# UNIT I BASIC CONCEPTS-I

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## 1.0 OBJECTIVES

After studying this unit you should be able to :

- explain the income tax administration in India,
- define specific terms which are relevant for the study of the subject.

## 1.1 INTRODUCTION

Income tax is one of the direct taxes levied by the Central Government. It is considered direct as it is payable in the Assessment Year, directly by the Individual, Hindu Undivided Family, Firms and Corporate Bodies on the income earned during the previous year (Accounting/Financial Year). Therefore, any student of income tax must know the meaning of the terms income, previous year, assessment year, total income and who are the persons liable to income tax in India. In this unit we have traced the history of income tax in India and we have also defined all these terms as per the provisions of the Income Tax Act as amended up to date.

## 1.2 BROAD MECHANISM OF INCOME TAX IN INDIA

The First War of Independence in 1857 was a major financial burden to the English Government which brought it into great financial difficulties. Thus compelled by financial necessities the British Government enacted the Income Tax Act, 1886. The financial crunch resulting from the First World War brought to focus the inadequacies of the said Act. After extensive investigation, the Act of 1922 was enacted and was effective for about four decades.

These intervening years saw India gain independence and the new Indian Government felt that the Income Tax Act needed a thorough overhaul. The Law Commission submitted a draft bill in 1958. A committee appointed under the Chairmanship of Mahabir Tagi in 1958, also known as the Direct Taxes Administration Committee, to look into the direct tax structure submitted a draft. Finally, the old Indian Income Tax Act, 1922 was completely recast in 1961 and a new Income Tax Act came into force with effect from 1.4.1962.

The administration of the Income Tax Act, 1962 is done by the Central Board of Direct Taxes (CBDT), which works under the supervision of the Ministry of Finance. The CBDT is charged with the duty of framing rules for the administration of the Income Tax Act. These rules, known as the Income Tax Rules, 1962, contain various forms and miscellaneous details. The process of framing rules is a very elaborate one, it involves notifying the rule first for public deliberation, and then for adoption. They

are also placed on the tables of the House for information. These Rules are changed as and when the situation warrants.

The CBDT also issues from time to time, various circulars for the direction of the officials of the Income Tax Department and for Information of tax payers. It is, therefore, necessary for a student of income tax to keep himself uptodate with the latest provision. The best way to do this is to regularly read various tax journals and other tax publications.

**The Finance Act**

You may be aware that the Finance Minister of the Government of India presents an estimate of income and expenditure for the coming financial year to the Parliament generally on the last day of February every year. The document 'is popularly known as 'budget'. It is an important event of the country as it gives the public an idea of the direction the Government is going to follow in the ensuing year. In order to give legal shape to various tax proposals, a bill is also moved which is known as Finance Bill. It contains various provisions as regards direct and indirect taxes. Once the Finance Act is passed, it becomes a law according to which various taxes are charged. It is the Finance Act that contains the rate structure of income tax which would be applicable in that year.

It is therefore, necessary that any student of income tax should not only study the Income Tax Act but also the Income Tax Rules and the latest Finance Act. All these have to be studied simultaneously.

**Scheme of Income Tax—An Overview**

Every entity whose income (computed in accordance with the Income Tax Act and the Income Tax Rules etc.) is more than the tax free limit as prescribed by the relevant Finance Act, is required to pay tax. The Finance Act of 1990 raised the exemption limit from Rs. 18,000 to Rs. 22,000.

Recognising the diversity, and the need for standardisation of the sources of income, the Income Tax Act has identified five heads of income. They are salaries, income from house property, profits and gains from business or profession, capital gains and income from other sources. Prior to the Assessment Year 1989-90 "income from interest on securities" was a separate head of income. From the Assessment Year 1989-90 onwards such income is taxable either under the head "Profits and gains of business or profession" or 'Income from other sources' depending on whether the securities are held as stock-in-trade or as an investment. The methods of computation of income under these heads are provided in the Act.

The income tax read along with the Income Tax Rules and the Finance Act provides for all the possible situations that are likely to arise in the administration of income tax law.

The Income Tax Act, 1961 extends to the entire country including the State of Jammu and Kashmir, Pondicherry, Dadra Nagar, Haveli, Goa, Daman and Diu and Sikkim. It comprises of more than 400 sections, numbered from 1 through 298, and twelve Schedules of which five schedules, numbering sixth, eighth, ninth and twelfth have been omitted. All these Sections and Schedules form the core of the unit and will be mentioned in the course.

## 1.3 CONCEPT OF INCOME

Since income tax is levied on the "income" of an entity, it is important to know what is income and how it is computed. In this section we will deal with the definition of income and some basic principles related to it. The procedure of computing total income will be dealt with in detail in some consequent sections.

### 1.3.1 Definition of Income

The term "Income" is defined in section 2(24) of the Income Tax Act, 1961. However, since "Income" has a very broad scope, it is not possible to attribute some characteristics to the term and define it exhaustively. Therefore, even the Income Tax Act, 1961, gives an inclusive definition of the term. It specifies what is included in the term "Income".

section 2(24) of the Act defines "Income" to include the following items :

1) Profits and Gains — This is one of the major sources of income and will be discussed in detail.
2) Dividends — The definition of dividend has been given in Sec. 2(22) which expands the meaning of the term.
3) Voluntary Contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes, or by a scientific research association or sports association. If the contribution is made with the specific instruction that it shall form a part of corpus of the trust or the institution, it shall not be treated as income.
4) The value of perquisite or profit in lieu of salary. These have been defined in Sec. 17 and will be dealt with while discussing income from 'salaries'.
5) Any special allowance or benefit, other than perquisite included in (4) above specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit.
6) Any allowances granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where lie ordinarily residesbr to compensate him for the increased cost of living.
7) The value of any benefit or perquisite obtained from a company either by a director or by a person who has substantial interest in the company or by a relative of such director or person.
8) The value of any benefit or perquisite, whether convertible into money or not which is obtained by a beneficiary or a trustee from a trust will be treated as taxable income in the hands of the beneficiary or the trustee, as the case may be.
9) Any compensation or other payment made to the person managing the affairs of a company in coiinection with the termination of his office and income derived by a trade, professional or similar association for specific services rendered or done to its members and chargeable profit under Section 59.
10) Tlie value of any benefit or perquisite whether convertible into money or not, arising from business or the exercise of a profession under Section 28 (iv).
11) Capital gains arisin from the transfer of a capital asset.
12) The profits and gains of any business of insurance carried on by a mutual insurance company or by a co operative society computed in accordance with Section 44.
13) Any sum chargeable to income tax as profits and gains of business or profession or as recovery of losses, expenses or trading liability in respect of which the assessee had been granted a deduction in a previous year or deemed profits.
14) Profit on sale of a licence granted under the Imports (Control) Orders, 1955.
15) Any cash assistance received or receivable by any person against exports under any scheme of the Central Government.
16) Any duty of customs or excise repaid or repayable to any person against exports. against exports.
17) Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort and betting of any form or nature whatsoever.
18) Any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund set up under the Employees' State Insurance Act or any other fund for the welfare of such employees.

It is important to note that the items described under (13) above are supposed to be casual in nature and therefore an amount of Rs. 5,000 thereof is not taxed at all.

### 1.3.2 Basic Principles

As had been mentioned at the very outset, the Act does not define the concept of income but merely states what amounts are to be included in the term 'Income'. The word income has been given a very wide meaning. Therefore, in the absence of any such guidelines, the Income Tax Department and the tax payers have to depend upon the various judgements of the High Courts and the Supreme Court.

All receipts are not income.'Only those receipts have to be treated as income which 'satisfy the tests laid down by various High Courts and Supreme Court.

1) **The word 'Income'** connotes a periodical monetary receipt coming in from **some** definite source with some sort of regularity. The source need not be a continuously productive one, **but** must be one whose object is the production of income.
2) Income is a periodical yield measurable in terms of **money** or money's worth and arises out **of use** of real or personal property **i.e.** the income may be received **in** cash or kind. Thus the receipts in kind, **which can** be measured **in** terms of money shall be taxable as inwme.
3) Periodicity or regularity or at least expected **regularity** are important elements of income. Regularity does not imply that a single receipt is not income.
4) Income includes monies that have become due though not received.
5) A receipt which is **'income'** will continue to be so even if it is exempted from tax.
6) Income means **real income.** Fictional or technical income cannot be termed income for the **purposes of** the Income **Tax** Act, **1961.**
7) Income must **come** from outside. Pocket money received by a student from his father cannot be termed income.
8) Legality or otherwise of income or source of inwme does not dictate whether a receipt can be termed income. You are required to pay tax on illegally earned income as well. This however, does not grant immunity from prosecution.

## 1.4 DEFINITION OF PERSON

The term "Person" is defined in Section **2(31)** of the **Act.** It is an inclusive definition **implying** list of entities which can be treated as a "person." **The** term person includes the following :

1) an individual,
2) a Hindu Undivided Family,
3) a Company,,,
4) **a Firm,**
5) an Association of Persons or a body of individuals whether incorporated or not,
6) a Local Authority, and
7) every artificial juridical person **not** falling within any of the categories mentioned above.

It will thus be seen that the word person in defined in very wide terms. A minor would also be included in the definition of persons in some circumstances. All the persons described above are liable to pay income tax under the Income **Tax** Act, **1961.**

## 1.5 DEFINITION OF ASSESSEE

The term "assessee" has been defined in Section **2(7)** of the Income Tax **Act, 1961:**
**"Assessee"** means a **person by** whom any tax or any other **sum** is **payable under this** Act. The term **is defined** to include the following:

1) **Every** person in respect of whom proceedings **have** been started for the assessment of his income
2) Every person who is assessable in respect of income of any other person.
3) Every person to whom a refund of tax is due.
4) Every-person who is deemed to be an **assessee** under this Act.
5) Every person who is deemed to be an **assessee** in default **under** any provision **of** this Act.

An **assessee** in default is a person

i) who is liable to deduct tax at source but does not do so,
ii) who deducts the tax but does not pay it to **the** Government,
iii) who fails to pay **instalments** of **advance** income tax in time.

The Act has given a very **wide** definition **of this** term. Anyone **who is even remotely** connected with the payment or **refund** of **tax** can **be termed** an assessee;

## 1.6 PERMANENT ACCOUNT NUMBER

Permanent Account Number-(PAN) is a number which identifies a particular assessee to the Income Tax Department. It will not change even though the assessee changes his place of residence and consequently the income tax office which has jurisdiction over his place of business or residence.

Every person who is required to pay tax, either on his own behalf or on behalf of another person, is also required to have a Permanent Account Number. In case the person has not already been allotted a PAN (if the income tax return happens to be his first return), he is required to make an application to the Assessing Officer seeking the number.

Every person carrying on any business and whose sales turnover in any previous year is likely to excekd Rs. 50,000 is also required to apply for a PAN, if he does not have one already.

The Assessing Officer may allot a PAN to any person who in his opinion is liable to pay income tax. The assessee is required to quote the PAN not only on the return of income but also on all the correspondence and documents relating to the Income Tax Department. The Central Board of Direct Taxes has the powers to przscribe the transactions, documents etc. on which the PAN has to be mentioned.

Any person who is not allotted PAN and who has got a GIR number can use GIR number for all the purposes mentioned above.

**Check Your Progress A**

1) Read the following carefully and tick mark the correct answers
   a) Income tax is
      i) levied by the State Governments
      ii) a Direct tax
      iii) an Indirect tax
   b) Budget of the country is presented to the Parliament on
      i) March 31
      ii) Last day of February
      iii) December 31
   c) Income tax rules are framed by
      i) Central Government
      ii) Income Tax Department .
      iii) Central Board of Direct Taxes
   d) Casual income is exempt
      i) up to Rs. 15,000
      ii) fully
      iii) up to Rs. 5,000
   e) A GIR number
      i) is used in lieu of PAN
      ii) is used along with PAN
      iii) has to be used always

2) Define the term Person.

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3) Who is an 'assessee in default'?

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## 1.7 ASSESSMENT YEAR

Assessment Year (AY) is defined in Section 2(9) of the Income Tax Act, 1961. It means the period of 12 months commencing on the April 1, of each year and ending

on March 31 next. For example, the current assessment year is 1990-91 which commences on April 1, 1990 and will end on March 31, 1991.

It is the financial year in which the assessment takes place. An assessee is required to pay tax in the AY on the income that was earned by him in the previous year (explained later in this unit) according to the rates of tax prescribed by Annual Finance Act.

To illustrate, the current assessment year is 1990-91 and an assessee is required to pay tax in this AY on the income that was earned by him in the previous year 1989-90.

As a precaution, it should be pointed out here that there are a few exceptions to the general rule that income earned in the previous year only is taxed in the assessment year. These exceptions are dealt with in sub-section 1.9

## 1.8 PREVIOUS YEAR

We have seen earlier that income is earned in one year but is taxed in the next. The year in which Income is earned is known as Previous Year (PY) and the year in which it is taxed is termed as Assessment Year.

It is also important to learn that all Government business is transacted on the basis of the financial year which commences'on April 1, of the year and ends on March 31, of the following year. This period is also known as the fiscal year. We are also aware of tho term 'Calendar Year' which commences on January 1, and ends on December 31 of the same year. Prior to the AY 1989-90 an assessee was free to opt for any period of 12 months as his previous year. He could either adopt the calendar year or Diwali to Diwali or Dussehra to Dussehra or some other year. But a drastic change has been introduced w.e.f. 1.4.89, the concept of uniform accounting year has been introduced. All assessees will hence forth be required to adopt only the financial year (i.e. April 1, to March 31) as previous year. This will greatly facilitate the assessment procedure. Accordingly the provisions of Section 3 have also been amended. The provisions relating to the previous year enforced from the A.Y. 1989-90 are as follows:

1) Previous year means the financial year immediately preceding the assessment year.
2) Previous year in relation to the assessment year commencing on 1.4.89, means the period of 12 months which ends on,any day during the financial year immediately preceding the AY.

Where the assessee has adopted more than one period as the previous year in relation to the assessment year commencing on 1.4.88 for different sources of his income, the previous year in relation to the assessment year 1989-90 shall be reckoned separately for each source of income and the longer or the longest of the periods shall be the previous year for the AY 1989-90. This period is also referred to as the "Transitional Previous year." This switch over to uniform accounting year would result in hardships to some assessees as their previous year would exceed twelve months. To take care of this the tenth schedule which provides for certain modifications in monetary limits, depreciation allowance or rate of tax in cases where the previous year exceeds twelve months.

In case of a business or profession newly set up, or a source of income newly coming into existence on or after 1.4.87 but before 1.4.88 and when the accounts of such business or profession or source of income have not been made up to March 31,1988 the previous year in relation to the assessment year 1989-90 shall be the period beginning with the date of setting up of the business or profession and ending on 31.3.1989. Let us explain with the help of an example.

1) X has been adopting the calendar year i.e. January 1, to December 31, as his Previous Year for his business income. His previous year for the assessment year 1989-90 under the changed provisions will be the period January 1,1988 to March 31,1989. A period of 15 months. The previous year for the Assessment Year 1990-91 will however be the 12 month period from April 1, 1989 to March 31, 1990.
2) Y sets up a new business on November 1, 1987 and does not close his book on March 31, 1988. For the Assessment Year 1989-90 his previous year will be the period from November 1, 1987 to March 31, 1989 a period of 17 months.

In both the examples above the previous year exceeded 12 months. This elongated previous year during the transitional period would cause hardship to the assessees and in some cases deprive them of the full benefit of certain deductions and concessions. Schedule 10 takes care of this. The monetary limit of the deductions is increased proportionately. For instance casual income under Sec. 10(3) is exempt up to Rs. 5,000. In case the Transitional Previous year is of 15 months duration the amount will be increased by one-fourth i.e. (5,000 plus 5,00014 = Rs. 6,250) or the amount of deduction shall be arrived at by multiplying the amount by a fraction in which the numerator is the number of months in the transitional previous year and the denominator is twelve i.e. Rs. 6,250 (5,000 × 15/12).

## 1.9 TAXATION OF PREVIOUS YEAR'S INCOME DURING THE SAME YEAR

As stated earlier the income of the previous year is taxed in the assessment year. But there are certain incomes for which the tax is paid in the same year. They are discussed below :

1) **Income on non-resident shipping companies :** The income earned by a non-resident shipping company in India will be taxed in the year in which the income is earned. This has been provided for in Section 172 of the Income Tax Act, 1962. It specifies that before the departure of the ship from any port in India, the master of the ship shall prepare and furnish to the concerned Assessing Officer a return of the full amount paid or payable to the owner on account of the carriage of passengers, livestock etc. The Assessing Officer shall immediately assess the income and determine the tax payable. Seven and a half per cent of the income of the shipping company is deemed to be the income chargeable to tax in the same year.

2) **Income of Persons leaving India :** Section 174 provides that if the Assessing Officer feels that an individual may leave India without the intention of coming back, he may determine the total income of the person from the date of expiry of the immediately preceding previous year to the date of intended departure. The Assessing Officer will also compute the tax payable and will ask the individual to pay the tax so computed before leaving the country.

3) **Income of Persons trying to alienate their assets :** Section 175 provides for the taxation of income of any person who, it appears to the Assessing Officer, is likely to sell, transfer or dispose of any of his assets with a view to avoiding payment of tax on his income, in the same year in whish it is earned. The Assessing Officer will determine the income from the date of expiry of the immediately preceding previous year to the day when such proceedings commence and will serve a demand notice on the assessee.

4) **Income of discounting business :** Where any business or profession is discontinued in any year, the income of the period from the date of expiry of the immediately preceding previous year to the date of discontinuance of such business shall be determined and tax on that income computed. It has been provided that any person discontinuing any business or profession shall inform the Assessing Officer of such discontinuance within 15 days thereof.

## 1.10 CONCEPT OF TOTAL INCOME

The term 'total income' is quite important as it is the total income that is put to tax. The term is defined in Section 2(45) which says that "total income" means the total amount of income, profits and gains as referred to in Section 5 and computed in the manner laid down in the Act.

1) Compute taxable income under various heads of income i.e. salaries, house property, profits and gains of business and profession, capital gains and other incomes, by allowing deductions in respect of expenses incurred by the assessee in earning those incomes up to'the extent permissible under the provisions.
2) Net result of adding taxable incomes from various heads of income is Gross Total Income.
3) Out of the gross total so computed make the deductions allowed under Section 80 A to 80 U etc. in respect of various expenses such as LIC premium,

contribution to Provident Fund, Medical Expenses etc., and various incomes such as dividends, interests etc.

The net income so remaining after allowing all such deductions is termed as total income which will be relevant for computation of tax liability. It is also called Taxable Income.

## 1.11 ACCOUNTING METHOD

There are three types of accounting methods which are accepted in the accounting world. Sometimes the assessee maintains the accounts on the basis of cash system, a system wherein, income is supposed to be received only when it is received in cash. Till the amount is received, no cognisance is taken of income even if it has been earned. On the other hand there is a system which is based on accruals and not on cash receipts: Third system is a mix of the first two systems wherein, generally, income is reported on the basis of cash system and expenditure Is recorded on the basis of mercantile system or accrual system.

Since the assessee is at liberty to use any method of accounting, there is a need to ensure that the assessee does not change his method of accounting in a manner that is prejudicial to the interests of the Revenue. The Income Tax Act, 1961, therefore, provides in Section 145 that the income chargeable under the head 'Profits and Gains of the Business or Profession' or 'Income from other sources' shall be computed in accordance with the method of accounting employed by the assessee. If, however, the Assessing Officer is of the opinion that notwithstanding the correctness of the Accounts the method employed is such that it does not permit proper computation of income, the computation shall be made upon such basis and in a manner that he may determine.

la has been held that though the Assessing Officer may not accept the method of accounting employed by the assessee, he has no fight to impose his own method upon the assessee.

An assessee who intends to change his method of accounting is required to make an application to the Assessing Officer. He must prove' that: the change is regular and not for a casual period and if it is bonafide the Assessing Officer has no reason to reject this change. It has been held in Ramswarup Bengalimal v. CIT 25 ITR 17 that the burden of providing that the method of accounting has been changed lies on the Department.

Bansilal Abirchand v. CIT 3 ITC 57 holds that if the Department has been accepting the assessee's method of accounting for a number or years, they cannot arbitrarily seek to take him on a different basis in a particular year.

**Check Your Progress B**

1) Fill in the blanks :
   a) Assessment year is the financial year in which the .................. takes place.
   b) Assessment year ends on ..................every year.
   c) Previous year is the .................. immediately preceding the assessment year.
   d) Total income is .................. income in respect of which income tax is payable.
   e) Income of discontinued business is taxed in the .................. year.'
2) X sets up a new business on October 1, 1387 and does hot close his books on March 31,1988. What will the period of previous year for the assessment year 1989-90.

## 1.12 LET US SUM UP

Income tax is a direct tax and is administered by the Government of India through the Ministry of Rnance and Central Board of Direct Taxes. The student is expected to have first hand knowledge of the Income Tax Act, 1961, Income Tax Rules, 1962,

the latest-Finance Act and the landmark decisions of the High Courts and Supreme Court.

The term income is not exhaustively defined and the Act simply enumerates certain items which are included in the term 'income'. Similarly the term 'person' is also inclusively defined.

Assessment year is the current financial year in which income earned in the immediately preceding financial year (known as previous year) is put to tax. However, there are certain situations when income earned in a particular financial year is put to talc in the same year and the ITO does not wait for the next financial year. Gross total income is arrived at by adding up taxable income from various heads. Out of gross total income certain deductions are allowed to arrive at Total Income which is put to tax.

The assessee can adopt either cash or accrual basis of accounting. However once the method is adopted it cannot be changed without the satisfaction of the Assessing Officer,

## 1.13 KEY WORDS

**Assessee** : Assessee means a person by whom any tax or any other sum is payable under the Income Tax Act, 1961.

**Assessment Year** : It is a period of twelve months commencing on the April 1, of each year.

Gross Total Income : It is the income arrived at after adding up all the taxable incomes from various heads of income.

Permanent Account Number : It is a number allotted by the Income Tax Department to every assessee.

Previous Year : It is a period of twelve months immediately preceding the assessment year.

Total Income : It is the income on which tax is payable.

## 1.14 ANSWERS TO CHECK YOUR PROGRESS

A 1) a) ii b) ii c) iii d) iii e) i

B 1) a) assessment b) March 31 c) period of 12 months d) taxable same
2) 18 months

## 1.15 TERMINAL QUESTIONS EXERCISES

Questions

1) "The income of the previous year is taxed in the current year". Explain.
2) Distinguish between :
   i) Gross total income and total income.
   ii) Previous year and Assessment year.

Exercises

1) Are the following incomes as defined under the Income Tax Act, 1961 :
   i) Pagdee realised by the la'ndlord from tenants foreletting out shops.
   ii) Prize received in a state lottery.
   iii) Stakes won in a horse rqce.
   iv) Tips received by a waiter in a hotel.
   v) Gift of a sum of Rs. 10,000 by a husband to his wife on her birthday.
   vi) Amount received on sale of old books.
   vii) Lump sum payment for supplying technical know-how.

viii) Lumpsum paid for waiver of royalty.

ix) Lumpsum payment in consideration of cancelling service agreement.

x) Lumpsurn payment on reduction of remuneration.

xi) Lumpsurn payment on termination of employment.

xii) Damages awarded by Court to company for breach of contract.

xiii) Compensation for relinquishing the rights of a partner..

xiv) Profit from a solitary transaction of purchase and sale of land.

xv) Unclaimed balance distributed to partners.

**(Answers)**

i) No ii) Yes iii) Yes iv) Yes v) No vi) No vii) Yes viii) Yes ix) Yes x) Yes xi) Yes xii) Yes xiii) No xiv) Yes xv) No

**Note:** These questions and exercises will help you to understand the unit better. Try to write answers for them. But do not submit your answers to the University. These are for your practice only.