INDIAN
INCOME TAX LAW
AND
PRACTICE 2014-15

(English Edition)

Eighth Edition 2015

Amendments effective from Assessment Year 2014-15

By

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Introduction & Concept of Income Tax

Brief History of Income Tax in India

India has a well developed tax structure with a three-tier federal structure, comprising the Union Government, the State Governments and the Urban/Rural Local Bodies. The power to levy taxes and duties is distributed among the three tiers of Governments, in accordance with the provisions of the Indian Constitution.

The main taxes/duties that the Union Government is empowered to levy are Income Tax (except tax on agricultural income, which the State Governments can levy), Customs duties, Central Excise and Sales Tax and Service Tax.

The principal taxes levied by the State Governments are Sales Tax (tax on intra-State sale of goods), Stamp Duty (duty on transfer of property), State Excise (duty on manufacture of alcohol), Land Revenue (levy on land used for agricultural/non-agricultural purposes), Duty on Entertainment and Tax on Professions & Callings. The Local Bodies are empowered to levy tax on properties (buildings, etc.), Octroi (tax on entry of goods for use/consumption within areas of the Local Bodies), Tax on Markets and Tax/User Charges for utilities like water supply, drainage, etc.

(1) The Income Tax history in modern India dates back to 1860. In this year first Income Tax Act was introduced and which remained in force for a period of 5 years. This Act lapsed in 1865. Thereafter Act-II of 1886 was in force. This Act of 1886 was the improved version. It introduced the definition of agricultural income and the exemption it granted in respect of agricultural income has continued to be a feature of all subsequent legislations.

(2) The year 1918 saw the introduction of Act VII of 1918, it recasted the entire tax laws. This Act was designed keeping in mind the remedy to certain inequalities in the assessment of individual tax payers under the 1886 Act. The Act introduced the scheme of aggregating income from all sources for the purpose of determining the rate of tax.

(3) The Indian Income Tax Act, 1922 which came into being as a result of the recommendations of the All India Income Tax Committee is a milestone in the evolution of Direct Tax Laws in India. Its importance lies in the fact that the administration of the Income Tax hitherto carried on by the Provincial Governments came to be vested in the Central Government.

(4) The Act of 1922, similar to the Act of 1918, applied to all incomes "accruing or arising", or received in British India, or deemed to be accrued, arisen or received. This Act marked an important change from the Act of 1918 by establishing the charge in the year of assessment on the income of the previous year instead of merely adopting the previous year's income as a measure of income of the year of assessment. The Act made a departure by abandoning the system of specifying the rates of taxation in its own Schedules. It left the rates to be announced by the Finance Acts, a

Lesson 2
Scope of Total Income and Residential Status

Concept of Residential Status / Tax Liability [Section 5 to 9]

In India, as in many other countries, the charge of income tax and the scope of taxable income varies with the factor of residence. There are two categories of taxable entities viz.

(1) Resident in India or

(2) Non-resident in India.

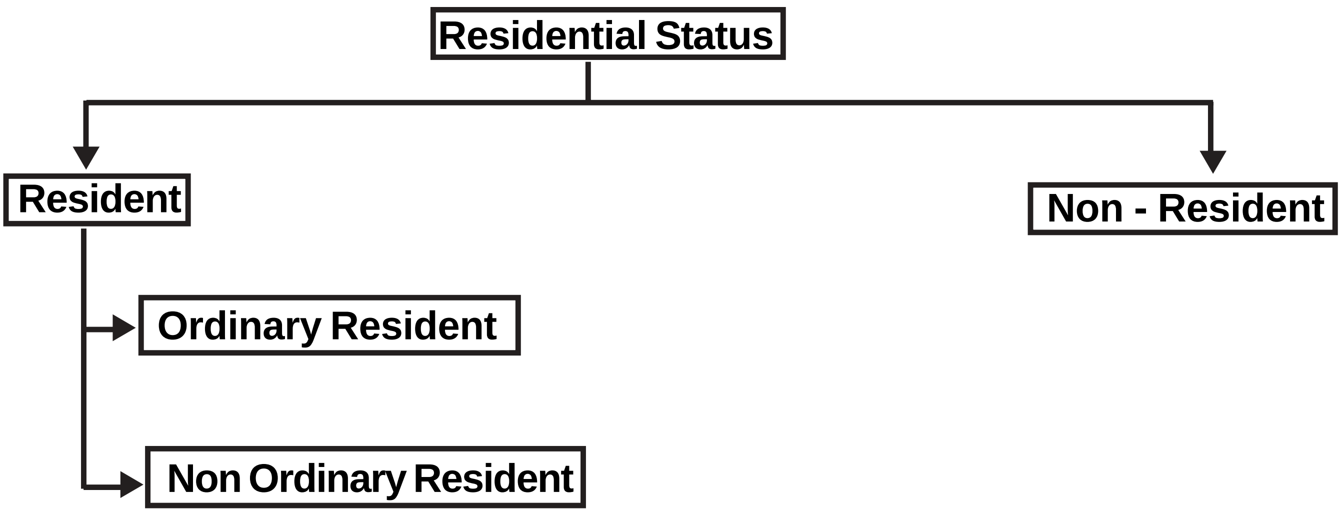
Residents are further classified into two sub-categories

(i) Resident and Ordinarily resident (ROR) and

(ii) Resident but not Ordinarily resident (RNOR).

The law prescribes two alternative technical tests of residence for individual taxpayers. Each of the two tests relate to the physical presence of the taxpayer in India in the course of the "previous year" which would be the twelve months from April 1 to March 31.

In case of persons other than individual and HUF, he will be either resident in India or non-resident in India. Section 6 of the Income-tax Act prescribes the tests to be applied to determine the residential status of all tax payers for purposes of income-tax. There are three alternative tests to be applied for individuals, two for companies and Hindu Undivided Families and firms, associations of persons, bodies of individuals and artificial juridical persons. An assessee's residential status must be determined with reference to the previous year in respect of which the income is sought to be taxed (and not with reference to the assessment year).



Lesson 3
Incomes which do not form part of Total Income – Sec 10

INCOME TAX is a charging legislation. The prima facie intention of the legislation seems to be to enhance the potential for revenue authorities in increasing tax revenues. However, the Act also has a social perspective attached to it. Not all incomes are chargeable to tax. Certain incomes are fully exempt, few are conditionally exempt, few are exempt for certain persons etc. In this chapter lets us try and understand what are the various categories of income which are exempt and when. To start with, the provisions of this chapter can be broadly categorized as:

(a) Exemptions available for Certain Incomes

(1) Agricultural Income – Sec 10[1]:

Income from agricultural activities from an agricultural land situated in India and used for agriculture is entirely exempt from tax. Exemption is subject to the income falling within the ambit of Sec 2(1A).

Example 1

Gross Total Income of Mr Anil as computed under Income tax act, for the assessment year 2014-15 is 3,30,000. He deposits Rs.20,000 in a PPF account. Compute the tax payable by Mr Anil assuming that he has agricultural income of

(a) Nil (b) Rs.5,000 and (c) Rs.3,50,000.

Solution:

(a) & (b)

Since the agricultural income is either Nil or does not exceed Rs.5,000, there will be no partial integration and the Income-tax will be calculated on Rs.3,10,000 (Rs.3,30,000 –Rs.20,000 **deduction u/s 80C**) as per regular provisions.

Tax on Rs.3,10,000 will be Rs.11,330(11000+220+110).

Lesson 4
Deductions Under Chapter- VIA

DEDUCTIONS for the purpose of this chapter refers to deductions available from Gross total income. A set of specific deductions considering various socio economic factors have been provided under this chapter. As a learner of the subject, try to understand the logical reasoning behind each and every deduction, this would help you to appreciate the provisions.

India has a savings to GDP ratio of over 35% which is significant and was one of the prime factors to protect the economy from the recent global economic recession. One of the main reasons for such high savings ratio, apart from the conservative nature of the Indian population, is the tax incentives which are made available to promote long term savings.

This and many more incentives are being offered for various classes of persons to promote social and economic causes. The total set of deductions available can be broadly categorised as:

Sr. No.	Category	Sections	Classification as per Act
1.	Basics	80A, 80AB, 80AC	Deductions pertaining to certain payments
2.	Deductions pertaining to investments	80C, 80CCC, 80CCD, 80CCE, 80CCF	Deductions pertaining to certain payments. 80U is classified under other deductions
3.	Deductions pertaining to medical treatment and expenses	80D, 80DD, 80DDB, 80U	
4.	Deductions pertaining to certain contributions	80G, 80GGA, 80GGB, 80GGC	
5.	Deductions pertaining to expenditure	80E, 80GG	
6.	Deductions pertaining to Industrial Undertakings	80IA, 80IAB, 80IB, 80IC, 80ID, 80IE	Deductions pertaining to certain incomes
7.	Deductions pertaining to Specified certain incomes . Businesses	80JJA, 80JJAA, 80LA, 80P	
8.	Deductions pertaining to certain Incomes	80QQB, 80RRB	

Lesson 5
Income from Salaries
Section 15 to 17

What is "Salary"

Income under heads of salary is defined as remuneration received by an individual for services rendered by him to undertake a contract whether it is expressed or implied. According to Income Tax Act there are following conditions where all such remuneration are chargeable to income tax:

When due from the former employer or present employer in the previous year, whether paid or not When paid or allowed in the previous year, by or on behalf of a former employer or present employer, though not due or before it becomes due.

When arrears of salary is paid in the previous year by or on behalf of a former employer or present employer, if not charged to tax in the period to which it relates.

Employer and Employee Relationship

The salary of an employee is a separate source, distinct from other classes of income. The basis of liability under the head salaries is the employer-employee relationship. Before charging the particular income received by a person under this head, care must be taken to ensure that there exists such a relationship of employer and employee between the recipient and the payer of the income. The payments chargeable under the head salaries must be made between the persons who are in the relationship of employer and employee.

Therefore, the amount received by an individual shall be treated as salary only if the relationship between payer and payee is of an employer and employee or master and servant. Employer may be an individual, firm, and association of persons, company, corporation, Central Government, State Government, public body or a local authority. Likewise, employer may be operating in India or abroad. The employee may be full time employee or part-time employee.

SALARY RECEIVED FROM FORMER EMPLOYER

Even salaries received by an employee from former employer(s) for services rendered would be chargeable to tax under this head. Hence, the fact that the employee in question is not an employee under the person from whom the money is received at the time of its receipt, is irrelevant. Arrears of

Lesson 6
Income from House Property
Section 22 to 27

Introduction

This lesson deals with income, which falls under the head 'Income from house property'. The scope of income charged under this head is defined by section 22 of the Income Tax Act and the computation of income falling under this head is governed by sections 23 to 27. All the provisions relating to tax treatment of income from house property are explained in this lesson.

Important Sections to be Discussed in this Lesson

The provisions for computation of Income from house property are covered under sections 22 to 27. This chapter deals with the provisions for computation of Income from house property. Section 22 is the charging section that identifies the basis of charge wherein the annual value is prescribed as the basis for computation of Income from House Property. Therefore, the process of computation of "Income from House Property" starts with the determination of annual value of the property. The concept of annual value and the method of determination are laid down in section 23. The admissible deductions available from house property are mentioned in section 24.

(1) Section 22	"Annual value" of property is taxable under this head.
(2) Section 23	Determination of 'Annual value'
(3) Section 23(1)(a),(b)& (c)	Annual value of let-out property
(4) Section 23(2)(a)	Annual value of self-occupied (residential) property
(5) Section 23(2)(b)	Annual value of a property non-occupied due to employment/ business etc.
(6) Section 23(4)(a)& (b)	Deemed to be let out houses
(7) Section 24	Allowable deductions from "Income from House property"
(8) Section 24(a)	Standard deduction
(9) Section 24(b)	Deduction for interest on borrowed capital
(10) Section 25	Amount not deductible from income from house property
(11) Section 25A & 25AA	Recovery of unrealised rent
(12) Section 25B	Taxation of Arrears of rent
(13) Section 26	Property owned by co-owners
(14) Section 27	Deemed owner

Lesson 7
Income from Business or Profession
Section 28 to 44D

Business or Profession [Section 2 [13]]

The income from business and profession is known as profit and gains. While calculating the profit and gains, we deduct various expenses from it. The expenses to be deducted for calculating the gain are defined in the income tax act. Sections 30 to 37 cover expenses, which are expressly allowed as deduction while computing business income, sections 40, 40A and 43B cover expenses which are not deductible.

Expenses deductions under section 30 to 37 are of two types. The first is specific deductions which are covered under section 30 to 35 and second is generaldeductions which are covered under section 36 and 37. Specific deductions are allowed only to some of the businesses while general deductions are allowed to all the businesses.

There are certain provisions which allow an assessee to calculate the profit on the presumptive basis, i.e.,the profit is presumed on certain basis.These provisions are contained under section 44.

Basis of Charge [Section 28]

Under section 28, the following income is chargeable to tax under the head "Profits and gains of business or profession":

a. profits and gains of any business or profession;

b. any compensation or other payments due to or received by any person specified in section 28(ii);

c. income derived by a trade, professional or similar association from specific services performed for its members;

d. the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;

e. export incentive available to exporters;

f. any interest, salary, bonus, commission or remuneration received by a partner from firm;

g. any sum received for not carrying out any activity in relation to any business or not to share any know-how, patent, copyright, trademark, etc.;

h. any sum received under a Key man insurance policy including bonus;

Lesson 8
Income from Capital Gains
Section 45 to 55A

Income from Capital gains is computed in accordance with the provisions of sections 45 to 55A of the Act. The expression ‘Capital gains means any profits or gains arising from the sale of a capital asset affected in the previous year. The following are generally the essential conditions for taxing capital gains:

1) There must be a capital asset.
2) The capital asset must have been transferred.
3) There must be profits or gains on such transfer, which will be known as capital gain.
4) Such capital gains should not be exempt under sections 54, 54B, 54D, 54EC, 54F, 54G or 54GA.

Having known what capital gain is, we need to now know what capital asset is.

Capital Asset: [Section 2 [14]]

Capital Asset means property of any kind (Fixed, Circulating, movable, immovable, tangible or intangible) whether or not connected with business or profession.

Exclusions

(i) **any stock-in-trade,** consumable stores or rawmaterials held for the purposes of his business or profession;

(ii) **personal effects** that is to say, movable property (including wearing apparel and furniture but excluding jewellery) held for personal use by the assessee or any member of his family dependent on him. Jewellery includes ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semiprecious stone, and whether or not worked or sewn into any wearing apparel and precious or semiprecious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;

(iii) **agricultural land in India,** not being land situate (a) within the jurisdiction of a municipality or a contonment board and which has a population of not less than 10,000, or (b) in any area within the distance, measured aerially, –

(a) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten thousand but not exceeding one lakh; or

Lesson 9
Income from Other Sources
Section 56 to 59

Income chargeable under Income-tax Act, which does not specifically fall for assessment under any of the heads discussed earlier, must be charged to tax as "income from other sources". This head is thus a residuary head of income under which income can be computed only after deciding whether the particular item of income is otherwise assessable under any of the first four heads. In addition to the taxation of income not covered by the other heads, Section 56(2) specifically provides certain items of incomes as being chargeable to tax under the head in every case. The provisions for computation of income from other sources are covered under sections 56 to 59. While section 56 defines the scope of income chargeable under this head, sections 57 and 58 specify the basis of computation of such income.

The following shall be chargeable to Income Tax under the head Income from other sources: –

(1) Dividends [Section 56 [2] [i]]

(a) Dividend received from Indian company or units of mutual fund

Any Kind of dividend, paid, declared or distributed by a Indian company or units of mutual fund is liable to dividend distribution tax and hence is exempt from tax in hands of recipient under sec 10(34).

(b) Dividend received from a foreign company

Taxable dividend in case of a foreign company is calculated as follows:-

Gross dividend	xxx
Less: -collection charges	xxx
Less:-Interest on money borrowed	xxx
Less: - Any other expenditure	xxx
TAXABLE DIVIDEND	**xxx**

(c) Dividend received from a Cooperative Society

Taxable dividend in case of a co-operative society is calculated as follows:-

Gross dividend	xxx
Less: -collection charges	xxx
Less:-Interest on money borrowed	xxx
Less: - Any other expenditure	xxx
TAXABLE DIVIDEND	**xxx**

Lesson 10

Income Tax Computation of Hindu Undivided Families [HUF], Firms [LLP], Associations of Persons and Co-operative Societies

In this lesson the Income Tax Treatment with relation to Hindu Undivided Families (HUF), Firms, Associations of Persons and Cooperative Societies is being discussed. The tax implications, rates of tax and other issues relating to the above persons have been discussed elaboratory. Hindu undivided family is treated as a separate taxable entity for the purpose of income tax assessment. With regard to firms the focus is on partnership firms or Limited liability partnerships.

(1) Hindu Undivided Family [HUF]

HUF is a family with husband, wife and children (and children's spouses if any) living together. The property owned by this family will be through lineal ascendants or any ancestors. There are a set of laws that govern property ownership, marriages, taxation etc for a legally declared HUF. IT department of India has a format of taxation for a HUF; tax benefits can be availed from this format.

HUF accounts

Karta of a HUF is the senior most male member of the family and in financial terms he can also be called manager of the family. In this account a corpus is created where every family member can pool their income. The corpus will be handled by or authorized to handle by Karta (head of the family). Signature of karta will be required for every transaction from the bank. These accounts are similar to individual saving bank accounts; there will be various tax benefits that are available for an individual's account while the income of members is being pooled in HUF account.

Features of HUF account

There are a few features of HUF account that makes it different from regular saving bank accounts.

· Every member of the family can deposit their income in the common corpus

· Single person's authority while participation from entire family

· Tax benefits on deposits under various sections

· Corpus can be divided only on agreement of every coparcener of the family

Lesson 11
Tax Deducted at Source [TDS]

Introduction

Income is earned over a period of time but the assessment/ determination of tax liability takes place much later. To avoid a liquidity problem for the tax payer and also to ensure a regular flow of revenue for the government, the Income tax Act has provided for periodic recovery of tax from income liable to tax by requiring the tax to be deducted at source from certain income/payments as and when such income/payments are credited. The concept of TDS is that the person responsible for making certain specified payments is required to deduct tax at the prescribed rates from the payments made to a specified recipient in accordance with the provisions of the Income Tax Act.

Quoting of Tax Deduction/Collection Account Number[TAN]

All persons deducting or collecting Tax at source are required to apply for and obtain a Tax Deduction/Collection Account Number (TAN). Quoting of TAN of the deductor is mandatory in the TDS Challan, TDS return, TDS certificates and other TDS related transactions. Application for obtaining TAN is to be made in **Form No.49B** at any of the TIN FC's.

Improving Compliance with provisions of quoting of PAN

[from 1-4-2010 onwards]

It is now mandatory for the tax payer/ deductee to furnish his PAN to the deductor, failing which the deductor shall deduct tax at source @ 20% or the rate in force which ever is higher. TDS would also be deductible @20% in cases where the tax payer files a declaration in Form.No.15G or 15H without quoting his/her PAN. No certificate under section 197 (for non-deduction / deduction at lower rate) will be granted unless the application contains the PAN of the applicant.

Responsibilities of The Deductor/Collector

(a) Deduct Tax at the Time of Payment/ Credit

Any person responsible for paying any sum, on which tax is deductible, shall deduct tax at the prescribed rates at the time of payment/credit.

Lesson 12
Tax Collection at Source [TCS]

We have generally learn about tds (Tax Deducted at source) but as per section 206C ,tax is to collected on sale also ,the concept of TDS and TCS is to get tax collected from the assessee so that he must be assessed under the Income tax act and scope of the income tax can be widened.In this post I have try to explain the main provisions relating to Tax collected at Source i.e TCS.

TCS is Tax Collection at Source by the seller (collector) from the buyer/ lessee (collectee/ payee). The goods are as specified under section 206C of the Income Tax Act,1961. If the purchase value of goods is X, the amount payable by the buyer is X+Y, where Y is the value of tax at source. The seller deposits Y (tax collected at source) at any designated branch of banks authorised to receive the payment.

The seller, lessor or licensor, is responsible for the collection of tax from the buyer, lessee or licensee. The tax is collected for sale of goods, on transactions, receipt of amount from the buyer in cash or issue of cheque, draft or any other mode, whichever is earlier.

Main Section

Every person,being a seller ,shall collect tax at source(TCS) from the buyer of goods specified in section 206C(1).

Who is Seller?

following persons are covered under the scope of the seller for TCS purpose

1. The Central And State Government.
2. Local authority
3. Statutory corporation or Authority
4. Company
5. Firm
6. Co-operative society
7. Individual or Hindu undivided family(HUF) if covered under section 44AB (mandatory Audit)

Who is Buyer ?

Buyer Means a person who obtains in any sale,by way of auction,tender or any other mode,specified goods ,or right to receive any such goods but does not include

1. Public sector company,
2. Central/state Government,
3. Embassy,a high commission,legation,consulate and the trade representation of a foreign state and

Lesson 13
Income Tax Rates, Return Forms, Challan & Other Information

Government requires funds for the purposes of carrying out its activities, which are mainly maintenance of law and order, defence, public policy etc. These funds are generated through revenue, which comes from corporate tax, Income Tax, Customs duty, Excise duty, other taxes etc. Major portion of the revenue of the country comes from taxes.

Taxes are classified as Direct Taxes and Indirect Taxes, Direct taxes are paid by taxpayer directly from his income/wealth etc. Whereas indirect taxes are paid by taxpayer indirectly i.e. he pays the same at the time of purchasing goods and commodities, paying for services etc. Important indirect taxes are Central Excise, Customs, Service Tax, Central Sales Tax and VAT. Out of these indirect taxes major contribution to the country's revenue is made by levy of excise duty and service tax for the Central Government. The revenue of Central Sales Tax & VAT will go to respective state government.

Due date for filing return of income for AY 2014-15

Who is required to file Income Tax return

1. Every Company (Whether earn profit or loss)
2. Every Firm (whether earn profit or loss)
3. Individual /HUF/AOP/BOI or artificial Judicial person if Total Income plus Deduction under chapter VIA(Section 80C to 80U) ,exemption under section 10,10B,10BA is than maximum amount which is not chargeable under Income Tax Act.
4. Other :If income more than maximum amount which is not chargeable under Income Tax Act.

The due dates for filing of return of income by various categories of persons can be summarized as under –

Note:-

(i) If the last date of filing falls on Saturday or Sunday or Public Holiday and Income Tax Department is closed on these days, subsequent date will be treated as "Last date of Filing"

(ii) **Revised return {section 139(5)}**: Return Filed with in due date can be revised any time before completion of assessment subject to maximum by the expiry of one year from the end of the relevant assessment year. For Financial year 2013-14 ,if return is filed with in due date then it can be revised by 31.03.2016.

(iii) **Belated (Late) Return {section 139(4)}** :Every assesse Can file their belated return with

Lesson 14

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(4) Income Tax Return Forms and Payment Challan

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