

*Commercial's*

# Direct & Indirect Taxation (DITX)

**Module 1 : Direct Taxation with MCQs**

**For CMA Inter As per New Syllabus**

**Applicable for June, 2024 & Dec. 2024 Examinations**

## Key Features

- **Practical Examples** to enhance the practical applicability of the concepts discussed
- **More than 1,400 MCQs** for Self-Assessment covering all chapters
- **Case Study Based MCQs:** In line with the latest trends in examinations
- **Chapter-wise Section Lists** to allow readers to quickly locate the reference of specific sections
- **Chapter Summaries** serve as a valuable tool for readers, aiding in the revision process by offering a quick recap of key concepts and principles covered in the chapter

**12th  
Edition  
2024**

**Assessment Year  
2024-2025**



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## CONTENTS

1.	Introduction, basic concepts and definitions under Income tax act, 1961	1
2.	Residential status & tax incidence	37
3.	Concept & calculation of income tax	85
4.	Concept of calculation of surcharge on income tax	118
5.	Agricultural income & its tax treatment	132
6.	Income under the head "salary"	150
7.	Income under head house property	277
8.	Depreciation: section 32 And rule 5	324
9.	Income under the head 'profits and gains from business and profession' (PGBP)	361
10.	Income under the head 'capital gains'	437
11.	Dividend and deemed dividend	523
12.	Tax treatment of gifts received	537
13.	Income under the head 'other sources'	561
14.	Clubbing of incomes	580
15.	Set off of losses and carry forward of losses	597
16.	Deductions from gross total Income (Chapter VI-a of Income tax act, 1961)	620
17.	New tax regime relating to taxation of income	681
18.	Alternate minimum tax (sections 115JC to 115JF)	706
19.	Incomes which are exempt from income tax	719
20.	Procedure of filing of income tax returns	732
21.	Tax deducted at source (TDS) Tax collected at source (TCS)	755
22.	Advance payment of tax and interest payable by assessee	818
23.	Taxation of virtual digital assets (VDAS)	832
24.	Assessment of individuals	840
25.	Case study based MCQs	865
26.	Assessment procedure	915
27.	Assessment of hindu undivided families (HUF)	929
28.	Assessment of co-operative societies	941
29.	Assessment of political parties	948
30.	Assessment of partnership firms, AOPS/BOIS	950



# 1

## INTRODUCTION, BASIC CONCEPTS AND DEFINITIONS UNDER INCOME TAX ACT, 1961

### SYNOPSIS

1. Learning Objectives of Chapter of Introduction, Basic Concepts and Definitions under Income Tax Act, 1961	2
2. Sections Discussed in the Chapter of Introduction, Basic Concepts and Definitions under Income Tax Act, 1961	3
<i>Part 1</i>	
3. Introduction of Chapter Basic Concepts and Definitions under Income Tax Act, 1961	3
4. What is the Meaning of Tax?	3
5. Why are Taxes Levied?	4
6. Type of Taxes?	4
7. Differences Between Direct Taxes and Indirect Taxes	4
8. Power to Levy Tax	5
9. The Law Governing income-tax, its Levy and its Collection	5
10. Components of income-tax law	5
11. Arrangement of Sections and Structure of Income Tax Act, 1961 Related to Syllabus	8
12. Short Title, Extent and Commencement	9
MCQs of Part 1	9
Answers to above Questions	10
<i>Part 2</i>	
13. Definitions under Income Tax Act, 1961	10
14. Charge of income-tax: Section 4	11
15. Definition of India: Section 2(25A)	11
16. Definition of Person: Section 2(31)	12
17. Hindu Undivided Family (HUF)	14
17.1 Introduction to HUF	14
17.2 Laws Governing HUF	15
18. Definition of Assessment: Section 2(8)	15
19. Definition of Assessee: Section 2(7)	15
MCQs of Part 2	16
Answers to above Questions	18
<i>Part 3</i>	
20. Heads of Income: Section 14	18
21. Definition of Total Income: Section 2(45)	18
22. Concept of Rounding Off of Total Income: Section 288A	19
23. Difference Between Gross Total Income and Total Income	20
24. Definition of Income: Section 2(24)	20
25. Concept Of Income	22

26. Revenue Income and Capital Income	23
26.1 Difference between capital receipt and revenue receipt	24
26.2 Criteria for determining whether a receipt is capital or revenue in nature	24
26.3 Tests to be applied to determine Capital Receipts and Revenue Receipts	24
27. Diversion of Income and Application of Income	25
MCQs of Part 3	25
Answers to above Questions	27

## Part 4

28. Concept of Previous Year and Assessment Year	27
28.1 Definition of Previous Year: Section 2(34)	27
28.2 Definition of Assessment Year: Section 2(9)	27
28.3 PY can be a period of less than 12 months: Proviso to Section 3	27
29. Income Earned in a Previous year is Assessable in the Assessment Year following the Previous year What are the Exceptions to this Proposition?	28
29.1 Shipping Business of Non-Residents: Section 172	28
29.2 Assessment of Persons Leaving India: Section 174	28
29.3 Assessment of AOP/BOI Formed for a Particular Event: Section 174A	29
29.4 Assessment of Persons Likely to Transfer Property to Avoid Tax: Section 175	29
29.5 Discontinued Business: Section 176	29
30. Undisclosed Source of Income	30
30.1 Cash Credits: Section 68	30
30.2 Unexplained Investments: Section 69	30
30.3 Unexplained Money: Section 69A	30
30.4 Amount of Investments, etc., not Fully Disclosed in Books of Accounts: Section 69B	30
30.5 Unexplained Expenditure: Section 69C	30
30.6 Amount Borrowed or Repaid on Hundi: Section 69D	31
MCQs of Part 4	31
Answers to above Questions	33

## Part 5

31. Concept, Definition and Classes of Companies	33
31.1 Definition of Company: Section 2(17)	33
31.2 Definition of Domestic Company: Section 2(22A)	33
31.3 Definition of Foreign Company: Section 2(23A)	34
31.4 Definition of Indian Company: Section 2(26)	34
31.5 Company in which Public are Substantially Interested: Section 2(18)	34
32. Discussion About Amendments	35
32.1 Amendments effecting computation of total income	35
32.2 Amendment which is procedural in nature	35
Chapter at a Glance	35

## 1. LEARNING OBJECTIVES OF CHAPTER OF INTRODUCTION, BASIC CONCEPTS AND DEFINITIONS UNDER INCOME TAX ACT, 1961

- To understand reasons of levying taxes by the Government
- To understand the structure of Income Tax Act, 1961
- To understand the meaning of various terms frequently used in Income Tax Act, 1961 as per their definitions given in Section 2 of Income Tax Act, 1961



- To understand meaning and scope of terms like Person, Assessment Year, Previous Year, Income, Total Income and Assessee used in Taxation Parlance
- To understand meaning and types of companies
- To understand concept of taxability of incomes and applicable tax rates
- To understand applicability of amendments done by Annual Finance Acts

## 2. SECTIONS DISCUSSED IN THE CHAPTER OF INTRODUCTION, BASIC CONCEPTS AND DEFINITIONS UNDER INCOME TAX ACT, 1961

Topic	Section
Person	Section 2(31)
Total Income	Section 2(45)
Income	Section 2(24)
Assessment Year	Section 2(9)
Assessee	Section 2(7)
Previous Year	Sections 2(34) and 3
1st Previous Year starts from the date of set up of business or profession	Provision to Section 3
Gross Total Income	Section 14
<b>Exceptions to Previous Year:</b>	
(1) Shipping Business of non-residents	Sections 172
(2) Assessment of persons leaving India	Section 174
(3) Assessment of AOP or BOI formed for purpose of particular event	Section 174A
(4) Assessment of persons likely to transfer property to avoid tax	Section 175
(5) Discontinued business	Section 176
Company	Section 2(17)
Indian Company	Section 2(26)
Foreign Company	Section 2(23A)
Company in which public are substantially interested	Section 2(18)
India	Section 2(25A)
Domestic Company	Section 2(22A)

### PART 1

## 3. INTRODUCTION OF CHAPTER BASIC CONCEPTS AND DEFINITIONS UNDER INCOME TAX ACT, 1961

This chapter will lay foundation for understanding of the subject of Income-tax. This chapter covers understanding of all basic concepts which are relevant before learning computation of total income and tax liability. This chapter covers various definitions such as Assessment Year (AY), Previous Year (PY), Assessee and Total Income.

In other words, tax is mandatory financial charge which is imposed by government in order to fund various public expenditure.

## 4. WHAT IS THE MEANING OF TAX?

Tax may be defined as a pecuniary (धन-संबंधी) burden laid upon individuals or property owners to support the Government; a payment exacted (वसूल करना) by legislative authority.



## 5. WHY ARE TAXES LEVIED?

WHY ARE TAXES LEVIED?	GOVERNMENT COLLECTS FUNDS FROM
Government requires funds for: <ul style="list-style-type: none"> <li>• Development of nation</li> <li>• Providing infrastructure facilities</li> <li>• Preservation of natural resources</li> <li>• Defense of nation</li> <li>• Meeting contingencies</li> </ul>	<ul style="list-style-type: none"> <li>• Sale of natural resources available in the country like sale of petroleum, etc.</li> <li>• Imposing taxes on the income, wealth, goods and services</li> </ul>

## 6. TYPE OF TAXES?

DIRECT TAXES	INDIRECT TAXES
Tax levied by government on the income and wealth received by households and businesses and the burden of which cannot be passed on to another person	Tax levied by government on goods and services and the burden of which can be passed on to ultimate consumer
The Constitution of India gives power to the Central and State Governments to levy taxes on different types of transactions.	
Some of the taxes charged by the State Governments are <ul style="list-style-type: none"> <li>• On sale and purchase of immovable property within the State, State Government Charges Stamp Duty or Property Tax</li> <li>• State Government Charges Electricity Tax on providing electricity</li> </ul>	Some of the taxes charged by the Central Government are: <ul style="list-style-type: none"> <li>• Income-tax on the incomes earned</li> <li>• GST on the services supplied to some other person</li> </ul>

## 7. DIFFERENCES BETWEEN DIRECT TAXES AND INDIRECT TAXES

BASIS	DIRECT TAX	INDIRECT TAX
Meaning	Direct tax is levied on person's income and wealth and is paid directly to the government.	Indirect Tax is levied on a person who consumes the goods and services and is paid indirectly to the government.
Nature	Progressive in nature, i.e., higher tax is levied on a person earning higher income and <i>vice versa</i> .	Proportional in nature, i.e., all persons will bear equal burden of tax on goods or services consumed by them.
Incidence and Impact	The taxpayer himself bears such taxes and thus, it pinches the taxpayer.	The taxpayer passes such burden to another person. Thus, it does not pinch the taxpayer.
Example	Income-tax	GST, Custom Duty
Inflation	Direct tax helps in reducing the inflation.	Cost of goods and services increases due to levy of indirect tax thus indirect taxes promote inflation. However, sometimes it is useful tool to promote social welfare by checking the consumption of harmful goods or sin goods through higher rate of tax.
Imposition and collection	Imposed on and collected from the same person	Collected from consumers of goods and services but paid and deposited by the assessee.



BASIS	DIRECT TAX	INDIRECT TAX
Burden	Cannot be shifted	Can be shifted
Event	Taxable income of the assessee	Supply of goods and services

### 8. POWER TO LEVY TAX

- The Constitution of India is the Supreme Law of India
- Any tax law, which is not in conformity with the Constitution, is called *ultra vires* the Constitution and is illegal and void.
- **Article 265:** No tax shall be levied or collected except by the authority of law. It means tax proposed to be levied must be within powers of the legislature imposing the tax
- **Entry 82** of the Union List to Constitution of India - Central Government has power to levy and collect Income-tax (apart from tax on agriculture income)
- **Entry 46** of the State List to Constitution of India - State Government has power to levy and collect Income-tax on agriculture income)

### 9. THE LAW GOVERNING INCOME TAX, ITS LEVY AND ITS COLLECTION

- The law relating to Income-tax is specified in Act called Income Tax Act, 1961
- It is implemented according to the rules laid down in the Income Tax Rules, 1962
- It is administered through circulars issued by the highest authority of Income-tax Central Board of Direct Taxes (CBDT)
- It is interpreted by the judgment of cases, which are heard and decided by the Supreme Court or the High Court.

### 10. COMPONENTS OF INCOME TAX LAW

Components of income-tax law are:

<b>Income Tax Act, 1961</b>	<ul style="list-style-type: none"> <li>• Income-Tax Act, 1961 has been divided into Chapters I to XXIII and has XIV Schedules</li> <li>• Each Chapter has been further divided into Sections. (There are total of 298 Sections)</li> <li>• Each Section deals with a specific provision and is further divided into sub-sections, clauses and sub-clauses that further clarify the provisions discussed in the Section.</li> <li>• Provision, sub-sections, clauses and sub-clauses have explanations, which further simplify any word used in the Section or any point mentioned in the Section</li> <li>• Provision, sub-sections, clauses and sub-clauses further have Provisos, which indicate an exception or a pre-condition which needs to be satisfied for application of Section</li> <li>• Further definitions are given which give a precise meaning to the term used in Act.</li> </ul>
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#### Difference between Sub-Section and Clause

Sub-section	Clause
Sub-section refers to such parts of a section where each part is related with other and all sub-sections taken together completes the concept mentioned in that section.	When each part of the section is independent of each other and one is not related with other, such parts are called as a clause



**Illustration 1:**

Section 5 which defines the scope of total income has two sub-sections (1) and (2).  
 Section 5 sub-section (1) defines the scope of total income for resident and ordinary resident of India and Section 5 sub-section (2) defines the scope of total income of a non-resident.  
 Each sub-section is related with the other in the sense that only when one reads them all, one gets the complete idea related with scope of total income

**Illustration 2:**

The clauses of section 2 define the meaning of terms used in the Income-tax Act, 1961.  
 Section 2 Clause (1A) defines "agricultural income", Section 2 Clause (1B) defines "amalgamation" and so on.  
 Each one of them is independent of other clause of the same section

**Difference between Provisos and Explanations**

Provisos	Explanations
Proviso to a section/sub-section/clause gives out the exception to the provision given in the section/sub-section/clause. Thus, when proviso is given, provision given in the section would not apply or may apply with certain modification	The Explanation to a section/sub-section/clause gives a clarification relating to the provision given in that section/sub-section/clause

**Annual Finance Acts**

Every year, the Union Finance Minister introduces the Finance Bill in the Parliament's Budget Session. When the Finance Bill is passed by both the Houses of the Parliament and gets the assent of the President, it becomes the Finance Act. Amendments are made every year to the Income-tax Act, 1961 and other tax laws by the Finance Act.

The First Schedule to the Finance Act contains four parts which specify the rates of tax—

- Part I specifies the rates of tax applicable for the current AY.
- Part II specifies the rates at which tax is deductible at source for the current Financial Year.
- Part III gives the rates for calculating income-tax for deducting tax from income chargeable under the head "salaries and computation of advance tax".
- Part IV gives the rules for computing net agricultural income.

**Income Tax Rules, 1962**

- The administration of direct taxes is looked after by the Central Board of Direct Taxes (CBDT).
- The CBDT is empowered to make rules for carrying out the purposes of the Act.
- For the proper administration of the Income-tax Act, 1961, the CBDT frames rules from time to time. These rules are collectively called **Income-tax Rules, 1962**.
- It is important to keep in mind that along with the Income-tax Act, 1961, these rules should also be studied.



<b>Circulars and Notifications</b>	<p><b>Circulars</b></p> <ul style="list-style-type: none"> <li>• Circulars are issued by the CBDT from time to time to deal with certain specific problems and to clarify doubts regarding the scope and meaning of certain provisions of the Act.</li> <li>• Circulars are issued for the guidance of the officers and/or assessees.</li> <li>• The department is bound by the circulars. While such circulars are not binding on the assessees, they can take advantage of beneficial circulars.</li> </ul> <p><b>Notifications</b></p> <ul style="list-style-type: none"> <li>• Notifications are issued by the Central Government and by CBDT to implement the provisions of the Act.</li> </ul>
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**Difference between Circulars and Notifications**

Circulars	Notification
Circulars are issued by CBDT	Notifications are issued by the Central Government. The CBDT is also empowered to issue notifications.
Circulars are issued with certain specific problems and to clarify doubt regarding the scope and meaning of certain provisions of the Act.	Central Government issues notifications to affect the provisions of the Act, and CBDT issues notifications to make and amend Income-Tax Rules.
The department is bound by the circulars. While such circulars are not binding on the assessee, they can take advantage of beneficial circulars.	Notifications are binding in nature. Both department and assessee are bound by the notifications.

<b>Legal Decisions of Courts</b>	<ul style="list-style-type: none"> <li>• The study of case laws is an important and unavoidable part of the study of Income-tax law. It is not possible for Parliament to conceive and provide for all possible issues that may arise in the implementation of any Act. Hence the judiciary will hear the disputes between the assessees and the department and give decisions on various issues.</li> <li>• The Supreme Court is the Apex Court of the Country and the law laid down by the Supreme Court is the law of the land. The decisions given by various High Courts will apply in the respective states in which such High Courts have jurisdiction.</li> </ul>
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## 11. ARRANGEMENT OF SECTIONS AND STRUCTURE OF INCOME TAX ACT, 1961 RELATED TO SYLLABUS

CHAPTER OF INCOME TAX ACT	TOPICS COVERED	SECTIONS COVERED
Chapter I Preliminary	Short title, extent and commencement	Section 1
	Definitions	Section 2
	Definition of PY	Section 3
Chapter II Basis of charge	Charge of income-tax	Section 4
	Scope of total income	Section 5
	Determination of residential status	Section 6
	Determination of nature of incomes	Section 7 to Section 9
Chapter III Incomes which do not form part of total income	Exempted incomes	Section 10
	Newly established units in SEZ area	Section 10AA
	Provisions related to Trusts and Political Parties	Section 11 to Section 13B
Chapter IV Computation of Total Income	Heads of Income	Section 14
	(A) Salaries	Section 15 to Section 17
	(B) Interest on securities	Section 18 to Section 21 Omitted WEF 1/4/1989
	(C) Income from House Property	Section 22 to Section 27
	(D) Profits and Gains of Business and Profession	Section 28 to Section 44DB
	(E) Capital Gains	Section 45 to Section 55A
	(F) Income from other sources	Section 56 to Section 59
Chapter V Income of other persons included in assessee's total income	Clubbing of incomes	Section 60 to Section 65
Chapter VI Aggregation of Income and set off or carry forward of loss	Aggregation of Income	Section 66 to Section 69D
	Set off of losses or carry forward and set off of losses	Section 70 to Section 80
Chapter VI-A Deduction to be made in computing total income	(A) General sections	Section 80A to Section 80B
	(B) Deductions in respect of certain payments	Section 80C to Section 80GGC
	(C) Deductions in respect of certain Incomes	Section 80H to Section 80TT
	(CA) Deduction in respect of other incomes	Section 80TTA to Section 80TTB
	(D) Other deductions	Section 80U
Chapter VI-B	<i>Omitted</i>	



CHAPTER OF INCOME TAX ACT	TOPICS COVERED	SECTIONS COVERED
Chapter VII	Not in syllabus	
Chapter VIII Rebates and Reliefs	(A) Rebate of income-tax in case of certain Individuals (B) Relief of income tax when salary is paid in arrear or in advance	Section 87A Section 89
Chapter XII Determination of tax in some special cases	Tax rates on special incomes. These are tax rates other than rates which are given in the Finance Act for normal incomes.	Section 110 to Section 115BBG
Chapter XI A Special provisions relating to certain incomes of non-resident	Tax rates on incomes earned by non-resident.	Section 115C to Section 115-I
Chapter XIV Assessment Procedure	Filing of ITR	Section 139 to Section 140A and Section 145
Chapter XVII Collection and recovery of tax	(A) General	Section 190 to Section 191
	(B) TDS	Section 192 to Section 206AA
	(BB) TCS	Section 206C
	(C) Advance payment of tax	Section 207 to 211
	(D) Collection and recovery	Not in syllabus
	(E) Provisional assessment	Not in syllabus
	(F) Interest payable to government	Section 234A to Section 234C

## 12. SHORT TITLE, EXTENT AND COMMENCEMENT

Section 1(1): This Act may be called the Income-tax Act, 1961

Section 1(2): It extends to the whole of India

Section 1(3): Save as otherwise provided in this Act, it shall come into force on 1/4/1962.

### AUTHOR'S COMMENTS

1/4/1962 refers to the AY 1962-1963, i.e., PY 1961-1962

### MCQs OF PART 1

Q 1: Income-tax is a

- (a) Indirect Tax
- (b) Entertainment Tax
- (c) Direct Tax
- (d) State Tax

(b) 92C

(c) 92E

(d) 82

Q 2: For the purpose of levying tax on income other than agricultural income, Union List contained entry

(a) 92D

Q3: Income-tax Act, 1961 applies to:

- (a) Whole of India
- (b) Whole of India excluding Sikkim
- (c) Whole of India excluding Jammu & Kashmir
- (d) All of the above



**Q4:** Finance Bill becomes the Finance Act when it is passed by:

- (a) The Lok Sabha
- (b) Both Lok Sabha and Rajya Sabha
- (c) Both Houses of Parliament and signed by the President of India
- (d) Both House of Parliament and signed by Prime Minister of India.

**Q5:** Circulars issued by CBDT are binding on:

- (a) The assessee
- (b) Income-tax authority
- (c) Both of above
- (d) None of the above

**Q6:** Income Tax Act came into force on .....

- (a) 1/4/1961
- (b) 1/4/1962
- (c) 1/4/1956
- (d) 1/4/1965

**Q7:** The highest Administrative Authority for income-tax in India is

- (a) Finance Minister
- (b) CBDT
- (c) President of India
- (d) Director of income-tax

**Q8:** The basic source of income-tax law is

- (a) Income-tax Act, 1961
- (b) Income-tax Rules, 1962
- (c) Circulars/Notifications issued by CBDT
- (d) Judgments of Courts

**Q9:** Income-tax is imposed on a person by

- (a) President of India
- (b) Governor of any State
- (c) Parliament
- (d) State legislature of any state

**Q10:** Which of the following statements is incorrect?

- (a) Income-tax is a direct tax
- (b) Wealth tax was a direct tax
- (c) GST is direct tax
- (d) Gift Tax is a direct tax

**Q11:** Income Tax Act, 1961 is a milestone because

- (a) This Act introduced first the concept of aggregating incomes under different heads
- (b) It introduced the concept of resident but not ordinarily resident
- (c) This Act is still in force in India
- (d) Under this Act the administration was shifted completely to the Central Govt.

**Q12:** \_\_\_\_\_ is empowered to levy and collect income-tax

- (a) State governments
- (b) Central Government
- (c) RBI
- (d) Local self-government department

**Q13:** Income tax is a .....

- (a) Business tax
- (b) Profession tax
- (c) Direct tax
- (d) Indirect tax

### ANSWERS TO ABOVE QUESTIONS

1	c	2	d	3	a	4	c	5	b
6	b	7	b	8	a	9	c	10	c
11	d	12	b	13	c				

### PART 2

#### 13. DEFINITIONS UNDER INCOME TAX ACT, 1961

- Under the Income Tax Act, 1961 definitions are generally given in Section 2. However, in some cases definitions are also given in some other Sections.
- Definitions which are given in Section 2 are applicable to whole Act, but definitions which are given in some other Sections will be applicable to a particular Chapter in which such Section is covered.

**Illustration 3:** The word 'Relative' has been defined in Section 2(41) and Section 56. Relative as defined in Section 2 will apply to whole of Income Tax Act, 1961. Relative as defined in Section 56 will apply only to the chapter of Income from Other Sources because Section 56 comes under that chapter.



Definitions are of three types: All types of Definitions can be divided into 3 types:

<b>Inclusive Definitions</b>	These definitions always start with the word Includes. These definitions can be expanded by the courts to include anything which is not specifically mentioned in the law by the law-maker. However, only that definition can be included which has a meaning similar to what has been specifically mentioned in the law by the law-maker	<b>Illustration 4:</b> Rent has not been mentioned in the definition of Income but it can be included in the definition of Income because it comes from the definite sources as in the case of Other Incomes which have been mentioned in the definition.
<b>Exhaustive Definition</b>	These definitions always start with the word Means. These definitions cannot be expanded by the courts to include anything which is not specifically mentioned in the law by the law-maker. Thus, these types of definitions are complete and exhaustive in nature.	<b>Illustration 5:</b> The definition of India is an exhaustive definition
<b>Hybrid definition</b>	These definitions have both Means and Includes in it but starts with the word Means and thus it is also exhaustive in nature.	<b>Illustration 6:</b> The definition of Assessee is hybrid in nature

**14. CHARGE OF INCOME TAX: SECTION 4**

**Section 4(1):** Income-tax shall be charged for any AY at any rate of income-tax in respect of the total income of the PY of every person.

**Section 4(2):** For the income referred u/s 4(1) income-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under this Act.

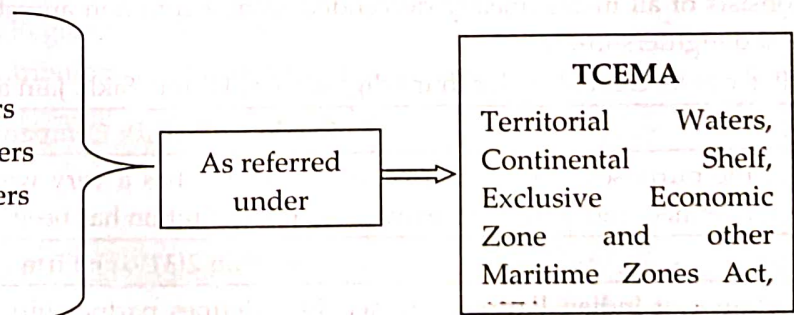
In other words, In INDIA, income-tax is payable by every PERSON on his TOTAL INCOME (calculated depending upon his residential status) which is earned during PREVIOUS YEAR at the rate of tax applicable for the relevant ASSESSMENT YEAR.

Some technical words like India, Income, Person, Total Income, Previous Year and Assessment Year which have been given in above paragraph have been defined u/s 2 which is as follows:

**15. DEFINITION OF INDIA: SECTION 2(25A)**

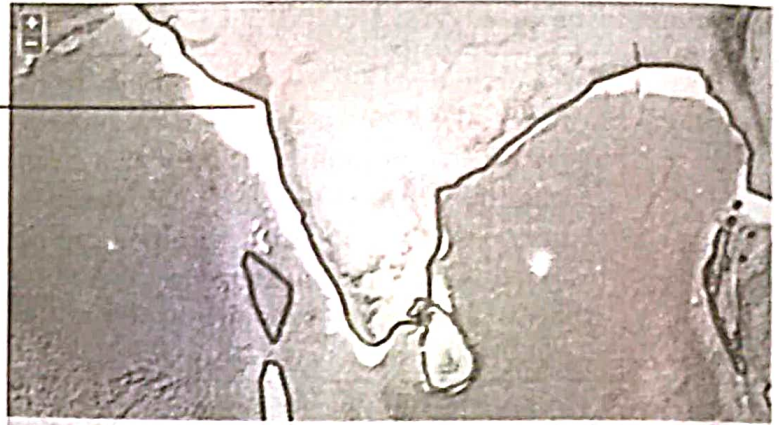
India means the

- the territory of India as referred to in Article 1 of the Constitution
- airspace above its territory
- its territorial waters
- airspace above its territorial waters
- sea bed underlying territorial waters
- subsoil underlying territorial waters
- continental shelf
- exclusive economic zone (EEZ)
- any other maritime zone

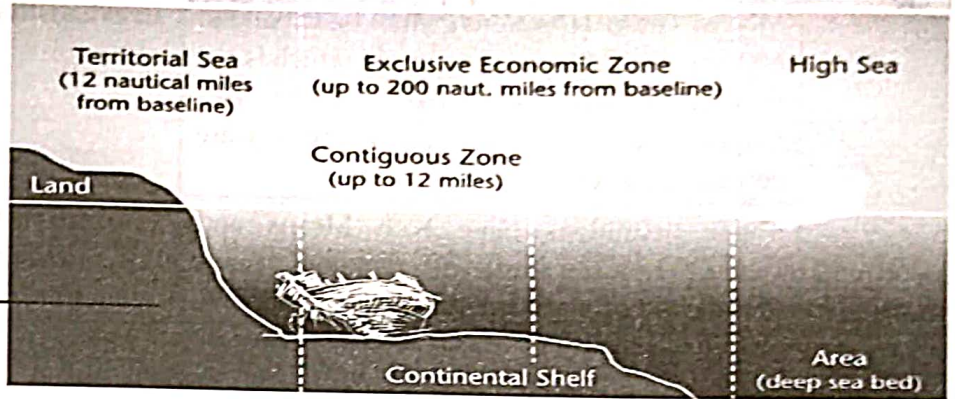




**TERRITORIAL WATERS OF INDIA IS UPTO 12 NAUTICAL MILES FROM THE BASE LINE OF INDIA**  
 [When the coast is deeply indented, has fringing islands or is highly unstable,



The land of India which has been submerged into the sea due to rise in sea level is called continental shelf of India



**16. DEFINITION OF PERSON: SECTION 2(31)**

Person includes:

<b>Section 2(31)(i): Individual</b>
Individual means a natural person, i.e., a human being. It includes males and females, even minors and individuals with un-sound mind and are included in the term of Individuals. As per Section 161(1), in case of minors and individuals of un-sound mind, assessment shall be made on the guardians or managers of such individual. In the event of death of an individual, assessment shall be made on the legal representatives.
<b>Section 2(31)(ii): Hindu Undivided Family (HUF)</b>
HUF has not been defined in Income Tax Act. HUF is neither a creation of law nor of a contract but its membership arises from birth. Head of the family is the head of HUF and is called Karta. HUF consists of all males lineally descended from a common ancestor, their wives, unmarried daughters and daughters-in-law. HUF can be created under four religions, i.e., Hindu, Sikh, Jain and Budhhh
<b>Section 2(31)(iii): Company</b>
For the purposes of Income Tax Act, Company has a very wide meaning as compared to what has been defined under the Company Law. The definition has been discussed in <i>Paragraph Number 31</i> .
<b>Section 2(31)(iv): Firm</b>
Section 4 of Indian Partnership Act, 1932 defines partnership as relationship between persons who have agreed to share profits of the business carried on by all or any one of them on behalf of all. Persons who have entered into partnership are individually called partners and collectively known as Firm.



**Section 2(23): Definition of Firm and Partner**

- (i) Firm shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include, a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;
- (ii) Partner shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include,
- (a) any person who, being a minor, has been admitted to the benefits of partnership: and
  - (b) a partner of a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;
- (iii) Partnership shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008. Thus, a limited liability partnership and a general partnership will be accorded the same tax treatment.

**Section 2(31)(v): Association of Persons (AOP)/Body of Individuals (BOI), incorporated or not**

The terms AOP and BOI have not been defined in the Act.

**Association of Persons (AOP)**

- AOP means two or more persons who come together to do any activity with the purpose of earning income
- Where two or more persons join hands to carry on a business activity but they do not form a partnership firm or a company, they may be assessed as an AOP

**Illustration 7:** DLF Ltd. is a reputed company having main business of developing and selling residential and commercial buildings. Times of India is a news agency having main business of promoting current affairs and news through various news medias. Mr. J is Karta of an HUF which is owner of 5 Acres of land in Delhi. DLF Ltd, HUF and Times of India form a joint venture whereby DLF Ltd will construct a residential society on the land of HUF which will be marketed by Times of India and the profits from this project will be shared by all three. This joint venture shall be regarded as an AOP

**Body of Individuals (BOI)**

- BOI means a group of individuals who join together to do any activity with the purpose of earning income but they do not constitute a firm or a company.
- BOI consists of only individuals. Entities such as companies, firms cannot be the members of BOI.

**Illustration 8:** 10 Individuals join together to form a co-operative society and they get it registered under Co-operative Societies Act, 1912. This Co-operative society will be regarded as a BOI.

Broadly speaking, from the point of view of taxation there is no difference between AOP and BOI. Further, AOP-BOI can be of 7 types:

- (a) Co-operative society registered under Co-operative Societies Act, 1912
- (b) Society registered under Societies Registration Act, 1860
- (c) Mutual Associations (where contributors and participators are same persons, like RWA, Clubs)
- (d) Private Trusts
- (e) Charitable trusts
- (f) Oral trusts
- (g) Any other AOP-BOI which are not covered under (a) to (f)

**Section 2(31)(vi): Local Authority**

The term Local Authority means a municipality, district board, gram panchayat, municipal corporation or any other body, which has the control and management of funds of government.



**Section 2(31)(vii): Every Artificial Juridical Person not falling within any of the preceding sub-clauses**

The seventh category is a residual category and includes all sorts of artificial juridical bodies not covered under the above six categories. It covers not only Hindu deities but all other artificial persons with a juridical personality. Thus, the definition of Person is an inclusive definition and not an exhaustive definition.

**Explanation to Section 2(31)**

AOP-BOI or Local Authority or Artificial Juridical Person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains

**Note:** The above classifications are done according to their legal status. This legal status is needed to fix the tax liability as different rates of taxes are prescribed for different persons.

**Illustration 9:** Classification of following persons into various categories:

- (1) Mr. J shall be regarded as an Individual
- (2) J. Ltd shall be regarded as a Company
- (3) Joint family of Mr. J, Mrs. J, their one son and one daughter shall be regarded as HUF
- (4) M/S JPS is registered under Partnership Act. It shall be regarded a partnership firm with three partners named Mr. J, Mr. P, and Mr. S
- (5) Rainbow Housing Co-operative Society shall be regarded as AOP-BOI
- (6) Bar Council (an association of advocates) of a Court shall be regarded as BOI
- (7) Mr. A and Mr. B are the sons of Mr. J. After the death of Mr. J, his two sons are carrying on his business without entering into a partnership. This relationship between Mr. A and Mr. B shall be regarded as BOI
- (8) Delhi University shall be regarded as artificial juridical person
- (9) ICAI or LIC of India are statutory corporations and shall be assessed artificial juridical person

## 17. HINDU UNDIVIDED FAMILY (HUF)

### 17.1 Introduction to HUF

- HUF has not been defined in the Income Tax Act.
- HUF is neither a creation of law nor of a contract but its membership arises from the birth.
- Head of the family is the head of HUF and is called karta.
- HUF is a joint family which consists of all males lineally descended from a common ancestor, their wives, unmarried daughters and daughter in laws.
- A daughter is a member till her marriage and on being married she ceases to be a member of her father's family and then becomes a member of the family of her husband as daughter in law.
- HUF consists of members, male and female, adult and minor.
- Some of the members of the family are called coparceners. Coparceners are those members who have right to enforce partition of HUF and they are unmarried daughters and all males from the family.
- Coparceners must be the member of the family but a member of the family may or may not be the coparceners. As the family consists of the daughter in laws also thus, they are member of the family but they cannot be the coparceners.



- Simply stated, a coparcener is that member of the HUF, who acquires by birth an interest in the joint property of the family, whether inherited or otherwise acquired by the family.
- The members who are not coparceners have no right to claim partition, although when the partition takes place, a mother or a widow of the karta takes the equal share to the sons.
- After the commencement of Hindu Succession (Amendment) Act, 2006, w.e.f. 9/9/2006, the female members have been brought at par with male members. Hence now:
  - (a) The daughter of a coparcener becomes a coparcener by birth in the same manner as son. She will have same rights and liabilities as that of son.
  - (b) On the death of coparcener, his coparcener interest shall not pass by survivorship but shall be passed only in accordance with the Hindu Succession Act, 1956.
  - (c) The daughter shall be entitled to same share on partition of coparcenary property as that of son.
  - (d) The female heir can demand the partition of a Coparcenary property in the same manner as that of son.
- Jain, Sikh and Budhh families are also treated as HUF for the purposes of Income-tax Act.

## 17.2 Laws Governing HUF

**17.2.1 Dayabhaga law:** This law is prevalent only in the States of Assam and West Bengal. The main features of this are:

- Son does not acquire any interest in the ancestral property by virtue of birth in the family. Son can acquire such interest only on the death of his father.
- Son does not enjoy the right to call for the partition of HUF, since father has the absolute right to dispose of with the property as per his good wish.
- There is no coparcener of HUF under this law till the death of father.
- Till the death of father, father is assessed as individual and not as HUF but after the death of father sons become coparcener of the property and is assessed as HUF.

**17.2.2 Mitakshara law:** This law prevails in whole of India except Assam and West Bengal. The main features of this law are:

- Each son acquires equal interest with his father in the ancestral property by virtue of his birth in the family.
- The concept of Coparcenary is a fluctuating since it is enlarged with the birth of each male member and shrinks with death of male member.

## 18. DEFINITION OF ASSESSMENT: SECTION 2(8)

Assessment includes reassessment.

In the ordinary sense assessment is a procedure by which an income of an assessee is determined by the Assessing Officer. It may be by way of normal assessment or by way of re-assessment of an income previously assessed.

## 19. DEFINITION OF ASSESSEE: SECTION 2(7)

Assessee means any person by whom any tax or any other sum of money is payable under this Act and includes:

- (a) Every person in respect of whom any proceeding under this Act has been taken for the assessment of:



- (i) His own income; or
  - (ii) Of the income of any other person for which he is liable; or
  - (iii) The loss sustained by him or by such other person; or
  - (iv) The amount of refund due to him or such other person
- (b) Every person who is deemed to be an assessee under any provision of this Act. (Representative assessee)
- (c) Every person who is deemed to be an assessee in default under any provision of this Act.

**Illustration 10:** Various illustrations for assessee can be as follows:

- (a) Mr. J has earned business profits of ₹ 7,50,000 for the PY 2023-2024, i.e., AY 2024-2025. He has to pay tax of ₹ 65,000. In this case, Mr. J will be known as an assessee.
- (b) In (a) above, Mr. J has an employee to whom he has paid Salaries income of ₹ 25,80,000 p.a. Mr. J is supposed to do TDS but due to ignorance of law he does not do TDS. In this case, Mr. J will be known as an assessee in default.
- (c) Mr. J has incurred business losses of ₹ 50,000 for the PY 2023-2024, i.e., AY 2024-2025. He is not required to pay taxes. But still, he files ITR so that he can carry forward those losses. In this case, Mr. J will be known as an assessee.
- (d) Mr. J has earned income less than ₹ 2,50,000 for the PY 2023-2024, i.e., AY 2024-2025. He does not file his ITR. Income-tax department does not take any action against him. He shall not be regarded as an assessee.
- (e) Mr. X has a minor son master Y. Master Y earns bank interest income. This is income of master Y but Mr. X will be liable to pay tax on this income. So, Mr. X is deemed assessee in this case.
- (f) Representative assessee is deemed to be an assessee u/s 160(2).
- (g) Any person who has not done TDS or has done TDS but has not deposited it with the Central Government is regarded as an assessee in default u/s 201(1).
- (h) If person liable to pay advance tax does not pay advance tax, then he is regarded as an assessee in default u/s 218.

**Illustration 11:** A single letter of enquiry was issued by the income-tax department to Mr. Shoumik of Pune. In this letter there was no specific mention of any provision of the Income Tax Act. Can Mr. Shoumik be treated as an assessee under the Income Tax Act?

**Solution:** As per the definition of the term 'assessee' any person, in respect of whom any proceeding is initiated under the Income Tax Act for assessment, shall be treated as an assessee. In this case, it is informed that a single letter is issued. The letter is issued only to conduct some enquiry. As there is no mention of any provision of the Income Tax Act, it may not be construed as part of a proceeding under the Income-tax Act. Therefore, Mr. Shoumik cannot be treated as an assessee on the basis of issuance of the letter.

### MCQs OF PART 2

**Q1:** The term 'assessee' has been defined u/s:

- (a) Section 2(34)
- (b) Section 2(9)
- (c) Section 2(7)
- (d) None of the above

**Q2:** Assessee is always a person but a person may or may not be an assessee.

- (a) True
- (b) False



Q3: A person may not have assessable income but may still be assessee.

- (a) True
- (b) False

Q4: Association of persons can include:

- (a) Only individuals
- (b) All types of persons
- (c) Only companies
- (d) All of the above

Q5: A person includes:

- (a) Only Individual
- (b) Only Individual and HUF
- (c) Individuals, HUF, Firm, Company only
- (d) Individuals, HUF, Company, Firm, AOP or BOI, Local Authority, AJP

Q6: Every assessee is a person, and

- (a) every person is also an assessee
- (b) every person may not be an assessee
- (c) an individual is always an assessee
- (d) An HUF is always an assessee

Q7: Describe the status of the following person (i.e., individual, HUF, Firm, Company, etc.)

Mr. S and Ms U are legal heirs of Mr. J. Mr. J died in April 2023. After his death, Mr. S and Ms U carry on his business without entering into a partnership.

- (a) Firm
- (b) Limited Liability Partnership
- (c) Company
- (d) Body of Individuals

Q8: Association of persons consists of:

- (a) Individuals (only)
- (b) Any Person other than individuals
- (c) No kind of person
- (d) Any kind of the person

Q9: Body of individuals consists of:

- (a) Individuals only
- (b) Persons other than individuals only.
- (c) Any kind of persons
- (d) None of the above.

Q10: According to Section 2(7) Assessee means

- (a) A person by whom any tax or other sum of money is payable
- (b) A person against whom any proceeding under the Act has been taken
- (c) A person who is deemed to be an assessee in default under any provision of this Act
- (d) All of the above

Q11: The term 'Person' includes

- (a) A Registered Firm
- (b) An Unregistered Firm
- (c) Both of (a) and (b)
- (d) None of (a) or (b)

Q12: Who is Tax-payer?

- (a) Assessee
- (b) Businessman
- (c) Trust
- (d) Govt. employee

Q13: As per Section 2(31), the following is not included in the definition of person—

- (a) An individual
- (b) A Hindu undivided family
- (c) A company
- (d) A minor

Q14: A municipal corporation legally entitled to manage and control a municipal fund is chargeable to income-tax in the status of:

- (a) Individual
- (b) Association of persons
- (c) Local authority
- (d) Artificial juridical person



## ANSWERS TO ABOVE QUESTIONS

1	c	2	a	3	a	4	b	5	d
6	b	7	d	8	d	9	a	10	d
11	c	12	a	13	b	14	c		

## PART 3

## 20. HEADS OF INCOME: SECTION 14

All incomes shall, for the purpose of computation of total income and imposing income-tax, be classified under following heads of income:

- Salaries
- ~~Interest on securities~~ [omitted by FA 1988 WEF 1/4/1989]
- Income from house property
- Profits and gains of business or profession
- Capital gains
- Income from other sources

The aggregate of all five heads of income, mentioned above shall, be regarded as Gross Total Income.

This can be understood in better manner by the following analysis:

Source of income	Name of income	Taxable as
Doing a regular job or job on daily basis	Salaries Allowances (e.g. DA) Perquisites Bonus, Commission	Income from salaries
Letting out of a building	Rent	Income from house property
Business activity Professional Activity Vocational Activity	Profits from business Fees from professional activity	Income from business and profession
Sale of assets	Profits or losses on sale of asset	Income from capital gains
Residual incomes	Dividends Interest Rent from land Casual incomes like lottery, Gambling, Gift Received, etc.	Income from other sources

## 21. DEFINITION OF TOTAL INCOME: SECTION 2(45)

Total Income means total amount of income referred to in Section 5, computed in a manner laid down in this Act.

- Section 5 gives us the Scope of Total Income which is discussed in *Paragraph Numbers 43, 44, 45*.
- Total Income is computed by allowing deductions from gross total income.