K.T.S.P.Mandal's

SAHEBRAOJI BUTTEPATIL MAHAVIDYALAYA

Rajgurunagar, Tal-Khed, Dist-Pune, 410505

Department of Commerce

T.Y.B.COM

SEM-VI

Subject
Income Tax

Chapter 1
Income Tax Act 1961:-
Important Definitions & Concepts

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Introduction:-

Income Tax Act, 1961 is an act to levy, administrate, collect & recover Income-tax in India. It came into force from 1st April 1962. Income Tax including surcharge (if any) & cess is charged for any person at the rate as prescribed by Central Act for that assessment year.

Tax is a compulsory payment made by individuals and entities to the Government of a country as per the tax law and rules made their under. Non payment of taxes would attract panel action.

Income tax is a direct tax that a government levies on the income of its citizens. The Income Tax Act, 1961, mandates that the central government collect this tax. The government can change the income slabs and tax rates every year in its Union Budget.

Features of income tax

1. Text is imposed as per tax law of country.
2. Applicable to all which fall within the scope of the tax law.
3. Income tax becomes payable on date or in succeeding year of income generation.
4. Applicable on all income of person.
5. Tax rates are different as per the heads of income and seniority.
6. Different source of income that is salary, house property, business/profession, capital gains, other sources.
7. Deductions are available as per under section 80 C to 80 U

Scope of income tax act 1961

1. Extent to whole of India
2. Various heads I.e.Income from salary, Income from house property, Income from business/profession, Income from capital gains, Income from other sources.
3. Various persons i.e. individual, Hindu undivided family, firms, company, association of persons or body of individuals, local authority and any other artificial judicial person
4. Residential status determines the income to tax chargeable

Importance of income tax

1. Used for infrastructure, railways and laws etc.
2. Income tax payment is used to encourage research and development.
3. Income tax payment used to reduce gap between poor and rich persons.
4. It provides facility to higher education.
5. Income tax payment is used to facilitate development of region.

Important Concepts and Definitions under Income Tax Act 1961.

1) Income- section 2(24)

Income is understood to be periodical monetary return with some sort of regulatory. The term income is meant to include the following

1. Profits and gains
2. Dividend
3. Voluntary contribution received by trust
4. Perquisites in the hands of employees
5. Any special allowance or benefit
6. City compensatory allowance or dearness allowance
7. Any benefit or perquids to a director
8. Any benefit or perquisite to representative assessee
9. Capital gains
10. Insurance profit
11. Banking income of co-operative society
12. Employees contribution towards provident fund
13. Amount received under key man insurance policy
14. Amount exceeding rupees 50000 by way of gift received by an individual or a Hindu undivided family.

2) Person- section 2(3)

1. An individual-

Individual means a natural person that is human being. It includes minors and persons of unsound mind.

2. A Hindu Undivided Family

It includes only Hindu families if they are undivided including their wives and unmarried daughters.

3. A company

It includes Indian companies' foreign companies and the companies in which the public is substantially interested like government companies, finance companies etc.

4. A Firm's

A for means a partnership firm although a firm does not have a separate legal existence it is treated as person under the Income tax act.

5. An association of person or body of individuals

AOP means a group of persons including individuals h u f companies firms etc who joined together for common purpose. On the other hand BOI means a group of individuals who joined together for a common purpose which may be to earn income or otherwise.

6. A local authority

A local authority means m municipal committee district board Panchayat cantonment board etc

7. Artificial judicial person

Each artificial judicial person not falling within any of the preceding sub clauses. Artificial judicial person are entities which are not persons but have a separate existence in the eyes of logs for example idols, universities etc

3) Assessee- section 2(7)

Assessee means a person by whom any tax or any other sum of money is payable under this act to the government.

4) Deemed Assessee

Deemed Assessee is an individual who is required by a Income tax authorities to pay tax for some other persons the following individuals are treated as deemed assesses

1. The executor or legal heir of a property of a disease person who is written has passed on his property to the executive is treated as deemed assessee.
2. The eldest son or any other legal heir of a diseases the individual (who has expired without writing his will).
3. The guardian of a minor a lunatic or an idiot is created as deemed assessee.
4. The agent of a non resident Indian having income source in India.

5) Assessment year –Section 2(9)

An assessment year means the period of 12 months commencing on first day of April every year. It is the year which immediately succeeds the relevant previous year. The income earned in the previous year is charged to tax in the assessment year. For example in come earn in the previous year 2021-2022 is assessed for tax in the year 2022-2023.

6) Previous year- Section- 3

Section 3 of the Income tax act defines previous year as the financial year immediately preceding the assessment year. The income and in this year are saved for tax in the assessment year. In case of a newly setup business or profession previous year shall be the period beginning with the date of setting up of business or profession and ending with 31st March of the state financial year.

Thus AY is 2022-23 then PY is 2021-22.

7) Agriculture Income- section 2 (1A)

Agriculture is a state subject and hence the central government cannot lively tax on agricultural income. However, the state government can levy tax on agricultural income if the amount exceeds Rs.5,000 per year.

8) Gross Total Income (GTI)

Gross total income is a aggregate income of all heads of income before subtracting deductions.

9) Total Taxable Income (TTI)

Total taxable income is a aggregate income of all hits of income after subtracting deductions under section 80c to under section 80 U.

10) Residential Status of an Assessee.

A) Residential status of an individual status of an individual -6(1)

An individual can be a resident or non resident. There are two sets of conditions

I) BASIC CONDITIONS

1) Presence of at least 182 days in the India during the previous year.

2) Presence of at least 60 days in the India during the previous year and 365 days during the four years immediately proceeding the relevant previous year.

Note-

If he satisfies at least one of the basic conditions then he becomes a resident in India.

To determine whether the resident is ordinary resident or not ordinarily resident, there are two additional conditions

II) ADDITIONAL CONDITIONS

1) Resident in India in at least two out of 10 years immediately preeceeding the relevant previous year.

2) Presence of at least 730 days in India during 7 years immediately preeceding the previous year.

Note-

If a resident satisfied both the additional conditions he is a ordinarily resident.

If a resident does not satisfy any of the additional conditions or satisfy only one of the basic conditions then he is a resident but not ordinarily resident.

B) Residential status of a Hindu undivided family

Resident

HUF is resident in India if the control and management of affairs of the business is wholly in India or is partly in India and partly outside India

Ordinarily Resident

A resident Hindu undivided family is ordinary resident in India if Karta or manager of a family satisfies the following two additional conditions.

1. He has been resident in India for at least 2 out of 10 previous years immediately preeceeding the relevant previous year.

2. He has been present in India for a period of 730 days or more during 7 years immediately proceeding the previous year.

Not ordinarily resident

If Karta aur manager of a resident HUF does not satisfy the two additional conditions (both) the family is treated as a resident but not ordinary resident in India.

C) Residential status of a Firm, Company, AOP,BOI etc.

Resident

When the control and management of the affairs of the tax payer is wholly in India or partly in India and partly outside India, the person is resident accept a non Indian company which can be a resident only if the control and management is wholly in India.

On the other hand if the control and management is wholly outside India and these persons are non resident accept an Indian company which is a resident evil when the control and management is wholly from outside India.

11) PAN, TAN

A) PAN

Permanent Account Number abbreviated as PAN is a unique 10-digit alphanumeric number issued by the Income Tax Department to Indian taxpayers. The department records all tax-related transactions and information of an individual against his unique permanent account number.

B) TAN

In India, a Tax Deduction and Collection Account Number (TAN) is a 10 digit alpha-numeric number issued by the Income Tax Department to the persons who are required to deduct or collect tax on payments made by them under the Indian Income Tax Act, 1961.TAN is required by all individuals because without it Tax Deducted at Source (TDS) or Tax Collected at Source (TCS) returns are not accepted by TIN facilitation centres.

12) Concept of Capital and Revenue income and expenditure

1) Capital receipt

Capital receipts are those which do not occur regularly and are received due to sale of assets accepting donations taking loans etc. The general rule is capital receipts are not taxable under Income tax act. But profit made on sale or transfer of capital asset that is capital gain is taxable.

2) Revenue receipt

Revenue receipts on the other hand arise regularly from a different source. For example salary received from employer, interest received on Bank deposits, rent earned on let out property it is it. In case of revenue receipt the general rule is all a revenue receipts are taxable unless exempted from tax under section 10 of the act for example- interest earn on public provident fund is exempt also dividend received from Indian company is exempt from tax.

3) Capital expenditure

Capital expenditure means expenditure on purchase additions and acquisition, installation and reconditioning of assets. Capital expenses are not allowed as deduction.

4) Revenue Expenditure

On other hand revenue expenditure means other expenses of recurring nature which do not create an asset that is postage telephone charges depreciation etc.
Revenue expenditure is allowed at deduction from the income and from specific source.

13) Exempted incomes- section 10

1. Income from agriculture is exempt. If the net agriculture Income excess RS 5000 it is taken into account for text slab purpose. (Section 10/1)
2. Share of income of Hindu Undevided family for the member is exempt. (Section 10/2)
3. After assessment of tax of a partnership firm the income for its partners is exempt from tax (section 10/2A)
4. Any some received from Life insurance policy including bonus is exact except the following (10/10D)

    i) Any some received from key man insurance scheme and other insurance schemes are eligible for deduction under section 80DD/DDA

    ii) Any some received from Life insurance policy issued after 01.04.2003 whose annual premium is more than 20% of the sum assured and if the ensured person is alive.
5. Interest received from post office saving scheme and government relief bond.(10/15)
6. Scholarship received to meet out the expenditure of education. (10/16)
7. Daily allowance received by MLA/MP is exempt but salary received is taxable. Other allowances received by MP are tax free but an allowance received by MLA is tax free up to maximum limit of 2000 per month. (10/17)
8. Income of local authority that is panchayats municipal corporation etc is exempt (10/20)
9. Income of University or education institutional or hospital or medical institution valley is substance really financed by government or the annual receipt of which do not exceeds the prescribed amount or which is approved by the competent authority.(10/23C)
10. Income of trade union or association of trade unions from house property or income from other sources.(24/4)
11. Income of statutory provident fund or an approved superannuation fund or gratuity fund (10/25).
12. Income of minor child up to 1500 is tax free but if exceeds it will be added to the income of parents. (10/32)
13. Dividend distributed on or after 01.04.2003 by a domestic company will be exempted in the hands of the investor. (10/34)
14. Any long term capital gain arising from transfer of equity shares of a company or units of an equity oriented fund on or after 01. 10. 2004, subjected to security transactions tax (STT) are exempted from the tax for investors.(10/38)
15. Income of political party from capital gains whose property and other sources are tax free. (13/A).

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