

“Patience & Hard work is the only key to Success”

INCOME TAX ACT 1961 –AY 2021-2022



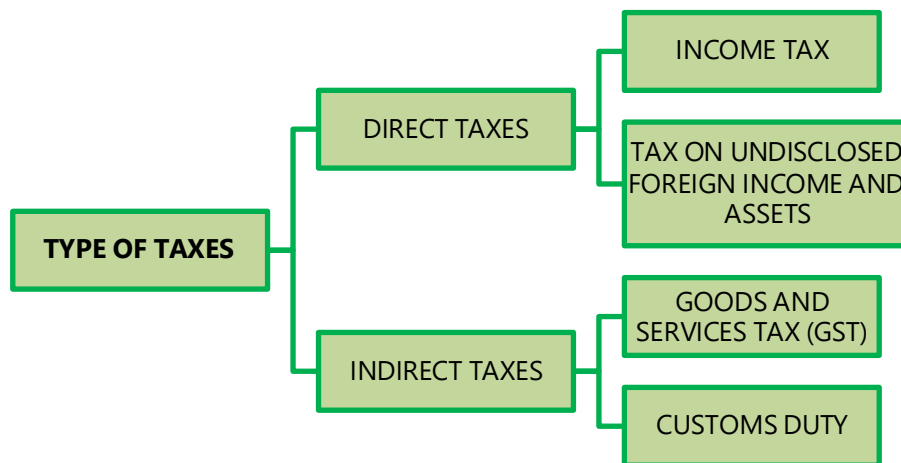
Evolution & Origination

As we are going to discuss INCOME TAX ACT 1961 it does not mean that income tax came into force from 1961, the concept of tax collection is very old [when kings & queens were there], initially it was in the nature of “LAGAAN” which has been charged by the King of a particular kingdom from its people/public in kind and/or in the form of money and that regime is converted into a systematic structure is called TAX nowadays.

Types of taxes

Direct Taxes: If tax is levied directly on the income or wealth of a person, then, it is a direct tax. The person who pays the tax to the Government cannot recover it from somebody else i.e. the burden of a direct tax cannot be shifted. e.g. Income- tax, The black money [undisclosed foreign income & assets] and imposition of tax act 2015.

Indirect Taxes: If tax is levied on the price of a good or service, then, it is an indirect tax e.g. Goods and Services Tax (GST) or Custom Duty. In the case of indirect taxes, the person paying the tax passes on the incidence to another person.



Constitution of India

Originator of
INCOME TAX ACT 1961



Why are taxes Levied?

The reason for levy of taxes is that they constitute the basic source of revenue to the Government. Revenue so raised is utilized for meeting the expenses of Government like defence, provision of education, health-care, infrastructure facilities like roads, dams etc.

Background

Income-tax is the most significant direct tax. Entry 82 of the Union List i.e., List I in the Seventh Schedule to Article 246 of the Constitution of India has given the power to the Parliament to make laws on taxes on income other than agricultural income.

The power to impose tax on agriculture income is delegate to the state governments.

Income tax came in force from the 1st day of April 1962 and applicable whole of India.

Power to levy taxes

The Constitution of India, in Article 265 lays down that “No tax shall be levied or collected except by authority of law.” Accordingly for levy of any tax, a law needs to be framed by the government.

Constitution of India gives the power to levy and collect taxes, whether direct or indirect, to the Central and State Government. The Parliament and State Legislatures are empowered to make laws on the matters enumerated in the Seventh Schedule by virtue of Article 246 of the Constitution of India.

Seventh Schedule to Article 246 contains three lists which enumerate the matters under which the Parliament and the State Legislatures have the authority to make laws for the purpose of levy of taxes.

The following are the lists:

1] Union List: Parliament has the exclusive power to make laws on the matters contained in Union List.

2] State List: The Legislatures of any State has the exclusive power to make laws on the matters contained in the State List.

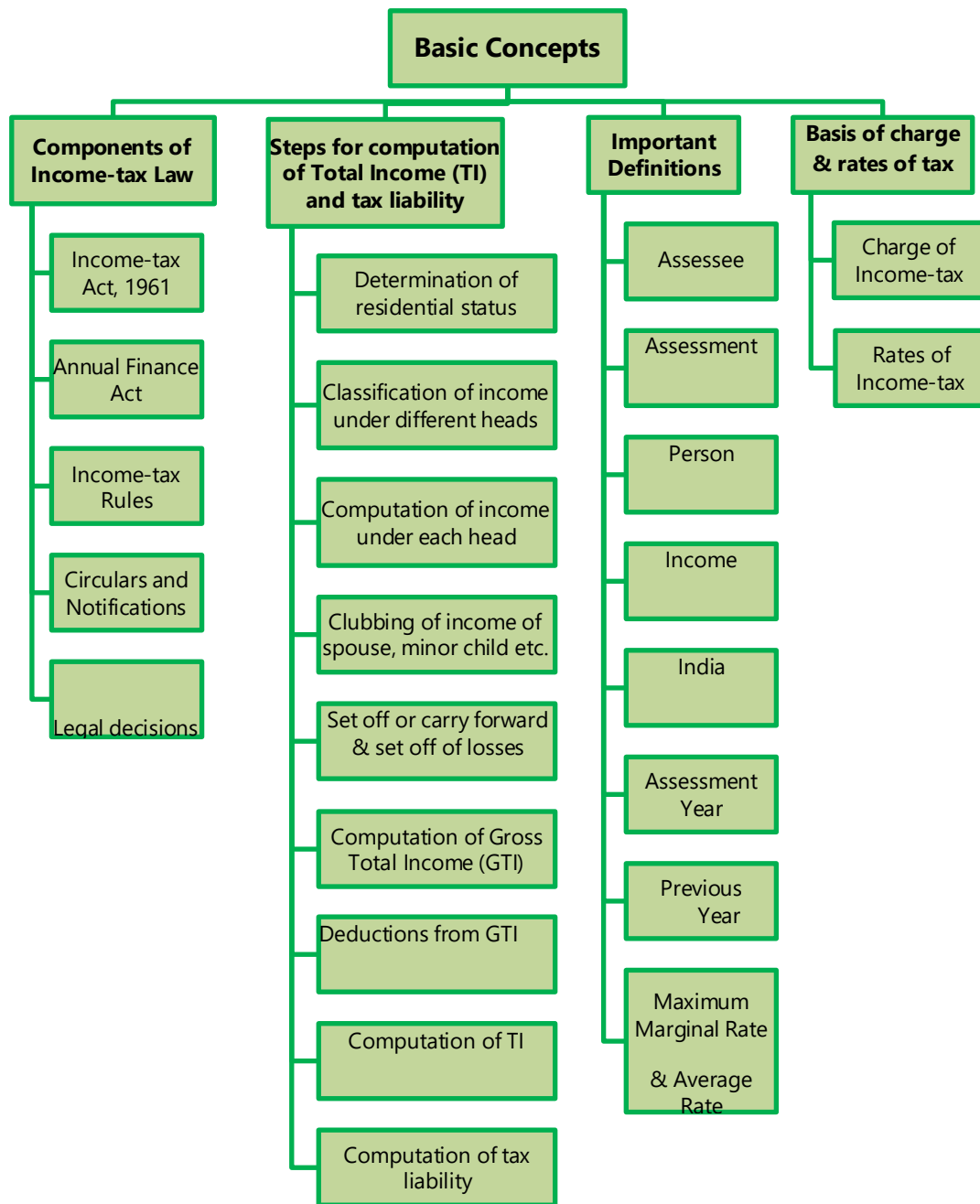
3] Concurrent List: Both Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent list.

Stages Involved In Income Tax Act

There are basically three stages involved under IT Act-

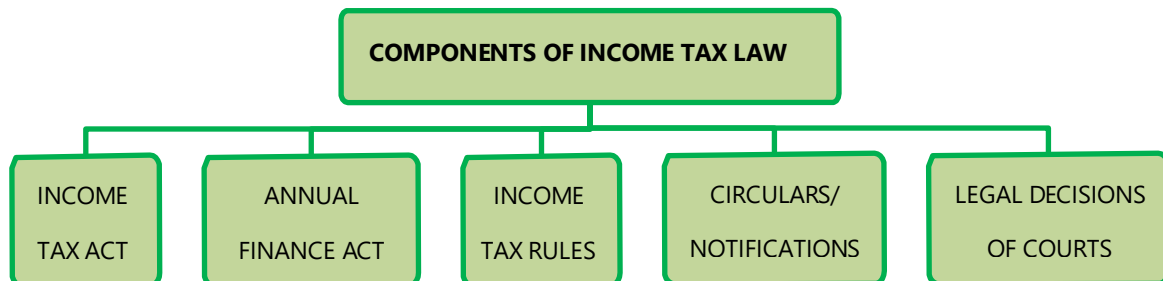
- 1) **Declaration of Liability** – Calculation of income, tax, deposit of tax & filing of Return to Income tax department.
- 2) **Assessment of Liability** - Verification of declaration of liability by Department.
- 3) **Recovery of Tax** - Tax Payable/Refundable.

CHAPTER COVERAGE



1. Overview of Income-tax law in India-

In this material, we would be introducing the students to the Income-tax law in India. The income-tax law in India consists of the following components –



The various instruments of law containing the law relating to income-tax are explained below:

Income-tax Act, 1961

The levy of income-tax in India is governed by the Income-tax Act, 1961. In this book, we shall briefly refer to this as the Act.

- It extends to the whole of India.
- It came into force on 1st April, 1962.
- It contains sections 1 to 298 and schedules I to XIV.

❖ A section may have sub-sections or clauses and sub-clauses.

CHARGING SECTION OF INCOME TAX [SEC 4]

Charging section explain the characteristics of the Income Tax these are as follows-

1) IT is an Annual Charge on Income. Tax shall be charged at the rates prescribed for the year by the Annual Finance Act or the Income-tax Act, 1961 or both.

2) Income of Previous Year will be assessed in the next year that is Assessment Year.

3) IT is charged on every *Person*.

The Finance Act

Every year, the Finance Minister of the Government of India 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.

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**.

Circulars and Notifications

Circulars

1]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.

2]Circulars are issued for the **guidance** of the officers and/or assesseees.

3]The department is **bound by the circulars**. While such circulars are **not binding** on the assesseees, they can take advantage of beneficial circulars.

Notifications

Notifications are issued by the Central Government to **give effect to the provisions** of the Act. The CBDT is also empowered to make and amend rules for the purposes of the Act by issue of notifications which are **binding on both department and assesseees**.

Case Laws

Case Laws refer to decision given by courts. 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 assesseees and the department and give decisions on various issues.

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.

Note – Case laws are dealt with at the Final level.

FORMAT –CALCULATION OF GROSS TOTAL INCOME AND TOTAL INCOME.



Taxable Income Formula



$$\text{Total Taxable Income} = \text{Gross Total Income} - \text{Deductions/Exemptions Allowed From Income}$$



B] GROSS TOTAL INCOME AND TOTAL INCOME

1. INCOME UNDER THE HEAD SALARY	XXXX
2. INCOME UNDER THE HEAD HOUSE PROPERTY	XXXX
3. INCOME UNDER THE HEAD BUSINESS & PROFESSION	XXXX
4. INCOME UNDER THE HEAD CAPITAL GAIN	XXXX
5. INCOME UNDER THE HEAD INCOME FROM OTHER SOURCES	<u>XXXX</u>

[Each head income will be calculated after exemptions, allowance and

Deductions belong to respective heads]

GROSS TOTAL INCOME (After clubbing & set off provisions) XXXX

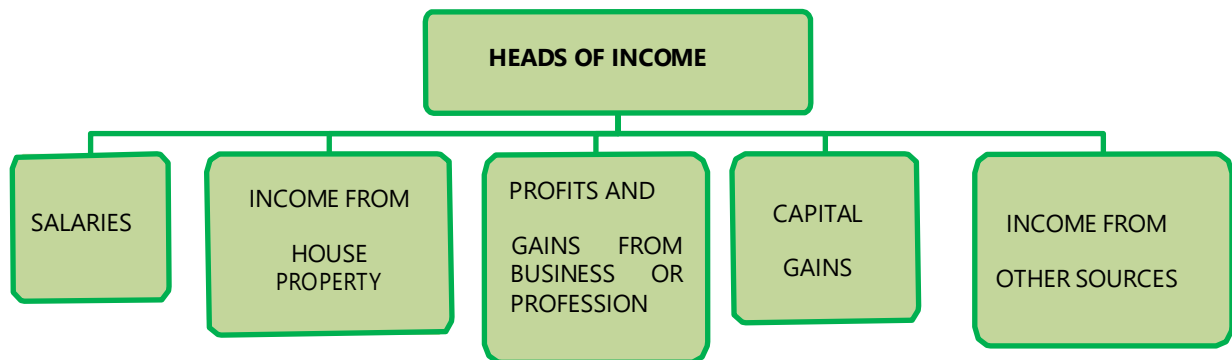
Less:- Deductions u/s 80C-80U XXXX

TOTAL INCOME/TAXABLE INCOME/INCOME CHARGEABLE TO TAX XXXX

Step 1 – Determination of residential status

The residential status of a person has to be determined to ascertain which income is to be included in computing the total income - **Will discuss details in Chapter - 2**

Step 2 – Classification of income under different heads



1-SALRY INCOME -IT CONSIST INCOME FROM JOB

Ex- **Mr. A doing job in Reliance Co. so payment from reliance co. to Mr. A will fall as salaries income of Mr. A**



2. IFHP- IT CONSIST INCOME FROM BUILDING AS RENT.

Ex- Mr. Sudeep let out his building to Mr. Vinod so now Mr. Sudeep will get rent from Mr. Vinod will be treated as IFHP in the hands of Mr. Sudeep.



3. PGBP-INCOME FROM BUSINESS AND PROFESSION

Ex- Mr. B is a shop keeper and generates Net Profit of Rs 8lac now this income will be treated as business income.



Mr. A a CA in practice generate 20lacs surplus from his practice work that will be treated as profession income and will included in PGBP head.

But if MR. A is doing job as a CA in TATA co. than he will get Salary and it will comes under Salary head.

4. CG-INCOME FROM TRANSFER OF CAPITAL ASSETS

Ex- If MR. W sold his house /jewellery /Land /Shares/Paintings/Drawings etc. and earn profit this is called Capital Gain.



5. IFOS-ANY OTHER INCOME NOT INCLUDED IN ABOVE.

All incomes which do not fall under any other heads of income will become under IFOS.

Exm - Dividend Income, Bank Intt., Lottery Incomes etc.



Step 3– Computation of income under each head

Income is to be computed in accordance with the provisions governing a particular head of income.

Exemptions: There are certain incomes which are wholly exempt from income-tax

e.g. agricultural income. These incomes have to be excluded and will not form part of Total Income.

Also, some incomes are partially exempt from income-tax e.g. House Rent Allowance, Education Allowance.

For details, refer to Chapter 3 : Incomes which do not form part of Total Income.

Step-4-Deductions:

There are deductions and allowances prescribed under each head of income.

Type 1- Those deductions liable to be deducted from respective heads of income. Municipal Tax deductions from IFHP etc.

For details, refer to Different head of incomes

Step 5– Clubbing of income of spouse, minor child etc.

For detailed discussion, refer to Chapter 5 : Income of other persons included in assessee's total income.

Step 6 – Set-off or carry forward and set-off of losses

For detailed discussion, refer to Chapter 6 : Aggregation of income, set-off and carry forward of losses.

Step 7 – Computation of Gross Total Income

The final figures of income or loss under each head of income, after allowing the deductions, allowances and other adjustments, are then aggregated, after giving effect to the provisions for clubbing of income and set-off and carry forward of losses, to arrive at the gross total income.

Step 8 – Deductions from Gross Total Income

There are deductions prescribed from Gross Total Income. *For details, refer to **Chapter 7: Deductions from Gross Total Income.***

Step 9 – Total income

The income arrived at, after claiming the above deductions from the Gross Total Income is known as the Total Income. It should be rounded off to the nearest multiple of ` 10 as per section 288A.

Step 10 – Application of the rates of tax on the total income

The rates of tax for the different classes of assessee are prescribed by the Annual Finance Act.

Details will be discussed later in this chapter.

Step 11 - Surcharge / Rebate under section 87A

Details will be discussed later in this chapter.

Step 12 – Health and education cess on income-tax

Details will be discussed later in this chapter.

Step 13 – Advance tax and tax deducted at source

For detailed discussion, refer to **Chapter 9: Advance tax, tax deduction at source and introduction to tax collection at source.**

Step 14: Tax Payable/Tax Refundable

IMPORTANT DEFINITIONS

1] Person u/s 2(31) - Person includes-

- i] Individual
- ii) Hindu Undivided Family
- iii] Association of person
- iv] Body of individual
- v] Partnership firm/Limited Liability Partnership
- vi] Company
- vii] Local Authority
- viii] Artificial Judicial Person.

i] Individual- Individual means any [single] human being. [In others words when there is only one owner of the income he/she is called individual under income tax act.]

- It includes both males and females.
- It also includes a minor or a person of unsound mind. [But the assessment in such a case may be made on the guardian or manager of the minor or lunatic who is entitled to receive his income].
- In the case of deceased person, assessment would be made on the legal representative.

ii] HUF-

HUF is not defined under the income tax act this definition is derived from the definition of **Joint Hindu Family** which is described in the Hindu Law based on the 'VEDAS'.



Under Hindu law it is defined as a family which consists of all persons lineally descended from a common ancestor including females. Under the HUF all the male & female r the members of such HUF and the male and female both can be the coparceners in such HUF/JHF .In other words male and female [coparceners] both member has interest in HUF/JHF & can demand/received partition from the property.

The elder coparcener of such HUF is called 'KARTA'.

Types of HUF/JHF



I] Dayabhaga school of HUF law

II] Mitakshara school of HUF law.

Difference between Daya/Mitak school

1] Daya is applicable in the Hindu families of Assam & West Bengal & Mitak is applicable in the remaining Hindu Families.

2] Under Daya father works as individual if he has no brother & his son/daughter can be only become the parcners & can create HUF only on the death of the father.

While under Mitak son/daughter become the coparcener automatically on his birth & father & his son/daughter can create HUF only on the birth of his son/daughter.

3] Under Daya son/daughter cannot demand partition until the death of father only after the death of father son/daughter can create HUF or demand partition.

While under Mitak son/daughter can demand partition by his birth.

4] Father & Children cannot be the part of same HUF under Dyabhaga but under Mitakshara Father N children can be part of same HUF.

5] Under DAYA. Different HUF created on death of father but under MITAK. Same HUF can continues.

6] Under DAYA HUF cannot be created on the marriage of Individual but under MITAK HUF can be created on marriage.

Note- Jain, Sikh & Buddhists families will be treated as HUF/JHF for the purpose of Income Tax Act.

Clarifications Regarding HUF/JHF

HUF-

1. **Old Provision-**A HUF or a JHF both terms speak of the same entity. It consists of all male lineally descended from a common ancestor, their wives n daughters. A daughter is a member of the family till her marriage n on being married, she ceases to be a member of the father's family n becomes a member of the family of her husband as a daughter in law.

However w.e.f. 6.9.05, she continues to be coparceners in the HUF of her father even if she get married n become the member of her husband HUF.

Position before 06.09.05 - There should be at least 2 male member to create HUF.

Position w.e.f. 06.09.05 - However, even if there be one male member and one female member it can be a HUF.[To create HUF under Daya/Mitakshara one co-parcener is essential].

Even two female can create HUF provided one of them must be co-parcners.

After the amendment of the Hindu Succession Act, the daughter (not for spouse) of a coparcener shall by birth become a coparcener in her own right in the same manner as the son/daughter.

Hence now the daughter can also ask for partition.

iii] AOP-

Association of two or more person who join for a common purpose with a view to earn income with or without an agreement .In other words if such person registered under the Partnership Act 1932 then it is called Firm otherwise it is called as AOP.

Exm. Co-heirs, co donee etc.

iv] BOI-

An association of **INDIVIDUALS** who carry on some activity with the objective of earning some income. There must be a registered agreement for such purpose.

Exm-Executors etc.

v] Firm/LLP-u/s 2(23) As defined under section 4 of Indian Partnership Act 1932 & LLP means as per LLP Act.

The terms 'firm', 'partner' and 'partnership' have the same meanings as assigned to them in the Indian Partnership Act, 1932. In addition, the definitions also include the terms limited liability partnership and a partner of limited liability partnership as they have been defined in the Limited Liability Partnership Act, 2008.

[A partnership is the relation between persons who have agreed to share the profits of business carried on by all or any of them acting for all. The persons who have entered into partnership with one another are called individually 'partners' and collectively a 'firm']

vi] Company u/s 2(17)- Co. is defined as under-

- i) An Indian Co.
- ii) Anybody corporate incorporated under the law of foreign country.

iii) Any institution which is declared by CBDT to be a co.

vii] Local Authority-

Local authority means Govt. bodies which work on local level for the benefit of society-

i) Panchayat ii) Municipality iii) Port Trust Authorities.

viii] AJP-

All the person which r not included in the above categories will fall under this category. This category refers to those entities which r not natural person but r separate entities in the eyes of law, including GOD.

Exm- Universities ,College, ICAI, ICSI, GOD etc..

2. Assessment Year U/s 2(9)- A period of 12 months commencing on 1st april & ending on 31st march of next year.[In which Income tax Deptt. Will verify the income & tax submitted by person].

3. Previous Year u/s 2(34) & 3- As per section 2(34) PY means PY as defined in section 3.

As per section 3 PY means the FY immediately preceding the AY.

For the purpose of a new business PY will start from the day business start & ending on the 31st MARCH.

It means for a new business first PY can be less than 12 months.

Previous Year can be different for different source of Incomes. But AY will be same for all incomes.

Exm. If a business start on 6.10.2021 then PY for such business include the income from 6.10.2021 to 31.3.2022 which is 5 months 26 days.

4. Assessee U/s 2(7)-Who needs to comply all provisions & procedure under income tax act.

A. A person by whom IT or any other sum of money is payable under the act.

B. Every person in respect of whom any proceeding has been taken for assessment of his income.

C. Deemed Assessee- Means a person who is assessable in respect of income of some other person.

D. Assessee in Default- A person is said to be the assessee in default if he fails to comply with the duties imposed upon him under the IT act. In other words if any person fails to comply any of the provision under IT act then he will said to be assessee in default.

5. Indian Co. U/s 2(26)- Means a co. formed and registered under the co.act 2013 & includes-

1. A co. formed & registered under the law relating to co. **formerly** enforced in any part of India.
2. A co-operation established under the central or state act.
3. Any institution ,association which is declared by CBDT as Indian co.
4. A co. formed & registered under any law **formerly** enforced in the state of J & K.
5. Co. formed & registered any law enforced in union territories of Daman &Deep,Dadar nagar & haweli, Pondicherry.

Note- In all the above cases the registered office of the co. should be situated within India.

6.Domestic CO. u/s 2(22A)- Means an Indian CO. or any other co. which is liable to IT for its income & made the prescribed arrangements for the declaration & payment of dividend within India.

7.Foreign CO. u/s 2(23A) – Means a co. which is not a DOMESTIC co.

8] Assessment u/s 2(8)-This is the procedure by which the income of an assessee is determined. It may be by way of a normal assessment or by way of reassessment of an income previously assessed. Assessment Procedure will be dealt with in detail at the Final level.

Previous Year for unexplained Cash Credits, Investments, etc.-

[Cases where Earning year & PY is different]

In case of white money-PY=EY

In case of Black money-PY & EY different.

1.Cash Credits U/s 68- Where any sum is found credited in the books of an assessee maintained for any PY, & assee. has no explanation about the nature & source thereof or the explanation offered by him is not in the opinion of the AO is satisfactory then such sum may be charged to IT as the income of the assee. of that PY.[if any cash entry found in any register,book,copy etc. with the assee. and if assessee was not able to explain than it can be treated as black money].

2. Unexplained Investments U/s 69- The assee has made investments which are not recorded in the books of account & assee has no explanation about the nature & source of the investments or not a satisfactory as per AO then value of such investment may deemed as income & charged to IT of that PY.

3. Unexplained Money U/s 69A- Assee. is found the owner of any money, bullion , Jewellery or other valuable articles & such are not recorded in the books of accounts has no explanation about the nature & source of the such money, bullion etc or not a satisfactory as per AO then value of such money, bullion etc. may deemed as income & charged to IT of that PY.

4. Amount of investment etc. not fully disclosed in the books of accounts U/s 69B- Assee. is found the owner of any money, bullion,

Jewellery or other valuable articles & assee. has made investments & AO finds that the amount expended on making such investments, Or in such money , bullion etc. exceeds the amount recorded in the books of accounts & assee. has no explanation or not a satisfactory as per AO then excess value may deemed as income & charged to IT of that PY.

Exm-

If the assessee is found to be the owner of say 300 gms of gold (market value of which is ` 25,000) during the financial year ending 31.3.2021 but he has recorded to have spent ` 15,000 in acquiring it, the Assessing Officer can add ` 10,000 (i.e., the difference of the market value of such gold and ` 15,000) as the income of the assessee, if the assessee offers no satisfactory explanation thereof.

5. Unexplained Expenditure U/s 69C- An assee incurred any expenditure & he offers no explanation about the source of such expn. Or not satisfactory in the opinion of AO than such amount of expn. Or part thereof may deemed income for that PY.

6-Amount borrowed or repaid on Hundi U/s 69D- Where any amount borrowed on Hundi or any amount due thereon has been repaid other than an account payee cheque drawn on a bank the amount so borrowed or rapid will be treated as the deemed income of the person borrowing or repaying such amount in the previous year of borrowing or repaying as the case may be. But if any amount has been deemed as his income on borrowing then it will not again treated as income at the time of repayment. The amount repaid shall include the amount of interest.

Special Rate -

1. Unexplained credits, money, investment, expenditure, etc., which has been deemed as income under section 68, section 69, section 69A, section 69B, section 69C, 69D at the rate of 60% (plus 25% surcharge & 4%CESS= TOTAL EFFECTIVE RATE -78%]

2. No deduction/exemption in respect of any expenditure or allowance shall be allowed to the assessee under any provision of the Act in computing deemed income under the said sections.

3. Such income will be liable to tax & tax will be recovered as prescribed.

Cases in which income of P/Y is assessed in the same year or Exception of the rule that income of PY always taxed in AY

1. Non resident shipping business u/s 172- A NR who is carrying on a shipping business come to India & earn income for that than before leaving India income tax is charged on such person or such person has to made prescribed arrangement for payment of such income tax.

In this case 7.5% of the amount of freight/ charges earn in India shall be deemed to be his profit & income tax will be charged on such income in the same year in which such income is earned.

2. Assessment of person leaving India u/s 174- When it appears to the AO that any individual may leave India during the P/Y & has no intention to come back in to India then the total income of such individual of that PY will be taxable in same year (on actual or estimated basis).

Exm-

Suppose Mr. X is leaving India for USA on 10.6.2020 and it appears to the Assessing Officer that he has no intention to return. Before leaving India, Mr. X may be asked to pay income-tax on the income earned during the P.Y. 2019-20 as well as on the total income earned during the period 1.4.2020 to 10.06.2020.



3. Assessment of AOP/BOI/AJP formed for a particular event or purpose U/S174A-

If it appears to know the AO that any AOP/BOI/AJP is form a particular event & will dissolved in the year of formation than their income will charge in the same year in which it is formed/earned income.



4. Assessment of person trying to transfer his asset with a view to avoid tax U/S175- If it appears to the AO that any person is likely to charge sell,transfer his asset to avoid tax on his total income than the total income of such individual of P/Y shall be chargeable to tax in the same P/Y.

5. Discontinued Business U/S 176- Where any B/P discontinued in any P/Y the income from the START of the P/Y up to date of such discontinuance may be assessed to tax in the same year.Any person discontinue any business or profession shall give AO a notice of such discontinuance within 15 days thereof.

CONCEPT & DEFINITION **OF INCOME-**



Concept Of income-

Income word covers receipts in the shape of money or money's worth which arise with certain regularity or expected regularity from a definite source.

Under income tax even any receipts which arise not from any definite source and not regular is treated under the definition of income as **capital receipts**.

Characteristics of Income-

1. Regularity of income- Income means periodical monetary return coming in with some sort of regularity from a definite source. The source must be like one whose object is production of a definite return.

However this does not mean that income which does not arise regularly will not be income for tax. They are taxable as Capital Receipts.

2. Form Of Income- The income can be in any form. Monetary, non-monetary, in kind, facilities etc.

3. Illegal Income- There is no difference between legal n illegal income under IT act but there are no expenses, allowances and deductions etc. available from illegal income.

4. Application of income Vs Diversion of income- If assessee apply his income after receiving it will be called application of income and will be taxable. But if assessee diverts his income before receiving it than it will not be treated as his income n will not be taxable.

5. Contingent income- Contingent income will not be treated as income until that contingency happen.

6. Personal Gifts- Gifts are also treated as income in some cases. Refer chapter IFOS.

7. Pin money- Pin money received by a woman from her husband for dress or personal expenditure being a house wife will not be treated as income.

8. Revenue receipts vs Capital Receipts- Revenue receipts are taxable but capital receipts are exempted but some capital receipts are also taxable some of them are as follows-

A] Capital Gain. (Profit on sale of Capital Assets)

B] Compensation received by employee from employer. Refer Salary.

C] Compensation received by M.D. and Manager- Refer PGBP (Profit & Gain of Business & Profession)

D] Gifts. Refer IFOS.

9. Net receipt vis-a-vis Gross receipt: Income means net receipts and not gross receipts. Net receipts are arrived at after deducting the expenditure incurred in connection with earning such receipts **[We will discuss in detail in Unit 3 of Chapter 4: Profits and gains of business or profession].**

Income [Section 2(24)] -Definition of Income

The definition of income as per the Income-tax Act, 1961 begins with the words "Income includes". Therefore, it is an inclusive definition and not an exhaustive one. Such a definition does not confine the scope of income but leaves room for more inclusions within the ambit of the term.

Section 2(24) of the Act gives a statutory definition of income. At present, the following items of receipts are specifically included in income:—

1-Profits and gains.-REFER PGBP

2-Dividends.-REFER IFOS

3-Voluntary contributions received by a trust/institution created wholly or partly for charitable or religious purposes or by certain research association or universities and other educational institutions or hospitals and other medical institutions or an electoral trust.-REFER TRUST PROVISIONS

4-The value of any perquisite or profit in lieu of salary taxable under section 17(2)/(3).-REFER SALARY

5-Any special allowance or benefit, other than the perquisite included 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.-REFER SALARY

6-Any allowance granted to the assessee 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 he ordinarily resides or to compensate him for the increased cost of living.-REFER SALARY

7-The value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company or by a relative of the director or such person and any sum paid by any such company in respect of any obligation which, but for such payment would have been payable by the director or other person aforesaid.-DEPENDS ON THE CIRCUMSTANCES OF THE CASE.

8-The value of any benefit or perquisite, whether convertible into money or not, which is obtained by any representative assessee or by any beneficiary and any amount paid by the representative assessee for the benefit of the beneficiary which the beneficiary would have ordinarily been required to pay.-DEPENDS ON THE CIRCUMSTANCES OF THE CASE.

9- Deemed profits chargeable to tax under section 41 or section 59.-REFER PGBP

10-Profits and gains of business or profession chargeable to tax under section 28.-REFER PGBP

11-Any capital gains chargeable under section 45.-REFER CG

12-The profits and gains of any insurance business carried on by Mutual Insurance Company or by a cooperative society or any surplus taken to be such profits and gains by virtue of the

provisions contained in the First Schedule to the Act.- DEPENDS ON THE CIRCUMSTANCES OF THE CASE.

13-The profits and gains of any banking business (including providing credit facilities) carried on by a co-operative society with its members. DEPENDS ON THE CIRCUMSTANCES OF THE CASE.

14-Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling, or betting of any form or nature whatsoever. For this purpose,

(i)“Lottery” includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;

(ii)“Card game and other game of any sort” includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.- REFER IFOS-

15-Any sum received by the assessee from his employees as contributions to any provident fund (PF) or superannuation fund or Employees State Insurance Fund (ESI) or any other fund for the welfare of such employees.-REFER PGBP

16-Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy will constitute income.

“Keyman insurance policy” means a life insurance policy taken by a person on the life of another person where the latter is or was an employee of former or is or was connected in any manner whatsoever with the former’s business. It also includes such policy which has been assigned to a person with or without any consideration, at any time during the term of the policy.- DEPENDS ON THE CIRCUMSTANCES OF THE CASE.

17- Any sum referred to in section 28(va). Thus, any sum, whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business or profession; or not sharing any know- how, patent, copy right, trade-mark, licence, franchise, or any other business or commercial right of a similar nature, or information or technique likely to assist in the manufacture or processing of goods or provision of services, shall be chargeable to income tax under the head “profits and gains of business or profession”.-REFER PGBP

18-Fair market value of inventory which is converted into, or treated as a capital asset [Section 28(iva)].-REFER PGBP

19-Any consideration received for issue of shares as exceeds the fair market value of the shares [Section 56(2)(viib)].-REFER IFOS.

20-Any sum of money received as advance, if such sum is forfeited consequent to failure of negotiation for transfer of a capital asset [Section 56(2)(ix)].-REFER IFOS.

21-Any sum of money or value of property received without consideration or for inadequate consideration by any person [Section 56(2)(x)].-REFER IFOS.

22-Any compensation or other payment, due to or received by any person, in connection with termination of his employment or the modification of the term and conditions relating thereto [Section 56(2)(xi)].

[For details, refer to Unit 5 of Chapter 4: Income from Other Sources]

23-Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement, by whatever name called, by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee is included in the definition of income.

However, subsidy or grant or reimbursement which has been taken into account for determination of the actual cost of the depreciable asset in accordance with *Explanation 10* to section 43(1) shall not be

included in the definition of income.

DEPENDS ON THE CIRCUMSTANCES OF THE CASE.

CHAPTER 1 –Theoretical Concepts Ends



Income Tax Rates



CA ANKIT SHARMA

“Some r destined to succeed & some r determined to succeed”

1-BASIC Rates of Tax FOR Individual, HUF,AOP,BOI,AJP-

Income-tax is to be charged at the rates fixed for the year by the Annual Finance Act.

RATES OF TAXES:-ASSESSMENT YEAR 2021-22

Rates	In Case of any other Individual(M/F,<60Yr Resident & All NON resident M/F<>60yr) and HUF, AOP, BOI, AJP.	For Resident Senior Citizen 60yrs(M/F) or more but less than 80yrs at any time in PY.	For Resident Senior Citizen 80yrs(M/F) or more at any time in PY.
1) NIL	First=250000	First=300000	First=500000
2) 5%	Next=250000	Next=200000	NA
3) 20%	Next=500000	Next=500000	Next=500000
4) 30%	Balance	Balance	Balance

Rebate of Rs.12500 If TI=< Rs.5lakh [only for INDIVIDUALS RESIDENT].

CALCULATION OF TAX FORMAT-

1= CALCULATE TAX AS PER RATES=	0000
2=LESS- REBATE U/S 87A [IF APPLICABLE]=	- 0000
3=ADD+ SURCHARGE [IF APPLICABLE]=	+ 0000
TOTAL [A]	<u>0000</u>
4=ADD+ CESS 4% IN ALL CASES ON TOTAL[A]	+0000
TOTAL =FINAL TAX	<u>0000</u>

Example- Individuals <60yrs

Resident-

1.Total Income is	Total Tax Will be-
Rs- 260000	Tax= 500
Total	500
Credit	500
Tax	NIL
2.Rs-269500	Tax = 975
Total	975
Max Credit	975
Tax	NIL
3.Rs-350000	Tax = 5000
Total	5000
Max Credit	5000
Tax	NIL
4.Rs-500000	Tax = 12500
Max Credit	12500
Tax	NIL

5.Rs-600000	Tax=32500
Total	32500[Exceeding 5lacs Rebate NA]
EC & HC 4%	<u>1300</u>
Tax	33800

6.Rs-270000	Tax =1000
Total Credit	1000
Tax	NIL

In case of Senior Citizen equal or more 60yr but less than 80Yr

1.Rs-330000	Tax = 1500
Total	1500
Max Credit	1500
Tax	0

2.Rs-400000	Tax = 5000
Total	5000
Max Credit	5000
Tax	NIL

In case of Senior Citizen equal or more 80yr –

Up to 5lac free so no Rebate normal tax will be calculated.

Important Notes-

1.Rebate will be provided before calculating Cess.

**2.Surcharge 10% on Tax,
if Total income >50lacs upto 1cr.**

**3.Surcharge of 15% on Tax
if Total income >1cr. Upto 2cr.**

**4.Surcharge of 25% on Tax
if Total income >2cr. Upto 5cr**

**5.Surcharge of 37% on Tax
if Total income >5cr.**

6.EC 2% & SHEC 1% & 1% Health Cess in all cases.

**2- In case of Partnership Firm & Limited Liability Partnership---30%
(SURCHARGE 12% IF TOTAL INCOME>1CRORE)**

3-In case of Domestic Co. - 30% Tax [if Turnover in PY 18-19 >400cr.]

In case of Domestic Co.-25% Tax [If Turnover in PY 18-19 upto 400Cr.]

Surcharge

- At the rate of 7% of such income tax, provided that the total income exceeds Rs. 1 crore.
- At the rate of 12% of such income tax, provided that the total income exceeds Rs. 10 crores.

4-In case of Foreign Co. - 50% Tax on Royalty Income etc.

40% Tax on other Incomes.

Surcharge-

- At the rate of 2% of such income tax, provided that the total income exceeds Rs. 1 crore.
- At the rate of 5% of such income tax, provided that the total income exceeds Rs. 10 crores.

5-Local Authority - 30% Tax [Surcharge 12% if TI> 1cr.]

**6-Co-operative Society----- (SURCHARGE
12% IF TOTAL INCOME>1CRORE)**

First Rs10000	10 %
Next Rs10000	20 %
Balance	30 %

Concept of Marginal Relief-



In certain cases due to Surcharge effect excess of tax can exceed the excess of income ,but as a General Rule “Tax can not exceed Income” ,overrule in those cases concept of MR is applicable. Marginal relief will applicable in case of-MR means if Tax exceed Income than such excess will be allowed as discount out of tax so calculated.MR apply when-

A)Individual, HUF,AOP,BOI,AJP if Total Income exceed 50lacs and

B)In case of Partnership Firm, Domestic CO., Local Authority, Co-operative Society if Total income >(1 Crore).

How to calculate Marginal Relief-

Details	TOTAL INCOME	TAX
Step1=Calculate tax on TI of such person as given in Question.[without cess]	0000	0000

Step2=Calculate tax on TI of such person for such limit Surcharge not applicable/SC rate change on such person. [Without cess]	0000	0000
Step 3=Difference of Step 1-Step 2 of TI & Tax	0000	0000

A]If Difference of Total Tax > Difference of TI then MR will be =Difference of tax-Difference of TI.

Final Tax liability will be =Tax as per Step 1-MR=New Tax +Cess= Final Tax.

B] If Difference of Total Tax <= TI then NO MR.

Final Tax= Tax as per Step 1 +Cess=Final Tax

EXM-CALCULATE TAX OF MR. SUDEEP IF HIS TOTAL INCOME IS 5150000 AND HIS AGE IS 42YEAR AND HE IS A RESIDENT OF INDIA.

<u>SOLUTION-</u>	<u>TOTAL INCOME</u>	<u>TAX</u>	<u>SC</u>	<u>TOTAL TAX</u>
STEP 1-	5150000	1357500	135750	1493250
STEP 2-	5000000	1312500	NA	1312500
STEP 3-DIFF.	150000			180750

Difference of Tax is more than income so MR will be =Diff. of tax-diff. of income
180750-150000=30750.

Final Tax liability =1493250-30750=1462500

+4% cess= 58500

Total tax 1521000

Optional Rate of Tax for AY 2021-22

The slab rates applicable for A.Y. 2021-22 are as follows: Optional rate of tax for Individual and HUF only-

Note – As per section 115BAC, individuals and HUFs have an option to pay tax in respect of their total income (other than income chargeable to tax at special rates under Chapter XII) at following concessional rates, if they do not avail certain exemptions/deductions like Leave Travel Concession, standard deduction under the head "Salaries", interest on housing loan on self-occupied property, deductions under Chapter VI-A (other than 80CCD(2) or section 80JAA) etc. –

(i)	Upto ` 2,50,000	Nil
(ii)	From ` 2,50,001 to ` 5,00,000	5%
(iii)	From ` 5,00,001 to ` 7,50,000	10%
(iv)	From ` 7,50,001 to ` 10,00,000	15%
(v)	From ` 10,00,001 to ` 12,50,000	20%
(vi)	From ` 12,50,001 to ` 15,00,000	25%
(vii)	Above ` 15,00,000	30%

Individuals and HUFs exercising option u/s 115BAC are not liable to alternate minimum tax u/s 115JC.

For detailed discussion on section 115BAC, refer to Chapter 8 in Module 3 of the Study Material.

Practical Questions from Study Material-

ILLUSTRATION-1

Mr. X has a total income of ` 12,00,000 for P.Y.2020-21, comprising of income from house property and interest on fixed deposits. Compute his tax liability for A.Y.2021- 22 assuming his age is –

- (a) 45 years
- (b) 63 years
- (c) 82 days

Assume that Mr. X has not opted for the provisions of section 115BAC.

SOLUTION-1

(a) Computation of Tax liability of Mr. X (age 45 years)

Tax liability:

First ` 2,50,000	- Nil	
Next ` 2,50,001 – ` 5,00,000	- @5% of ` 2,50,000	= ` 12,500
Next ` 5,00,001 – ` 10,00,000	- @20% of ` 5,00,000	= ` 1,00,000
Balance i.e., ` 12,00,000 minus ` 10,00,000	- @30% of ` 2,00,000	= <u>` 60,000</u>
		= ` 1,72,500
Add: Health and Education cess@4%		= <u>` 6,900</u>
		= <u>` 1,79,400</u>

(b) Computation of Tax liability of Mr. X (age 63 years)

Tax liability:

First ` 3,00,000	- Nil	
Next ` 3,00,001 – ` 5,00,000	- @5% of ` 2,00,000	= ` 10,000
Next ` 5,00,001 – ` 10,00,000	- @20% of ` 5,00,000	= ` 1,00,000
Balance i.e., ` 12,00,000 minus ` 10,00,000	- @30% of ` 2,00,000	= <u>` 60,000</u>
		= ` 1,70,000
Add: Health and Education cess@4%		= <u>` 6,800</u>
		= <u>` 1,76,800</u>

(a) Computation of Tax liability of Mr. X (age 82 years)

Tax liability:

First ` 5,00,000	- Nil	
Next ` 5,00,001 – ` 10,00,000	- @ 20% of ` 5,00,000	= ` 1,00,000
Balance i.e., ` 12,00,000 minus ` 10,00,000	- @ 30% of ` 2,00,000	= <u>` 60,000</u>
		= ` 1,60,000
Add: Health and Education cess@4%		= <u>` 6,400</u>
		= <u>` 1,66,400</u>

(2) Firm/LLP

On the whole of the total income 30%

(3) Local authority

On the whole of the total income 30%

(4) Co-operative society

(i)	Where the total income does not exceed ` 10,000	10% of the total income
(ii)	Where the total income exceeds ` 10,000 but does not exceed ` 20,000	` 1,000 plus 20% of the amount by which the total income exceeds ` 10,000

(iii)	Where the total income exceeds ₹ 20,000	₹ 3,000 plus 30% of the amount by which the total income exceeds ₹ 20,000
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Note - Co-operative society, resident in India, can opt for concessional rate of tax @25.168% (i.e., tax@22% plus surcharge@10% plus health and education cess (HEC)@4%) under section 115BAD in respect of its total income computed without giving effect to deduction under section 10AA, 32AD, 35AD, 35CCC, additional depreciation under section 32(1)(iia), deductions under Chapter VI-A (other than section 80JJAA) etc. and set off of loss and depreciation brought forward from earlier years relating to the above deductions. The provisions of alternate minimum tax under section 115JC would not be applicable to co-operative society opting for section 115BAD.

This section will be dealt with in detail at Final level.

(5) Company

(i) In the case of a domestic company

If the total turnover or gross receipt in the P.Y.2018-19 ≤ ₹ 400 crore	25% of the total income
In any other case	30% of the total income

Notes –

- In case of a domestic manufacturing company (set up and registered on or after 1.10.2019 and commences manufacture of article or thing⁵ before 31.3.2023) exercising option u/s 115BAB: 15% of income derived from or incidental to manufacturing or production of an article or thing
- In case of a domestic company exercising option u/s 115BAA: 22% of total income

Domestic company can opt for section 115BAA or section 115BAB, as the case may be, subject to certain conditions. The total income of such companies would be computed without giving effect to deductions under section 10AA, 32AD, 33AB, 33ABA, 35AD, 35CCC, 35CCD, 80-IA to 80RRB (except section 80JJAA or section 80M), additional depreciation under section 32(1)(iia) etc. and without set-off of brought forward loss and unabsorbed depreciation attributable to such deductions. **These sections will be dealt with in detail at Final Level.**

(ii) In the case of a company other than a domestic company

Royalties and fees for rendering technical services (FTS) received from Government or an Indian concern in pursuance of an agreement, approved by the Central Government, made by the company with the Government or Indian concern between 1.4.1961 and 31.3.1976 (in case of royalties) and between 1.3.1964 and 31.3.1976 (in case of FTS)	50%
Other income	40%

The above rates are prescribed by the Finance Act, 2020. However, in respect of certain types of income, as mentioned below, the Income-tax Act, 1961 has prescribed specific rates –

S. No.	Section	Income	Rate of Tax			
(a)	112	Long term capital gains (other than LTCG taxable as per section 112A) <i>(For details, refer Unit 4 of Chapter 4 on "Capital gains")</i>	20%			
(b)	112A	Long term capital gains on transfer of –	10% [On LTCG > ` 1 lakh]			
		<ul style="list-style-type: none"> • Equity share in a company • Unit of an equity oriented fund • Unit of business trust 				
		Condition for availing the benefit of this concessional rate is that securities transaction tax should have been paid–				
		<table border="1"> <thead> <tr> <th>In case of (Capital Asset)</th> <th>Time of payment of STT</th> </tr> </thead> <tbody> <tr> <td>Equity shares in a company</td> <td>both at the time of acquisition and transfer</td> </tr> <tr> <td>Unit of equity oriented fund or unit of business trust</td> <td>at the time of transfer</td> </tr> </tbody> </table>		In case of (Capital Asset)	Time of payment of STT	Equity shares in a company
In case of (Capital Asset)	Time of payment of STT					
Equity shares in a company	both at the time of acquisition and transfer					
Unit of equity oriented fund or unit of business trust	at the time of transfer					
Note: LTCG upto ` 1 lakh is exempt. LTCG exceeding ` 1 lakh is taxable @ 10%. <i>(For details, refer Unit 4 of Chapter 4 on "Capital gains")</i>						
(c)	111A	Short-term capital gains on transfer of –	15%			

		<ul style="list-style-type: none"> • Equity shares in a company • Unit of an equity oriented fund • Unit of business trust <p>The conditions for availing the benefit of this concessional rate are –</p> <p>(i) the transaction of sale of such equity share or unit should be entered into on or after 1.10.2004; and</p> <p>(ii) such transaction should be chargeable to securities transaction tax.</p>	
(d)	115BB	<p>Winnings from</p> <ul style="list-style-type: none"> • Lotteries; • Crossword puzzles; • Races including horse races; • Card games and other games of any sort; • Gambling or betting of any form or nature 	30%
(e)	115BBE	<p>Unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D [See discussion below]</p>	60%

Unexplained money, investments etc. to attract tax@60% [Section 115BBE]-already discussed

- (i) In order to control laundering of unaccounted money by availing the benefit of basic exemption limit, the unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D would be taxed at the rate of 60% *plus* surcharge @25% of tax. Thus, the effective rate of tax (including surcharge@25% of tax and cess@4% of tax and surcharge) is 78%.
- (ii) No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income.
- (iii) Further, no set off of any loss shall be allowable against income brought to tax under sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

Surcharge

The rates of surcharge applicable for A.Y.2021-22 are as follows:

(i) Individual/HUF/AOP/BOI/Artificial juridical person

Income-tax computed in accordance with the provisions of sub-para (1) of para 4.1 or section 111A or section 112 or section 112A or section 115BAC would be increased by surcharge given under the following table –

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	Applicable rate of surcharge
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A and 112A) > ₹ 50 lakhs but ≤ ₹ 1 crore	10%	Example 9 <ul style="list-style-type: none"> Dividend ₹ 10 lakhs; STCG u/s 111A ₹ 20 lakhs; LTCG u/s 112A ₹ 25 lakhs; and Other income ₹ 40 lakhs 	
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A and 112A) > ₹ 1 crore but ≤ ₹ 2 crore	15%	Example 10 <ul style="list-style-type: none"> Dividend income ₹ 10 lakhs; STCG u/s 111A ₹ 60 lakhs; LTCG u/s 112A ₹ 65 lakhs; and Other income ₹ 50 lakhs 	
(iii)	Where total income	25%	Example 11	

	(excluding dividend income and capital gains chargeable to tax u/s 111A and 112A) > ₹ 2 crore but ≤ ₹ 5 crore		<ul style="list-style-type: none"> • Dividend income ₹ 60 lakhs; • STCG u/s 111A ₹ 54 lakh; • LTCCG u/s 112A ₹ 55 lakh; and • Other income ₹ 3 crores 	<p>Surcharge@15% would be levied on income-tax on:</p> <ul style="list-style-type: none"> • Dividend income of ₹ 60 lakhs; • STCG of ₹ 54 lakhs chargeable to tax u/s 111A; and • LTCCG of ₹ 55 lakhs chargeable to tax u/s 112A. <p>Surcharge@25% would be leviable on income-tax computed on other income of ₹ 3 crores included in total income</p>
	The rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A and 112A	Not exceeding 15%		
(iv)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A and 112A) > ₹ 5 crore	37%	Example 12	
	Rate of surcharge on the income-tax payable on the portion of dividend income and capital gains	Not exceeding 15%	<ul style="list-style-type: none"> • Dividend income ₹ 60 lakhs; • STCG u/s 111A ₹ 50 lakhs; • LTCCG u/s 112A ₹ 65 lakhs; and • Other income ₹ 6 crore 	<p>Surcharge@15% would be levied on income-tax on:</p> <ul style="list-style-type: none"> • Dividend income of ₹ 60 lakhs; • STCG of ₹ 50 lakhs chargeable to tax u/s 111A; and • LTCCG of ₹ 65 lakhs chargeable to tax u/s 112A. <p>Surcharge@37% would be leviable on the income-tax computed on other income of ₹ 6</p>

	chargeable to tax u/s 111A and 112A			crores included in total income.
(v)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A and 112A) > ₹ 2 crore in cases not covered under (iii) and (iv) above	15%	Example 13	
			<ul style="list-style-type: none"> Dividend income ₹ 55 lakhs; STCG u/s 111A ₹ 60 lakhs; LTCG u/s 112A ₹ 55 lakhs; and Other income ₹ 1.10 crore 	Surcharge would be levied @ 15% on income-tax computed on total income of ₹ 2.80 crore.

Marginal relief

The purpose of marginal relief is to ensure that the increase in amount of tax payable (including surcharge) due to increase in total income of an assessee beyond the prescribed limit should not exceed the amount of increase in total income.

Marginal relief is available in case of such persons referred to in above i.e., -

	Particulars	Marginal relief	Example
(i)	Where the total income > ₹ 50 lakhs but ≤ ₹ 1 crore	<p>Step 1 - Compute income-tax payable on total income; and add surcharge @ 10% on such income-tax (A)</p> <p>Step 2 - Compute income-tax payable on ₹ 50 lakhs</p> <p>Step 3 - Total income (-) ₹ 50 lakhs</p> <p>Step 4 - Add the amount computed in Step 2 and Step 3 (B)</p> <p>Step 5 - Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., A) or</p>	Refer illustration 2

		Step 4 (i.e., B). Consequently, if A > B , the marginal relief would be A – B .	
(ii)	Where the total income > ` 1 crore but ≤ ` 2 crores	<p>Step 1 - Compute income-tax on total income; and add surcharge@15% on income-tax (C)</p> <p>Step 2 - Compute income-tax payable on total income of ` 1 crore + surcharge on such income-tax@10%</p> <p>Step 3 - Total income (-) ` 1 crore</p> <p>Step 4 - Add the amount computed in Step 2 and Step 3 (D)</p> <p>Step 5 – Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., C) or Step 4 (i.e., D). Consequently, if C > D, the marginal relief would be C – D.</p>	Refer illustration 3
(iii)	Where the total income > ` 2 crores but ≤ ` 5 crores	<p>Step 1 - Compute income-tax on total income; and add surcharge@25% on income-tax (E)</p> <p>Step 2 - Compute income-tax payable on total income of ` 2 crore + surcharge on such income-tax@15%</p> <p>Step 3 - Total income (-) ` 2 crore</p> <p>Step 4 - Add the amount computed in Step 2 and Step 3 (F)</p> <p>Step 5 – Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., E) or Step 4 (i.e., F). Consequently, if E > F, the marginal relief would be E – F.</p>	Refer illustration 4
(iv)	Where the total income > ` 5 crores	<p>Step 1 - Compute income-tax on total income; and add surcharge@37% on income-tax (G)</p> <p>Step 2 - Compute income-tax payable on total income of ` 5 crore + surcharge on such income-tax@25%</p>	Refer illustration 5

		<p>Step 3 - Total income (-) ₹ 5 crore</p> <p>Step 4 - Add the amount computed in Step 2 and Step 3 (H)</p> <p>Step 5 – Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., G) or Step 4 (i.e., H). Consequently, if G > H, the marginal relief would be G – H.</p>	
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Note – It is presumed that the total income referred to above does not include dividend income, long term capital gains taxable under section 112A and short term capital gains taxable under section 111A.

In case the total income includes dividend income, long term capital gains taxable under section 112A or short term capital gains taxable under section 111A, surcharge on tax payable on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) and (iv) above.

ILLUSTRATION-2

Compute the tax liability of Mr. A (aged 42), having total income of ₹ 51 lakhs for the Assessment Year 2021-22. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. A has not opted for the provisions of section 115BAC.

SOLUTION-2

Computation of tax liability of Mr. A for the A.Y.2021-22

(A) Tax payable including surcharge on total income of ₹ 51,00,000

₹ 2,50,000 – ₹ 5,00,000 @ 5%	₹ 12,500	
₹ 5,00,001 – ₹ 10,00,000 @ 20%	₹ 1,00,000	
₹ 10,00,001 – ₹ 51,00,000 @ 30%	₹ <u>12,30,000</u>	
Total	₹ 13,42,500	
Add: Surcharge @ 10%	₹ <u>1,34,250</u>	₹ 14,76,750

(B) Tax Payable on total income of ₹ 50 lakhs (₹ 12,500 plus ₹ 1,00,000 plus ₹ 12,00,000)	₹ 13,12,500
(C) Excess tax payable (A)-(B)	₹ 1,64,250
(D) Marginal Relief (₹ 1,64,250 – ₹ 1,00,000, being the amount of income in excess of ₹ 50,00,000)	₹ 64,250
(E) Tax payable (A)-(D)	14,12,500
Add: Health and education cess @4%	₹ 56,500
Tax liability	₹ 14,69,000

ILLUSTRATION-3

Compute the tax liability of Mr. B (aged 51), having total income of ₹ 1,01,00,000 for the Assessment Year 2021-22. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. B has not opted for the provisions of section 115BAC.

SOLUTION-3

Computation of tax liability of Mr. B for the A.Y. 2021-22

(A) Tax payable including surcharge on total income of ₹ 1,01,00,000		
₹ 2,50,000 – ₹ 5,00,000 @ 5%	₹ 12,500	
₹ 5,00,001 – ₹ 10,00,000 @ 20%	₹ 1,00,000	
₹ 10,00,001 – ₹ 1,01,00,000 @ 30%	₹ 27,30,000	
Total	₹ 28,42,500	
Add: Surcharge @ 15%	₹ 4,26,375	₹ 32,68,875
(B) Tax Payable on total income of ₹ 1 crore		
[(₹ 12,500 plus ₹ 1,00,000 plus ₹ 27,00,000)		
plus surcharge @ 10%]		₹ 30,93,750
(C) Excess tax payable (A)-(B)		₹ 1,75,125
(D) Marginal Relief (₹ 1,75,125 – ₹ 1,00,000, being the amount of income in excess of ₹ 1,00,00,000)		₹ 75,125
(E) Tax payable (A) - (D)		₹ 31,93,750

Add: Health and education cess @4%

₹ 1,27,750

Tax liability

₹ 33,21,500

ILLUSTRATION-4

Compute the tax liability of Mr. C (aged 58), having total income of ₹ 2,01,00,000 for the Assessment Year 2021-22. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. C has not opted for the provisions of section 115BAC.

SOLUTION-4

Computation of tax liability of Mr. C for the A.Y. 2021-22

(A)	Tax payable including surcharge on total income of ₹ 2,01,00,000	
	₹ 2,50,000 – ₹ 5,00,000 @ 5%	₹ 12,500
	₹ 5,00,001 – ₹ 10,00,000 @ 20%	₹ 1,00,000
	₹ 10,00,001 – ₹ 2,01,00,000 @ 30%	<u>₹ 57,30,000</u>
	Total	₹ 58,42,500
	Add: Surcharge @ 25%	<u>₹ 14,60,625</u>
		₹ 73,03,125
(B)	Tax Payable on total income of ₹ 2 crore	
	[(₹ 12,500 plus ₹ 1,00,000 plus ₹ 57,00,000)	
	plus surcharge @ 15%]	<u>₹ 66,84,375</u>
(C)	Excess tax payable (A)-(B)	₹ 6,18,750
(D)	Marginal Relief (₹ 6,18,750 – ₹ 1,00,000, being the amount of income in excess of ₹ 2,00,00,000)	<u>₹ 5,18,750</u>
(E)	Tax payable (A) - (D)	₹ 67,84,375
	Add: Health and education cess @ 4%	<u>₹ 2,71,375</u>
	Tax liability	<u>₹ 70,55,750</u>

ILLUSTRATION-5

Compute the tax liability of Mr. D (aged 37), having total income of ₹ 5,01,00,000 for the Assessment Year 2021-22. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. D has not opted for the provisions of section 115BAC.

SOLUTION-5

Computation of tax liability of Mr. D for the A.Y. 2021-22

(A) Tax payable including surcharge on total income of ` 5,01,00,000		
` 2,50,000 – ` 5,00,000 @ 5%	` 12,500	
` 5,00,001 – ` 10,00,000 @ 20%	` 1,00,000	
` 10,00,001 – ` 5,01,00,000 @ 30%	<u>1,47,30,000</u>	
Total	` 1,48,42,500	
Add: Surcharge @ 37%	<u>54,91,725</u>	` 2,03,34,225
(B) Tax Payable on total income of ` 5 crore		
[(` 12,500 plus ` 1,00,000 plus ` 1,47,00,000)		
plus surcharge @ 25%]		<u>1,85,15,625</u>
(C) Excess tax payable (A)-(B)		` 18,18,600
(D) Marginal Relief (` 18,18,600 – ` 1,00,000, being the amount		
of income in excess of ` 5,00,00,000)		` 17,18,600
(E) Tax payable (A) - (D)		` 1,86,15,625
Add: Health and education cess @ 4%		<u>7,44,625</u>
Tax liability		<u>1,93,60,250</u>

(ii) Firm/Limited Liability Partnership/Local Authority/Co-operative society
Where the total income exceeds ` 1 crore, surcharge is payable at the rate of 12% of income-tax computed in accordance with the provisions of sub-para (2)/(3)/(4) of para 4.1 or section 111A or section 112 or section 112A.

Marginal Relief

Marginal relief is available in case of such persons having a total income exceeding ` 1 crore i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax payable on total income of ` 1 crore by more than the amount of income that exceeds ` 1 crore.

(iii) Domestic company

1]In case of a domestic company (other than a domestic company opting for section 115BAA or section 115BAB), whose total income > ` 1 crore but is ≤ ` 10 crore

Where the total income exceeds ` 1 crore but does not exceed ` 10 crore, surcharge is payable at the rate of 7% of income-tax computed in accordance with the provisions of sub-para (5)(i) of para 4.1 or section 111A or section 112 or section 112A.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax payable on total income of ` 1 crore by more than the amount of income that exceeds
` 1 crore.

1]In case of a domestic company (other than a domestic company opting for section 115BAA or section 115BAB), whose total income is > `10 crore

Where the total income exceeds ` 10 crore, surcharge is payable at the rate of 12% of income-tax computed in accordance with the provisions of sub-para (5)(i) of para 4.1 or section 111A or section 112 or section 112A.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax and surcharge payable on total income of ` 10 crore by more than the amount of income that exceeds ` 10 crore.

(a) **In case of a domestic company opting for section 115BAA or section 115BAB)**

Surcharge @10% of income-tax computed under section 115BAA or section 115BAB would be leviable. There is no threshold limit for applicability of surcharge and consequently, there is no marginal relief.

(iv) Foreign company

(b) **In case of a foreign company, whose total income > ` 1 crore but is ≤ ` 10 crore**

Where the total income exceeds ` 1 crore but does not exceed ` 10 crore, surcharge is payable at the rate of 2% of income-tax computed in accordance with the provisions of sub-para (5)(ii) of para 4.1 or section 111A or section 112 or section 112A.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax payable on total income of ` 1 crore by more than the amount of income that exceeds ` 1 crore.

(c) **In case of a foreign company, whose total income is > ` 10 crore**

Where the total income exceeds ` 10 crore, surcharge is payable at the rate of 5% of income-tax computed in accordance with the provisions of sub-para (5)(ii) of para 4.1 or section 111A or section 112 or section 112A.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax and surcharge payable on total income of ` 10 crore by more than the amount of income that exceeds ` 10 crore.

Rebate of up to ` 12,500 for resident individuals having total income of up to ` 5 lakh [Section 87A]

In order to provide tax relief to the individual tax payers who are in the 5% tax slab, section 87A provides a rebate from the tax payable by an assessee, being an individual resident in India, whose total income does not exceed ` 5,00,000.

- (i) The rebate shall be equal to the amount of income-tax payable on the total income for any assessment year or an amount of ` 12,500, whichever is less. (Rebate under section 87A is allowed from tax payable before adding Health and education cess on income-tax).
- (ii) Further, the aggregate amount of rebate under section 87A shall not exceed the amount of income-tax (as computed before allowing such rebate) on the total income of the assessee with which he is chargeable for any assessment year.

Note: Rebate under section 87A is, however, not available in respect of tax payable @10% on long-term capital gains taxable under section

“Health and Education cess” on Income-tax

The amount of income-tax as increased by the union surcharge, if applicable, should be further increased by an additional surcharge called the “Health and Education cess on income-tax”, calculated at the rate of 4% of such income-tax and surcharge, if applicable. Health and education cess is leviable in the case of all assessees i.e. individuals, HUF, AOP/BOI, firms, local authorities, co-operative societies and companies.

It is leviable to fulfill the commitment of the Government to provide and finance quality health services and universalised quality basic education and secondary and higher education.

ILLUSTRATION 6

Mr. Raghav aged 26 years and a resident in India, has a total income of ` 4,40,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y.2021-22.

SOLUTION

Computation of tax liability of Mr. Raghav for A.Y. 2021-22

Particulars	`
Tax on total income of ` 4,40,000	
Tax@5%of ` 1,90,000 (` 4,40,000 – ` 2,50,000)	9,500
Less: Rebate u/s 87A (Lower of tax payable or ` 12,500)	9,500
Tax Liability	Nil

TEST YOUR KNOWLEDGE

Question 1

Who is an "Assessee"?

Answer

As per section 2(7), assessee means a person by whom any tax or any other sum of money is payable under the Income-tax Act, 1961.

In addition, the term includes –

- Every person in respect of whom any proceeding under the Act has been taken for the assessment of –
 - his income; or
 - the income of any other person in respect of which he is assessable; or
 - the loss sustained by him or by such other person; or
 - the amount of refund due to him or to such other person.
- Every person who is deemed to be an assessee under any provision of the Act;
- Every person who is deemed to be an assessee in default under any provision of the Act.

Question 2

State any four instances where the income of the previous year is assessable in the previous year itself instead of the assessment year.

Answer

The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. However, in a few cases, the income is taxed in the previous year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

- (i) Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or

outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.

- (ii) Where it appears to the Assessing Officer that any individual may leave India during

the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of his departure from India is chargeable to tax in that assessment year.

- (iii) If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or in the next year, he can make assessment of the income up to the date of dissolution as income of the relevant assessment year.
- (iv) During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous year to the date, when the Assessing Officer commences proceedings under this section is chargeable to tax in that assessment year.
- (v) Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that assessment year.

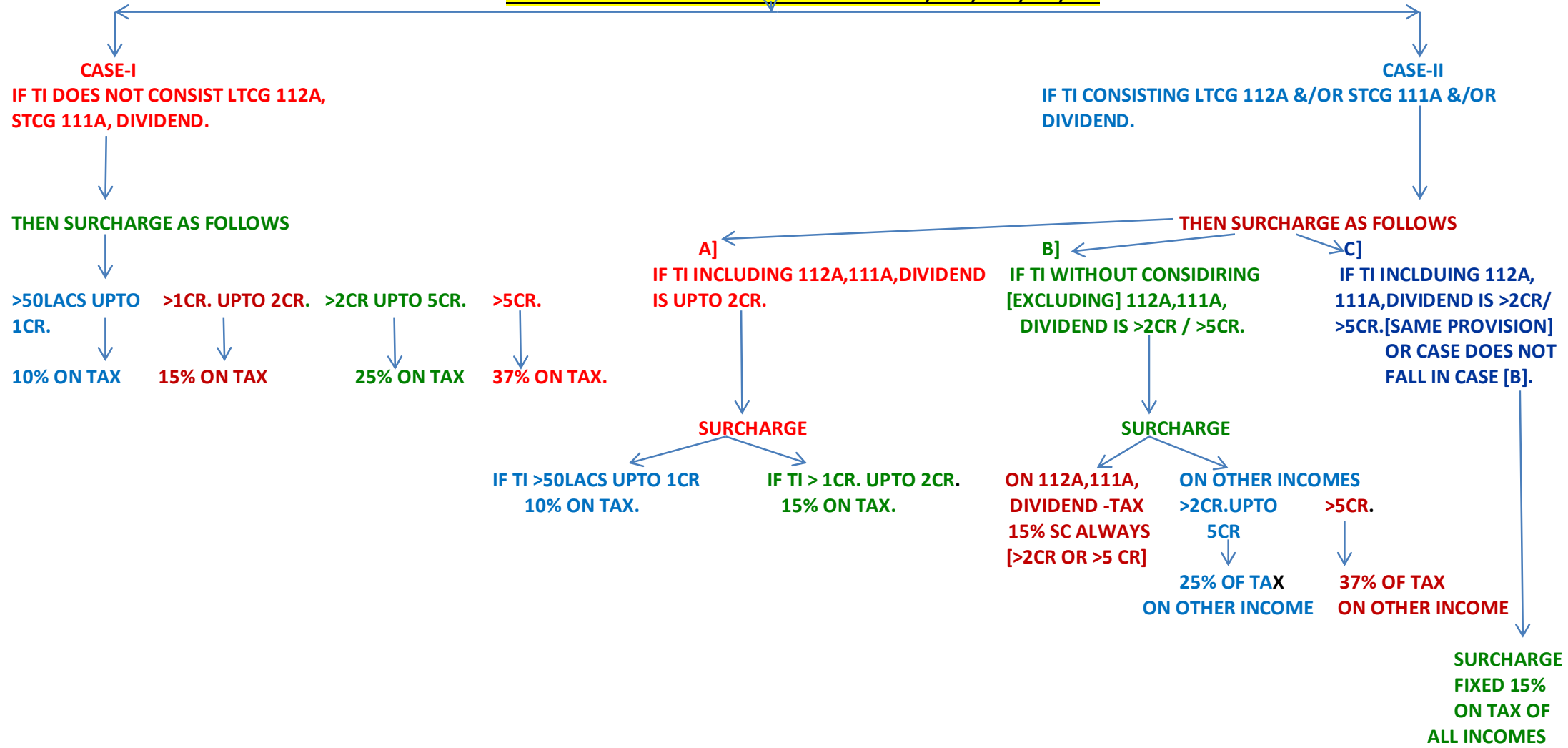


THANK YOU

CA ANKIT SHARMA

REVISE TWICE -THATS MY ADVICE -TO MAKE YOU WISE

NEW SURCHARGE PROVISIONS FOR INDIVIDUAL/HUF/AOP/BOI/AJP



EXAMPLES-

PARTICULARS	1	2	3	4	5	6	7
OTHER INCOMES	70LACS	80LACS	90LACS	1.30CR.	4CR.	6CR.	4CR.
DIVIDEND/LTCG 111A,/STCG 112A	NIL	1.90CR	80LACS	2CR.	1CR.	2CR.	NIL
TOTAL INCOMES	70LACS	2.70CR	1.70CR	3.30CR	5CR	8CR.	4CR.
CASE AS PER ABOVE	I	II [C]	II [[A]	II [C]	II [B]	II [B]	I
SC	10%	15%	15%	15%	15% ON 1CR. 25% ON 4CR.	15% ON 2CR. 37% ON 6CR.	25% ON 4CR.