

Chapter 1 : Basics of Income Tax

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Space for Important Points / Notes

Extent of Income-tax Act



- 1 The Income-tax Act, 1961 came into force with effect from 1/4/1962.
- 2 It has XXIII chapters and 298 sections in all.
- 3 Income-tax Act extends to the whole of India.
- 4 Entry No: - 82 Union List > Income Tax other than Tax on Agricultural Income
- 5 Entry No: - 46 State List > Agricultural Income Tax

How Law Works



Central Board of Direct Taxes
(CBDT)



Law makers	Law Implementers	Law Interpreters														
<p>Ministry of Finance in consultation with ministry of law and Justice draft the Finance bill</p> <p>Legislative Process</p> <table border="1"> <tr> <td>Green paper</td> <td>Discussion/consultation documents</td> </tr> <tr> <td>White paper</td> <td>Governments proposed new law</td> </tr> <tr> <td>Bill</td> <td>Debated and approved in both houses of parliament</td> </tr> <tr> <td>Approval</td> <td>President assent is taken, once approval is received it becomes an Act from the date notified.</td> </tr> </table>	Green paper	Discussion/consultation documents	White paper	Governments proposed new law	Bill	Debated and approved in both houses of parliament	Approval	President assent is taken, once approval is received it becomes an Act from the date notified.	<p>Parliament approves the law then the power is delegated to another body to create working law here the "Rules are made & implemented"</p> <p>In other words it can also be said as subordinate legislation</p>	<p>Courts & tribunal</p> <table border="1"> <tr> <td>Supreme court- APEX COURT</td> <td>Can accept the case when HC grants certificate of Fitness [Article 134-A] or Filing an SPL [article 136]</td> </tr> <tr> <td>High Court</td> <td>Original jurisdiction in most of the cases Writ petition can be filled</td> </tr> <tr> <td>Tribunal</td> <td>Last Authority for Interpretation of Fact</td> </tr> </table>	Supreme court- APEX COURT	Can accept the case when HC grants certificate of Fitness [Article 134-A] or Filing an SPL [article 136]	High Court	Original jurisdiction in most of the cases Writ petition can be filled	Tribunal	Last Authority for Interpretation of Fact
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Constitutional Validity of Act

Article 123	Power of President to promulgate Ordinances during recess of Parliament
	(1) If at any time, except when both Houses of Parliament are in session, President is satisfied that circumstances exist which

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		render it necessary for him to take immediate action, he may promulgate such Ordinance as the circumstances appear to him to require
		(2) An Ordinance promulgated under this article shall have the same force & effect as an Act of Parliament, but every such Ordinance
		(a) shall be laid before both House of Parliament & shall cease to operate at the expiration of six weeks from the reassemble of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and
		(b) may be withdrawn at any time by the President Explanation where the Houses of Parliament are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause
		(3) If & so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void
Article 265		No tax shall be levied or collected except by authority of law
Article 245	(1)	Parliament may make laws for the whole or any part of the territory of India, & the Legislature of a State may make laws for the whole or any part of the State
	(2)	No law made by Parliament shall be deemed to be invalid on the ground that it would have extra territorial operation.
Article 270		All the taxes & duties except specified shall be levied by CG & distributed between Union & State Government in the manner specified by President or through recommendation of finance commission.

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Article 271 Notwithstanding anything in Article 270, Parliament may at any time increase any of the duties or taxes referred in those articles by a surcharge for purposes of the Union & the whole proceeds of any such surcharge shall form part the Consolidated Fund of India.

Sec 298 Power to remove difficulties

Sec 298(1) - If any difficulty arises in giving effect to the provisions of this Act the CG may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

Sec 298(2) - In particular, and without prejudice to the generality of the foregoing power, any such order may provide for the adaptations or modifications subject to which the repealed Act shall apply in relation to the assessments for the AY ending on the 31st day of March, 1962, or any earlier year.

Sec 298(3) - If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the CG may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty.

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

Sec 298(4) - Every order made under sub-section (3) shall be laid before each House of Parliament.

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Sec 295 Power to make rules

Sec 295(1) - The Board may, subject to the control of the CG, by notification in the Gazette of India, make rules for the whole or any part of India for carrying out the purposes of this Act.

Sec 295(2) - In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of following matters :

- a) the ascertainment and determination of any class of income;
- b) the manner in which and the procedure by which the income shall be arrived at in the case of:
 - i) income derived in part from agriculture and in part from business;
 - ii) persons residing outside India;
 - iiia) operations carried out in India by a non-resident;
 - iiib) transactions or activities of a non-resident; [FA'20]
 - iiic) an individual who is liable to be assessed u/s 64(2);
- c) the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable;
- d) the percentage on the WDV which may be allowed as depreciation in respect of buildings, machinery, plant or furniture;
- dda) the matters specified in sub-sections (2) & (3) of sec 44AA;
- e) the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted u/s 80GG;
- ee) the matters specified in Chapter X-A;
- eea) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed u/s 139(6);
- eeb) the time within which any person may apply for the allotment of a PAN, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which permanent account numbers shall be quoted on documents

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- relating to such transactions u/s 139A;
- eeba) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the AO on demand u/s 139C;
- eebb) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted u/s 139D;
- eebc) the form of the report of audit and the particulars which such report shall contain u/s 142(2A);
- eebd) remuneration of Chairperson and members of the Approving Panel u/s 144BA(18) and procedure and manner for constitution of, functioning and disposal of references by, the Approving Panel u/s 144BA(21);
- f) the manner in which and the period to which any such income as is referred to in section 180 may be allocated;
- fa) the form and manner in which the information relating to payment of any sum may be furnished u/s 195(6);
- g) the authority to be prescribed for any of the purposes of this Act;
- h) the procedure for giving effect to the terms of any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the CG under this Act;
- ha) the procedure for granting of relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, u/s 90 / 90A / 91, against the income-tax payable under this Act;
- i) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim;
- j) the manner in which any document required to be filed under this Act may

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be verified;

k) the procedure to be followed on applications for refunds;

kk) the procedure to be followed in calculating interest payable by assesseees or interest payable by Government to assesseees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assesseees may be ignored;

l) the regulation of any matter for which provision is made in section 230 (Tax Clearance Certificate);

m) the form and manner in which any appeal or cross-objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation of any such order as is referred to in sec 249(2)(c) may be served;

mm) the circumstances in which, the conditions subject to which and the manner in which, the CIT (A) may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the AO;

mma) the form in which the statement u/s 285B shall be delivered to the AO

n) the maintenance of a register of persons other than legal practitioners or accountants as defined in sec 288(2) practising before ITA and for the constitution of and the procedure to be followed by the authority referred to in sub-section (5) of that section;

o) the issue of certificate verifying the payment of tax by assesseees;

p) any other matter which by this Act is to be, or may be, prescribed.

Sec 295(3) - In cases coming under clause (b) of sub-section (2), where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which in the opinion of the Board is unreasonable, the rules made under this section may-

a) prescribe methods by which an estimate of such income may be made; and

b) in cases coming u/s 295(2)(b)(i) specify the proportion of the income which