itself being a catchall for income that cannot be definitively classified as business, employment, property, or capital gain income. Examples of income reported under this head

include interest from banks and post-offices, dividends on shares and mutual funds, winnings from lotteries and games, gifts above threshold amounts, and income on sub letting. This category also includes family pension received by legal heirs, royalties not associated with business from intellectual property, agricultural income for non-residents, casual or non-recurring receipts. Normally, the calculation of tax on this head permits deduction of any reasonable expenditure incurred solely for the purpose of earning such income, but not personal consumption expenditure. Some income types, like family pension, may apply for standard deductions. Taxation Timing Special rules often govern the timing of taxation, but, in general, most income under this head will be taxed on a receipt or accrual basis, depending on the accounting method followed by the taxpayer.

### **Interest Income**

Interest income refers to the revenue derived from loaned capital or deposits made in financial products and arrangements. This comprises interest on savings and fixed deposits with banks, post office schemes, company deposits, bonds, debentures and government securities. Interest income is treated differently at tax time depending on its source, with some instruments receiving favorable treatment to encourage certain types of saving or investing. Such as in the case of many jurisdictions where we have tax exemptions or concessional rates on interest income on government securities or infrastructure bonds. The timing of taxation depends on the accounting method used by the taxpayer, with the cash basis taxpayer paying tax when the interest is received, and the accrual basis taxpayer paying tax when interest has accrued and is due. A deduction is normally allowed against interest income for any reasonable costs incurred in producing it, including bank charges, an advisory fee, or the interest paid on borrowed funds used to make interest-bearing investments. Interest payments are subject to Tax Deducted at Source or Withholding Tax, wherein the financial institution will deduct a small portion of the interest amount as a TDS, and the balance is paid to the account holder. Many countries also provide special provisions for senior citizens, with higher exemption limits or deduction thresholds applicable for interest income.



## **Dividend Income**

Dividend income is defined as an income which represents the disbursement of profits of a corporation to its shareholders and it is a return on equity investment. Dividends are treated differently from jurisdiction to jurisdiction and the underlying economic policies fluctuate. Many types of tax systems have rules that reduce or eliminate the “double taxation” of corporate profits—once at the level of the corporation and again when those profits are paid out as dividends to shareholders. Common systems include exempting dividend income (completely or partially), imputation systems (offering credits for corporate taxes paid), or preferential tax rates on the dividend income. The IRS provides favorable tax treatment for qualified dividends that meet certain holding period and company criteria compared to ordinary dividends. In some jurisdictions, dividend taxation is levied when the dividend has been declared or paid based on such constructive receipt principles. There may also be special rules in place concerning dividends from foreign and domestic sources, foreign tax credits, treaty benefits, and participation exemptions for substantial corporate shareholders. Dividends are generally subject to withholding tax, at rates depending on the status of the recipient and various applicable tax treaties. More recently, in response to international trends, there has been a movement toward more territorial systems where dividends received on foreign investments are exempt from or deferred from tax.

## **Other Side Revenues**

Miscellaneous incomes include different receipts that do not fit into the conventional income categories but are nonetheless taxable under the residuary provisions. Gambling winnings, lottery payments, game show prizes and contest gains fall into this lump scale, are generally fully taxable, and generally there are few or zero deductions allowed for expenses. Royalty income from intellectual property unrelated to a business, such as book royalties for a non-professional writer or patent licensing for an individual inventor, would also fit in here. It is taxable under this heading at many places if you receive gift from non-relatives above a certain threshold limit. Income from subletting property where the taxpayer is not the owner is treated as miscellaneous income rather

than property income. This classification also includes — Income earned from agriculture if owned by a non-resident or legal heirs earning retirement benefits like family pension Income earned from unknown sources etc. It also includes informal or irregular income such as finder's fees, or one-off commissions received outside of regular employment or business.] The tax treatment of these different sources of income varies in terms of what deductions are permissible, what rates apply, and how all of this information gets reported — all of which is what makes this aspect of taxation so complicated and requiring so much analysis.

### **2.3 Steps to Compute Gross Total Income**

Gross Total Income – it denotes the consolidated income derived from all the sources and after applying the head wise rules except for the chapter based deductions. This calculation is an essential transition to calculate ultimate tax liability. The formula for arriving at total income systematically amounts income at all levels of employment, profession or business, property, capital gains, and other sources can be calculated at the specific provisions of each. Every head of income allows for specific deductions directly connected to that income; for example, business income allows business expenses and property income allows for property tax and upkeep deductions. Specific adjustments need to be made between different heads of income as mentioned in the decree, notably losses from any income head can be adjusted against income from other heads, subject to specific limitations, while computing Gross Total Income. So, for instance, business losses may be offset against property income, whilst capital losses may usually only be offset against capital gains. Certain types of income is further exempt from taxation, either partially or completely, depending on the source or nature of such income, for example, agricultural income in some jurisdictions or specified pensions. Residence is important because it determines the income components that may become subject to domestic taxation (more on that below, as there are special rules when determining residence). The Gross Total Income number is used as the foundation for calculating chapter-wise deductions, tax slabs, and other tax provisions.



### **Accumulation of Income under All Heads**

Aggregation of income under all heads involves the systematic consolidating of the earnings from all the sources to obtain a single taxable base. This is done in a structured manner where income is classified first under relevant heads considering its nature and source — usually, income comprises employment income, business profits, income from property, capital gains, and other sources. Each head of income is computed one by one, as per its own rules of inclusions, exclusions, deductions, and exemptions. The special rates income aggregate process then aggregates these incomes separately and then aggregates them into a common figure, taking into consideration the unique nature of some income types and certain special rates or exemptions that may apply. In jurisdictions that tax income from households rather than individuals, this means that with its joint or family taxation systems, additional aggregation steps are needed to add together the income of joint or family members. Aggregating foreign-source income must follow residence status and relevant tax treaties with mechanisms to avoid or alleviate double taxation. Some special rules apply for clubbing or attributing the income, in which the income that is legally arising in one hand is taxed in another hand due to relationship or transfer circumstances. The aggregation step forms the initial basis for completing additional modifications for losses and the chapter-specific application of deductions.

### **Treatment of set off and carry forward of losses**

The provisions for set off and carry forward Of losses are tax relief measures recognizing the volatility of income and the risk involved in economic activities. The process of set-off allows the taxation of losses under one head of income against profits from another, subject to certain restriction based on jurisdiction. Usually, business losses can be set off against all other income heads, while capital losses can only be adjusted against capital gains. Intra-head set-off enables losses from one source to be adjusted against income from another source falling in the same head of income—losses from one business can be set off against profits from another. The inter-head set-off is allowed to set off loss sustained under one head against the profit of income under a

separate head (subject to certain general restrictions preventing loss from speculations from being adjusted against profits from normal income). In principle, losses that cannot be fully offset in the current fiscal year can be carried forward into future years of assessment, subject to statutory time limits of four to eight years (depending on the type of loss and jurisdiction). The carry-forward provisions of speculative business losses, capital losses and unabsorbed depreciation are generally different. However, in most tax jurisdictions, losses must be computed and claimed in the year they arise to be eligible for carry-forward benefits. Such provisions are meant to incentivize risk-taking and entrepreneurship, assuring that tax consequences do not worsen the business downturn.

## **2.4 Computation of Total Income**

Total Income = Gross Total Income – with all permissible deductions allowed. This calculation is what transitions from various income bases to the base of across tax rates. This means taking into account chapter-specific deductions that more closely mirror social policy objectives, investment incentives, and economic priorities, rather than costs that are directly related to generating income. These are usually deductions applied to retirement savings, medical insurance, educational expenses, housing or education loan repayments, charities, and certain investments in priority sectors. Individuals with disabilities, senior citizens or special health conditions are subject to special deductions. The calculation must take into account category-specific limits on deductions, overall deduction caps and phaseout provisions that reduce available deductions for high-income taxpayers. Anti-avoidance provisions stop artificial arrangements where appreciation is claimed as a deduction without any substantive economic purpose. This total figure of Income is the foundation for factoring in the relevant tax rates, finding which tax brackets apply, and calculating applicable alternative minimum tax amounts. Total Income is usually accumulated before tax rates are applied and is rounded to the nearest ten, hundred, or thousand units of currency, as dictated by tax laws.

### **Deduction U/s 80C to 80U of the Act**



## Assessment of Individual

Deductions are substantial tax benefits that aim to fulfil multiple socio-economic goals via the tax system. These deductions lower the Gross Total Income to arrive at Total Income, thus lowering the tax base before the application of tax rates. Unlike deductions under individual heads of income — which are related to income-generating activities — Chapter VI-A deductions are given for activities, investments or expenditures that the government wants to incentivize as per its policy priorities. Some common categories are retirement savings deductions which are contributions made to approved pension funds, provident funds, and retirement accounts which encourage you to save for the long term. Tax deductions under medical expenditure include premium paid for health insurance, preventive health check up and medical treatments for specified ailments or disabilities. Interest on housing loans in addition to those claimed under the head of house property usually enjoy further deduction to promote ownership. Educational deductions help pay interest on loans for higher education and developing skills. Investment-linked deductions incentivize capital formation in priority sectors such as infrastructure through affordable housing, or renewable energy. If you make charitable contributions, there are some tax incentives to encourage you to donate to qualified organizations. Chapter VI-A deductions are typically limited in amount on an annual basis, requiring taxpayers to substantiate the deduction through receipts, and are further limited based on category of taxpayer. These deductions are often updated with changing policy priorities, making them dynamic elements of tax planning.

### **Rounding of whole Number for Total Income**

This is a procedural step in tax computation—rounding off of total income—so that calculations are easier, and all income figures align in a way which is easier for applying tax rates. While this seems like an insignificant technical requirement — it has practical administrative purposes but it also leads to consistency in the tax assessments. Note that most tax jurisdictions require rounding to nearest tens, hundreds or thousands of currency units to eliminate fractional amounts that makes tax calculation easier. Amounts greater than or equal to half of the rounding unit round up, and lesser amounts round down, as is typical with mathematically standard rounding rules. As an example, in a



system that rounds to the nearest ten, 2,345 results in 2,350 and 2,344 results in 2,340. Finally, the rounding rules apply equally to all parts of the calculation of income, from individual elements of income, through deductions, to the final total income. Such a standardized method prevents inconsistencies that may be caused by varying rounding. Although the effects of rounding on each taxpayer's finances are negligible, the sum of administrative efficiency achieved in rounding across millions of tax returns is significant. Electronic filing systems apply these rounding requirements automatically, whereas for paper filers, these need to be applied manually. Because the majority of figures must be presented rounded standardization of the tax data, which makes them much easier to check and perform an statistic analysis.

## **2.5 Calculation of Tax Liability**

The calculation of tax liability converts the income number into the actual number of taxes payable to the government. This fundamental process imposes the right rate schedule on the tax base, adjusting for a range of potentially modifying factors. Each type of taxpayer — individuals, corporations, partnerships, trusts— has its own rate schedule, which may then be adjusted downwards depending on factors such as age, residency status or whether the business has been turned into a company. Individuals have progressive tax treatment throwing higher percentages into each successive income slab; businesses are subject to proportional rates, which have a single rate applied to the whole taxable income. After simple tax computation, minimum alternate tax or alternative minimum tax adjustments, including those for deduction or exempt income, prevent taxpayers with large economic income from avoiding tax by claiming excessive deductions or exemptions. Other tax credits, such as foreign tax credits that avoid double taxation of global income, education credits, child credits, and those that promote investment, reduce tax liability rather than taxable income. The final liability is set off against tax deducted at source and advance tax payments made during the year. Final amount amount due could increase as a result of penalty and interest charges for non-compliance or for late payment. (Additional rules also apply for certain income types subject to lower rates or schedules.). The last calculation includes the relevant





surcharges for high-income earners as well as cess for education or health that support particular government programs.

### **Tax Rate Application**

The system of tax rates is the fundamental tool that divides taxable income into tax liability. Tax systems use a range of rate structures that are intended to reconcile revenue generation with economic and social goals. Progressive taxation sets increasing marginal rates as income grows, in accordance with ability-to-pay principles and as a way to reduce income inequality. As an example, the first portions of income could be taxed at 10%, then 12%, then beyond 37% for the final income sections. Proportional or flat tax systems impose the same rate on all income levels and prioritise simplicity and neutrality. To cope with capital mobility, some jurisdictions adopt dual income tax systems with differing rates on labor and capital income. In progressive systems, the appropriate application of rates also depends on the exact delineation of brackets, and on the calculation of tax incurred on each portion of income. Some income is taxed at special rates, such as long-term capital gains or qualified dividends, or tax on retirement distributions, which introduces a schedular element into otherwise global tax systems. From an international perspective, these include issues of non-resident taxation, which is normally based on flat withholding rates applied to domestic-source revenues. Most jurisdictions require tax rates to be applied to bracket thresholds adjusted for inflation, so-called bracket creep, which pushes taxpayers into higher rate categories not because their real income has grown, but only because it has merely kept up with inflation. Recent global trends have seen corporate tax rates pressured by competition, while individual rates are more sticky.

### **Surcharge and Cess**

Surcharge and cess are additional levies on the basic tax liability, a tax on tax rather than income directly. In these cases, a surcharge is usually added on as a percentage of the income tax, meaning that because it is imposed as a percentage of the tax amount itself, it results in additional tax brackets beyond the standard rate structure for higher-income taxpayers. For example, taxpayers with income above certain thresholds might incur a 10% or 15% surcharge on their basic tax

due, making the rate structure steeper at high income levels. Surcharges are typically enacted as temporary responses to fiscal shortfalls or particular economic problems, although many become semi-permanent fixtures of the tax system. By contrast, cess levies are applied uniformly on a proportionate basis on all taxpayers as a markup on tax liability, at levels of generally 1% to 4%. Cess collections are also different from general tax revenue as it is earmarked for specific expenditure, education, healthcare, infrastructure development, disaster relief, etc. This earmarking theoretically locks in funding for what planned priorities will be, though critics point out that fungibility of government resources often undercuts this intent. The sequence in which the computation is done is extremely important — surcharge is generally computed on basic tax and then cess on basic tax + surcharge. The definitions for surcharge and cess show that they both increase marginal and effective tax rates, which are the tax rates that are relevant for tax planning and international comparisons, over the statutory rates someone would see if they looked at a tax schedule.

### **REBATE UNDER SECTION 87A**

Section 87A of the Income Tax Act allows a tax rebate to a resident individual whose total income is less than a prescribed limit. That rebate directly lowers the tax liability, providing relief for low-income taxpayers. In financial year 2023-24 (the assessment year 2024-25), individuals who have total income until ₹7 lakhs get rebate up to ₹25,000. It is applicable to income tax payable or ₹25,000, whichever is lower. This rebate is available only to resident individuals, and not to non-residents or other taxpayer categories such as companies or firms. It is deducted after computing tax liability but before levies education cess. If a person has a taxable income of ₹6 lakhs and a tax payable of ₹20,000, the whole amount of ₹20,000 would be even nullified by the Section 87A rebate, leading to no tax payable. But if the taxable income is greater than ₹7 lakhs even by a little, no rebate is available and there is, what is commonly referred to, as a ‘cliff effect’ in taxation. This is a big advantage for taxpayers in the lower income brackets, as it is consistent with the government's progressive tax regime and helps those who do not have deep pockets.



## **TAX CREDITS**

Tax credit in the Indian taxation system are the amounts that taxpayers can subtract from their tax liability when calculating the amount of tax they owe. Some of the major tax credits available under the Income Tax Act include Foreign Tax Credit (FTC), which avoids double taxation of an income that is taxable in foreign countries as well as in India. The credit is restricted to the lower of that paid foreign tax or Indian tax on similar income. Another noteworthy tax credit is available under Section 115JAA for Minimum Alternate Tax (MAT) which is paid by companies. If companies pay MAT as per Section 115JB since their normal tax liability is less than 15% of book profits, MAT paid over and above this 15% can be carried forward as a credit for a maximum of 15 assessment years. Likewise, an individual, HUF and other non-corporate taxpayers can claim credit for the Alternate Minimum Tax (AMT) paid under Section 115JD. Other provisions, such as Section 86, Section 90, and Section 91 offer defined tax credits under different conditions. These credits help to lower the overall tax bill and ensure that taxpayers are not double taxed or over-taxed in special circumstances.

## **ADJUSTMENTS OF ADVANCE TAX AND TDS**

As per the Indian tax system, you are required to pay taxes on a "pay-as-you-earn" basis through Advance Tax and Tax Deducted at Source (TDS) mechanisms. Advance Tax expects, and mandates, taxpayers to estimate their annual tax and pay it month-wise during the financial year, namely: 15% by 15th June, 45% by 15th September, 75% by 15th December, and 100% by 15th March. This is applicable when the tax liability (after TDS/TCS credits) is more than ₹10,000. Whereas TDS is deducted at the source when certain payments are made like salary, interest, rent, or professional fees. The payer withholds taxes at prescribed rates before making the payment to the recipient, and deposits the same with the Government. From both Advance Tax payments and TDS, adjustment is done against the final tax liability worked out by filing the income tax return. In case of any excess payment, refund is issued, while shortfall of tax payment needs to be compensated along with interest as per Sections 234A, 234B and 234C in case of delay or default. These mechanisms help receive a



steady flow of tax to the government and spread the burden of tax over the year for taxpayers. They are also effective enforcement tools, limiting tax evasion by generating permanent records of transactions and income. During return filing, these prepaid taxes need to be correctly adjusted to ascertain whether tax is payable or refundable.



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## UNIT 6

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### **Taxability Of Share of Income**

#### **From Hindu Undivided Family — Its Concept**

The Hindu Undivided Family (HUF), a unique entity acknowledged under Hindu law as well as the Income Tax Act, is a separate taxpayer identified distinctly from its members. It consists of all persons lineally descended from a common ancestor, together with the wives and unmarried daughters of such persons. HUF is run by the eldest male member (Karta) which has special powers and responsibilities to run family affairs and to access the property.

An HUF is created by operation of law, and not contract, and passes from generation to generation until partition. As an independent entity, it can own property, operate a business, make investments, and incur liabilities. From the tax point of view, an HUF gets its mandatory Permanent Account Number (PAN) and files its own income tax return separately. It has a basic exemption limit equal to that of individuals but no deductions available to individuals like the one under Section 80C for life insurance premium payments. HUF or Hindu Undivided Family is built on the idea of family as an economic entity with common resources and responsibilities. It applies primarily to Hindus but also to Buddhists, Jains and Sikhs but not to Muslims, Christians, Parsis or Jews. Due to its unique legal status, families can work out best of tax position by suitably planning out their tax affairs and thus plays an important role in personal taxation in India.

#### **HUF EARNING AND TAX ON HUF EARNING**

A Hindu Undivided Family (HUF) is a separate entity under the Income Tax Act whose income is taxed independently of the individual income of its members. The income of HUF may emanate from an array of sources like ancestral property, property purchased with the funds of a coparcener, gifts made to the HUF, income from ventures incorporated with the joint family property as well as returns from assets made from typical funds. All such income is the income of HUF and is assessable in the hands of HUF and not in those of individual members. For an HUF, the applicable tax rates are identical to those

that apply to individuals; this includes the slab rates, surcharge and education cess. However, HUF cannot choose the concessional tax regime u/s 115BAC. The Karta is responsible for filing the income tax return of the HUF. HUF can claim several deductions under Chapter VI-A like 80C, 80D, 80G etc., but not specifically for individuals like 80CCD for pension contributions. However, irrespective of the income on which HUF would pay taxes, the individual share of members would not be separately taxable in the hands of the members in the HUF. This structuring makes for a tax-efficient set-up as it essentially enables the family to be taxed as two different units — the HUF and the individual members of the family having their own basic exemption limit and progressive tax slabs. This has created a tremendous opportunity for most Hindu families to plan their tax situation in a more efficient way.

### **TAX IMPLICATIONS OF THE PARTITION OF HUF**

A Hindu Undivided Family (HUF) partition consists of distributing the joint family property between the family members, either partially (with respect to certain properties) or wholly (dissolution of the entire HUF). Under section 2 (15A) of the Income Tax Act, partition can be recognized only when it's actually complete and there is a physical division of property. The partition deed must be filed with the tax authorities through Form 37, within three months of the partition. HUF partition has far-reaching tax implications. On partition valid the HUF ceases to exist as a taxable body for entirely partitioned assets. Members are now individually liable to tax for Income earned out of share of partitioned property. Since the partition in itself is not a transfer under Section 47(i), it is not a capital gains transfer attracting capital gains tax, irrespective of the value of assets distributed. But if that distribution takes assets disproportionate to member shares, such as real estate or other assets with capital gains implications, it may be viewed partially as a transfer, which would trigger capital gains implications. Post partition, any income derived from the inherited assets is taxable in the hand of individual members. One big advantage is now every person can avail of their basic exemption limit and lower rates of tax independently. Also, after a partition individual members may create new HUFs with their own family members leading to multiple tax



entities. For larger joint families with significant assets, the multiplier effect makes partition a powerful tax planning mechanism.

### **Taxability Of Interest on Loan to Firm**

### **Taxation Of Partnership Firms**

Partnership firms are taxed as separate entities under the Income Tax Act in India at a flat tax rate of 30% plus applicable surcharge and cess. They are taxed at the partner level, not at the corporate level, meaning they don't incur a dividend distribution tax and can dispense with profits to partners more efficiently. Under relation with business income, capital gains, other sources, allowed deductions shall be calculated under various heads of Income of the firm with chapter VI-A. WTI 3 Some conditions are required for partnerships to be considered as firms, such as, partnership document should be supported with a written deed which should contain the ratio of profit share, a certified copy of the deed should be attached with first return, any changes to the deed to be notified within prescribed time to tax authorities, the accounts of the partners should be reflected in the books of the firm and payment of remuneration/interest should be governed by the deed and limits in section 40(b). If these conditions are not fulfilled, the firm is considered an AOP and thus not entitled to some tax benefits available to properly organized firms. The treatment for tax purposes is similar to a partnership (limited liability means limited liability). Unlike corporate taxation, partnerships allow pass-through of income or losses for tax purposes and can set flexible profit and loss sharing agreements, but the partnership itself is a discrete tax entity.

### **Interest And Salary Of Partners**

The remuneration (salary, bonus and commission) of partners and interest on capital in a partnership firm is given special tax treatment under the Income Tax Act. These amounts, being deductible expenses of the firm subject to limits under Section 40(b), are taxable in the hands of partners as “Profits and gains from business or profession” under Section 28(v) and not as “Salary” or “Interest income.” However, for remuneration to the partner to be tax-deductible in hands of the firm, it should be in accordance with the partnership deed, should be paid only to working partners and should not exceed certain limits (₹1.5 lakh

or 90% of book profit for first ₹3 lakh of book profit and 60% of book profit above ₹ 3 lakh). By the same token, interest on capital is deductible only if allowed for in the partnership deed and limited to 12% pa. Partners are required to include these amounts in their personal income tax returns, and they are taxable at the regular slab charges. Partners are not able to take the standard deduction like salary employees. On these payments the firm will have to deduct TDS @10% under section 194J. And since the income is both before all expenses (taxes, depreciation, etc.) as well as subject to taxes based on income the firm generates, it creates a balancing act where what gets taken out of the taxable income of the firm to partners becomes taxable again in partners' hands, so the income doesn't slip out of taxation altogether if structured properly, while also allowing contribution-based income to be moved around among partners as it makes sense for the business.

### **Share of Profits from Firm Exempted**

Under Sec 10(2A) of the Income Tax Act, a huge tax benefit is given to the partner, in as much as the share of profit in a partnership firm allotted to a partner is exempt from income tax in the partner's hands. This exemption is in relation to the profit share as stated in the partnership deed, not in relation to salary, interest and other amounts taken by partners. The idea behind the exemption is to avoid double taxation as this firm is already paying tax on total income at a flat rate of 30 % plus any applicable surcharge and cess. Unlike the earlier paired system of taxing partnership profits at both the firm level and the partner level, this creates a one-level taxation system for them. To avail of the above exemption, the firm must be classified as a "firm" for tax purposes and must have fulfilled several conditions such as the maintenance of a partnership deed in writing and maintenance of proper books of accounts. This exemption is not available if the firm is treated as an Association of Persons (AOP). Please note that the exemption of profit share implies nothing when it comes to withdrawing money from the firm for personal use – the taxability is decided by the character of the withdrawal. However, this newly introduced exemption, which was introduced in 1992, can also be seen as a conscious policy choice to make partnerships more attractive vehicles for conducting business by relieving





them from this double tax burden that once existed and to encourage entrepreneurship via partnerships.

## **SELF ASSESSMENT QUESTIONS**

### **Multiple Choice Questions**

1. **The income of a Hindu Undivided Family (HUF) is assessed in the hands of:**
  - a) Karta individually
  - b) HUF as a separate entity
  - c) All coparceners individually
  - d) Eldest male member
2. **Which of the following is exempt in the hands of a partner?**
  - a) Salary received from the firm
  - b) Interest received from the firm
  - c) Share of profit from the firm
  - d) Commission received from the firm
3. **Maximum deduction allowed for entertainment allowance to a government employee is:**
  - a) ₹5,000
  - b) ₹10,000
  - c) ₹15,000
  - d) ₹20,000
4. **The standard deduction available from salary income is:**
  - a) ₹40,000
  - b) ₹50,000
  - c) ₹60,000
  - d) ₹75,000
5. **Under the presumptive taxation scheme under Section 44AD, the minimum presumptive income for an eligible business is:**
  - a) 6% of total turnover
  - b) 8% of total turnover (or 6% in case of digital transactions)
  - c) 10% of total turnover
  - d) 12% of total turnover

6. **Which of the following is *not* included in the block of assets for depreciation purposes?**
  - a) Plant and machinery
  - b) Building
  - c) Furniture
  - d) Land
7. **Which of the following is considered a short-term capital asset?**
  - a) Listed shares held for 11 months
  - b) Residential house held for 18 months
  - c) Land held for 24 months
  - d) Unlisted shares held for 25 months
8. **An individual partner's share of profit from a firm is:**
  - a) Taxable at normal rates
  - b) Taxable at special rates
  - c) Exempt from tax
  - d) Partially exempt from tax
9. **When a member of an HUF converts his personal property into HUF property, the income from such property is:**
  - a) Taxable in the hands of the member
  - b) Taxable in the hands of the HUF
  - c) Exempt from tax
  - d) Partially taxable in the hands of both
10. **Which of the following is *not* exempt under Section 10 of the Income Tax Act?**
  - a) Agricultural income
  - b) Share of profit from partnership firm
  - c) Salary received by partner from firm
  - d) Dividend from domestic company up to ₹10,00,000

### Short Questions

1. Explain the concept of residential status and its impact on tax liability.
2. What is the tax treatment of share of profit received by a partner from a firm?



Income Tax  
Law and Other  
Practices

3. Explain the tax treatment of salary and interest received by a partner from a firm.
4. How is the income of HUF taxed in India?
5. What is the tax treatment when an individual converts his personal property into HUF property?
6. Explain the concept of presumptive taxation under section 44AD.
7. What are the deductions available under the head "Income from House Property"?
8. How is long-term capital gain on sale of equity shares taxed?
9. Explain the standard deduction available to salaried employees.
10. What are the steps involved in computing the total income of an individual?

**Long Questions**

1. Explain the provisions relating to residential status of an individual and its impact on the scope of total income with suitable examples.
2. Discuss in detail the computation of income under the head "Salaries" with special reference to allowances, perquisites, and retirement benefits.
3. Explain the provisions relating to computation of income from house property. How is the annual value determined for self-occupied and let-out properties?
4. Discuss the admissible and inadmissible expenses under the head "Profits and Gains from Business or Profession." What special provisions are available for small businesses under presumptive taxation schemes?
5. Explain the concept of capital gains and their taxation. Differentiate between short-term and long-term capital gains with examples and applicable tax rates.



6. Describe the taxability of share of income from HUF. What are the tax implications of partition of HUF?
7. Discuss the tax treatment of various incomes in relation to partnership firms and partners. How is the remuneration and interest paid to partners treated in the hands of the firm and the partners?
8. Mr. Z provides the following information for the financial year. Compute his total income and tax liability: [Provide detailed problem covering all heads of income with special focus on business income]
9. Mrs. A, a partner in a firm, provides the following details for the financial year. Compute her total income and tax liability: [Provide detailed problem covering partner's salary, interest, and share of profit]
10. Mr. B, Karta of an HUF, provides the following information regarding his personal income and HUF income. Calculate the total tax liability: [Provide detailed problem covering individual and HUF income computation]



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## **MODULE III**

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### **STRUCTURE:**

**UNIT 7: Tax Management**

**UNIT 8: Assessment Procedure of Income Tax**

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## UNIT 7

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### TAX MANAGEMENT

#### Objectives

- To understand the concept of tax management including tax deduction at source
- To learn about advance payment of tax and its provisions
- To comprehend the assessment procedure under Income Tax Act
- To develop knowledge about tax planning for individuals

#### Deduction of Tax at Source (TDS)

TDS or Tax Deduction at Source is a system of collecting tax, in which tax is deducted at the source from where an individual's income is generated. This mechanism involves the payer withholding a certain tax percentage from payments paid to the recipient and remitting the same to the government. TDS plays several important roles in the tax structure of India. First, it ensures that a constant flow of revenue will find its way into the government treasury, ensuring that it can fund public expenditure on an ongoing basis. Second, it creates an entire tracking infrastructure for financial transactions that drastically minimizes opportunities for tax evasion. third, it shares the burden of collecting taxes between multiple actors, making this process more even and widespread. For taxpayers, TDS is essentially a prepayment against their annual tax liability, which helps decreasing their final tax outflow at the end of the year. As a side Key, the system also involves compliance by creating a paper trail of income received. TDS provisions generally apply to several transaction types, namely, wages, investments, professional payments, and contractual arrangements. Initially considered complicated, the system has made significant progress in recent times, particularly concerning digital advancements and streamlined processes, facilitating greater convenience for deductors and deductees alike to comply with.



## **Payments Subject to TDS**

Tax Deduction at Source covers various types of payment categories, forming a broad framework for tax collection at source. As per the Income Tax Act, it lists out various types of transactions on which tax is to be deducted at source before making payment to the payee. And induced if a person to whom payment is made is also a person, the amount covered includes, but is not limited to, (i) amounts paid by an employee, (ii) amounts paid for interest on a current security or fixed deposit, (iii) amounts paid to a shareholder are dividends, (iv) amounts paid to other service providers for service to the vendor (v) rental payments for the use of property, (vi) fees for professional services to the service provider, (vii) pay for agents and brokers (viii) your gambling and lottery winnings, (ix) out payments for buying immovable property. The applicability of TDS spans across both individual and non-individual recipients, notwithstanding, the thresholds and exemptions differ depending on both the category of payment and the status of the recipient. Special TDS Provisions for Payments to Non-residents — Non-resident payments are also subject to special TDS provisions with these being mostly at a higher rate or with special compliance requirements. In fact the regulation creates clear lines of responsible parties by scenario for its deduction — employers for salaries, banks for interest payments and merchants confirm for vendor payments. Such wide coverage means that most major monetary transactions fall within the tax net, reducing the scope for non-compliance and tax evasion across the economy.

### **Salary (Section 192)**

TDS on Salary(deduction from salary) is governed under Section 192 of the Income Tax Act of India which states that when an Employer is making any payment to the Employee as Salary, the employer is required to deduct tax from his/her salary before making the payment. This amendment will also be extended to the basic salary, bonus, perks, and retirement benefits. Employers will have to calculate the amount an employee will earn in a year taking into account declared investments and eligible deductions under separate sections, notably 80C, 80D and housing loan provisions among others. Income from all sources disclosed by the employee — not only salary from the current employer

— must enter into the employer's calculations. There are still necessary TDS deductions in proportion to the estimated annual tax liability, which will be adjusted based on further circumstances that become available throughout the year. Employers have to provide you Form 16, which is a summary of your earnings (i.e., detailed components of your salary, deductions claimed by you and taxes deducted at source). This has special provisions in the case of employees receiving arrears and advance salary, wherein the tax calculation is performed separately. Mid-Year Join: New employer needs consider earlier employment income to calculate TDS correctly. It also covers taxation of in-kind benefits such as accommodation, vehicles and interest free loans provided by the company. It is imperative to consider that certain entities such as Government employees, foreign citizens enjoying tax treaty benefit, and individuals having income below basic exemption limit are entitled to exemptions / modified TDS as per the provisions stated out within this chapter.

### **Section 193 — Interest on Securities**

Subsection 193 deals with TDS and interest earned from securities such as debentures, bonds, government securities and other interest-bearing instruments. This provision requires that receipts of such interest shall be subject to deduction of tax at source by the entities making such payments at the prescribed rate before making the payment. The current 10% TDS is applicable on interest payment exceeding ₹10,000 in a financial year to the resident people and HUFs. The threshold is calculated separately for each security type for each issuer, rather than as an aggregate across all securities held by the investor. As to the exceptions, interest on certain government securities, listed debentures held in dematerialized form and specified infrastructure bonds are exempt from TDS provisions under this section. While banking companies and financial institutions are covered under Section 194A and not Section 193. The section further contains special provisions for the senior citizens as they can submit Form 15H in case their total income is below the taxable threshold limit for an exemption from paying TDS. Issuers of securities need to ascertain the PAN details of investors as absence or wrong PAN will attract a high rate of TDS. Such interest, accrued but unpaid during a financial year, is usually not subject to TDS until real payment. Form 16A is to be issued by the deductor to





investors, showcasing the amount of tax that has been deducted and deposited with the government. Failure to comply with these provisions incurs interest penalties and prosecution in certain scenarios.

### **Dividends (Section 194)**

Section 194 covers TDS pursuant to the declaration of dividends by companies to their shareholders. Under the changes introduced with the Finance Act 2020, dividends are taxable in the hands of the recipients, as opposed to the earlier Dividend Distribution Tax regime where companies were required to pay the corporate tax. At present, companies are required to withhold 10 per cent TDS on dividends over ₹5,000 annually to resident shareholders as per provisions. This threshold is based per company in one financial year, not all dividend income. For Dividend distributed to non-resident shareholders, Section 195 applies with rates liable to tax treaty or domestic law whichever is beneficial at 20% plus surcharge and cess. TDS provision is also applicable on dividends paid on mutual funds. Applicable Section 194(3) exceptions include dividends paid to insurance companies, specified government entities, and dividends between domestic companies. This exemption is only to be renewed/claimed every year in form 15G/15H if total income falls below the taxable threshold limit. PAN formats are delinked: TDS on dividend, interest payments, capital gains and sudden gains PAN Failure: Higher-TDS rate (20%) if the entity PAN is not known list of conditions required for a shareholder waiver. The section also provides that the tax deducted should be deposited with the Government within specified timelines, which are reported in quarterly TDS returns. Companies are also required to issue the Form 16A to their shareholders, specifying the amount deducted, within the statutory due dates. Failure to comply incurs interest and penalties, and may potentially lead to prosecution under the applicable provisions of the Income Tax Act.

### **Interest other than Interest on Securities (Section 194A)**

Section 194A deals with TDS on payments of interest other than interest on securities and mainly applies to things like bank deposits, post office savings and other interest-bearing arrangements not considered securities. Interest payments over ₹40,000 in a financial year (₹50,000 for senior citizens) attract a

TDS deduction rate of 10% by banks and financial institutions. The limit for entities outside the banking system is ₹5,000 in one financial year. While this measure is applicable to several modalities of interest which includes time deposits, recurring deposits, co-operative bank deposits, and post office schemes, it does not have implications for savings account interest which is exempted from TDS. Interest calculations take into account accumulated payments over all the branches of a bank/financial institution for threshold payment eligibility. Relevant exemptions can be derived from the section for specified entities such as the government entities, banks, LIC, UTI, and charitable entities. These taxpayers can submit a Form 15G/15H for TDS exemption as their total income is below taxable limits. Section 195 applies for non-resident recipients in accordance with relevant tax treaties. In case of invalid or unavailable PAN, TDS will be deducted at a higher rate of 20% which payers need to validate from PAN fields of the receivers. The section provides for the payment of deducted tax to the government within specified time periods, usually within seven days from the close of the month in which it was deducted. They need to provide a Form 16A to the recipients within the time frame mentioning the amount deducted and deposited with the tax authorities.

### **Winnings Income from Lottery, Game etc. (Section 194B)**

Section 194B provides for deduction of TDS on winnings from lotteries, crossword puzzles, card games, gambling, betting etc. Such provision mandates that a flat 30% tax deduction (and excluding surcharge and cess) is to be made on payments above ₹10,000 irrespective of the income tax slab of the recipient. This threshold looks at every single winning instance individually, rather than the aggregate of wins over the course of the year. It covers winning in a range of forms, such as online games, television game shows, casino winnings and sports betting when allowed. Importantly, this is deducted at the point of payment without any deduction or allowance for any expense/allowance towards that income. Unlike other TDS provisions, a recipient cannot claim exemption by submitting Form 15G/15H. In the case of winnings paid in kind, only the payer can assure tax collection before the prize is released and, thus, this may create the obligation of the winner to deposit the value corresponding to the applicable tax. It is on the organizer or the payer to deduct including the state



governments in cases of state lotteries. Section in the agreement requires the winner's PAN to be verified; a higher tax deduction rate would be applied if PAN information is not provided. The tax deducted needs to be deposited with the government for seven days from the end of the month in which the deduction is made. All payers need to issue Form 16A to the winners certifying the amount so deducted. The section's strict provisions indicate the government's transparency to tax all windfall incomes under the direct tax net with substantial penalties for non-compliance including interest charges and prosecution, according to the people.

### **Payments to Contractors (Section 194C)**

TDS under section 194C: TDS on payment to contractor/sub-contractor in respect of work contract. Businesses and individuals must deduct tax when paying for goods and services, such as construction, manufacturing, engineering projects, transportation, and other contracted work. So, if we follow the rates as per current tax jargon, 1% for payments in the case of individual/HUF contractors, 2% for all other entities, partnership, company, etc. These deductions are applicable when the payment made to a contractor is more than ₹30,000 in a single payment or when the aggregate amount paid to a contractor exceeds ₹1 lakh in a financial year. This chapter also distinguishes between contracts for service as opposed to contracts for sale, the latter generally being beyond the scope of the chapter. For transport contractors, special rules allow non-deduction if they file declaration Form 15I along with PAN details, of having less than ten goods carriages. The deducting party, whether government entities, companies, partnerships, individuals or HUFs engaged in business. Further, individuals and HUFs who are not required to get accounts audited are not obligated to deduct TDS under this section. This does not include contracts related to personal use, such as residential renovations by individuals. This section treats material components in contracts differently than pure aspects of service. People who deduct, need to verify PAN details of the contractors, no deduction higher than the given rates if information is not there. The withheld tax is required to be paid to the government in specified time periods and quarterly returns need to be filed showing all deductions.



### **Insurance Commission [Section 194D]**

Wherever payment of TDS on commission of insurance companies to agent & broker is an essential requirement, Section 194D comes in. The provision provides that income-tax at the rate of 5% shall be deducted on the commission or remuneration paid or credited to resident insurance agents, brokers or intermediaries exceeding ₹15,000 per annum. This threshold is cumulative in nature and applies to the total commission payment made across all transactions during a financial year, and is not transaction based. This part refers to all sorts of commission forms, List procurement commission renewal commission bonus payments for generated business. If the recipient only has a registered PAN, as opposed to a PAN or other such professional identifications like TAN, insurance companies must verify the individual identification as missing or invalid PAN triggers a higher TDS rate of 20%. Importantly, this provision does not apply to agency employees receiving discretionary compensation, who are covered by Section 192. The TDS payment rates and process for corporate agents shall follow the general company payments. E-Filing Form 15G/15H (Annual Renewal) Form 15G/15H can be submitted once in a financial year by one individual agents for TDS exemption if their total income is below taxable limit. Under this segment, tax deducted should be submitted to the government within seven days from the end of the month of deduction. This means that insurance companies are also required to provide Form 16A for agencies that must mention the amount deducted on it within the time frame given. Companies will have to maintain a record of the commission disbursed and taxes deducted for verification if and when they are assessed. The above provision applies to the insurance business, and thus, if an insurer carries out commission income deduction through the tax, the section will follow the broader insurance regulatory framework under which the section works to tax everyone per the appropriateness of commission incomes in the insurance business but with higher thresholds so that small agents are benefitted.

### **Rent (Section 194I)**

Section 194I also provides for the TDS on rent paid for the use of land, buildings, furniture, fitting, equipment, or plant and machinery. This provision



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mandates tax deduction at source on rent above ₹2,40,000 per annum to any person (individual // HUF not liable to audit). The rate of tax deducted at source (TDS) will depend upon the type of property — 2% in case of plant, machinery or equipment and 10% in case of land, buildings or furniture. This difference recognizes various property classes have other returns on investment. The segment covers many rental agreements such as lease contracts, sub-leases, tenancy contracts, and some permit agreements. Some special provisions exist for advance payments of rent, under which TDS applies on payment and not accrual. Remember, except for the refundable deposits that are adjusted against rent, no TDS is applicable for security deposits until they are forfeited or converted into rent. In the case of non-resident landlords, Section 195 applies with rates dictation by tax treaties. The section makes it obligatory upon deductors to check the PAN details of landlords whose rent exceeds the prescribed threshold; non-compliance leads to increased rates of deduction. All tax deducted needs to be deposited with the government within certain timeframes (usually 7 days following the month-end in which specific deduction takes place). Deductors need to give a certificate in Form 16A to landlords showing the deductions and the amount deposited. While the section gives specific exclusions with respect to specific payment categories and payer types, as well as separate rules for rent payments made to religious and charitable trusts. Penalties such as interest and possible prosecution under the corresponding sections of the Income Tax Act for non-compliance.

### **Technical/Professional Services (Section 194J)**

TDS on payment for professional and technical services — As per section 194J. This provision prescribes a 10% deduction of tax at source (TDS) from payments above ₹30,000 made in a single financial year to professionals such as doctors, lawyers, chartered accountants, architects, management consultants, and providers of technical service (TDS rate on technical services, call centre and specified R&D contract reduced to 2%). This section also deals with separate royalty payments, fees for non-compete agreements and payments to directors that are not considered salary. The threshold is cumulative across all payments to a recipient during a financial year, not per transaction. Payers also need to verify the PAN details of the recipients since a 20% higher TDS rate is triggered

for missing information. There are significant exemptions for such payments to hospitals in relation to patient services, but payments to medical professionals still fall under its jurisdiction. If individual professionals are earning less than the threshold limit of eligible income, they can also submit Form 15G/15H regarding TDS exemption. Attract professional payments to a non-resident, the offerings of Section 195, with prices governed by the due of tax treaties. Section 237 of the Income Tax Act also states that the deducted tax shall be to be deposited with the government, within seven days from the end of the month in which it is deducted. Payers must provide Form 16A to the recipients indicating number of deduction as well as deduction amount. The section also has specific rules on the fees to directors with special provisions for resident and non-resident directors. Difference between services for the professional and services for the technical area has an impact on the rates applicables, where the guidelines set out the form for the require is classified in complexity of services and expertise on service.

### **Other Provisions**

The TDS scheme contains numerous provisions in addition to specific transaction-type sections. Section 194N relates to annual cash withdrawals exceeding ₹1 crore from a bank account and mandates a 2% TDS to instil a cashless transaction ecosystem. What is TDS as per section 194O on e-commerce transaction? A new section 194Q requires TDS on goods purchase above ₹50 lakh in any financial year @0.1%. Section 195 has specific, comprehensive provision for payment to non-residents, and the applicable rate is based on tax treaties or domestic law. 3.04 Section 196 – TDS exemptions to Central Government bodies and International Organization} Taxpayer's with low tax liability can get a lower nil deduction certificate from their income tax section 197. Sections 194LA & 194LB deal with compensation paid for acquiring immovable property, and interest paid on infrastructure debt funds. Another feature that is incorporated into the framework is Section 191, which determines the principles of joint liability between the deductor and the deductee with respect to tax deducted as well as under the mechanism for correcting erroneous deductions. Sections 199 and 200 describe credit mechanisms for withheld taxes. Consequences for Non-compliance under Section 201 and



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mandatory registration of Tax Deduction Account Number (TAN) for all deductors under Section 203A. Section 206AA also levies a higher deduction rate in case of non-filing of PAN. The TDS system has been transformed by the digitalization of its components, allowing for electronic payment and return filing, as well as electronic certificate generation, easing compliance and allowing appropriate tracking of transactions and associated categorization.

### **Rates of TDS**

TDS rates differ systematically across payment categories, mirroring the policy priorities of the government as well as the intrinsic nature of certain income types. Salary payments (Section 192) are subject to progressive slab rates, depending on the expected annual income of the employee, after eliminating eligible deductions. Interest from securities (Section 193) and other interest payments (Section 194A) are usually subject to a 10% TDS rate, with higher limits for senior citizens. The rate is 10% for payment exceeding ₹5,000 in a year (Section 194). The payment to contractors (section 194C) is also at different rates – 1% for individual/HUF and 2% for other assesseees, acknowledging the differential margins that different structure of businesses provide. Most professional services are liable to 10 per cent TDS (tax deducted at source) under Section 194J, though TDS on technical services is lowered to 2 per cent to incentivise technology adoption. Insurance commission (Section 194D) and brokerage payments (Section 194H) have a uniform 5% rate. For immovable property, 10% TDS is applicable and for equipment, the TDS is 2%. These include: Lottery at 30% (Sec 194B): Represents an windfall nature of income. Sections 194O (1%) and 194Q (0.1%) for e-commerce transactions and goods purchases are nominal rates, offering some compliance burden while facilitating business. Rates are collated through Finance Acts and concessional rates are normally brought in for priority sectors. When PAN details are absent with the recipient, higher rates automatically apply, thus motivating recipients to comply with documentation under the taxation framework.

### **Time of Deduction**

TDS deduction timing depends on payment type; it follows the principle of earliest point of credit or payment. In the case of salary income covered under



Section 192, this deduction takes place on a monthly basis when the salary is paid or credited to the account of the employee. Interest under Sections 193 and 194A are liable for deduction of TDS at the time of payment or credit, whichever occurs first, with separate provisions for accrued but unpaid interest. Section 194C: Deduction at the time of payment or credit. However, if payment during the financial year exceeds threshold limits, then the deduction is made on aggregate payments. Similarly, payments for professional services under Section 194J also follow the earlier of payment or credit rule. In case of rent deductions in case of section 194I, it is to be deducted whenever the rent is paid or credited — not paid or credited, it requires immediate deduction, from that advance rent needs to be deducted and it will not be spread over the rental period. In the case of multi-component transactions such as composite contracts, the deduction timing is governed by the rules for the most integral part of that payment. If a company has fulfilled its obligations to deduct tax at the source (TDS), typically through book entry credits to its shareholder's accounts, then such dues may still be claimable even if payment has not been made as the first deferral principle applies uniformly across all provisions. Special timing rules apply to specific transaction types, e.g., TDS on lottery winnings (Section 194B) applies at the point of payment, irrespective of the amount transacted: property acquisition compensation (Section 194LA) applies according to actual payment timing. Under Section 195, tax is to be deducted at source before the payment is remitted abroad to non-resident parties. The framework does include provisions for timing errors to be corrected using belated deduction procedures (with interest implications, however). These timing rules, therefore, allow for adherence to a systematic principle of tax collection that considers how income accumulates over time across categories of transactions.

### **Deposit of Tax Deducted**

TDS after deduction needs to be deposited further with the government treasury within a certain period. The last date for deductors of government is also the same for crediting in direct Central Government Account. In case of non-gov deductors, TDS should be deposited by 7th of next month except for March deductions which have an extended deadline until 30th April. Tax Deducted on payment for transfer of property under Section 194IA must be deposited within





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30 days from the date of deduction but must be done for special timeline. Most corporate taxpayers and those required to get their accounts audited are also required to pay through Electronic deposit employing the specified challan ITNS 281 with the Tax Deduction Account Number (TAN) of the deductor. To process the deposit, deductors are required to accurately specify the payments under respective TDS codes as prescribed under different sections which will ensure proper accounting of these payments in government records. Interest penalties on late deposits, under Section (201(1A)), will be charged at 1.5% for a month, from the date of deduction till the date of actual deposit. Continued delays fall under prosecution provisions of Section 276B with maximum prison term going up to seven years. With respect to mergers or other business reorganizations, certain succession provisions specify the deposit obligations regarding deductions occurring before the merger. The mechanism provided is much related to how challan error correction requests and adjustment request procedures are made for deposits. Deposits in banking systems were similarly integrated, with transfers done electronically and automated checks that help in compliance while retaining robust tracking of deducted amounts by deductor types.

### **TDS Certificates and Returns**

The deductors are required to furnish the deductees with TDS certificates that contain details of tax deducted and deposited with the central government. Form 16, the tax return form issued for salary deductions, has to be published on or before June 15th of the assessment year for the previous financial year including the complete information about the salary and the deductions. Form 16A for deductions other than salary needs to be issued on a quarterly basis within a period of 15 days of filing of TDS return. The "Unique Transaction Number (UTN)" generated while making the tax deposit must be mentioned on both certificates for traceability. Furthermore, deductors are required to file quarterly TDS returns for the total deductions; Form 24Q is for salary payments, while Form 26Q is specific for non-salary payments (along with a few additional forms for non-resident payments). Such entities with fifty or greater deductees are required to file these returns simultaneously electronically, with deadlines typically on July 31st (Q1), October 31st (Q2), January 31st (Q3), and May 31st

(Q4). In case of late filing there will be a penalty of ₹200 to ₹500 per day as per Section 234E until the return is filed, subject to a ceiling equal to the amount of TDS in question. Section 271H prescribes penalties for default in filing or false information from INR 10,000 to INR 1,00,000 for repeated errors. TRACES stands for TDS Reconciliation Analysis and Correction Enabling System which is used for certificate generation, return filing and correction procedures. Deductee wise records of the payment, the deductions calculated, challan copies of deposits, etc should be well maintained, as they may be called for verification during the assessment window. This documentation system, when incorporated on a digital basis, ensures the continuous flow of credit to the deductee and, at the same time, gives the tax authorities an aggregation of providing transaction visibility across the economy.

### **Penalties for Failure to Comply**

Failure to comply with TDS provisions is met with strict penalties under the income tax act. If tax is not deducted when it should have been, the payer is "deemed in default" for purposes of Section 201 and is itself directly liable for the amount not deducted, plus interest. Interest begins accruing at either 1% per month for deduction failures, or 1.5% per month for deposit delays, effective the deduction date until payment is made. Under the Act, Section 271C mandates equivalent penalties for foregoing tax, and Section 271H penalties of ₹ 10,000 - ₹ 1,00,000, as applicable, for non-filing of return. An enormous amount can accumulate into daily penalties under Section 234E during the period of delay for the late returns. Apart from economic ramifications, Section 276B also leads to prosecution, with jail terms of three months to seven years for repeated deliberate failures. The prosecution of deductors issuing certificates without actual deposit of tax shall be pursued uniformly under Section 276C. Meanwhile, for corporate entities, officers who are responsible for ensuring tax compliance may be held personally liable for continuous non-compliance. The non-compliance record impacts the entity's compliance rating in departmental databases and can lead to elevated scrutiny of operations. Voluntary disclosure and prompt correction allow for such remedial actions, which might mitigate the amount of penalty, but not eliminate the liabilities towards interest. The framework prescribes appellate procedures for challenging default notices with



mandatory deposit of part payment during pending proceedings. These are such stringent provisions, which genuinely support the very important structure of the TDS system in India, so as to avoid the complete balance between complying with the law while having a meaningful deterrent provision with a balanced approach of rectifying the issues.

### **Advance Payment of Tax**

#### **Liability for Advance Tax**

Advance tax is a prepayment of the income tax liability that is payable in the financial year in which the income is earned instead of in a single lump sum after the end of the year. This system follows the “pay as you earn” model. -Here’s a more detailed explanation: Any individual whose tax liability for the financial year is likely to be above a particular threshold limit (which is usually ₹10,000) has to pay advance tax. This stipulation is applicable to all types of taxpayers, be it Individuals, Businesses, Companies, or Professionals. Advance tax net includes both salaried and non-salaried taxpayers. However, advance tax provisions are not applicable for senior citizens (above 60 years) who do not have income from business or profession. Liability is computed as the amount of income estimated to be earned in the current FY for all income source, less the qualifying deductions and tax rates. Inability to pay the advance tax when the taxpayer is liable to do so, is subject to interest penalties, and hence it is crucial for the taxpayers to accurately determine their annual tax liability and ensure compliance with all the requirements of advance tax.

#### **Due Dates for Payment**

This leads to advance tax payments being made on a timetable with defined due dates across the fiscal year. Except for individuals receiving income from business or profession who have chosen prescriptive taxation schemes, advance tax is required to be paid in four installments. The first payment (15% of estimated tax) is due on June 15th, the second payment (45% of estimated tax) minus any payments already made, is due on September 15th, the third payment of 75% of estimated tax due minus payments already made is due by December 15th, and the last payment of 100% of estimated tax minus payments already made is due by March 15th. Lastly, taxpayers who choose the presumptive form

of taxation schemes under the ambit of sections 44AD, 44ADA or 44AE, can deposit the whole amount of advance tax in a single installment due by 15th March of the financial year. Failing to meet these deadlines leads to interest penalties under sections 234B and 234C of the Income Tax Act. It is pertinent to highlight here that these dates do not change across financial years and taxpayers can plan their cash flows on the same. The tax department does not grant any extensions to these deadlines, underscoring the necessity of adhering to the advance tax payment schedule.

### **Computation of Advance Tax**

Calculating advance tax involves assessing the anticipated total income expected to be earned in the financial year. This includes forecasting income from all sources of income—salary, business/profession, capital gain, house property and other sources—and calculating tax liability on this projected income after accounting for all allowable deductions and exemptions. The TDS (Tax Deducted at Source), estimated to be deducted during the year, is subtracted from this estimated annual tax liability to determine the advance tax due. Salaried employees use Form 16 as a baseline for calculating tax, and those with own business or professionals need to estimate based on anticipated income and expenses. The installment due after the gain is realized must include capital gains tax. This computation requires periodic review throughout the year to account for changes in income or other relevant tax provisions. There are online tax calculators and income tax department e-filing portal tools to help you compute it correctly. It's important to keep detailed records of income estimates calculations, and what is used for advance payment as these will need to be reconciled against actually filed returns.

### **Interest on Default**

There are interest penalties under two main provisions for taxpayers who fail to satisfy advance tax requirements. Section 234B provides for levy of interest at 1% per month (or part thereof) on the shortfall amount in case less than 90% of the assessed tax is paid before end of the financial year. Interest accrues on this until the tax is fully paid. Section 234C: if you do not meet the specific requirements of a certain number of installments, on the amount that was to have



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been deposited on the due date will attract interest at 1% for every month or part thereof, from the month in which payment was due, up till the end of the month in which the payment actually got credited. Interest accrues monthly over the first three installments for three months each and for one month for the final instalment. The interest charges are mandatory (not discretionary) and tax authorities cannot waive them — even for genuine hardship. The interest accrues monthly so the cost of failing to comply with the terms increases rapidly. The interest is charged on the shortfall amount, not the full tax amortization, making part payments advantageous in lowering interest exposure. These interest charges are automatically computed by tax authorities when processing tax returns, and taxpayers are required to include them in their tax return computations.

### **Adjustment of Advance Tax**

Essentially, the advance tax system recognises the fact that income predictions are not always astrologically accurate, and permits adjustments for future installments. If actual income ends up different than estimated, taxpayers have the option to recalculate their liability and make adjustments to any remaining installments. However, if the advance tax payment is more than the final liability, taxpayers can claim a refund when filing their income tax return. But, if the actual end liability is more than the advance tax paid by the taxpayer, the balance needs to be paid as self-assessment tax before filing the return, else additional interest for delay in filing return is attracted. Taxpayers shall also be allowed to carry forward excess advance tax to future tax periods or adjust it against other tax demands. Form 26AS, or the consolidated tax statement, aids in the reconciliation of advance tax payments with records maintained by the tax department. When filing the income tax return, all such advance payments of tax should be correctly disclosed under the relevant schedules. For businesses, advance tax payments are relevant as they impact cash flow planning. This adjustment mechanism highlights the advance tax system's adaptable comprehensiveness because; which reflect income levels and are dynamic naturally, are paid by the taxpayer through the year by way of advance tax, ensuring that, by fall of the fiscal year, the government starts to receive its tax revenues instead of having to wait until the end year for payment.

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## UNIT 8

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### **Assessment Procedure of Income Tax**

#### **Assessment Procedure**

Under Indian income Tax Law, there are three types of Assessment as we see them.

Tax assessment is the systematic procedure under which the Income Tax Department verifies the income earned by the taxpayer and his or her liability of tax. There are different assessment procedures under the Income Tax Act of 1961 to serve different purposes. Tax assessment methods like this also promote tax compliance, while protecting against tax evasion. There are different assessment procedures used by the Income Tax Department depending on the situation, in case of differences in the returns, in case of non-filing of returns or suspected concealment of income. Each of the types has its own protocol and different implications for taxpayers. By studying these processes, taxpayers can ensure that they are accurately complying with their tax liabilities and avoiding penalties or legal issues. The assessment system needs to strike a balance between realising tax revenue due and not subjecting taxpayers to excessive amounts of tax.

#### **Self-Assessment (Section 140A)**

With the introduction of the self-assessment, it forms the cornerstone of the present tax regime in India, allowing the taxpayers themselves to determine their tax liability. As per the provisions of Section 140A of the Income Tax Act, taxpayers need to calculate their tax liability after accounting tax, already settled such as TDS and advance tax, and pay any balance before filing returns. This system puts an onus on taxpayers to accurately report their income and take valid deductions. Sections 234A, 234B and 234C — to tax not paid on self-assessment. In addition, any self-assessed tax must be paid before or with returns being filed. The core of self-assessment system is a simplified tax administration, which lessens the burden of the department while encouraging voluntary compliance. It is trust-based but can be verified through verification mechanisms in later audit processes if issues arise. Taxpayers are required to



maintain proper documentation to support their declarations, which may be further assessed at a later date. Not only does this approach reinforce individual accountability in the taxation system, but it also frees up government agencies to focus their resources on cases that require a greater level of investigation.

### **Assessment of Summary Under Section 143(1)**

Section 143(1) summary assessment is the first department step to process income tax returns automatically without human intervention. This automated assessment includes mathematical verification of income figures, adjustment of payments against taxes owed, disallowance of losses when returns are filed after the due date, where a review shows evidence of a loss where the income return appears inconsistent with other information. Any differences found or due tax or refunds due will be intimated to the taxpayer. Summary assessment, in contrast to scrutiny assessment, is non-physical and only verifies computational accuracy without verifying any claims. The department is required to do such assessment within one year from the end of the financial year in which the return was filed. If there are no discrepancies, the return is accepted as submitted. Essentially, this step is a first pass that highlights returns that should be reviewed more closely based on scrutiny assessment. With millions of returns to process, the automated approach of summary assessment allows for the identification of possible concerns for examination while expeditiously processing the returns. Through this mechanism, the IRS can efficiently process millions of returns while retaining the ability to ensure compliance with the tax code by examining the compliance of a subset of cases.

### **Assessment of Scrutiny (Section 143(3))**

Sec 143(3) scrutiny is a thorough review of a taxpayer's return when the Assessing Officer suspects that additional verification is required. The process follows a notice under Section 143(2) to the taxpayer for her or his personal appearance, or through a representative. The taxpayer is expected to produce relevant documents, such as books of accounts, bank statements, investment proofs, and expense related documents for all claims made, when under scrutiny. The Assessing Officer then undertakes a stringent verification process, asking for more information or third-party verifications to ensure the





correctness of the declarations made. When the examination is complete, the examining officer may accept the return as filed or the officer may make adjustments to taxable income and tax liability. While summary assessment is generalised, scrutiny assessment includes detailed human inspection of the returns and supporting material. Cases for scrutiny are selected through computer-aided scrutiny selection (CASS) on risk parameters or manually on specific information suggesting possible tax evasion. This process is an important compliance tool that prevents handheld deliberate underreporting, along with ensuring that taxpayers will do what they need to do accurately. The evaluation ends on a detailed order setting forth the officer's findings and any adjustments to the initial return.

### **Assessment under Best Judgment (Section 144)**

Best Judgment Assessment u/s 144 of the Income Tax Act is a provision that is invoked when a taxpayer has not adhered to the tax obligations, and the Assessing Officer has to estimate income based on the information available. This process gets applied to— means failure to file returns, noncompliance with notice, failure to maintain accounts, or refusal of the officer for accounts inspection. Different from assessment styles, the officer is required to first test whether he has a reasonable basis for estimating rather than arbitrarily determining an item, looking at factors that may include the past returns of the taxpayer, an industry standard, inquiries in the local area, and third party information. However, before proceeding, the officer needs to issue a show cause notice giving an opportunity for the taxpayer to explain the non-compliance. In absence of proper response, the officer estimates. Although discretionary, this assessment is not punitive and is intended to achieve an accurate estimate of the tax owed. Taxpayers CAN Appeal Against Unreasonable Tax Assessments This provision ensures that the department can assert tax liability, even in the face of taxpayer obstructionism that denies them the information necessary to enforce their rights under the tax laws, so as to deny the plaintiffs the ability to railroad the department into inconsistent interpretations of their rights by failing to cooperate in cases where they owe money to the department. The procedure achieves a measure of balance between the need to protect revenue and the need for reasonableness, in that the officers





are required to make assessments on the basis of logical inferences and available evidence rather than just arbitrary numbers.

### **Section 147 – Income Escaping Assessment**

Income Escaping Assessment Section 147 gives powers to tax department to go for reassessment of returns already filed when it has reason to believe that income has escaped assessment. This rule addresses the cases of unreported, or underreported income in original returns. Before reassessment, the Assessing Officer must come across "reason to believe" based on tangible material rather than suspicion. The first step in the process involves a notice to the taxpayer under Section 148 asking them to file a return for the particular assessment year in question. Amended provisions prescribe three time limits: four years from the end of the relevant assessment year in cases of income escaping assessment below ₹50 lakhs, ten years for cases exceeding ₹50 lakhs and sixteen years in respect of income in relation to foreign assets. Officer to conduct proper inquiry and record reasons in writing before issuing notice and requires approval of specified authorities. This process is a potent weapon in the fight against tax evasion while incorporating safeguards to prevent abuse. Taxpayers can contest the validity of reassessment notices if proper procedures were not followed. It guarantees that taxpayers cannot evade tax liability indefinitely through concealment or misreporting, since the department can reopen assessments when the new information becomes available.

### **Demand Notice, Intimation & Assessment Order**

The purpose of these three documents is essential in the evaluation process, as is the role they play in the tax administration system. If there is any addition to the tax liability, a Notice of Demand under Section 156 is issued which states the liability as determined along with the time frame till which payment should be made, which is generally 30 days. In case of non-compliance, penalties, interest, and initiation of recovery proceedings may follow. An Intimation under Section 143(1) informs the summary processing of returns that involves computational corrections, tax computation, refund or additional tax leviable. Intimations, unlike assessment orders, are produced through electronic processing, without human discretion. On the other hand an order of assessment

is a detailed order which is passed on the scrutiny, best judgment proceedings or reassessment proceedings, it contains the detailed findings with a comparison to the declared income along with the additions or disallowances and the reasons for modifications. This order carries big legal weight; it is the foundation for any appeals if taxpayers find conclusions unsatisfactory. These documents ensure clear communication between the tax department and taxpayers, enhancing transparency of the assessment results. They also form documentary evidence of actions and decisions taken at department level, protecting the interests of both parties involved by providing a paper trail of the assessment process. Familiarity with these documents assists taxpayers who are confronting agencies' determinations to respond properly.

### **Time Limits for Assessment**

The Income Tax Act prescribes specified time limits by which different states of assessment shall be completed, serving the dual purpose of administrative expediency as well as certainty to the taxpayer. However, for regular scrutiny assessments under Section 143(3), this time limit is made 21 months from the end of the assessment year in which income becomes first assessable. Assessment under the summary procedure u/s 143(1) is to be limited to one year from the end of the financial year in which the return is filed. However, under the provisions of Section 147, the time limits for reassessment are split depending on the quantum of such re-assessable income: four years where total income is less than ₹50 lakhs, ten years where total income is more than ₹50 lakhs and sixteen years in case of foreign assets. Best judgment assessments made under Section 144 are also subject to the same time limits as scrutiny assessments. These statutory time limits have several objectives: they protect taxpayers from uncertainty about liability that could last indefinitely, they discipline tax authorities to conduct a proceeding within a reasonable time, and they prevent claims to tax from being made after egregious delays have occurred, when evidence to substantiate the tax claim may no longer be available. The assessment which was completed after the stipulated time limit would become barred by limitation and no longer legal. But these time limits can be extended in exceptional situations, such as court orders or applications



for settlement by a taxpayer. If taxpayers know these timeframes, then they can monitor these procedural requirements.

### **Tax Planning For Individuals**

Tax planning, on the other hand, is a systematic way of managing your financial life to minimize your taxes while ensuring you comply with the law. Maximizing tax efficiency requires careful analysis of an individual's financial situation, an understanding of applicable tax laws, and making strategic decisions to minimize tax liability. Tax planning is essential as it keeps you from losing more of your hard-earned money than you need to, allows you to better manage your finances, and helps to create more wealth over time. Tax laws change frequently, and thus tax planning requires staying current on tax legislation. People can find tax savings through deductions, exemptions and credits, if they do tax planning regularly. Moreover, tax planning can help minimize the risk of being penalized, or being assessed extra charges for noncompliance with tax laws. Tax mitigation should usually be considered only one tool in the bag, as for many tax-planning strategies, the benefits reach much beyond simple tax savings, to include better retirement planning, education funding, wealth preservation and peace of mind. Tax planning is best done as part of an overall financial strategy rather than as a year-end exercise. There are many ways that when you take approach tax planning holistically you can aid in long-term financial ticket striving whilst helping to ensure that you comply with all legal requirements.

It is essential to understand the difference between tax planning, tax avoidance, and tax evasion for responsible financial management. Tax planning is the legal process to minimize tax liability through using provisions, exemptions and benefits provided under tax laws. Tax planning is the legal and ethical practice of minimising your tax position whilst complying in letter and the spirit of the tax laws. Tax avoidance, though legal in technical sense, takes place in the grey areas where people capitalise on loopholes or around aggressive interpretations of tax laws to lessen their tax payments. While not outright illegal, tax avoidance can run counter to the intent of tax laws and could be challenged by tax authorities. The distinction between legitimate tax planning and tax



avoidance can at times get fuzzy, which is why you'd want professional guidance here." Tax evasion may be a crime, but planning and avoidance are perfectly legal. It means hiding income on purpose, inflating deductions or omitting taxable transactions. That could include having undisclosed foreign accounts, intentionally misreporting income or claiming imaginary deductions. Tax evasion is a serious crime which can attract heavy fines, interest and even imprisonment. For our purposes, responsible citizens work with lawyers and accountants on tax planning, they seek to minimize their tax burden — legitimately —without venturing into evasion or its close cousin, depending on how you view it, avoidance. Well-versed tax professionals can ensure that tax-saving strategies stay on the right side of the law while extracting as much benefit as possible.]

### **Areas of Tax Planning**

It also covers a wide range of finance areas where certain considerations in design and investment can have a big impact on tax savings. Income Diversification In short, it is one of the primary ways for individuals to spread the sources of their income (salary/business/investments) to get a better tax treatment. There are planning opportunities for timing of income recognition and expenses as well since deferring income and/or accelerating deductions can provide tax benefits from year to year. Tax planning possibilities abound in investment selection, whether in tax-exempt securities or tax-advantaged retirement accounts or investments receiving more favorable long-term capital gains treatment. Tax planning for families may include allocating income and assets to family members in a way that optimally uses individual exemptions and low tax brackets. Another important topic is the area of retirement planning, which encompasses a number of tax-advantaged vehicles (problem saving for retirement) including employer-sponsored plans and individual retirement accounts that provide short-term tax advantages and tax-deferred or tax-free growth. The tax implications can vary significantly between types of business structures, from sole proprietorships, which are the most straightforward for a self-employed person or business owner, to other corporate structures. The final piece of the tax planning puzzle, that is, estate planning, which involves transferring wealth as efficiently as possible to reduce estate and inheritance



taxes, maximize the amount of wealth preserved for your beneficiaries, and minimize tax implications at the beneficiary level. We are just touched upon, you need a professional with experience in each area, as you can Service in a complex Taxation society.

### **Salary Restructuring**

Salary restructuring is a strong tax planning instrument for those who are employed, allowing the reorganisation of various components of remuneration to improve tax efficiency. Employees can achieve a better tax position without changing their overall compensation cost significantly relative to what the employers need to pay by collaborating with the employer to modify where the compensation is allocated from gross salary to different allowance & fringe sections. House Rent Allowance (HRA) optimization is a core component of the salary restructuring primarily for individuals living in rented accommodation. Appropriate allocation of the HRA component in the salary package can enable individuals to take substantial exemptions against actual rent paid depending on their geography and salary level. Likewise, the inclusion of meal allowances, travel allowances, and medical reimbursements in the compensation structure also offers exemption opportunities with accompanying caps. Restructuring also offers added benefits in the form of performance-linked incentives and bonuses that can help to defer income into earlier assessment years. For domestic travel, structuring leave travel allowances (LTA) correctly offers another opportunity for exemption. If you're working for a company that provides a flexible benefit plan, you need to be strategic in choosing the benefits you take advantage of, ensuring that they fit around your personal situation all while trying to obtain as many tax benefits as possible. Further deductions that can reduce taxable income, when properly documented, are professional development allowances, telecommunications reimbursements, and uniform allowances. While individuals rightfully want the maximum in their pocket, when it comes to salary restructuring, they need to work with their employer's human resources department while working with a tax professional to comply with changing rules to put themselves in the best tax light.

## House Property

At the same time, the ownership of real estate usage skirts plenty of tax planning opportunities by the proper handling of the advantages involved in property used as residence and income generating. Individuals can claim deductions on interest paid on home loans for owner-occupied residential properties subject to certain limits, with additional benefits for first-time homebuyers. Moreover, principal repayment components are deductible under Section 80C within the overall limit. 2nd homes and investment properties have rental income taxation rules where reasonable vacancy periods must be accepted and different deductions are allowed. This covers standard deductions, municipal taxes paid, and interest on borrowed capital with no upper limits (as opposed to self-occupied properties). Strategic choices about whether to leave a second property vacant or rented out can have a big effect on overall tax liability. Family members transferring property among each other provide other planning opportunities, but care must be taken to properly structure such transfers. When it comes to the sale of residential property, capital gains tax planning is critical, as exemptions are available when the proceeds are used to acquire more residential property or specified bonds within a certain time frame. For income-producing properties, tax depreciation claims also provide a tax benefit — lowering taxable rental income. For employees working from home, establishing part of the residence as a home office may allow for certain deductions for expenses, as long as certain qualifications are met. Property tax strategies need to be reviewed on an annual basis changing tax laws and personal circumstances can have a significant impact to higher tax efficiency. As tax laws and personal situation changes tax laws needs to be reviewed to the personal situations.

## Capital Gains

At strategic tax planning opportunities, capital gains taxation is by far one of the most important — as it has different rates and treatments, depending on the asset type and holding period. Generally, long-term capital gains (assets held for more than specified periods) receive more favorable tax treatment than short-term capital gains, giving rise to planning opportunities through the timing of



when to sell assets. Tax-loss harvesting — selling lagging investments on purpose to offset capital gains — can dramatically reduce your tax liability while reconfiguring portfolios. In cases of large gains, if you spread the sales across multiple tax years, you can reduce — or even eliminate — bracket creep and lower your effective tax bill. And there are different exclusions that apply to certain asset types and situations (like sales of principal residences that meet certain criteria).

Indeed, the choice of investments has a role to play in tax planning because different classes of assets are subject to different tax treatment. Long-held equity investments, for example, tend to qualify for preferential rates relative to interest income or short-term trading profits. Like-kind exchanges also may preserve additional opportunities in the real estate arena to defer gain recognition while facilitating portfolio diversification. Charitable giving of appreciated assets provides another capital gains planning strategy that can potentially provide for the avoidance of capital gains tax and the preservation of charitable deductions. If you own a business, you will want to structure the sale or transfer of your business interests carefully to minimize the impact of capital gains taxes. Effective capital gains planning should take into account both current tax implications and long-term wealth preservation objectives.

### **Investments under Section 80C**

Investments in Section 80C reduce the taxable income of taxpayers while also helping them earn wealth via different forms of government-approved instruments. This section permits deductions up to a certain threshold for investments across various financial products, encouraging long-term saving while providing tax advantages. Knowing the features of each eligible investment allows individuals to maximize tax saving and align it with their financial goals as well. Public Provident Fund (PPF) is a well-known tax-saving financial product that provides assured returns, with complete tax exemption at maturity. The PPF balances tax advantages and liquidity restrictions, with a lock-in period of 15 years and a limited contribution cap. Likewise, Employee Provident Fund (EPF) contributions by salaried persons in their retirement savings automatically attract Section 80C deductions. While National Savings



Certificates (NSC), Equity-Linked Savings Schemes (ELSS) and tax-saving fixed deposits offer different combinations of returns, lock-in periods and risk profiles. Even life insurance premiums on policies that meet specified conditions qualify under this section, providing both protection and tax benefits. For homebuyers, principal repayments of home loans taken for residential property, is eligible for deduction under the Section 80C limit. Specific expenses for education are given special emphasis since tuition fees (excl. coaching classes) paid for children's education is allowed as deduction. Also, investments in Sukanya Samriddhi Account (for girl child) provides good returns along with tax benefit. As with any other financial planning exercise, taxpayers need to make decisions based on their risk profile, liquidity requirements and financial goals instead of prioritising tax benefits in Section 80C investments.

### **Deductions other than under Chapter VI-A**

Chapter VI-A also contains many other deduction opportunities that, if used strategically, can significantly reduce the amount of taxable income beyond the Section 80C limits. Premiums for health insurance in respect of self, spouse, children and parents are also deductible under the provisions of Section 80D, with higher limits for senior citizens. This provision simultaneously promotes family health protection and provides significant tax benefits to employees. They are a part of Section 80E, which gives special treatment for educational loan interest, and it has no upper limit on the amount to be deducted when it is for a higher education loan. Declaration of deductions for individuals with disabilities (section 80U) offers flat deductions based on the percentage of disability, and section 80DD provides deductions for dependents with disabilities, covering maintenance costs and particular insurance schemes. Contributions to approved trusts of charitable organizations are eligible for deductions under Section 80G, and the percentage of the contribution varies based on the recipient category. Interest income from savings bank accounts is covered under section 80TTA and interest from fixed deposits in banks is covered under section 80TTB in respect of senior citizens, both of which have specified limits. There are deductions for certain professions that behave as employment and also certain provisions for patent and royalty income. Section





80C principal repayments — Short on Section 80C deductions? More deductions — Section 80EE for first-time home buyers, and Section 24 for the interest on a housing loan — are also available to a home buyer. Claiming and properly documenting each eligible deduction in Chapter VI-A significantly lowers tax liability while fostering important personal and social goals.

### **Tax Planning for Various Classes of Taxpayers: Salaried Individuals**

**Special Tax Planning Considerations for Salaried Employees** The first opportunity is a comprehensive compensation package negotiation by structuring compensation, which includes tax-exempt or tax-favorable inground components like house rent allowance, leave travel allowance, medical reimbursements, etc., within the permissible limits. Employers may provide additional benefits, for example, meal vouchers, transportation and uniform benefits, which can also be treated preferentially from a tax perspective, so strategic utilization of employer benefits can provide additional opportunities. Making the most of employer-sponsored retirement plans not only helps build wealth but generally reduces current taxable income. Where employers have the offering of flexible benefit packages, choosing options that closely match personal need and tax advantages can maximise overall benefits. Personal expenses could become deductible with proof; home office deductions might help employees forced to work from home. Many expenses associated with professional development in relation to your current place of employment can be used as a deduction, including courses, certifications, and professional memberships. Timing is very important for employees who receive equity compensation in the form of stock options or restricted stock units, because exercise or vesting dates can have a huge impact on tax liability. Retirement account investment planning assumes some employment income but tax-efficient vehicles are better for investing beyond retirement accounts. Moreover, having detailed records of all work-related expenses which could be deductible also ensures claiming everything that one is entitled to during filing taxes.

### **Tax Planning for Various Types of Taxpayers: Professionals**

Self-employed individuals have unique tax planning needs and opportunities, including the need for more robust strategies regarding business entity structure,



expense control and retirement savings. Choosing the best business structure—sole proprietorship, partnership, or professional corporation—also has significant tax implications, each structure providing varying aspects of liability protections and differing tax treatment. Professional tax planning involves thorough tracking and categorizing of expenses to ensure that all valid business expenses are deducted from taxable income. When favourable, strategic timing of income recognition and expense payment may also shift income to a different tax year. Home office deductions, generally under certain circumstances, transform portions of one's personal housing expenses into business amenities. That's typically transcribed into huge tax-deferred savings through a professional retirement plan, based on the contribution limits that are much higher than your traditional individual options. Another benefit of self-employment is the ability to deduct health insurance premiums (for the professional and family members). Hiring genuine family members, allows for income splitting, whilst funding pensions. Business-related transportation expense tracking, in the form of mileage logs or actual expenses, allows anyone turning personal transportation costs into business deductions by using personal vehicles for business use. Tax deductions, especially for depreciation on equipment (which may also allow for immediate expensing for qualifying assets) minimize the tax burden on business purchases. In general, expenses for professional development directly related to practice areas in question are bona fide deductible business expenses. Such have their quarterly taxes espousal taxes, underpayment penalties, and cash flow issues.

### **Tax Planning in Different Categories of Taxpayers: Introduction of Businessman**

Integrated strategies across personal and business lines are absolutely vital for business owners with complex tax planning needs. Choosing the right business structure is a fundamental decision in taxation; sole proprietorships are easy but expose personal assets, while corporations protect from liability but could be subject to different taxes. "Partnerships and limited liability companies are hybrid solutions with their own tax consequences. Tax compensation structuring minimizes general taxation by optimizing the structure between salary, dividends and other distributions with what is reasonable given what was



provided on a service individual basis as a direct or indirect compensation. Setting Up Retirement Plans Wealth can be accumulated on tax-deferred basis and contribution limits may be higher than individual plans. An employee benefit program can offer tax-efficient compensation to the owner and attract and retain good employees. Recognizing income and/or paying expenses at an opportune time can move you to a different tax year, which can also be advantageous. Depreciation planning for business assets involves balancing immediate deductions against deferred ones based on the business profile and tax implications. Real work for family members validates income sharing, but also enables one or both members saving for retirement over the years. The choice of inventory management method plays a major role in determining the reported income, and there is considerable room for hedging by management. Maintaining records of vehicle costs through mileage logs or tracking actual expenses makes transportation for business purposes a true deduction. Incorporating estate planning avoids transfer taxes and streamlines business transfer. Timing for expanding or contracting a (small) business takes into account potential tax credits for various activities and locations. Business owners should also consider year-end bonus payments, purchases of new equipment and charitable giving opportunities as part of proactive tax planning.

### **Tax Planning for Various Sections of Taxpayers: Senior Citizens**

A variety of specialized tax provisions benefit seniors and warrant specific planning strategies to optimize their benefits in retirement years. This means that higher basic exemption thresholds offer immediate tax savings relative to younger taxpayers as they may dissipate or obliterate tax on the first income bands. Under Section 80D, health insurance premium deductions have higher limits applicable to senior citizens, given the higher health needs later in life. Concessional taxation is given to interest income too and Section 80TTB provides a higher deduction limit than standard savings interest provisions. To minimize income taxes throughout retirement, strategic withdrawal from 401(k)s, traditional IRAs, and Roth IRAs based on their different tax treatment is employed to minimize overall taxes paid during retirement but still meet current income needs. Without careful mixing of pension payment income, social security benefits and investment distributions, seniors can easily find



themselves subject to multiple income taxes due to being pushed into higher tax brackets. The property tax benefits offered in many places, which are targeted specifically at seniors, can yield additional savings if claimed correctly. Seniors have unique opportunities in charitable giving strategies, which might make mandatory withdrawals from retirement accounts become tax-favored contributions to charities provided they meet certain criteria. Tracking healthcare expenses is vital with the potential to write off those that exceed certain threshold amounts. If you are a senior with appreciated assets and are considering selling, you might find it is more tax-efficient to gift the assets (with proper strategic planning), or make charitable donations, rather than simply make a sale. In addition, seniors will want to regularly review their beneficiary designations and estate planning documents so that wealth can be transferred efficiently from a tax standpoint and according to the latest laws and their personal goals.

### **Some Practical Tax Planning Ideas**

This, however, could only come with methodized method that intertwines generalizations as well as personal tactics and doings, when it comes to making tax plans. The result can be a year-round approach to tax awareness, as opposed to the frenzied focus of year-end. The tax laws and update will also need to be reviewed periodically along with the professional advisors to make sure that any strategy you have in mind will still work in the evolving tax laws. The bedrock of maximizing legal tax benefits is meticulous recordkeeping systems for all possible deductions, credits, and sources of income. Taking in income or deductible expenses in the right tax year can have a huge effect on total liability. Second, multi-year planning horizons enable better strategies than single-period approaches do. Tax projection modeling prior to making significant financial decisions allows for consideration of multiple routes and their tax impact. Tax planning should be integrated with your overall financial planning so that tax ideas can fit in with your wider goals rather than being the ones that drive all of your financial decisions. For families, collaborative planning within marriages and across generations typically produces better results than individual strategies. Choosing the right tax professionals according to personal needs and circumstances allows access to expertise customized to individual scenarios.



Organize tax forms as they pertain to electronics throughout the year so it is as simple as filing and be sure to treat yourself to all of the deductions. Conversely, why try to change tax benefits received from a tax position simply because it is inconsistent with that taken in another year? A consistent, reasonable tax position is a memorial to an earlier tax position and reduces audit risk while maintaining a legitimate tax benefit. Most importantly, maintaining perspective on tax planning as only one aspect of financial health helps avoid tax-motivated decisions that might undermining wider financial plans — after all, the end goal is to maximize after-tax wealth instead of minimizing tax at any cost.

## SELF ASSESSMENT QUESTIONS

### Multiple Choice Questions

1. **Under which section is TDS deductible on salary payment?**
  - a) Section 191
  - b) Section 192
  - c) Section 193
  - d) Section 194
2. **What is the threshold limit for TDS on rent for plant and machinery under Section 194-I?**
  - a) ₹1,80,000 per annum
  - b) ₹2,40,000 per annum
  - c) ₹30,000 per month
  - d) ₹20,000 per month
3. **When is TDS on salary required to be deducted?**
  - a) At the time of payment
  - b) At the time of credit to the employee's account
  - c) At the time of payment or credit, whichever is earlier
  - d) At the time of filing TDS return
4. **The due date for payment of the first installment of advance tax for all assessees (except companies) is:**
  - a) 15th March
  - b) 15th June

- c) 15th September
- d) 15th December
- 5. **The rate of TDS on payment to resident contractors is:**
  - a) 1%
  - b) 2%
  - c) 5%
  - d) 10%
- 6. **The due date for filing the TDS return for the quarter ending March is:**
  - a) 31st May
  - b) 30th June
  - c) 31st July
  - d) 30th April
- 7. **Which of the following assessments is made based on the return submitted by the assessee without any further inquiry?**
  - a) Self-assessment
  - b) Summary assessment
  - c) Scrutiny assessment
  - d) Best judgment assessment
- 8. **Interest under Section 234B is levied when:**
  - a) Advance tax paid is less than 90% of the assessed tax
  - b) Return of income is not filed on time
  - c) Advance tax installments are not paid on due dates
  - d) TDS is not deducted as per provisions
- 9. **Which of the following is *not* a legitimate tax planning measure?**
  - a) Splitting of income among family members
  - b) Restructuring salary package
  - c) Deliberately showing incorrect income
  - d) Investing in tax-saving instruments
- 10. **The time limit for completion of assessment under Section 143(3) is:**
  - a) 9 months from the end of the assessment year
  - b) 12 months from the end of the assessment year
  - c) 18 months from the end of the assessment year
  - d) 21 months from the end of the assessment year



### Short Questions

1. What is Tax Deduction at Source? Explain its significance in the tax collection system.
2. Explain the provisions regarding TDS on salary under section 192.
3. What are the due dates for payment of advance tax for individuals?
4. Distinguish between tax planning, tax avoidance, and tax evasion.
5. Explain the provisions of section 194J for TDS on professional services.
6. What is self-assessment? How is it different from summary assessment?
7. Explain the consequences of non-deduction or non-payment of TDS.
8. What is scrutiny assessment under section 143(3)?
9. Explain the provisions relating to interest under section 234B and 234C.
10. What are the key areas of tax planning for a salaried individual?

### Long Questions

1. Explain in detail the provisions relating to Tax Deduction at Source on various payments under the Income Tax Act. What are the consequences of non-compliance?
2. Discuss the provisions relating to advance payment of tax. What are the due dates for payment of advance tax for different categories of assesseees and what is the interest liability for defaults?
3. Describe the various types of assessment under the Income Tax Act. Explain the procedure for scrutiny assessment under section 143(3).
4. What is tax planning? Differentiate between tax planning, tax avoidance, and tax evasion. Suggest some legitimate tax planning measures for a salaried individual.
5. Mr. X is a salaried employee with gross salary of Rs. 12,00,000. Suggest a salary restructuring plan to minimize his tax liability: [Provide detailed problem with various allowances, perquisites, and restructuring options]

6. Discuss the TDS provisions applicable to contractors and professionals. What are the rates, threshold limits, and compliance requirements?
7. Explain the concept of best judgment assessment under section 144. Under what circumstances can the Assessing Officer resort to best judgment assessment?
8. Elaborate on the provision of summary assessment under section 143(1) and scrutiny assessment under section 143(3). What are the time limits for completion of these assessments?
9. Discuss the various tax planning strategies related to income from house property and capital gains. How can an individual minimize the tax liability on these incomes?
10. Mr. Y has the following estimated income for the financial year. Calculate his advance tax liability and the due dates for payment: [Provide detailed problem with quarterly income estimates and advance tax calculation]





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## MODULE IV

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### **STRUCTURE:**

**UNIT 9: Income Tax Authorities**

**UNIT 10: Central Board of Direct Taxes (CBDT)**

**UNIT 11: Sanctions and Law Enforcement-Penalties**

**UNIT 12: Recovery of Tax**

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## UNIT 9

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### INCOME TAX AUTHORITIES

#### Income Tax Authorities

##### Objectives

- To understand the structure and organization of income tax authorities
- To learn about the powers and functions of various income tax authorities
- To comprehend the assessment procedure, penalties, and prosecution provisions
- To develop knowledge about tax rebates, reliefs, and refunds

#### 4.1 Structure of Income Tax Authorities

##### Central Board of Direct Taxes (CBDT)

CBDT works under the Department of Revenue in the Ministry of Finance. It is the highest governing body overseeing direct tax law implementation in the country. The CBDT, which is the administrative authority for the Income-Tax Department, was established by the Central Boards of Revenue Act in 1963 and provides vital inputs for policy planning and the formulation and implementation of direct tax laws, including income tax. The body consists of a Chairman and 6 Members - each assigned specific portfolios such as income tax, legislation, audit, investigation, revenue and taxpayer services. CBDT advises the government on policy matters connected with direct taxes and is responsible for the administration of direct tax laws through the income-tax department. It supervises all subordinate income tax authorities to ensure their compliance with statutory responsibilities. In addition to these powers, the CBDT also has quasi-judicial powers arising out of issuance of circulars, notifications and instructions for guidance of officers and clarification of application of tax laws. It plays a crucial role in formulation of proposals of budgetary proposals regarding direct taxes and formulation of procedural norms regarding collection of taxes and mechanism of refund of taxes. It also interacts with global tax



agencies for treaties, information sharing etc. and transfer pricing rules. The role of the CBDT is vital as it lays down high-level administrative and regulatory framework for efficient and fair enforcement of direct tax laws which forms part of the national revenue system and enhances the trust of the taxpayer in the system. The CBDT plays a very crucial role in income tax administration in India.

They are high-ranking officers appointed under the Income Tax Act, and have to supervise the larger geographical area with several Income Tax ranges and circles. They serve as the essential link between the CBDT, and the field level officers, ensuring that policies, rules, and directives issued by the CBDT is correctly translated into action on ground. Each Chief Commissioner is responsible for supervisory and administrative control of the Commissioners of Income Tax appointed under him/her. They keep watching overall performance indicators such as revenue collection, levels of compliance, audit reports, and grievance redressal machinery. They are also granted authority to approve developing high-stakes prosecutions or reassessments (especially where the tax evasion involves significant money or complex fraud). Periodic reviews and training of their officers are also facilitated by Chief Commissioners for uniform interpretation and application of tax laws by the Department. They sometimes also function as appellate authorities in departmental issues, like promotions, transfers, and queues of inferior officers. In addition, they help in strategic planning by analyzing the regional trends in tax collections and advising the CBDT in making necessary changes in policies. Their managerial and supervisory roles which requires a deep understanding of fiscal laws, administrative procedures and leadership competencies. Chief Commissioners and their team play a great role in ensuring that income tax machinery works for you smoothly, effectively, and in accordance with the national goals.

### **Commissioners of Income Tax**

Income Tax Commissioner sits immediately below the Chief Commissioner and is responsible for the administration of one or more Income Tax departments (assessment, appeals, investigation, audit, TDS). They shall be appointed as Commissioner of Income Tax (Appeals), Commissioner of Income Tax (TDS) or

Commissioner of Income Tax (Exemptions), etc. depending upon the cadre of the Commissioner. They have the power to implement the orders of the CBDT and the Chief Commissioner in their areas. They ensure that assessments are done in an efficient and fair manner. They also hear and dispose of appeals that the taxpayers file against an assessment order made by the lower authorities. They are also involved in reviewing politically sensitive cases that could involve tax evasion or misreporting. The Commissioners are responsible for overseeing the assessment of taxes, issuing refunds, and ensuring that taxpayers comply with the law. They can also open investigations in suspected evasion cases and propose penalties or prosecution based on the findings. Their guidance is pivotal in the interpretation of law and settling disputes in intricate matters. They regularly audit, approve search and seizure operations, and supervise the workload of Additional or Joint Commissioners. Given their multi-faceted position, they are integral to achieving accountability, transparency, and justice in tax administration.

### **Police Additional/Joint Commissioners**

Income Tax officers of the Additional Commissioner and Joint Commissioner ranks are intermediate supervisory officials deployed in functional areas to assist the Commissioners. Such officers play a critical role in addressing the significant number of tax-related matters and in executing efficiencies more widely across the area of operations. For example, if they are an auditor, they will review complicated tax returns that include large businesses, international business deals, or high-net-worth individuals. They may also be in charge of specialized units like Transfer Pricing or International Taxation. These officers exercise quasi-judicial powers to determine income, issue notices, summon documents and, in some cases, impose penalties. They have the power to inspect records, question individuals and provide indications to the assessing officers with a view to resolve complex tax related issues. In addition, they frequently oversee scrutiny assessments, particularly in cases marked for potential tax evasion or misrepresentation. He said their job is to strike the balance between making sure taxpayers can comply, while enforcing tax law. As supervisory authorities, they guarantee the quality and legality of examinations by officers controlled by them. They can also call upon themselves to resolve differences in



interpretation or application of tax law among subordinates. The analytical expertise and leadership of the tax account administration team streamlines tax assessments and maximizes administrative efficiency. In summary, these Additional/Joint Commissioners pave the way for more effective tax administration, facilitating efficient conduct and support for tax governance with diligent oversight.

### **Deputy/Assistant Commissioners**

A officer of the Indian Revenue Service (IRS), and are the working backbone of the income tax system. The officers are directly responsible for assessment and enforcement actions under a plethora (50+) of provisions contained within the Income Tax Act. They are responsible for the day to day scrutiny of returns, collecting evidence, holding inquiries and passing assessment orders. These officers also investigate failure to comply, make penalty recommendations and, in certain situations, initiate prosecution action. Deputy Commissioner generally deals with more complex/higher value cases and may have ITOs reporting in their Divisions. They are responsible for enforcing tax laws, conducting routine audits, and addressing complaints from taxpayers. While they wield similar authority, the Assistant Commissioners often serve at the behest of Deputy Commissioners and may often be the first personnel who interact with the taxpayer during an assessment. These respective officers are the ones who deal with litigation at the level of the department and also they represent the department before the appellate authorities or before the tribunals. They make sure that evaluations are just, honest, and done inside a sensible timetable. They have to have an extensive knowledge of income tax law, accounting standards and investigation techniques. Deputy and Assistant Commissioners, stationed at the operational doorstep of the revenue department, play an instrumental role in upholding the fairness and credibility of India's tax system.

### **Income Tax Officers (ITOs)**

Income Tax Officers (ITOs) of the Income Tax Department are essential officers for the practical implementation of the provisions of income tax laws. They are usually in Group B of the IRS and answer to a Deputy or Assistant Commissioners. Functions include screening income tax returns, Scrutiny

assessments, Deduction verification and tracking suspected default assessment. They also survey business premises, gather evidence, and verify the accuracy of declarations by taxpayers. "It can send notices regarding non-compliance, seek additional documents and reassess income if discrepancies found. They are also responsible for processing rebates and communication with the taxpayer. They frequently arbitrate petty disputes, instruct taxpayers on procedural issues and pursue tax collection. Since they are the officers whom taxpayers frequently interact, their role has significant impact on the public perception of the income tax department. ITOs must be detail-oriented, analytical, and knowledgeable in the legal and procedural aspects of tax administration. Their works are constantly examined by higher authorities, which aids in maintaining a system of checks and balances. It is due to their direct role in implementation of tax laws and the volume of cases they handle that ITOs constitute the backbone of the income-tax machinery in India.

### **Tax Recovery Officers (TROs)**

TRO is an official who has been given special powers to collect and recover tax dues under the Income Tax Act. A case is forwarded to the TRO by the BIR to initiate recovery proceedings when a taxpayer defaults on payment of the assessed tax due within a prescribed period. TROs hold powers equivalent to that of a civil court and can attach and sell the movable and immovable properties of the defaulter, garnish bank accounts and, even arrest and detain the assessee under certain conditions. They also give recovery messages, eat tax arrears, the government dues will also come from JGREPORTER.COM TROs work under the administrative control of senior tax officers such as Commissioners or Chief Commissioners and are responsible for the aggregate tax recovery within their functional area. If recovery becomes hard, they are empowered to recommend write offs or settlement under schemes such as the Direct Tax Vivad se Vishwas Act. Their functions are quite specialized and enforcement-oriented, including liaising with local revenue and police authorities for carrying out orders for attachment or sale. TROs are an integral tool in guaranteeing that the revenue that has been assessed by the department actually goes to the government treasury. In the absence of an efficient tax



recovery mechanism, tax assessments are mere paper exercises and that is why Temporary Restraint Orders (TROs) are crucial in the tax administration.

### **Inspector of Income Tax**

The income tax inspector is hired as an entry-level field officer and assists the superior authority in performing assessment and enforcement operations. FAQs: They typically work under the supervision of the ITOs and assist in the surveys, verification of taxpayers' details, physical inspections of business premises, and collection of evidence. Inspectors are an integral part of any search and seizure operation, preparing field reports, inventories and gathering information to establish the facts of a case. They are responsible for validating the taxpayers' financial condition, verifying the accuracy of reported properties and debts, and aiding in the delivery of notifications. Inspectors also maintain contacts with local authorities and banks to gather key information for tax enforcement. They are often a part of original investigations on the ground, giving firsthand observations that go into making accurate assessments. Although they do not themselves possess assessment authority, their field work provides the very groundwork upon which tax assessments and legal activity are conducted. They also have administrative functions such as record-keeping, litigation support and liaising with audit squads. It is crucial that these records are accurate and complete so that the department can operate adequately and legally. Inspectors play an important role in both preventive and punitive aspects of the tax administration as they are the backbone of the field investigation wing of the income tax department. Their commitment and on-the-ground groundwork tremendously augment the machinery of direct tax enforcement in India.

## **4.2 Income Tax Officer Powers and Functions**

### **A Crown Jewel of Tax Administration: Power to Call Information**

ITO Income Tax Officer Powers and Functions – The ITO is an important cog in the wheel of tax administration and is vested with numerous powers and functions which aid in the efficient discharge of the functions of income tax implementation and enforcement. The "Power to Call for Information" is one of such important powers and has been described as the key to achieve compliance and accurate assessment of the logic behind taxable income. Under multiple

provisions of the Income Tax Act, this power is bestowed with the ITO, allowing them to require and receive information, books of accounts, and details from the taxpayer and such persons or entities, as is relevant in the context. Sensitive nature of the Demand Power: The Demand Power under Section 132 may seem intrusive, but when exercised prudently, it allows the ITO to obtain the necessary data that serves as the foundation for assessing tax liability, evaluating financial transactions, and detecting potential cases of tax evasion or avoidance. The extent of this power is intentionally broad to enable the ITO to seek information related to varied aspects for the purpose of income assessment. These can range from income received from different sources, investments made, expenses charged, assets possessed, and liabilities owed. ATO has the authority to issue notices under relevant sections of the income tax act and such notice has to be complied with by all individuals whether in the form of companies, partnerships, trusts, or any other entity. Such notices could require to submit financial statements, bank account details, property papers, contracts and any other document which ITO considers necessary for the assessment. And the potency of all this goes beyond mere documentary evidence; the ITO may also summon people for oral explanations or clarifications with respect to their financial affairs. Thanks to this dialogue, the ITO is better able to penetrate complex business transactions and grasp the economic realities underpinning transactions, which is often not easily discernible from the written records alone.

Here are some strong reasons why the "Power to Call for Information" should be used effectively. On the one hand, it allows the ITO to have rapid and accurate assessment of the income. With detailed information from taxpayers, the ITO can ascertain whether the returns filed are correct and if there is any misrepresentation or under-reporting of income. Second, this power deters tax evasion. The ability for the tax authorities to request detailed information helps to encourage taxpayers to be more upfront and compliant in their financial affairs. Finally, it allows for the examination of possible tax fraud and other financial abuses. The ITO, with the help of dotting information collected from various channels, can detect such complex plans to evade their tax liability. But keep in mind that the power is not unlimited, and there are restrictions and safeguards that protect taxpayers' rights. This power must be exercised in a fair





and reasonable manner and in accordance with the principles of natural justice — that is, the information it asks for should be relevant to the assessment.

### **Power of Survey, and Power of Search and Seizure: Investigative Tools for Tax Compliance**

In addition to the normal power of summons, the Income Tax Officer also holds more proactive and invasive investigation powers, viz., the “Power of Survey” and “Power of Search and Seizure.” These powers are invaluable to the tax administration in the limited circumstances where the tax authority has reason to believe taxpayers may be hiding income or failing to pay tax. The "Power of Survey," as a substitute of search by ITO, which again is not full search, only certain enter to the premises of business or profession during business hours for the purpose of verification of books of accounts, stock-in-trade, etc. A survey is primarily conducted to obtain up-to-date information, detect any discrepancies, and verify the correctness of record keeping. This grant of power to ITO allows them to make surprise visits, look into their business dealings, and gather preliminary evidence without a warrant. This means that while taxpayers can be surveyed without prior notice, this is generally done on business (not private) property during operational hours, thereby respecting the privacy and operational flow of the taxpayer. An inquiry or evaluation that utilizes data compiled from a survey. The “Power of Search and Seizure,” on the other hand, is a much more potent and intrusive power to be relied on only there is credible information, or reason to believe, that a taxpayer had secreted, or is likely to secret, income-producing assets or documents relevant for the purposes of tax assessment that would otherwise not be made available. Such power can be exercised only after obtaining warrant from prescribed authority granted based on name suggestive of tax evasion. The search operation empowers the ITO along with authorized officials to enter any premises (including residential premises) at the place of which he has reason to suspect that the accessions containing income or evidence of the nature specified above. The officials can break open locks, open boxes and seize books of accounts, documents, money, bullion, jewellery and other valuable articles, which, according to them, are undisclosed income (money that is not declared) or evidence of tax evasion, during the search. They also take the seized assets and documents into their

custody. Until 4 a.m at the next day long, established, and followed procedures must be observed when exercising the power of search and seizure to protect the rights of the persons being searched. These include for example the presence of independent witnesses at the search, forming a detailed inventory of the confiscated items, presenting a copy of such an inventory to the person whose premises is being searched, etc. In addition, there are various mechanisms within the Income Tax Act to challenge the validity of a search and seek the release of assets during which if it is not found to have been utilised for undisclosed income. Such powers of survey and search and seizure are necessary for checking tax evasion and safeguarding the integrity of the tax system, but there should be responsible exercise of such powers in accordance with the due process of law so as to ensure an appropriate balance between effective tax administration and the protection of taxpayers' rights and privacy.

### **Section 162 — Power to Call for Books, Obtain Information, Summon Witnesses, and Administer Oaths: Obtaining Essential Information and Testimony**

With its business and powers, the Income Tax Officers are best equipped with the right to be given resources to enable them to discharge their responsibilities. These are the Power to Inspect Registers, the Power to Collect Information, the Power to Issue Summons, the Power to Enforce Attendance, and the Power to Examine on Oath. Power to Inspect Registers—The ITO can inspect and verify the books of accounts and other registers maintained by a business or professional. This is very important to confirm that the proper records are kept and the financial transaction is correctly accounted for. One of the primary reasons behind the ITO checking these registers is to verify the accuracy of reported income by individuals and businesses. The power is usually exercised will be exercised as regards surveys or following on to information received via other means. Exercise of Power The second power, Power to Collect Information, is a wide enabling power, empowering the information technology officer (ITO) to obtain information from any source of data relevant to an income tax assessment. This should include gathering data from banks, financial institutions, government departments, registrars of properties, and other bodies that hold information on the financial transactions and assets of



taxpayers. This enables the ITO to construct an overall assessment of a taxpayer's financial landscape and potential tax evasion hotspots. This power, in turn, supplements the existing power to seek information from specific taxpayers by enabling the ITO to access broader networks of data. By the act of legally serving summons to such an entity the ITO potentially has the "Power to Issue Summons" to an individual, where upon failure, they can be compelled to appear before this body and be legally obligated to provide information, documents and/or evidence as its relevant to a tax assessment/ investigation. The meaning of this power is similar to the power of a civil court and is an important tool available to the setting of testimony and the collection of important documents that a taxpayer would usually not be willing to transfer voluntarily. The summons shall specify the time, place, and purpose of the appearance and the documents required to be produced. If a summons is not complied with, it can be punishable. The ITO also has the "Power to Enforce Attendance" to ensure that these summons are duly complied with. In case a person does not appear before the ITO despite being served with a summons in the prescribed manner, the ITO can take steps to secure his attendance in the same manner as in the case of a civil court, which has similar powers in this respect. This is to ensure that the ITO is able to collect the required testimony and evidence. Besides bringing witness attendance, the ITO also possesses the power to examine on oath. This gives the ITO the power to record the statements of witnesses under oath, making their testimony legally binding. This is an important mechanism for ensuring the accuracy of the information submitted and for deterring people from making false or misleading statements. Such statements shall be taken under oath and shall be admissible in evidence in any assessment proceeding or investigation. Empowered by these interconnected powers, The Income Tax Officer has the ability to uncover potentially hidden financial activity, ensure compliance, and gain testimony under oath, thus forming a comprehensive investigative mechanism in matters of income tax.

### **Power of Discovery and Production of Evidence and Assessment Powers: Culmination of Investigative and Judicial Functions**

Even after the Income Tax Officer completes his fact collecting and investigative duties, the real work begins to adjudicate the relevance and the

context of the information collected through his investigation. The "Power of Discovery and Production of Evidence" and the "Assessment Powers" are at the pinnacle of the ITO's investigative and quasi-judicial roles in the tax administration process. Power of Discovery and Production of Evidence- “may for the purposes of the proper performance of their functions, issue summonses for the discovery/production of any document or evidence which in his opinion is relevant to the assessment” This is similar in nature to the powers of a civil court and enables the ITO to demand the production of prescribed books of accounts and/or documents from any individual who is considered to have the necessary information that will assist in determining the income of a taxpayer. In practice, this power is exercised along with the power to issue summons to ensure all documentary evidence is available for the ITO to make a fully informed assessment. Compelling the production of evidence is one of the most important aspects of verifying tax returns and discovering hidden income or overstates deductions. Relying on the various information sources as discussed above, plus the tax or even non-tax related ITO powers, the ITO has wide-ranging "Assessment Powers". Assessment is the process through which the ITO ascertains a taxpayer's income chargeable to tax and the tax payable. Meaning examining the tax return, reviewing the supporting documents and/or evidence attached, and asking questions/investigating if necessary. Different types of assessment are provided in the Income tax act, for e.g. self-assessment (the taxpayer assesses his own income and pays tax), a summary assessment (the assessment based on return filed without detailed scrutiny), scrutiny assessment (ITO does a detailed scrutiny of the return and justified documents), best judgment assessment (where ITO makes assessments based on available information in case taxpayer fails to file a return or provide required information) and reassessment (an assessment is reopened if there is a reason to believe that income has escaped assessment). The ITO performs in quasi-judicial capacity while exercising their assessment powers, and interpretations of the Income Tax Act must be aligned with the facts and evidence. They can deny claims for deductions or exemptions if they are not satisfied regarding the genuineness or validity of such claims. They can also restore income they think has been underreported or hidden. When issuing an assessment, ITO has to follow the principles of natural justice, allowing taxpayer to be heard before



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making an assessment. The order passing the assessment by the ITO contains particulars of the taxable income determined, the tax payable, and any penalties or interest levied. The taxpayer aggrieved by an order of assessment may file an appeal against the same to higher tax authorities. Article I — ITO (source)'s Assessment powers. The assessment powers of the ITO are integral to the smooth operation of the income tax mechanism, because it guarantees that taxpayers are analysed truly and precisely in accordance with their income and as per law. Exercising such powers within the law, and in a fair manner, is critical to preserving the integrity of the tax system and ensuring that the tax system exacts its due by requiring all taxpayers to pay their own share into the public exchequer.

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## UNIT 10

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### Central Board of Direct Taxes

#### Constitution of CBDT

The Central Board of Direct Taxes (CBDT) is a statutory body constituted under the Central Boards of Revenue Act, 1963. It is the highest authority in India for framing and enforcing direct tax laws. There was one agency-Central Board of Revenue-Pre-1944 which was responsible for both direct and indirect taxation. The board was later bifurcated into CBDT and CBIC (Central Board of Indirect Taxes and Customs) by order of the government due to the growing complexity of tax administration. The GCSTT is an entity under the Department of Revenue, Ministry of Finance, operating under the CBDT. It is composed of a Chairman and six members, chosen from the Indian Revenue Service (IRS). Each of them are in charge of different portions (like legislation, revenue, audit & judicial, income tax, investigation, admin, etc). The Board has both an administrative and advisory function. It advises the Government of India on policymaking; and also engaged in the planning and implementation of direct tax policies. It also monitors the operations of the Income Tax Department and ensure tax laws are implemented evenly across the nation. CBDT also being a central authority its constitution facilitates streamlined tax administration and tax policy development process across the country. Therefore the Central Board of Direct Tax (CBDT) functions as the country's governing body for the direct tax department, with a statutory backing that gives it the legal authority to operate across all regions of India ensuring standardized implementation of tax rules and practices. The Constitution of India empowers the CBDT with wide-ranging authority to strengthen the fiscal system in the country and ensure that the revenues collected contribute to the national development.

#### Powers of CBDT

Most of the powers of CBDT are essential for smooth tax administration in India. CBDT is empowered to exercise administrative functions and statutory functions as prescribed under the provisions of Income Tax Act, 1961 and the Central Boards of Revenue Act, 1963. Some of Its main powers include the



issuing of directions, rules, and regulations pertaining to the proper administration of direct tax laws. Such directions shall be binding on the Income Tax Department and its officers, bringing a uniformity in approach in the field of tax enforcement and assessment across the geography of the country. Under the Income Tax Act, the CBDT is also empowered to frame rules under various provisions of the Income Tax Act to give effect to the legal provisions, to remove ambiguities and for providing procedural clarity. Another key power is the power to assign or reassign jurisdiction to tax officers and officials. It is used to assign cases from one assessing officer to another to ensure neutrality and efficiency. The CBDT also issues guidelines for scrutiny, audits, and investigations into potential tax evasion cases that play a vital role in tax detection and investigation processes. In addition, it can conclude treaties with other states for the prevention of double taxation and exchange of information on taxes. It monitors the working of individual field officers and takes disciplinary action in case of misconduct or inefficiency. These powers are derived from a set of institutions and are subject to checks and balances. The Board has the authority to exercise these powers in order to help maintain – and increase – both the integrity of the tax system overall and voluntary compliance with it, while also working to ensure that tax laws are both equitably and effectively enforced.

### **Functions of CBDT**

#### **Income Tax Law and Other Practices**

In this context, the Central Board of Direct Taxes (CBDT) is also entrusted with advisory, administrative and regulatory functions for effective governance of direct taxation in India. Policy formulation: Formulating policies on direct taxes like income tax, wealth tax (currently dissolved) and corporate tax is one of its most important duties. It provides recommendations to the Union Government on legislative proposals and amendments and reforms to enhance the tax structure, streamline the process and increase compliance. The CBDT also plays an important role in formulating and enforcing the laws of direct taxes through the Income Tax Department. It oversees field formations, supervises assessment processes, and manages issues of collection, refunds, and appeal. CBDT is also responsible for investigation and prosecution of tax evasion and other offenses. It plays an important role in providing officers with

guidance and training, which in turn empowers them to detect and prosecute more complex types of non-compliance cases. The Board is also charged with taxpayer services including grievance redressal, simplification of procedures, and building awareness about tax laws. It also deals with International Taxation such as transfer pricing and signing of Double Taxation Avoidance Agreements with other countries. Moreover, the CBDT also compiles and presents reports on tax collections and tax expenditure to both the Ministry of Finance and Parliament. By performing these multiple roles, the CBDT not only facilitates a smooth running of the taxation machinery, but also strives for the balance between revenue collection and taxpayer facilitation. It plays an important part in establishing a tax culture of equity, openness, and accountability.

### **Administrative Instructions and Circulars of CBDT**

The CBDT issues instructions, circulars, and guidelines for clear guidelines for the uniformity and procedural aspect of implementation of direct tax laws. These papers play a vital role in directing income tax officers in India in their daily functioning. Circulars are typically issued for the interpretation and clarification of certain provisions under the Income Tax Act. They clarify ambiguities in tax laws and promote uniformity in their implementation. A circular, for example, may explain how a specific deduction needs to compute or why an exemption is viable. Instructions, conversely, are generally administrative in nature and issued to field officers of the Income Tax Department. They are about issues such as how to select cases for scrutiny, time-bound processing of returns, or conduct of search and seizure operations. Circulars and instructions are obligatory to be followed by income tax officers but not for the taxpayers and courts, although they may be persuasive in a judicial forum. The issuance of documents of this kind aid in making certain that the tax law is administered fairly and evenly across the country. It also lessens the amount of litigation by giving taxpayers and officers clarity on matters likely to be the subject of disagreement. Periodically, the CBDT also issues notifications to give effect to amendments made in Finance Acts, changes in rates or simplified forms. These tools allow the department to quickly react to legal and administrative developments and keep the tax system flexible and efficient. In summary, instructions and circulars issued by CBDT function as a





crucial communication link between tax policymakers and enforcers, facilitating proper interpretation and enforcement of India's tax laws.

### **Powers and Functions**

Commissioner of Income Tax (CIT) is a central function to the hierarchy of the Income Tax Department and exercises a wide range of powers and duties which are to be ensured in execution of the Direct Tax laws in India. According to the Rule of the Income Tax Act of the CIT as a supervisory and controlling authority of the AOs and other subordinate officers in a prescribed territorial or functional jurisdiction. The commissioner is responsible for formulating policy taking legal provisions into account and ensuring uniform interpretation and application of tax laws. One of the significant powers granted to the CIT is the ability to issue directions and guidelines to officers who are under his control, and these directives shall be binding unless it found to be illegal or unreasonable. CIT also wields assessment powers in specific or convoluted matters assigned to it by the Central Board of Direct Taxes (CBDT). The Commissioner can also issue orders authorizing operations to be carried out under the enforcement of a survey (Section 133A), allowing reopenings of assessments (Section 147), or allowing rectifications or revisions to be made to certain orders that have been enacted by subordinate officials. The thrust of the CIT, as the nerve centre of administrative as well as quasi-judicial functions within the departmental set-up brings on board field officers and central authorities, enhancing accountability and transparency. His responsibilities also include strategic planning for collection of taxes, disposal of appeals in some cases, quality control of assessments and internal audit of the functioning of the department. To sum it up, the powers and functions of CIT includes administrative, supervisory as well as quasi-judicial functions contributing all the more in upholding the integrity and smooth functioning of the tax administration system. Given his role in India's tax governance framework, the Commissioner's decisions have far-reaching implications on mobilization of revenues and legal interpretations.

## **Administrative Control**

The Commissioner of Income Tax has general powers of administration over all the officers and staff working under him in a particular jurisdiction. It is imperative for the smooth functioning and coordination of the activities of the departments of all the income tax offices falling within his jurisdiction. The Commissioner ensures the correct implementation of the policies, guidelines, and instructions as issued by the Central Board of Direct Taxes (CBDT), and supervises the day-to-day activities of the Assessing Officers, Additional Commissioners, Deputy Commissioners, and other staff. The administrative control also implies supervisory control over matters like transfer, promotion, disciplinary action, leave, and performance-related matters. The Commissioner has the authority to assign tasks to different officers, and can reassign cases.<sup>312</sup> This authority to reassign has been essential to maintaining equitable workloads and swift disposals. He is also involved in the monitoring of targets concerning tax collection, processing of refunds, disposal of appeals and imposition of penalty. The CIT continues monitoring departmental functioning, detecting inefficiencies, and taking corrective measures through this network of regular meetings, site inspections and reporting systems. To this end, the ministry must supervise tax officers diligently to ensure compliance in professionalism, integrity, and timeliness. And also coordinate with other line departments, and work to organize training programs and taxpayer awareness programs. Administrative control is also related to office infrastructure, budget utilization, and grievance redressal mechanism for taxpayers and employees. To summarize, the Commissioner's core functions of administrative control lie at the heart of organizational governance in the income tax system, ensuring measures to optimize management of human, financial, and procedural resources to meet the objectives of the Department. In addition to helping the department efficiently deliver services to the people of the state, this role ensures the department's accountability, transparency and legal compliance.

## **Revisional Jurisdiction**

This is what gives the Commissioner of Income Tax limited revisional jurisdiction under sections 263 and 264 of the Income Tax Act and the



Commissioner can revise an order passed by a subordinate officer in case it is contrary to law or if it would cause loss of revenue or injustice to the assessee. In all cases where that an order passed by an Assessing Officer is erroneous as well as prejudicial to the interests of Revenues, the CIT may revise any such order under Section 263 when he refers to and inspects the record of any proceeding under the Act. This is a suo moto power and generally used to redress assessments that are not only incorrect in law, but also which suffer from a grave error of procedure. The purpose in all these cases is to save the interest of the revenue by seeing that the assessment in respect of each applicable tax is in accord with the statutory provisions. Whereas, in terms of section 264, the CIT can revise any order passed by subordinate authority suo moto or on filing of application by assessee. This is a relief to the taxpayers in the cases where the taxpayers have suffered because of unreasonable or wrong assessment orders. But subject to certain conditions like that the issue should not be pending before any appellate authority. The exercise of revisional jurisdiction is quasi-judicial and therefore, the authority is required to maintain proper record and make reasoned orders. It, therefore, serves as a protection against arbitrary or legally untenable orders of the assessing authorities. Interviewers, therefore, agree that in general, they are working from the data set to extract information on information with their retrospective functions and being registered by the tax application process by ensuring legally sound, fairness and accountability. It offers a corrective tool to the department and a taxpayer, embodying the balance in tax governance.

### **Appellate Functions**

The Commissioner of Income Tax (Appeals), abbreviated as CIT(A), plays a vital role as appellate authority under the Income Tax Act. While this is a distinct designation from the more general CIT, in many contexts, appellate functions are given to a commissioner-level authority. The CIT(A) is part of the hierarchy of appeals, which is the first appellate authority where taxpayers who are aggrieved by the orders passed by the Assessing Officer can lodge appeals. The appeal shall be filed within 30 days from the date of receipt of the assessment order, penalty order or any other order as prescribed under the Act. CIT(A) has the authority to uphold, modify, increase or cancel the order issued

by the Assessing Officer. He may also return the case for further inquiry or additional evidence, although this practice has become rare following amendments to the Finance Act. The appellate process could be bifurcated into written application, record examination and argument, such that both the assessee and department have the chance to plead their case. The CIT(A) is expected to act in quasi-judicial capacity and is supposed to deliver a reasoned, speaking order with reference to law and facts. The orders made by CIT(A) are binding till the time the appeals are filed before the Income Tax Appellate Tribunal (ITAT). CIT(A) plays an important role in dispensing tax justice and upholding the sanctity of the system of taxation by verifying that assessments made at lower levels are consistent with the principles of legality and procedural fairness. The appellate function role also indirectly vis a vis the development of tax jurisprudence as most CIT(A) decisions do get debated and analyzed by higher appellate forums. Overall, the appellate role of the Commissioner enhances the transparency, legal rectitude and fair play in the income tax proceedings thereby strengthening the confidence of the taxpayer in the other available remedial mechanisms within the department.

## **Procedure of Assessment**

### **Filing of Return**

The process of assessment under the income tax laws begins with the submission of return by the assessee. A return of income is a formal statement filed with the income tax department by a taxpayer showing the total income, deductions claimed, taxes paid, and tax due or refund claimed. Section 139 of the Income Tax Act, 1961, requires a number of categories of taxpayers, like Individuals, Hindu Undivided Families (HUF), firms, companies, etc., to file returns once in a year and by due dates. The source of income and the amount of income determine the nature of return forms. That should have been simple to grasp — for example, if you're salaried, you generally file ITR-1 or ITR-2, whereas a business might file ITR-3 or ITR-4. It is critical that you file on time to avoid penalties, interest, or losing the opportunity to carry forward losses. Attention could file the return online on the income tax e-filing portal, which gives some pre-filled data to ease a few work. After filing it, the assessee must



also verify it by means of Aadhar OTP electronically or sending the signed ITR-V to the Central Processing Centre. This is the necessary step to begin the evaluation. Hence, filing the return is not just to be done for compliance, but it is also a declaration of financial responsibility and basis for further actions of the assessing officer. In the event that such return is not filed or is filed incorrectly, the Income Tax Department may take assessment on best judgment basis or may take penal action as per applicable provisions. So in this connection the filing of return would be the first stepping stone of the complete mechanism of assessment in which it will be reflecting the income of a taxpayer along with intentions and tax compliance. It creates a legal document and the basis on which further actions in the assessment process, including those by the authorities for verification, scrutiny or computation of tax, are carried out.

### **Processing of Return**

Processing of return, which is primarily done under Section 143(1) of the Income Tax Act, 1961 is the next step in the assessment procedure after the return of income has been filed and verified. This is a system-based initial stage process without any human interference of checking. It is done by the Central Processing Centre (CPC) at Bengaluru, which verifies the arithmetical accuracy, internal consistency, and correctness of the return data. While processing, the department computes the tax payable or refund amount based on the information provided in the return and also matches it with the information available via Form 26AS, TDS certificates and via the bank. If any discrepancies like mismatch of TDS credits or erroneous tax computation is found, then such adjustment may take place under intimation to the assessee. This is, however, a summary assessment, meaning that there was no need for an audit or investigation of the taxpayer by a tax officer. If all seems to be well, intimation under Section 143(1), is issued confirming computation along with final tax position. This is where refunds, if any, are also processed. Return processing facilitates timely closure of the normal work and smooth administration of the tax system. Further, it is expected to minimize taxpayer grievance, ensure compliance through automation, and encourage transparency. If significant discrepancies are found during processing, however, that can result in being selected for review or more review. Under the CPC system it is possible to

process the return within a prescribed time frame —usually within 9 months of the end of the financial year of filing. Thus, return processing would serve as a key filtering mechanism for validating the taxpayer's declaration, determining basic tax dues/refunds and being a prelude for any further audit or detailed examination by the revenue authorities.

### **Issue of Notice**

The notice issue is the formal beginning of detailed proceedings in the income tax assessment process when the tax department decides to scrutinise a return more closely. Section 143(2) – If the AO is not satisfied with the return & feels the income is concealed or underreported or claims are incorrect, a notice for scrutiny assessment is issued. The AO issues this notice to the assessee asking him to attend and produce such accounts, documents or explanations as may be required in respect of the return. Likewise, in terms of provision of Section 148 notice may be issued for reassessment if the AO has reasons to believe that income has escaped assessment. A notice under Section 142(1) may also be issued for calling certain information or documents or for requiring filing of return if not already filed. Issuance of notice is a statutory obligation that has to be undertaken in due course of time & within the time limits prescribed i.e. 3 or 6 months depending upon the case. Such notice must be served on the assessee as use of any procedural loophole can invalidate the assessment. The notice serves as a communication from the department to the taxpayer to comply with the inquiry. In addition, such notices, after due service, the taxpayer is supposed to comply with within the timeframe specified under the act and in the absence of which one is subjected to ex parte proceedings. The notices can even be issued electronically through the income tax portal, while replies can also be filed digitally. This phase is an important threshold for greater examination of additional income, deductions or exemptions claimed and is a chance for taxpayers to demonstrate the integrity of their return. So, notice is the key in systems maintaining checks and balances by using these to focus on potential non-compliance situations and opening up investigative assessments when required.



## Hearing and Inquiry

Like, once the notice is issued, the characterization of the next steps of the assessment entails a hearing and inquiry where there is active engagement between the assessee and the AO (Assessing Officer). The purpose of this section is to give the assessee a fair chance to argue their case, provide evidence, answer queries, and clarify any questions or concerns raised by the AO. The AO can issue a notice under Section 142(1) directing the assessee to produce the accounts, statement, etc. for the purpose of verification. In the same line, 143(3) also provide in detailed scrutiny where AO can demand why, where from, for what purpose sources of income, claim of exemptions, investments, banking transactions. Usually, the assessee or the person being scrutinised must attend a physical hearing or file documents electronically. The AO can also carry out third-party inquiries, actuarial assessment reports or summon witnesses, if required. This stage is guided by natural justice and the assessee is entitled to be heard and defend its claim. Taxpayers must be forthright and accommodating in this process -- non compentence or reticent responses can result in adverse inferences or disallowances. The AO collects such material during the hearing and inquiry stage to determine the actual income and the tax liability. It could even include cross-checks with GST returns, foreign assets or other types of funds disclosure. This phase validates the correctness and exhaustiveness of income declared and proves key for a founded and fair evaluation order. All communications and submissions throughout the process are logged and become part of the assessment file itself. That is why the essence of any more than superficial examination is hearing and inquiry, so that taxable income can be determined fairly, based on the facts, and with transparency.

## Assessment Order

The assessment order, which is the final outcome of the assessment process, is a pronouncement by the Assessing Officer (AO) after conducting inquiries and hearings and examining the records submitted by the assessee. Such order is usually received in scrutiny cases very well under Section 143(3) or in best judgment cases to establish Section 144 where the assessee fails to respond to a notice. The assessment order finalizes the taxable income, calculates the tax due

and, if any, interest or penalties payable. It also states the reasons for rejecting any claims, if any, or additions to the returned income. It must be evidenced, documented and grounded in facts assembled in the inquiry. If tax is payable, a demand notice under Section 156 is also served along with a copy of the order to assessee. For refunds due, instead of booting out an intimation is sent. The AO (authorised officer) is required to pass the assessment order within the period prescribed under Section 153 (in most cases, nine to 12 months from the end of the assessment year). This assessment order is a quasi-judicial document and if it is unsatisfactory, the assessee can challenge it in appeal. It also serves in commencing the recovery of tax demand, penalties or prosecution in serious cases. Hence, the assessment order is the legal culmination of the assessment proceedings and needs to be precise, fair and in accordance with law. It is binding for the assessee unless appealed against/revised and plays a vital role in revenue collection. The long and short of it is that an entire exercise of tax calculation is NOT in itself an assessment order but an intent expression of tax liability, on the other hand, assessment order is more like a high court judgement backed by due process, audit, investigation, and any relevant findings of fact along with law giving the complete conviction of tax liability on the taxpayer.

### **Reassessment**

However, the reopening of a completed assessment is termed as the reassessment if the Assessing Officer (AO) feels some of the income has been escaped from being assessed. It governs sections 147 to 151 of the Income Tax Act. Reassessment is separate and different from yet another assessment and can be put in motion at any time, including after the first assessment has come to the end of its line. For the AO to reopen the case, it must have real facts or information that did not exist before — not a change of mind. For example, if a firm submits an audit report, search, survey, foreign disclosure, or other information on undisclosed income to the department, the department may initiate a reassessment. A notice is given to the assessee under Section 148, directing the assessee to file a new return within a specified time frame. Subsequently, AO makes an inquiry and issues a new assessment order under Section 147. The prescribed time limit to issue a notice for reassessment is generally 3 to 10 years depending on the amount of income involved — whether





it is more or less than the prescribed limit. However, the process of reassessment has to be consistent with the principles of natural justice, which gives the assessee an opportunity to lead evidence and also rebut the AO's claims. It cannot be of arbitrary character and should be based on recorded reasons, which ought to be recorded prior to the issuance of notice." The AO is also required to obtain approval from superior authorities before reopening after a time restriction. Reassessment is an important tool with tax authorities to detect tax evasion and curb revenue leakages. Yet it is also judicially reviewable and routinely attacked on procedural grounds. It is not the above considerations which make reassessment a power with serious consequences, and therefore one which should be exercised cautiously and in accordance with the principles of taxpayer rights and administrative justice.

### **Rectification of Mistakes**

The final step in the assessment process might include revision of errors, which is permitted under Section 154 of the Income Tax Act. Now, it gives an option to the AO (Assessing Officer) or to the taxpayer to rectify certain apparent mistakes in the order of assessment or any other proceedings. Mistakes must be "apparent from the record", i.e., they should be obvious, clear, and not requiring lengthy argument or investigation. Such examples could involve clerical or mathematical errors, wrong tax computations, or misinterpretation of established law and non-debatable principle. The AO himself can take suo motu action for rectification or the assessee can move an application for rectification within four years from the end of the financial year in which the order was passed. On receiving such an application, the AO is required to pass an order on the rectification application either accepting or rejecting the same. In case rectification leads to an increased tax liability, the assessee is required to give an opportunity of being heard before passing such an order. There might be the demand, refund, or adjustment of outstanding tax dues as a result of the rectification. Before I conclude, I must also point out that rectification cannot be resorted to in order to get a decision reviewed or examined; it is only meant for correcting mistakes which are self-evident and involve no long drawn discussion. However, when the defect is not obvious in the sense that the AO subsequently needs to re-evaluate the conclusion, he can in its place act under



## Income Tax Authorities

other conditions, such as Section 147. It ensures that small, genuine errors are not subject to months or years of litigation or injustice. It aids administrative efficiency, safeguards tax payer's rights, and helps preserve the accuracy and legality of tax records. In my opinion, rectification is purely a corrective provision aimed at assisting in ensuring that the assessment orders are error free from clerical or legal errors which can be detected and corrected easily.



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## UNIT 11

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### **Sanctions and Law Enforcement**

#### **Types of Penalties**

The Income Tax Act, 1961 provides for a number of penalties applicable for different types of defaults by the assessee. These penalties fall into two main categories, civil penalties and criminal penalties. Civil penalties, which are typically fines of various amounts, are levied for non-compliance, under-reporting or incorrect disclosures, while criminal penalties may include prosecution of willful defaulters and prison terms. Penalties may be mandatory or discretionary. Once a default is established, mandatory penal provisions need to be imposed, such as failure to file returns or make payment of tax, and the discretionary penalties depend on the judgment of the Assessing Officer. Penalties are typically imposed under various sections such as Section 270A (underreporting/misreporting of income), Section 271A (failure to maintain books), Section 271B (failure to get accounts audited), Section 271C (failure to deduct TDS) and other similar provisions. The amount of penalty varies from a fixed sum to a percentage of the tax evaded or the income underreported. Penalties have a twin purpose: to deter against tax evasion and to compel compliance with the law. However, in some cases, there is no penalty under Section 273B if the assessee can prove reasonable cause for the default. The Income Tax Department also provides compounding of certain penalties in specific cases. It is equally important to note that penalties are levied only after giving due consideration and opportunity of being heard to the assessee. To ensure that the principles of natural justice are followed. We have seen what came with and as a result of technology and e-assessments, which brought us clearer and more standardized penalty procedures. Hence, it is vital for every taxpayer to know what the nature of penalties is all about and how it affects compliance to tax regulations to stay on the right side of the law legally and financially.

## **Concealment of Income**

Hiding of income means the intentional hiding of income or reporting false information with the rajah of tax liability. Such acts are dealt with in a very severe manner under the Income Tax Act and are subject to stringent punishments. Old Section 271(1)(c) used to relate to the concealment penalty while the New Section 270A deals with under-reporting/misreporting of income. In case of underreporting of income, a penalty equal to 50% of the tax due on such income is levied. For misrepresentation (truthful) but a falsehood, for instance including false provisions and dubious deductions, the penalty increases to 200% of tax payable. Such misreporting is failure to report foreign transactions, non-declaration of income from foreign assets, etc. The income tax department uses data analytics and information on bank transactions and third parties to detect such mismatches. After serving the notice assessee is given an opportunity to explain. In case the response is not satisfactory or no response is given, the penalty is applied accordingly. The motivation driving the concealment makes a marked difference. However, if the assessee is able to prove that the mistake was a bonafide error, he can avoid the penalty under Section 273B, Penalty Mem. Also, if the assessee makes a voluntary disclosure prior to the same being detected by the department then the same may help mitigate the penalty. It can also lead to prosecution in certain cases, especially if large sums of money are involved; concealment is subject to fine. Indeed, it is becoming progressively impossible to hide income without being caught, as the government aims toward tax transparency and digital compliance. Therefore, it is important for taxpayers to accurately report their income and keep adequate documentation to support their claims. There is no penalty for honest disclosure, and it helps in the creation of a strong and transparent tax structure in the country.

## **Notice of Failure to Comply**

There are different types of statutory notices that the Income Tax Department sends to taxpayers under various sections of the Income Tax Act — Section 142(1), Section 143(2), Section 148, and many more. These notices are important for obtaining information, scrutiny and reopening of earlier



assessments. Not responding to these notices or complying can have serious consequences. If a notice/summons is not complied with, section 272A(1)(c) of the income tax act provides for penalty of ₹10,000 per default. Further, if the taxpayer continues to neglect the notices, the department may do a best judgment assessment under Section 144, estimating their income without the taxpayer having the opportunity to present their case. Such non-compliance betrays a lack of cooperation and transparency and could provoke increased scrutiny and, potentially, prosecution.” While Section 142(1) for production of documents or information as commanded is punishable under Section 276D which entails imprisonment for up to one year and a fine. Taxpayers should bear in mind that notices are not penalties in and of themselves; they provide a mechanism for clarification or correction. Answering quickly and correctly can prevent complications later. However, if the taxpayer had a justifiable reason for non-compliance—e.g., wrong address, medical reasons, technical error, etc.—the same would be submitted before the Assessing officer. All penalties may get waived if accepted. At present e-assessment and faceless schemes have come into play, and notices are issued electronically with replies to be filed through the Income Tax portal. This helps ensure faster, more transparent communication. Therefore, timely action and compliance with income tax notices is not only a legal obligation but also a strategic need to prevent financial and legal complications. To ignore such communications is to call down not just penalties but larger investigations, and potentially, criminal action.

According to Section 44AA of the Income Tax Act, specific professions as well as businesses need to keep and maintain certain books of account. Depending upon the nature and magnitude of the business or profession, these are cash books, ledgers, bills, vouchers and so on. This is to make sure that the income being declared can be substantiated and that the deductions or expenses claimed.

### **Advance Payment of Tax**

#### **Liability for Advance Tax**

Advance tax is income tax that an assessee has to pay during the financial year (FY) as opposed to at the end of the year in a lump sum. It is basically called the 'pay-as-you-earn' scheme which ensures that as and when income is earned

during the year, tax is collected simultaneously. As per the Income Tax Act of India, an individual whose estimated tax liability for a financial year is more than ₹10,000, is liable for advance tax. This is true for all kinds of taxpayers, whether salaried, freelancers, professionals or business. As an exception, senior citizens (aged 60 or more) who earn no income from business or profession do not have to pay advance tax. Salaried individuals usually do not need to worry about tax separately because their employers do tax deducted at source (TDS) every month. However, if a person has any income other than salary — such as rent, interest, capital gains, and profits from a business — he/she may be required to pay advance tax. This feature allows the government to receive a continuous revenue flow during the year and reduce the probability of tax evasion. The taxpayer is obliged to reasonably estimate his income for the year and calculate the expected tax liability. However, if the estimate is revised over the year, the taxpayer may readjust the calculation, then pay the remainder of the tax in the next installments. Interest and penalties are levied on non-payment or underpayment. So, taxpayers should properly evaluate their earnings and liabilities and fulfil the advance tax obligations to refrain from financial and legal hurdles. The tax can be either paid through an online mode or via mentioned branches in banks. When paid, the details need to be shown in the taxpayer's Form 26AS. Year-end filing of tax returns needs to match the advance tax paid in the previous year.

### **Installments of Advance Tax**

As per the provisions of the Income Tax Act, the advance tax is to be paid in a planned manner in 4 installments during the financial year. The purpose of this schedule is to authorize a gradual and reasonably timed collection in accordance with the taxpayer's earning throughout the year. Here is a brief of the due dates and percentages of taxes for individual taxpayers and non-corporate assesseees:

15th June – pay minimum 15% of the total estimated tax; 15th September – minimum 45% of total estimated tax (including the previous installment); 15th December – minimum tax payable 75% of total estimated tax; and 15th March – 100% of tax liability must be paid. For companies/corporate taxpayers, these are the same installment schedule and percentages. These payments allow for the easing of the tax load across multiple payments throughout the year and



reduce the financial crunch at the end of the financial year. Professionals and businesses whose income may vary are a good example, as it is important to estimate actual income and tax computation and base every installment on the updated estimate. A taxpayer can also pay the entire sum in one stroke or in a single lump sum before the due date of the last installment. Noncompliance with the schedule, however, can attract interest under sections 234B and 234C of the Income Tax Act. As such, making each installment on time is crucial for compliance. To further enhance accessibility and transparency, the government has allowed you to pay advance tax online through the official portal of the Income Tax Department and authorized banks. Advance tax is credited in the taxpayer's PAN and can be viewed in form 26AS and also this can be cross-verified when filing the income tax return. So, maintaining the installment framework is a legal requirement as well as does make filing the taxes end of the year much more streamlined.

### **Interest for Default in Payment**

Under Sections 234B and 234C of the Income Tax Act, interest is levied when a taxpayer does not pay advance tax or when the taxpayer pays at a date later than the due date. Section 234B: Levy of Interest for Default in Payment of Advance Tax When a taxpayer fails to pay at least 90% of their total tax liability before the close of the financial year, section 234B comes into play. In such case, simple interest will be charged at the rate of 1% per month or part of the month on the amount of tax that remains unpaid, from 1st April of assessment year to the date on which it is actually paid. S. 234C applies in the situation of delay or shortfall in payment of the individual advance tax instalments. You charge interest at the rate of 1% per month on each deferred or defective installment for a fixed number of months depending on the default. These interests are mandatory, and the Assessing Officer has no discretion to waive except under special circumstances in terms of CBDT directive under Section 119. Let us also understand that advance tax is required to be paid on net estimated income, after accounting for deductions under Chapter VI-A and rebate under section 87A, if applicable. Therefore, understatement of income can result in shortfall of advance tax attracting interest liability. In case of receipt of capital gains or winnings from lotteries after certain specified installments, the taxpayer is



allowed to pay advance tax on the balance earning in the remaining installments without attracting interest under the provision of Section 234C, thus necessitating proper foresight and periodic income review to ensure appropriate and timely payment of advance tax. Taxpayers must plan their tax liabilities periodically based on due dates within due dates to avoid interest liability, the contributory adds to the tax burden significantly.





## **Recovery and Refund of Tax**

### **Recovery of Tax**

#### **Notice of Demand**

A Notice of Demand marks the beginning of tax-recovery proceedings. The communication from the tax authority to the taxpayer issued after an assessment has been completed and a tax liability has been assessed. It states the amount of tax payable, the interval of time required to pay it and the action taken in case of payment default. As per Section 156 of the Income Tax Act (India) a notice of demand is must before any recovery proceedings can be initiated. Generally, 30 days from the date of service is granted to the taxpayer to make the payment. This is an official notice to the taxpayer and a last chance for the taxpayer to pay voluntarily. The department may take further coercive action for recovery if the taxpayer does not reply or make the payment within the time limit. This notice is also legal binding and certified, and can only be challenged by the taxpayer through legal means, if there is a dispute or an error. Thus, this step provides transparency, due process, and an opportunity for the taxpayer to correct or object before there are more severe recovery actions taken.

#### **Modes of Recovery**

In relation to the taxpayer profile and the quantum of tax dues, the tax authorities have various Modes of Recovery available to them. These are modes of recovery prescribed under the Income Tax Act with the intent that such an action is effective for recovery of dues for the government. These include adjustment against refunds; deduction from salary; direct payment by the assessee; attachment of bank accounts or movable/immovable property; and even the appointment of a receiver to run the hours of accounts of the taxpayer. All these procedures follow a specific legal process and the measures are only taken after the taxpayer fails to comply with the notice of demand. Their flexibility of multiple recovery modes give the department sensitivity to do what makes practical and effectiveness sense for each case. Additionally, these modes secure that non-compliance or intentional deferral in payment of tax does not

cause any undue financial loss to the exchequer. Recovery process may include working with other departments or financial entities if applicable.

### **Deduction from Salary**

It is one of the most powerful modes of tax recovery when the defaulter is a salaried person. In such as scenario, the Assessing Officer or the Tax Recovery Officer (TRO) can direct the employer of the taxpayer to deduct the amount due from the salary of the employee. Section 192 of the Income Tax Act, which is the clause under which employers are required to deduct applicable taxes on salaries. On default, the employer is mandated to recover the dues for so in installments or a single payment and deposit with the authorities direct. This process allows for prompt and secure recovery without using the taxpayer to pay the balance. It also reduces the likelihood of default because the employer becomes legally accountable for the deduction.” If the employer doesn't deduct and pay the tax, that too can be liable. This is especially effective since salary is a traceable and hard-coded income, making enforcement relatively easy for the authority.

### **Direct Payment**

The term “Direct Payment” refers to a voluntary payment made by the taxpayer to satisfy their tax liability. This is typically the first line for recovery. Pay tax directly to the tax department through the prescribed payment channels after receiving the notice of demand. Such channels shall be online tax payment gateway, authorized banks or in certain cases through the demand drafts deposited with the jurisdictional assessing officer. The direct payment is the least disruptive, in terms of recovery, approach and demonstrating tax compliance as a taxpayer. Timely direct payment also helps the taxpayer avoid penalties, interest, and legal proceedings. In fact, there was a system in place that encouraged taxpayers to make these payments voluntarily, with a grace period after a demand notice was issued to facilitate this. A receipt or challan is issued for payment made directly, which acts as the official proof of payment and can be used for other legal and accounting purposes.



### **Attachment and Sale of Assets**

In case a taxpayer denies responding to the notice and not making the payment, the tax authorities can proceed the Attachment and Sale of Assets. This is quite an aggressive recovery mechanism and is only taken as a last resort after previous methods fail. This will empower the Tax Recovery Officer to trace the taxpayer's movable or immovable assets, and attach them legally—coins/currency, vehicles, land, buildings, shares, etc. This allows the taxpayer from selling, transferring or using the assets until such time that the dues are paid. In the event that payment is not made for one month after attachment, assets may be auctioned or disposed of by the government to recover the overdue tax. Public notification, asset valuation, and the conducting of the sale is done in a transparent manner. It serves as a deterrent for non-compliance as well as a last-resort mechanism for realizing revenue. But, of course, the process itself has to comply with the law in order to avoid abuse or violation of rights.

### **Appointment of Receiver**

Such Appointment of a Receiver by the tax department is usually done in complex or high-value tax default cases, when the taxpayer has multiple sources or streams of income or even multiple businesses. A receiver is an authoritatively nominated person, assigned by a Tax Recovery Officer/court, who acquires control over the taxpayer's property, business, or income sources. In this role, the receiver handles the assets and collects revenues, ensuring that money they collect goes towards repaying the tax debt. This is used in cases where the taxpayer is not willing, or able, to work with authorities, or where it is believed that bank account or salary direct recovery won't suffice. Appointment of a receiver preserves and directs any continuing income or business activities toward tax resolution. The receiver is a fiduciary and answerable to the tax department and the process usually has judicial oversight," he told The Indian Express. This approach serves the interest of government while enabling the taxpayer's business is not shut down or destroyed.

## **Arrest and Detention**

In extremely rare cases, when all other recovery methods have failed and willful tax default or obstruction of the legal process has been clearly proven, the law permits arrest and detention in a civil prison as a last resort. This is guided by (by) Rule 73 to Rule 81 of the Second Schedule of Income Tax Act. It is a detailed process that I understand includes issuing a show-cause notice to the suspected defaulter, which gives the person an opportunity to explain himself and requires approval from several officials. As mentioned, by law, under prescribed period, the person can be kept behind bars, and serves both as punitive and preventive measure. The aim is not just punishment, but to coerce compliance from the taxpayer. Arrest is not a common weapon, and law uses it very sparingly considering the rights of the taxpayer and the proportionality of the dues as well. To obtain the release, the taxpayer must remit the amount due or post appropriate security. Though rare, this action highlights the seriousness of tax compliance responsibilities.

## **Tax Recovery Officer**

The tax recovery procedure basically involves a Tax Recovery Officer (TRO) who is responsible for the execution of all tax recovery proceedings. The TRO, appointed under the provisions of the Income Tax Act, has quasi-judicial powers, its role being to ensure that all means of recovery prescribed under a law are correctly put in place. The TRO is the executive body that carried out the recovery action, from the issuance of notice, verification of assets, attachment or auction of property to invoking arrest procedures. The TRO collaborates with banks, employers, law enforcement agencies and various other departments to execute the recovery orders. They keep records for recovery proceedings and report to upper authorities of department. In the TRO, a taxpayer has the avenue to invoke, or contest, making it a semi-adjudicatory stage. Tax recovery is only as effective as the TRO itself, which has to maintain a balance between enforcement and procedural fairness.

## **Procedure for Recovery**

The process for recovery has been codified in the Second Schedule of the Income Tax Act and lays down a procedure for tax authorities to follow. This is



to guarantee due process in enforcement actions with legal consistency. This begins with the Assessing Officer issuing a certificate to the TRO declaring the sum of tax payable. The TRO then serves a demand notice and initiates recovery proceedings by any of the means provided in law. All methods, including salary deduction, attaching and seizing of assets, and arrest must also be preceded by due process of law, with a notice being issued, a hearing granted and proportionality respected. The law also allows for appeal or rectification if a mistake is done. Every aspect of the process is supervised, recorded, and reviewable in court. This process protects against abuses of power by ensuring the taxpayer is afforded a reasonable opportunity to respond before any coercive action is taken." Thus, the procedure, while providing the department with a structured framework also serves to protect the taxpayer.

## **Refunds of Tax**

### **Circumstances for Refund**

Tax refund usually occurs when the tax payer has paid more tax than actually required. There should be no words left and it may be because of this. For example, if the input tax credit (ITC) available to a taxpayer is more than the output tax liability in a given tax period, which is particularly true for zero-rated supplies like exports or supplies made to Special Economic Zones (SEZs), their input tax credit can never be in excess of output tax. Refunds can also be initiated in cases of finalisation of a provisional assessment, orders in appeal reducing the tax, any tax paid in excess, or excess payment of tax at the time of filing of the tax return. Taxpayers supplying exempt/nil-rated goods/ services as per the tax laws may also claim a refund of unutilised input tax credits. In addition to that, the refund can be claimed where the tax has been paid in the cases of the transaction which is treated as the intra-state supply but treated as the inter-state supply or vice versa. Refund is also obtained by excess withholding or collection of tax at source. These situations are clearly prescribed in tax statutes (for example, the GST Act in India) and should strictly be ascertained on the basis of documentary evidence and compliance with statutory conditions. The law restricts claims for refunds under certain specific instances and does not allow for claim of refunds, for example for accumulation due to

inverted duty structure unless permissible. Hence, it is very important to know the right conditions when a refund is permissible, which makes sure to comply and that the claims are not rejected.

### **Procedure for Refund**

The refund process is structured in such a way that the excess tax paid by taxpayers is returned in a timely manner, while also stopping fraudulent claims. In usual circumstances, refund claims need to be filed online either on the government prescribed portal (for example, GSTN portal in India) through a prescribed form—generally Form RFD-01. The application needs to be filed within a prescribed time limit from the relevant date (in most cases, two years), and will need to be accompanied by supporting documentary evidence such as tax invoices, bank realization certificates in the case of exports, or copies of relevant order in case of appellate refunds. The application, once submitted is scrutinized by the concerned officer, who may either ask for clarifications or issues a deficiency memo. A provisional refund—up to the tune of 90%—can be sanctioned within a week for zero-rated supplies after successful verification. After all scrutiny, remaining refund is being released. In case of any abnormality, the refund shall be retained or rejected, giving the reasons to the applicant. The taxpayer may respond to the findings or appeal them. This process is to be completed within a specific time period (generally 60 days), after which the department becomes liable to pay interest. The approved refund amount is automatically integrated with banking systems that allow it to be deposited directly to the taxpayer's bank account. Timeliness in responding to any official notices and assurance that documentation is accurate can go a long way to make sure that any refunds are processed in an efficient manner.

### **Interest on Refund**

Interest on refund is statutory compensation awarded to the taxpayer when the tax department deals with a valid refund claim beyond the prescribed time limit. Under tax law (e.g. Section 56 of CGST Act), an applicant is eligible for interest on the amount refundable, if the same is not refunded within 60 days from the date of receipt of a complete application. Interest is normally calculated at statutory specified rates, generally 6% to 9% per annum, depending on the kind



of refund and facts. Some refund rates are higher, such as refunds resulting from appellate orders rather than normal refund claims. Broadly, interest is computed from the expiry of 60 days from the date of receipt of a complete refund application to the date on which the refund is actually credited to the taxpayer's account. Including this provision aids in holding accountable and pushing for punctual refunds minimizing taxpayers' financial pressure. However, if the delay in refund processing happens on account of the deficiencies/lapses on part of the applicant like missing documents, incorrect declarations etc and the refund is not processed by the department, in such cases claim of interest for the delayed period may not be applicable. Likewise, the rejected or inadmissible refund amounts do not attract interest. To claim any interest payable, it is imperative to track the refund application status and follow up with it on time. However, we recommend taxpayers retaining log of communications with the department in case of disputes on interest eligibility/ quantum etc. The interest on refund is another key taxpayer-rights issue and can provide some financial relief in the case of lengthy payment delays.

### **Set-off of Refund**

The term set-off of refund means that the refund amount is adjusted against any dues or liabilities of the taxpayer before the refund is actually paid. SPICe FORM INC 32 is used for starting any new business in India. The tax authority has the power to first check if any such amounts are pending against the taxpayer's profile. In case dues are found, the department can apply a set-off meaning it can deduct pending dues from the sanctioned refund amount and release the balance to the taxpayer. This limits payment of monetary benefit until government receives accessory dues. Generally speaking, there will be an order sent to the taxpayer from the department broadcasting that there was a set-off/arbitration. If there is any objection the taxpayer is permitted to respond. For instance, suppose a taxpayer is entitled to a refund of ₹1,00,000 but has an outstanding liability of ₹30,000, that much will be set-off by the department and only ₹70,000 released. This is covered under rules in the tax law (e.g. Rule 92 of CGST Rules) with the sharing of information being open and backed by law. However, these set-offs can be contested in some cases if the dues are in dispute or under appeal. The tax ledger should be reconciled regularly by the taxpayers

themselves and if there are any discrepancies, then it should be resolved immediately to avoid the deduction by the employer. Awareness of the set-off mechanism not only allows businesses to plan their cash flows accordingly, but also to understand that legitimate refunds need not be unnecessarily delayed or reduced on account of any dispute left outstanding.

## SELF ASSESSMENT QUESTIONS

### Multiple Choice Questions

1. **Who among the following is *not* an income tax authority?**
  - a) Income Tax Officer
  - b) Commissioner of Income Tax
  - c) Chartered Accountant
  - d) Tax Recovery Officer
2. **The Central Board of Direct Taxes (CBDT) functions under the:**
  - a) Ministry of Finance
  - b) Ministry of Commerce
  - c) Ministry of Law
  - d) Prime Minister's Office
3. **Which of the following has the power to issue general or special orders regarding income tax?**
  - a) Income Tax Officer
  - b) Commissioner of Income Tax
  - c) Central Board of Direct Taxes
  - d) Finance Minister
4. **The penalty for failure to keep, maintain, or retain books of accounts as required under Section 44AA is:**
  - a) ₹10,000
  - b) ₹25,000
  - c) ₹50,000
  - d) ₹1,00,000
5. **The power to reduce or waive penalty is vested with:**
  - a) Income Tax Officer
  - b) Commissioner of Income Tax





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- c) Central Board of Direct Taxes
- d) Finance Minister
- 6. **Interest on refund of tax is payable at the rate of:**
  - a) 6% per annum
  - b) 9% per annum
  - c) 12% per annum
  - d) 18% per annum
- 7. **Relief under Section 89 is available in respect of:**
  - a) Arrears of salary
  - b) Foreign income
  - c) Agricultural income
  - d) Dividend income
- 8. **The maximum penalty for failure to furnish return of income under Section 271F is:**
  - a) ₹1,000
  - b) ₹5,000
  - c) ₹10,000
  - d) ₹25,000
- 9. **The time limit for issuance of notice under Section 143(2) for scrutiny assessment is:**
  - a) 6 months from the end of the financial year in which the return is filed
  - b) 6 months from the end of the assessment year
  - c) 12 months from the end of the assessment year
  - d) 18 months from the end of the assessment year
- 10. **Which of the following is *not* a mode of recovery of tax?**
  - a) Attachment and sale of movable property
  - b) Attachment and sale of immovable property
  - c) Arrest and detention of defaulter
  - d) Cancellation of PAN card

### Short Questions

1. What is the organizational structure of income tax authorities in India?
2. Explain the powers of Income Tax Officer regarding search and seizure.

3. What are the functions of the Central Board of Direct Taxes?
4. Explain the provisions for penalties for concealment of income.
5. What is relief under section 89? When is it available?
6. Explain the procedure for refund of excess tax paid.
7. What are the different modes of recovery of tax?
8. Explain the powers of Commissioner of Income Tax (Appeals).
9. What are the provisions regarding interest on refunds of tax?
10. Explain the procedure for best judgment assessment.

### Long Questions

1. Discuss the powers and functions of Income Tax Officers under the Income Tax Act. How do these powers help in enforcement of tax laws?
2. Explain the constitution, powers and functions of the Central Board of Direct Taxes. How does CBDT contribute to tax administration in India?
3. Describe in detail the procedure of assessment under the Income Tax Act. What are the various stages from filing of return to completion of assessment?
4. Discuss the provisions relating to penalties and prosecutions under the Income Tax Act. What is the procedure for imposition of penalties?
5. Explain the various modes of recovery of tax. What are the powers of Tax Recovery Officer in this regard?
6. Discuss the provisions relating to refund of tax. Under what circumstances is interest payable on refunds?
7. Elaborate on the provisions of relief under sections 89, 90, and 91 of the Income Tax Act. How do these reliefs help in mitigating hardship to taxpayers?
8. Discuss the powers of Commissioner of Income Tax with special reference to revisional powers and appellate functions.



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9. Explain the provisions relating to advance payment of tax. What are the consequences of non-payment or short payment of advance tax?
10. Discuss the provisions relating to best judgment assessment under section 144. Under what circumstances can an Assessing Officer resort to best judgment assessment?



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## **MODULE V**

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Appeals and  
Revision

### **STRUCTURE:**

**UNIT 13: Appeals and Revision**

**UNIT 14: Appellate Tribunal**



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## UNIT 13

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### APPEALS AND REVISION

#### Appeals, Revisions, and Penalties in Taxation

##### Objectives

- To understand the appeals and revision mechanism under Income Tax Act
- To learn about the powers and procedures of appellate authorities
- To comprehend the process of revision of assessment
- To develop knowledge about penalties, prosecution, and related procedures

##### Procedure in Appeal

##### Appeals in Taxation

Taxation appeals basically refers to the legal right of the taxpayer to appeal against a tax authority decision. This is an essential aspect of the taxation system and protects taxpayers from arbitrary or unfair assessments. Whenever a taxpayer thinks an order made by a tax officer (assessment, penalty or any decision) is incorrect or without a cause, they can file an appeal regarding this. Generally the process begins with the filing of an appeal to the lower appellate authority like the Commissioner of Income Tax (Appeals). In case of an adverse view, the taxpayer has the right to carry the matter to higher fora, such as the Income Tax Appellate Tribunal (ITAT), the High Court and thereafter the Supreme Court, wherever needed. There are prescribed procedures, timelines, and documentation that vary from one appellate authority. It enables a careful and fair examination of matters in dispute through a hierarchical structure of appeals. Furthermore, appeals help to correct errors and clarify interpretations of law, which is good for the development of tax jurisprudence. The system also increases transparency, taxpayer confidence and accountability in tax administration. It is also important to note that, depending on the law, some appeals will require the taxpayer to deposit part of the disputed amount or meet

certain conditions beforehand. Success in appeals depends on filing on time and the quality of the documentation. A strong appeal mechanism harmonizes the interests of taxpayers as well as the state to keep litigation to the minimum and collect tax as per law. So appeals are an important part of the taxation ecosystem—they allow for legal review and play the role of ensuring that administrative action is balanced by administrative justice.

### **Revisions in Taxation**

Tax-evading assesseees at times feel they are in a wrongfully affected state of affairs, and with the help of directions of certain administrative cadre, their citizens question the legality of such orders and the process of tabulation, making it an administrative quasi-judicial dilemma. The order specifically being prejudicial to the interest of revenue or erroneous in law, the revisional mechanism is generally invoked when there is no appeal directly pending. Under laws such as the Income Tax Act, the Commissioner of Income Tax (CIT) has the authority to revise certain orders passed under Section 263 or 264 by the Assessing officer. This is designed to preserve the integrity and accuracy of tax administration. Section 263 is invoked only where the CIT feels the order passed is not only incorrect, per se, but is also causing loss to the government. Unlike section 263, section 264 is more ax payer friendly and allows modification in assessee's favour also even without any appeal. Getting through revision procedures usually means examining intensive records and legal interpretations. Like other versions, the revision is constrained by time and legal requirements. It may be done by the department on its own or on an application made by the taxpayer. Any appeal that is filed and pending, to be revised under some provisions, may not be allowed. The mechanism or tool of revision is for higher tax authorities to ensure uniformity, equity, and legality in taxation. It reduces revenue leakage, and provides assurance to taxpayers that any administrative errors can be corrected. In sum, refinements in taxation serve the double purpose of defending revenue interests and rectifying administrative errors, which in a way make up the iceberg of tax system efficiency and credibility.

## **Penalties in Taxation**

Taxation knows the penalties as the legal consequences or punishment wherein the legal authorities lay on the taxpayer who fails to follow and comply with the tax laws in some manner like failing to file returns timely, misreporting income or evading taxes. The aim of penalties is not just to punish, but to discourage taxpayers from violating tax laws and to encourage compliance with the legal framework. Penalties are typically made in accordance with different provisions of the tax statutes, and can be mandatory or discretionary depending on the gravity and the nature of the offense. For instance, the scale of penalties vary from a fixed monetary penalty to a percentage of the income that has been underreported under the Income Tax Act. Examples of penalties that you might be liable for are: Penalty for failure to file return of income (Section 234F), Penalty for underreporting or misreporting of income (Section 270A), Penalty for failure to keep, maintain or retain books of account, documents, etc. (Section 271A), Penalty for failure to comply with notice, direction from tax authority. Again providing opportunity of being heard to the taxpayer before imposing any penalty, is in conformity with natural justice principles as is the case even under tax department. If the taxpayer voluntarily discloses the default and cooperates during the proceedings, penalties may sometimes be waived or reduced. The architecture of penalties, and how they are applied, goes a long way toward establishing a culture of voluntary compliance among taxpayers. They also protect against abuse of tax laws. Excessive or arbitrary application of penalty provisions can foster taxpayer frustration and lawsuits. As a result, the effectiveness of the penalty regime in taxation depends on a balanced approach, one that is strict where necessary, but fair and transparent as well. Remember that you are only here to understand penalties and the role they play in tax compliance, they are just one of many weapons the IRS uses in their arsenal.

## **Contents of an Appeal**

The process of an appeal against tax decision begins with filing an appeal: proper preparation and submission. The format of an appeal is required to be in the format prescribed under the respective taxation laws like Income Tax Act or

GST Act or any other applicable statute. Appeals are to be filed in a specified form number (say, Form 35 for income tax appeals to the Commissioner of Income Tax (Appeals)) and complete and accurate details are required therein. The appeal should mention the personal details of the assessee, including the PAN and the assessment year along with the details of the relevant order and the jurisdictional officer who passed the original order. The appeal must also state the facts behind the appeal, the grounds of appeal, and the relief sought. Concise, no arguments, no repetition of the grounds. An annexure may be submitted for presenting legal arguments or precedents supporting the grounds. If it is not clear or does not have the essential information, the appeal can be dismissed or sent back to fix. Drafting an appeal is an exercise in thoroughness, detail and procedural compliance if it is to be admitted, let alone, resist determination on the merits. It does get recommended that in order to steer clear of legal drafting errors, one should take professional help. Most importantly, the appeals must be verified and signed by the appellant himself or someone authorized to act on his behalf. In e-filing systems, digital signatures or electronic verification codes (EVCs) are utilized. At the end of the day, the shape and substance of an appeal is the bedrock of the appellate process and any defect at this stage can hit the outcome adversely.

### **Article 10: Time Limit for Filing an Appeal**

Every tax statute provides time limits to file an appeal and as such, timely filing of an appeal is critical in case of taxation matters. If the appeal is not filed according to these deadlines, it may be dismissed without consideration on its merits. Example: Section 249 (2) of the Income Tax Act provides that an appeal to the Commissioner (Appeals) shall be preferred within 30 days of receipt of the order. Under GST, Appellate Authority appeals must file within (within three months for the taxpayer and six months for department officials). These time periods are calculated from the date on which the appellant receives the order being appealed against. These deadlines ensure that disputes are resolved quickly and that the system works efficiently and predictably. Taxpayers must remain vigilant around these deadlines and prepare paperwork ahead of time. The sight of the pranks calendar is not only essential to know the date from which the period of appeal is to count. There are statutes where a grace period is





provided, in the sense that appeals could still be entertained if sufficient cause is shown by delay (generally through condonation of delay provisions). That said, extensions are not givens and must be well-reasoned and substantiated. Thus, the limitation prescribed to file an appeal is not just a procedural issue, but rather a stringent prescription, breach of which can substantively affect rights of the taxpayer to challenge an adverse order.

### **Appeal Fees — Fees for Filing an Appeal**

In tax matters, appeals have to be filed by paying the fee prescribed for it, depending upon the nature of dispute as well the quantum of the disputed amount. The fee is a mandatory administrative charge and must be submitted with the appeal. For instance, the Income Tax Act prescribes the appeal filing fee before the Commissioner (Appeals) depending upon the assessed income – ₹250 if the assessed income is up to ₹1 lakh; ₹500 if the assessed income is between ₹1 lakh and ₹2 lakh; and ₹1,000 if the assessed income exceeds ₹2 lakh. Under GST, the appellant is required to make a pre-deposit, which is typically 10% of the disputed tax amount, prior to filing an appeal with the Appellate Authority. This fee is free of charge for the departmental officers. The fee serves a dual purpose: It discourages frivolous litigation and contributes to administrative costs. The fee has to be paid through specified modes, be it online or through bank challans, and the payment receipt should also be attached with the appeal documents. Conditions: The appeal shall be accompanied by a reference fee for the hearing of the appeal as may be prescribed; otherwise the appeal may be treated Sal however, the appeal shall not be considered defective on account of non-payment, or the insufficient amount being paid. Therefore, it is important to get the right fee paid in the right way. Some laws also grant a refund pre-deposit or fees if the appellant wins the case, which may also require a separate application. Therefore, the payment of the fee is a procedural compulsion, as omission of the same can lead to the dismissal of appeal.

**Documents to Submit – List of Facts Museums Strife Required for the Appeal**

Supporting documents are essential to validate the merits of an appeal. The appeal shall be filed with a set of prescribed documents and in case if documents are missing the appeal may be considered incomplete or defective. These documents are copy of assessment or the adjudication order which is sought to be appealed against, statement of facts, grounds of appeal, copy of notice of demand and the proof of payment of fee for appeal or pre-deposit. Along with these documents, as of right, appellants can also annex copies of correspondence with the tax authorities, relevant financial statements, bank statements, invoices, contracts, and other documents that can strengthen their case. You must sort all documents in order, index them, and sign or certify them. If the appeal is filed electronically, then scanned copies of these documents should be uploaded in the specified format and size. In some cases there is a need for notarized or attested copies. It is the appellant's responsibility to ensure that all documents are clear and complete. If one fails to give the required papers, his or her appeal may be dismissed or not heard in time. Therefore, it is important to checklist and check all the things before submission. Therefore, filing proper and well-structured documentation not only meets procedural formalities but also bolsters the case of the appellant as it puts forth this well-structured narrative for the appellate authority that necessarily strengthens credibility.

**Condonation of Delay — Circumstances under Which Delays in Filing of an Appeal May be Condoned**

Although there are time limits for filing an appeal under the tax laws, there is also acknowledgment that delays in appeal could happen due to genuine and unavoidable reasons. In the case of such situations, there are provisions for the condonation of delay. As per these provisions, the appellant can apply for admission of the appeal filed beyond the prescribed time limit to the appellate authority along with reasons for the delay. The application for condonation of delay shall be filed along with the appeal and be accompanied with an affidavit or documentary proof explaining the cause of delay. Such excuses can be severe diseases, act of nature, legal turmoil or wrongful administration. Whether to



condone the delay is entirely in the discretion of the appellate authority, who has to be satisfied that there was “sufficient cause” for not filing the appeal in time. For example, as per the provisions of the Income Tax Act, the Commissioner (Appeals) can condone delays up to a permissible limit (mostly 1 year), so long as a reason is provided. When the cause is bona fide and not intended to delay proceedings, courts have often found that such provisions should be taken liberally. But, if delay is long and cannot be justified, then condonation is denied and appeal is dismissed being time barred, if appellant was found negligence or casual. As such, although condonation of delay is a legal remedy that seeks to protect appellants from procedural lapses, it should be invoked responsibly, with utmost candour and ancillary evidence.

### **Powers of Commissioner (Appeals)**

#### **Right to Accept or Dismiss Appeals**

An appeal before the Commissioner (Appeals) may either be admitted, or otherwise, rejected. This power is important because it is the first checkpoint in the appellate mechanism under tax laws. When a taxpayer or assessee is aggrieved against an order of lower authorities like an Assessing Officer, the taxpayer or assessee may go to the Commissioner (Appeals) for an appeal. But an appeal is not synonymous with acceptance. The Commissioner has the authority to review the appeal for compliance with the law and procedural matters. For example, if an appeal is submitted outside of the established time limits and there is no justifiable reason for the delay, or if the appeal is otherwise improperly documented, the Commissioner may dismiss the appeal at the outset. If, however, the appeal in question is complete in all respects, timely and based on proper grounds, it might then be admitted for hearing. Her logic for accepting or denying needs to be provable and justifiable. This power is not just administrative but quasi-judicial, as it requires the application of legal reasoning. This authority as well assists in weeding out the frivolous or non-maintainable appeals at an initial stage, thus preserving judicial time and resources. It also makes certain that only valid grievances go all the way to detailed adjudication. However, that rejection of appeal must give the taxpayer a chance to be heard. This principle of natural justice plays an important role in

preserving the integrity of the appellate process. In other words, the grant of admission or the rejection of an appeal is an important and protective gatekeeping function, guaranteeing that only appeals that are within the limits of legal and procedural requirements will be heard on further proceedings before the Commissioner (Appeals).

### **Confirmation, Reduce, Increase, or Cancel Assessment – Power to Change Tax Assessments**

One of the most important powers of the Commissioner (Appeals) is the ability to confirm, reduce, enhance, or annul an assessment order. This delegation of authority removes any bias from the review process and transforms it into a thorough and comprehensive reassessment. If, after examining the appeal and the supporting evidence, the Commissioner concludes that the original assessment by the Assessing Officer is based on sound legal principles and factual accuracy, they may choose to confirm the assessment. The Commissioner can reduce the amount of tax assessed, however, if he determines that such assessment is either excessive or based on the erroneous interpretation of other applicable law or on incorrect facts. Conversely, in circumstances where it becomes clear, during the appeal process, that certain income or transactions were insufficiently accounted for, or entirely excluded, the Commissioner has the power to upgrade the assessment. This implies that the appellant's tax liability can be enhanced by circumstance and law if such course is a rational or statutory one." Moreover, where the entire basis of the assessment is found to be illegal / has been done in manner which is in breach of principle of natural justice, the Commissioner can go even further and quash the assessment itself. Crucially, before the Commissioner can upgrade an assessment or otherwise change it to the appellant's detriment, the Commissioner must provide the appellant a fair opportunity to be heard. This amounts to adherence to the principles of natural justice. The appellate authority has this broad and significant jurisdiction to alter the assessment, and thus it plays the dual role of corrective and supervisory authority over the lower tax authorities. And that an assessment will be fair, and accurate and under the law. Thus, the Commissioner (Appeals) is not simply a reviewing authority, but is a quasi-judicial and empowered authority which can re-write the tax consequence



in favour of revenue or in favour of tax payer depending upon the merit of the case.

### **Authority to Impose, Reduce, or Cancel Penalty**

The authority to deal with penalties may be exercised by the Commissioner (Appeals) by virtue of section 246 however such penalties must arise out of varied provisions of the tax law. This may cover imposing, reducing, or under some circumstances, eliminating such penalties, depending on facts and legal arguments raised on appeal. Penalties are typically imposed by Assessing Officers for reasons including the concealment of income, the late filing of returns, or failing to comply with notices by the tax department. But these penalties aren't always merited. Hence the taxpayer has every right to contest them before the Commissioner (Appeals). The Commissioner, upon hearing the case and reviewing the evidence, can affirm the penalty if appropriate. Or, if the quantum seemed disproportionate or there was an attenuating circumstance, such as a genuine hardship or an honest mistake, the Commissioner might choose to decrease the quantum of the penalty. In more deserving cases, where the appellant establishes absolute innocence or lack of fraudulent intent, the Commissioner (Appeals) could even cancel the penalty to the fullest extent. Tax law also gives judges discretion in determining sentences in tax cases, allowing them to be more just and humane, taking into account the individual circumstances in each case. Furthermore, if the appeal proceedings reveal previous violations that were overlooked or insufficiently penalized, the Commissioner can, also himself, impose a new penalty. But even in other powers, the appellant needs to be given a reasonable opportunity to respond to any increase or new imposition of penalty. This guarantees due process and fairness. In this regard, this power is very important because it not only ensures that penalties do not get applied in a routine manner, but are open to scrutiny by the courts, thus safeguarding the rights of the taxpayer, but it upholds the integrity of the tax system.

**Directions for Further Inquiry — Additional Tests and Ordering If Necessary**

In some complicated or borderline cases the Commissioner (Appeals) may issue directions requiring further inquiry. This power enables the Commissioner to call for the Assessing Officer or any other competent authority to make further investigation or collect further evidence as may be required for the just and fair disposal of the appeal. Appeals are often based on incomplete records, unproven assertions, or new facts that come to light during the process. In these scenarios there may not be enough information in these documents to make a final decision. Aware of this limitation, the law grants the Commissioner the power to reopen the evidentiary process—not to reassess directly—but to instruct the lower authority to collect evidence on specific matters. For instance, if a taxpayer claims a new deduction, which had not been examined during the assessment, the Commissioner may direct the Assessing Officer to verify the correctness thereof. These directions are, in general, set out in a way that defines the scope and type of the further inquiry. A key conditionality attached is that such orders do not prejudice and should not have a bearing on the future investigation, the result of which would eventually be determined by the Commissioner (Appeals) upon receipt of updated findings. This provision strives to make the appellate process thorough and factually sound. It's also consistent with the notion that justice shouldn't be denied simply because there's no evidence, particularly if that evidence can be lawfully acquired. It also adds a collaborative layer across appellate and assessment stages to enhance outcome reliability. The ability to command additional investigation fosters a more fact-driven, considered decision making process, and bolsters procedural flexibility.

**Disposition of Appeal – Final Determination of Appeal by the Commissioner**

The final power and responsibility of the Commissioner (Appeals) is to dispose of the appeal even after taking into account the ratio decidendi of the decision of the Supreme Court, the Commissioner (Appeals) may dispose of the appeal. The Commissioner must issue a final order to determine the appeal after reviewing



all relevant documents, holding hearings and directing further investigations if necessary. The order could either accept or reject the claims of taxpayer, modify the assessment orders, or resolve the issues related to penalties. So the disposal must be spoken and reasoned which means the Commissioner must state under what grounds the decision is made. Citations to relevant portions of law, factual findings, arguments of both sides, etc. This clarity is essential not only for transparency but also in bringing any further judicial scrutiny in case the issue goes up to higher appellate forums such as the Income Tax Appellate Tribunal (ITAT). Every step is also governed by a specific time limit under the tax laws, for timely justice, disposal of the appeal. Importantly, the Commissioner must remain neutral and draw his conclusions solely on the basis of facts and law, preserving the quasi-judicial character of the position. This stage ends with a ruling which is final and absolute (unless appealed further): it is the end of the road for the parties involved. Additionally, the disposal may contain directions for implementing such disposal, like refund of taxes or fresh assessment, depending upon the outcome. So this power is crucial in the appellate process, converting discussions critical thoughts into practical actions. It ensures that all kinds of grievances are conclusively adjudicated and justice is rendered in a systematic and legal manner.

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## UNIT 14

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### Appellate Tribunal

#### Appeal to Appellate Tribunal

#### Constitution of Appellate Tribunal – Tribunal structure and composition

The Appellate Tribunal is a quasi-judicial body independent of the executive, which is created to hear appeals against the orders of lower authorities under tax or regulatory laws. Depending on the matter of jurisdiction, its structure and composition is determined by the relevant statute - Income Tax Act, GST Act or SEBI Act. Usually, the Tribunal consists of a President, Judicial Members, and Technical Members, with each Bench consisting of mixed members to have a dynamic view towards legal and technical aspects. It is normally a retired Higher Court judge or a senior legal expert. The main Strength of the National Company Law Tribunal (NCLT) is the mix of expertise it draws upon — Judicial Members are law experts while the Technical Members are otherwise from the department related to finance, accountancy, administration, etc. There is no official judges, so you don't need to follow law, which is ensured by constitution that the decisions should be kept unbiased and right according to law. Appellate benches may be formed at different regional places to facilitate access for appellants. The independence and technical expertise of the tribunal are the backbone of effectively and efficiently resolving tax or regulatory disputes.

**Appeal to Appellate Tribunal:** Not all decisions of tax or regulatory authorities are appealable to Appellate Tribunal. The law explicitly identifies which orders are appealable. Usually these are the orders made by the lower appellate authorities such as the Commissioner of Income Tax (Appeals) or Commissioner (Appeals) under GST. Controvertible orders commence inclusive of assessments, re-assessments, penalty, interest demand, registration cancellation and classification disputes. In some cases, decisions involving statutory construction, valuation issues, and refusal to issue a refund may also be appealable. But administrative orders, interim procedural directions, or orders that do not effectively affect the rights or liabilities of the parties are generally





not amenable to appeal. The goal is to restrict appeals to substantive decisions that adjudicate tax liability or legal obligations. So, before you get into whether or not the specific order you received is appealable, you need to understand your order. An absence of clarity in distinguishing appealable and non-appealable orders may result in rejection or dismissal of the appeal at the intermediary stage.

### **Filing an Appeal – Steps in filing an application to the tribunal**

Joining my Inspired: Merging an Appeal at the Appellate Tribunal First, the appellant needs to secure the certified copy of the order appealed. Finally, the appeal should be prepared in the prescribed format, clearly mentioning the grounds of appeal, with supporting documents, such as disputed order copies, statement of facts, documents supporting the argument, etc. The appeal must also be made with payment of a prescribed fee, which differs depending on the type and monetary value of the dispute. The appeal is then filed in the tribunal's registry in the jurisdiction where it was served. On submission, a due diligence is carried out to assure it is complete and compliant. A notice is provided to the respondent authority at the time of admission. The tribunal then orders hearings, at which both sides get a chance to present their case. Correct observance of these procedural steps is consequential, as we meant that the appeal is not taken unwillingly and without reasonable delay.

### **Appeal Time Limit – The deadline by which appeals must be filed before the tribunal**

As such, an appeal needs to be within the time limit prescribed in order to be entertained by the Appellate Tribunal. Typically under tax and regulatory laws, the appeal must be made within a number of days, usually 60 to 120 days from the date the order appealed from is received. The precise time limit differs according to the statute controlling the tribunal. In some instances, however, the tribunal may permit a delay in the filing of an appeal beyond the time allowed, if the appellant can demonstrate sufficient justifying cause for the delay, usually by way of an application for condonation. However, the decision to condone is at the discretion of the tribunal and is not a matter of right. So you have to stay on your toes and make sure you move as soon as an order comes in. It means

that any careless mistake or oversight in reporting can lead to losing the right to appeal, which can have substantial financial and legal intuitive. An of calendar of deadlines and timely engagement with legal advisors can help meet the timelines.

### **Demand Stay – Power of the tribunal to stay the demands of the tax**

In case appeal is filed against demand of tax, interest or penalty, the tribunal has the power to stay recovery of said demand. This is especially true when the appellant claims the demand is unreasonable, or extreme. An appellant seeking for a stay must file a separate motion, usually with an accompanying affidavit and proof of financial hardship, as to why the recovery should be held off. The tribunal examines, amongst others, whether a prima facie case, balance of convenience and irreparable harm exists if a stay is not granted. The tribunal may withhold recovery on the grounds of the appeal, though this is a satisfaction that the tribunal may have to provide and if they are satisfied, they will issue a stay order, stopping recovery until their decision on the matter. Sometimes this will be subject to conditions, for example part-payment or securing the amount by bank guarantee. For that, the stay order was passed in favour of the appellant to save him from premature recovery. Abuses or frivolous requests for stay may be punished.

### **Powers of the Appellate Tribunal – Determination of the scope of the power exercised by the tribunal**

The Appellate Tribunal has very broad powers to entertain appeals and do full justice. It can also confirm, modify, annul, or increase or reduce the order passed by the lower authority. It can also refer the matter back for reconsideration with directions. The tribunal has the power to summon documents, require the examination of witnesses and to order both parties to state relevant evidence. Further, the tribunal may also consider grounds not raised before the lower authorities if is satisfied that these are required to be gone into to do complete justice. Its functions are quasi-judicial in nature and governed by rules of Natural justice. The tribunal cannot test the constitutional validity of any of the laws, but it can interpret the laws and determine how these will apply. It works independently of the executive branch and offers a neutral



venue in which to settle disputes. Its judgments are often significant and binding on both sides and can only be undone or redirected by a higher court.

### **Rectification of Mistakes – Correction of errors in tribunal orders**

At times, the tribunal's orders contain errors, including clerical, typographical, or factual errors. The law allows the tribunal to correct its order under certain provisions which is popularly known as rectification of mistakes apparent from record to address this issue. Either and both parties to the appeal may file an application for rectification within a specified time that is generally six months from the date of the order. It may also take suo motu action to rectify an error, the tribunal said. But this provision is for clear and plain mistakes only; it does not allow the case to be re-argued or new facts to be introduced. Where however, an error is relevant to the merits of the case or involves an error on an important point of law then that must be challenged by way of a new appeal or revision. The rectification mechanism lets to have fairness and correctness without long-winded judicial outcome. It instills the confidence people should have in the appellate process and protects against the mischief of innocent mistakes.

### **Orders of Appellate Tribunal – Nature of binding and abiding by the orders of the tribunal**

The orders made by the Appellate Tribunal are binding on the parties to it (the taxpayer and the tax authorities) unless set aside on appeal to a higher court. All of these orders are executed at the tribunal level and the lower authorities act in obedience of the order passed. This may include revisits, refunds, cancellations of demands as directed by tribunal. Normally, on substantial questions of law either of the parties aggrieved by the order of the tribunal may file a petition before the high court or the supreme court. Till such appeal is admitted and there is a stay, the order of the tribunal is effective.” These orders are binding which ensures consistency and accountability in administration. Tribunal decisions also create binding precedents for similar cases, unless overruled. Enforcement of tribunal orders is necessary to protect the integrity of the dispute resolution process.

## **Referral to the High Court**

### **Application to High Court – How to Refer a Case to the High Court**

Normally, tax law cases can be referred to the High Court when there is a point of law arising from an assessment or an appeal that requires a judicial ruling. If either the assessee or the revenue authorities feel that the decision of the Tribunal gives rise a question of law of a substantial nature, the aggrieved party can apply to the Appellate Tribunal to make a reference of such matter to the High Court. In those cases, a formal “statement of case” is drafted, which includes all relevant facts and legal contentions of the parties involved and the precise question or questions of law that are in contention. This declaration begins the installation which High Court will form. The application for reference should be made properly within the time provided for, and grounds for such request must be in law and not only on the basis of discontent about the outcome of the facts. The Tribunal shall, on hearing the application, grant or refuse to grant the application. Where accepted the Tribunal prepares the statement of case and sends it (and the question of law) to the relevant Division of the High Court for their opinion. This mechanism allows only serious legal disputes over, as opposed to ordinary factual disagreements, to be brought to the High Court for authoritative determination.

### **Legal Questions – Issues of Law that are Subject to Referral**

The High Court only entertains questions of law under the reference mechanism and does not reevaluate the facts that are already determined by the lower tax authorities or the Tribunal. The term "question of law" means a question where there is ambiguity or wide scope for interpretation in the legal provisions governing the facts of the case. That may include statutory interpretation, constitutional questions, or whether a rule or notification is legally valid. Also included in this are questions occasioned by the misapplication of the law, incorrect legal reasoning, or conflicting judgments. This distinction between a “question of fact” and a “question of law” is significant here because the High Court’s jurisdiction lies only to examine the legality. If the tribunal finds that a particular transaction is a sale, however, the high court will refrain from reopening that determination unless the tribunal misapplied the legal definitions



of "sale." So, only questions in which the application of law or its interpretation is questioned can be brought before the High Court, under the reference.

The process in approaching the High Court through the process a reference begins from the written application before the Income Tax Appellate Tribunal (ITAT) wherein the application is made before the Tribunal to state the case and refer the same to the High Court. This application shall specify the questions of law which arise out of the order of the Tribunal." On filing within the time limits (usually 120 days), the Tribunal determines if the application crosses a threshold as per law. If the Tribunal is satisfied that a question of law does arise, it formulates a very short "statement of case" containing all relevant facts, evidence taken into account, findings made and the legal question framed for consideration. Then this statement is sent to the concerned High Court. If the Tribunal declines to make the reference, the aggrieved person may directly move the High Court under section 256(2) of the Income Tax Act (or similar provision in other applicable tax laws) to direct the Tribunal to make the reference. It is a statutory scheme that seeks to balance the need for efficient and fair treatment of tax law matters by the judicial branch with the realities of litigation, but also treats the litigants well.

### **Tax Matters – High Court Powers**

When a High Court is seised of a case referred for constitutional questions, it becomes only competent to rule on the legal issues triable from the statement of case. It does not re-assess evidence or re-evaluate findings of fact unless they were perverse or reached by a gross misapplication of law. It is now the prerogative of the High Court to decide the legal questions posed in the affirmative of the assessee or in favour of the revenue. The holding binds taxpayers only to the application of the tax law in the light of the facts that were before the court. In the process, the High Court can also decide on the issue of legality of any rules, procedures, or administrative practices followed by tax authorities. It hears appeals from the high court of a state and from other courts and authority, and its determinations are binding on the inferior courts and tax authorities within its zone. Further, if the High Court finds that the case was decided without correctly appreciating the legal position, then the High Court

can remand the case to the Tribunal for fresh adjudication. As such, the High Court is the final interpreter of the tax laws at the level of the state that can ever be appealed to the Supreme Court.

### **Impact of High Court Judgment –Compliance with High Court Order**

A judgment of the High Court in a reference case is binding on both the assessee as well as the tax department in the territories over which the court has jurisdiction. Once the High Court decides on the legal question, the Appellate Tribunal is required to remit the matter to the appropriate authorities to take action according to the judgement. So, the Tribunal has to dispose of the case as per the interpretation or direction given by the High Court. A tax relief, refund, or reassessment may be in store for the assessee if the ruling is granted in the favour of the assessee. On the other hand, an order in favor of the revenue can lead to confirmation of tax demand or even reopening of assessments, depending on the facts. Crucially, the High Court's decision, unless appealed to and overturned by the Supreme Court, becomes part of the body of law and must be followed in later similar cases. It also promotes consistency and clarity in tax administration and enforcement with respect to the implementation of the decision. And, it also plays a role in developing tax jurisprudence and providing legal certainty to both taxpayers and tax authorities.

## **5.5 Supreme Court Appeal**

### **Appealable Orders – Tax decisions subject to Supreme Court review**

While the tax laws prevalent in India do expose select decisions/orders of the High Courts or tax tribunals to an appeal before the Supreme Court. These are, in general, decisions upon matters of great interest to the law as a whole. All appeals are not to be a matter of right, but to be filed as per the provisions of law as applicable under the Income Tax Act particularly under Section 261 of the Income Tax Act, or under Article 136 of the Constitution of India depending upon the nature of the case. The law has provided for appeals in matters in which the High Court certifies the case to be one involving a substantial question of law as to the interpretation of the constitution needing authoritative settlement by the Supreme Court. Furthermore, under exceptional situations, the Supreme Court is allowed to accept special leave to appeal (SLP) from a



decision based on the absolute discretion of the Court, notwithstanding the High Court not having issued a certificate of fitness. Orders passed by bringing an issue within the framework of Exemption of Tax Act Second Order: Orders related to interpretation of tax statutes Third Order: Orders that are about constitutional validity of tax provisions Fourth Order: Raise conflicting views of multiple High Courts Cases in which there are procedural irregularities or factual disputes, however, are less likely to be entertained, unless they have a more general legal implication. The appellate process serves to ensure uniformity in interpretation of tax statutory provisions and prevents arbitrary or inconsistent decision. It also grants tax payers or revenue authorities the right to representation to the apex court thus ensuring legal certainty and a fair tax administration.

### **Representation for Appeal – Supreme Court procedure for going on Appeal**

There is an established process for appealing a case to the Supreme Court, as set out in tax laws and the Supreme Court Rules. The first approval to take the case to the Supreme has to come from the same High Court, and the party has to apply for a certificate of fitness from where the case has been fought under the applicable section (for e.g., Section 261 of the Income Tax Act). If this certificate is granted, it signifies that the case is of sufficient legal import to call for the Supreme Court's intervention. After that, the appellant needs to draft and file a petition of appeal in the formats prescribed already mentioned along with other documented forms e.g., certified copies of the lower courts' judgments, annexures, and affidavits. The objections must state precisely for what questions of law the decision is concerned and also on what basis the transferred owner seeks the outcome with respect to relief granted. On the other hand, if the High Court refuses the certificate, the aggrieved party can approach the Supreme Court directly with a Special Leave Petition (SLP) under Article 136 of the Constitution, which grants the Supreme Court the authority to hear or reject appeals on special grounds. When the appeal or SLP is admitted, both parties are given the opportunity to make written submissions/fill the pleadings and are also given time to present oral arguments. In rare cases, this may allow the Supreme Court to consider additional documents or evidence. Timelines are



critical—missing them may result in dismissal, unless good cause is shown. This serves to protect the integrity of the court's time and focus, allowing only cases of merit and legal substance to reach the Supreme Court.

### **Certificate of fitness—necessary for Supreme Court appeal**

This includes a certificate of fitness by a High Court that formally indicates that a case involves substantial questions of law as required in the appropriate cases for being examined by the Supreme Court. According to Section 261 of the Income Tax Act, a certificate is required to appeal against a High Court judgment before the Supreme Court in tax cases. Note that not every judgment is appealable, so this provision is important. The High Court should be sure that there is a question of law of general importance and not of a mere question of facts or a question of interpretation of a minor provision of law. The aim is to weed out day-to-day business and send only those appeals which need constitutional or authoritative interpretation by the top court. The application for a certificate of fitness should be made to the High Court shortly after its decision, normally within the applicable limitation period. If substantial question of law is not involved, the High Court may refuse to entertain the application. However, the aggrieved person can still go before the Supreme Court under a Special Leave Petition (SLP), but the acceptance of the SLP is solely in the hands of the Supreme Court. That certificate process serves as a sort of preliminary filter, keeping the Supreme Court's docket free of obvious duds — cases that are hopeless or routine. It preserves judicial efficiency and ensures that only matters of national significance or competing statutory interpretations are brought up for resolution by the Supreme Court.

### **Authority of Supreme Court – Jurisdiction and authority in tax cases**

The Supreme Court of India is a supreme court of India, which has broad powers in tax issues. Its jurisdiction in tax matters is derived from constitutional provisions (Article 136(leave to appeal), Article 141(binding on all courts) as well as under statutory provisions through various tax laws, including the Income Tax Act and GST Act. The Court has the authority to interpret the various provisions of the Constitution, review the validity of tax laws, adjudicate differences in judgments of different High Courts, and also clarify questions of





law that have a direct consequence to the public and the Government at large. Its decisions are binding on all of the country's courts and authorities. The Supreme Court may also take up review powers if it finds gross errors in its previous decisions or discovers new evidence. It can range from issuing instructions to subordinate authorities or changing previous legal views in complex tax controversies. Importantly, the Court does not operate as a court of general appeal for all tax disputes—it intervenes only when public interest, legal ambiguity, or constitutional interpretation are involved. It has an important role to play to structure the legislation of tax in India and by doing so, it is significant to develop a status of the tax in the substantive category. The board issues these rulings providing authoritative guidance that both taxpayers and tax administrators can rely upon, helping ensure that tax laws are applied consistently, fairly, and predictably throughout the nation.

**Manner in which supreme Court judgments bind parties.**

Decisions of the Supreme Court in tax matters are final and binding on all courts and tribunals in the country. The law so declared shall be binding on all courts in the territory of India, ensuring uniformity in interpretation and application of laws throughout the country as enshrined in Article 141 of the Constitution. When a judgment is pronounced by the Supreme Court, it has adversely affected millions, and there is no appeal that lies against the Judgement, except appeals in rare cases are only limited to judicial review, but that lies only by bring a review petition and curative petition is filed, which will be considered if the highest judiciary sees merit in your petition. All parties to the judgment (taxpayers, tax authorities, government) are bound by its execution. For tax authorities, it entails back-calculating assessments, refunds, or penalties consistent with the ruling. It becomes obligatory for the taxpayer whether performance would lead to advantage or disadvantage. Further, the moment a law or notification is quashed, or struck down by the Supreme Court, its enforceability ceases. Depending on the phrasing and the Court's purpose, the judgment might even be retroactive or prospective. On the policy side, such decisions tend to spur amendments to tax codes to bring them in line with the Court's reasoning. The definitiveness of Supreme Court decisions helps to create

legal certainty and stability in tax administration, minimizes prolonged litigation and allows stakeholders to make informed financial decisions.

### **Best Judgment Assessment Review**

Best Judgment Assessment is a process by tax administrations in which the taxpayer has failed to meet their statutory duties like not submitting returns/balance, maintaining records, not responding to notices, etc. In such circumstances, the assessing officer is enabled under applicable tax laws (for example, Section 62 or Section 63 of CGST Act, 2017 or the Income Tax Act, 1961 in certain contexts) to carry out an assessment on the basis of data available to him, estimates, reasonable belief, etc. This assessment is not arbitrary and should be based on rational and logical evaluation of facts and circumstances. It is intended to ascertain the correct tax liability the correct tax liability even if the assessee has no full information available. It is based on a principle of fairness and justice, that the government should not be deprived of tax revenue because a taxpayer does not comply. But it should be done carefully, using whatever documents are available, such as audit reports, previous returns, third-party data and industry standards. Although it grants the officer discretion, the officer's discretion is not absolute, and must be tempered by precedent, legal standard, and transparency. Such assessments are a demands buffer that protects revenues and instills compliance enforcement where direct taxpayer declarations are lacking or untrustworthy.

Under certain circumstances that indicate errors, omissions or new facts not previously considered, a Best Judgment Assessment must be revised. Such grounds include recent discovery of new evidence which can materially influence the quantum of tax liability and does not exist during the original adjudication. If the taxpayer only filed the return after assessment and provided a valid reason for their non-initiation earlier, that could be another reason. When it is announced by the assessing authority that the reasons are satisfactory and that the submissions made by the taxpayers are genuine and are supported by documents, the revisions may be initiated. Mistakes in this calculation or the incorrect application of the law are also valid grounds for revision. In addition, judicial intervention i.e. directions from appellate/review authorities may also



necessitate a revision. On other occasions, if assumptions are flawed, or third-party data is unavailable, leading to an incorrect estimation, re-calibration could be required. The purpose of it being permissible to revise is to do justice to the taxpayer and to the correct collection of revenue. It preserves the credibility of tax administration by rectifying wrong assessment causing undue hardship to the assessee due to incomplete or incorrect evaluation in best judgment stage.

### **Revision Procedure – Steps for Revising a Best Judgment Assessment**

Notice of a decision to revise a Best Judgment Assessment is given, and such a decision is made after a fair and open process to ensure transparency and compliance with the law. When the taxpayer comes to the tax authority, typically through filing the overdue return (or application for revision) within the acceptable term, the process begins. The taxpayer is required to demonstrate valid grounds of earlier default followed by documentary support such as invoices, books of accounts, banking statements etc. Upon receipt of such records the assessing officer reviews them and determines if the new information materially impacts the prior assessment result. If they believe that the initial assessment was incorrect or provided insufficient information, they can make a amendment. The taxpayer may be provided the opportunity of a personal hearing to explain their case further. Thereafter, the rectification of tax liability and other figures should be made, and the revised assessment order should be passed. The reason, purpose and basis for the revision must be explicitly stated in a written order. Penalties or interest may also be adjusted if applicable. This method is a natural process for ensuring procedural fairness, which is typically informed by the principles of natural justice and statutory requirements in the individual taxation statute. It also both grants relief to voluntary tax payers and preserves the firm structure of the assessment process.

### **Time Limits for Revision – Time Limits For First Revision**

Statute of limitations provisions govern how long you have to challenge or revise a Best Judgment Assessment. As an example, under the GST law itself, Section 62(2) of the CGST Act states that where a registered person has furnished a valid return within a period of thirty days from the date of the service of an order of assessment in the best judgement, the said order shall be

deemed to have been withdrawn. But then no interest or late fees have been wiped off for the taxpayer. The time limit for revision under income tax viz-a-viz revision by the Commissioner under Section 263 or Section 264 of the Income Tax Act by the tax payer may vary respectively. In general, the limitation period is between 1 year to 4 years from the end of the financial year in which original order was passed. These deadlines help to ensure that tax assessments are concluded in a timely fashion, and are not left to be potentially open-ended. It also stops abuse or extended speculation on tax. For the taxpayer as well as for the tax authority, adherence to these time limits is essential since failure to comply with such deadlines will make the revision done illegal or legally challengeable.

### **Revision by Commissioner**

#### **Suo Motu Revision — Power of Commissioner to Revise Cas-es suo Motu**

Suo motu revision means that, the Commissioner while exercising the suo motu power shall review and/or revise any order passed by any officer subordinate to it not in, pursuance of any application or request made to it. However, this jurisdiction is normally been exercised when there is some mistake or illegality or impropriety in the order which may prejudice the interest of revenue or cause miscarriage of justice. It allows the Commissioner to exercise this power once audit or vigilance records or reports as well as other relevant facts are examined, whose exercise is particularly relevant in cases where the parties affected may not be in a position to have recourse to appeal either on account of ignorance or oversight. This provides accountability for the administration and consistency in the interpretation and application of the law. But suo motu revision is not an unbridled power; it has to be exercised with the four corners of law and also as per the principles of natural justice. Before passing a revised order, the affected party has to be given a fair opportunity of being heard. This clause serves as check-and-balance within the administrative structure that corrects mistakes that may have escaped attention in the regular appeal or adjudication process.

#### **Revision on Application – Revision Upon Request**

In addition to suo motu powers, the Commissioner can also revise orders on an application made to it by an aggrieved person. It is a formal proceeding in



which a taxpayer or any other aggrieved party files an application before the Commissioner for the review of an order passed by another subordinate officer. It is the responsibility of the application to specify grounds on which the application may be revised like mistakes in the application of law, misdirection in facts or lapses in procedure. It needs to be filed as per the prescribed format with supporting documents. This right guarantees a remedial mechanism, even outside the realm of appeals, for those who may be impacted. On receiving the application, the Commissioner examines the facts, peruses the records, and issues notices or summons records if necessary, so as to pass a well-informed order. The application is also subject to the principles of natural justice where the applicant is entitled to a reasonable opportunity of being heard. It offers an alternative administrative remedy that is often quicker and less burdensome than the processes of appeal in the judicial system.

#### **Orders Which Are subject to revision – area of revision**

The powers of the Commissioner to modify specific kinds of orders made by subordinate officers. These usually relate to assessment, penalty, interest, refund or registration under taxation laws. Whether an order is strictly speaking final hypothetically or because it is more to do with whether the order has attained finality or is only within the revision window. Notably, the order also should not be against which an appeal already lies with the higher judicial forum as the case may be — appellate tribunal, high court, Supreme Court. In that case, however, if the order gave rise to any illegality, material irregularity, or misperception of law, the Commissioner would enhance the same by adjusting it to comply with the provisions of statute. The Commissioner may also intervene to remedy a situation where the breach of procedural norms has occurred or where crucial evidence has been ignored. This control ensures that lesser officers are held reliable for their actions, and that uniformity and accuracy are found in tax administration. However, only certain types of decisions are subject to reconsideration and the scope of the possible review is strictly set out in the law or rule that governs the decision-making authority.

## **Orders That Cannot Be Amended – Exempt Orders**

Any orders may not be modified by the Commissioner. The law is accompanied by clear limits to everything that is excluded from it, which serves both the purpose of legal certainty and the protection of finality of judicial decisions. Orders that are already under appeal, or which have been decided by any higher authority such as an appellate tribunal, high court or Supreme Court are also excluded from revision. Ordinarily, such orders which are achieved finality with the expiry of the limitation period without any challenge are not revisable. In the case of an order made pursuant to a direction of a Court or if it is pursuant to consent decree, it cannot be opened on revision. These limitations provide that the mechanism of revision is not so used in an arbitrary manner as to unsettle settled issues or to reopen matters unnecessarily. It also prevents overlapping functions of the appellate and revisional authority

## **SELF ASSESSMENT QUESTIONS**

### **Multiple Choice Questions**

1. **Appeal against the order of the Assessing Officer lies with:**
  - a) Commissioner (Appeals)
  - b) Income Tax Appellate Tribunal
  - c) High Court
  - d) Supreme Court
2. **The time limit for filing an appeal to the Commissioner (Appeals) against an assessment order is:**
  - a) 15 days from the receipt of the order
  - b) 30 days from the receipt of the order
  - c) 60 days from the receipt of the order
  - d) 90 days from the receipt of the order
3. **The Income Tax Appellate Tribunal (ITAT) is:**
  - a) A judicial body under the Ministry of Law
  - b) A quasi-judicial body under the Ministry of Finance
  - c) A department of the Income Tax Department
  - d) A constitutional body



4. **Which of the following cannot be appealed against to the Appellate Tribunal?**
  - a) Order of Commissioner (Appeals)
  - b) Order of Assessing Officer
  - c) Order of Commissioner under Section 263
  - d) Order of Principal Commissioner under Section 273A
5. **The power to condone delay in filing an appeal with the Commissioner (Appeals) is available for a period of:**
  - a) 15 days
  - b) 30 days
  - c) No time limit
  - d) No power to condone
6. **The revisionary powers under Section 263 can be exercised by the Commissioner when the order is:**
  - a) Not prejudicial to the interests of revenue
  - b) Prejudicial to the interests of revenue
  - c) Partly prejudicial to the interests of revenue
  - d) None of the above
7. **The time limit for completion of penalty proceedings under Section 271(1)(c) is:**
  - a) 6 months from the end of the month in which penalty proceedings were initiated
  - b) 6 months from the end of the financial year in which penalty proceedings were initiated
  - c) 6 months from the end of the month in which the assessment order was passed
  - d) No time limit
8. **The maximum term of imprisonment for willful attempt to evade tax is:**
  - a) 2 years
  - b) 5 years
  - c) 7 years
  - d) 10 years

9. **Reference to the High Court can be made in case of:**
- a) Any question arising out of the Tribunal's order
  - b) Substantial question of law arising out of the Tribunal's order
  - c) Any question of fact arising out of the Tribunal's order
  - d) Any question raised by the assessee
10. **Appeal to the Supreme Court lies:**
- a) As a matter of right in all cases
  - b) Only if the High Court certifies it to be a fit case
  - c) Only in cases involving international taxation
  - d) Only in cases where the tax effect exceeds ₹1 crore

### Short Questions

1. Explain the powers of Commissioner (Appeals) under the Income Tax Act.
2. What is the procedure for filing an appeal to the Appellate Tribunal?
3. Distinguish between revision under section 263 and section 264.
4. What is the procedure for reference to the High Court?
5. Explain the grounds on which penalty can be imposed under section 271(1)(c).
6. What is the time limit for completion of penalty proceedings?
7. Explain the concept of best judgment assessment and its revision.
8. What are the major offences punishable under the Income Tax Act?
9. What is the procedure for compounding of offences under the Income Tax Act?
10. Explain the circumstances under which an appeal can be filed to the Supreme Court.

### Long Questions

1. Explain the appeals mechanism under the Income Tax Act. Discuss the procedure, time limits, and powers of Commissioner (Appeals) in disposing of appeals.





2. Discuss in detail the constitution, powers, and functions of the Income Tax Appellate Tribunal. How does it differ from Commissioner (Appeals)?
3. Explain the revisionary powers of the Commissioner under sections 263 and 264. Distinguish between these two types of revisions with suitable examples.
4. Describe the procedure for reference to the High Court and appeal to the Supreme Court. What are the limitations of these remedies?
5. Discuss the provisions relating to penalties under the Income Tax Act. What is the procedure for imposition of penalties and what are the time limits prescribed?
6. Explain the concept of best judgment assessment under section 144. Under what circumstances can revision of best judgment assessment be made?
7. Discuss the various offences and prosecutions under the Income Tax Act. What is the procedure for launching prosecution and what punishments are prescribed?
8. Elaborate on the principles governing appeals under the Income Tax Act. What are the various stages of appeal available to a taxpayer?
9. Explain the provisions relating to stay of demand pending appeal. What are the conditions under which stay can be granted by different appellate authorities?
10. Discuss the procedures and time limits for imposing penalties under the Income Tax Act. How can penalty orders be appealed against?

## References:

### MODULE I

#### Relevant Books:

1. H.C. Mehrotra & Goyal – *Income Tax Law and Practice*
  2. V.K. Singhania – *Students' Guide to Income Tax*
  3. Girish Ahuja – *Systematic Approach to Income Tax*
  4. Bhagwati Prasad – *Direct Taxes: Law and Practice*
  5. Dinakar Pagare – *Law and Practice of Income Tax*
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### MODULE II

#### Relevant Books:

1. V.K. Singhania – *Direct Taxes: Law & Practice*
  2. Girish Ahuja – *Direct Taxes Ready Reckoner*
  3. B.B. Lal – *Direct Taxes: Income Tax, Wealth Tax and Tax Planning*
  4. H.C. Mehrotra & Goyal – *Income Tax Law and Practice*
  5. Gaur & Narang – *Income Tax Law and Practice*
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### MODULE III

#### Relevant Books:

1. Girish Ahuja – *Practical Approach to Income Tax and Tax Planning*
  2. V.K. Singhania – *Direct Taxes Planning and Management*
  3. Bhagwati Prasad – *Income Tax Law and Practice*
  4. Shreepa Seklecha – *Income Tax Simplified*
  5. Income Tax Department – *Handbook: How to Compute Your Salary*
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### MODULE IV

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1. H.C. Mehrotra & Goyal – *Income Tax Law and Practice*
2. Dinakar Pagare – *Law and Practice of Income Tax*

3. B.B. Lal – *Direct Taxes*
  4. Bhagwati Prasad – *Direct Taxes: Law and Practice*
  5. Girish Ahuja – *Tax Administration and Practice*
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## **MODULE V**

### **Relevant Books:**

1. V.K. Singhania – *Students' Guide to Income Tax Including GST*
2. Dinakar Pagare – *Law and Practice of Income Tax*
3. Bhagwati Prasad – *Direct Taxes: Law and Practice*
4. Gaur & Narang – *Income Tax Law and Practice*
5. B.B. Lal – *Direct Taxes Including Tax Planning and Management*

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