



## SYLLABUS

### B.Com V SEM (Tax)

### Subject – Income Tax Law And Practice

UNIT-I	General introduction of Indian income tax act, 1961. Basic concepts: income, agriculture income, casual income previous year, assessment year, gross total income, total income, person assessee, residential status and tax liability, exempted income.
Unit-II	Income from salary, income from house property.
Unit-III	Income from business and profession, capital gains, income from other sources.
Unit-IV	Set off and carry forward of losses, deductions from gross total income, clubbing of income, computation of total income and tax liability of an individual.
Unit-V	Assessment procedure, tax deducted at source. Advance payment of tax. Income tax authorities. Appeal, revision and penalties.



Unit - 1

**Basic concepts of Income Tax**

**Meaning of Income Tax**

Income tax is a tax charged on taxable income of a person levied by the Central Government at prescribed rates. Tax payers include individual, firm, company, Hindu undivided family, association of persons, trust etc. Taxable income means income calculated under the provisions of the Income Tax Act.1961

**Salient Features of Income Tax-**

1. Central Tax
2. Direct Tax
3. Tax on Taxable Income
4. Progressive rates of Tax
5. Scope of Taxation not only with individual but also with firm, company, HUF, Trust & Co-Operative Societies
6. Tax Exemption limit
7. Burden on Rich class persons
8. Separate Administration
9. Distribution of Tax between Central and State Government
10. It is largest source of revenue.
11. Tax for country welfare
12. History of income Tax in India is about 150 years old.
13. Control on Income by Income tax
14. Beginning of Income Tax by sir James Wilson in 1860 in India.

**Income [Section 2(24)]**

Income Tax is a tax which is charged on the income of a person so we must know the exact meaning of 'Income' Though 'Income' is a very important word for the Income Tax Act but no precise definition of the word "Income" is attempted under the Income Tax Act, 1961. The term "Income", in the context of the Act, is inclusive. The narration given in Sub-Section (24) of Section 2 of the Act enumerates certain items, including those which cannot ordinarily be considered as income but are treated statutorily as such.

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

Income Includes:-

1. Profit and gains;
2. Dividend;
3. Voluntary contributions received by a trust.
4. The value of a perquisite or profit in lieu of salary.
5. Any special allowance or benefit other than perquisites included under 4.
6. Any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office
7. The value of any benefit or perquisite obtained from a company.
8. Any compensation
9. Profit on sale of License
10. Cash assistance received
11. Any interest, salary, bonus, commission/remunerations
12. Profit/gain of mutual or co-operative insurance co.
13. Capital gain arising from transfer of capital gain
14. Any sum received under a key man insurance policy.



**Agricultural Income [Section 2 (1A)]**

**Definition of Agriculture Income**

Sec. 2(1A) defines “agricultural income” to means –

- (A) any rent or revenue derived from land which is situated in India and is used for agricultural purposes,
- (B) any income derived from such land by agriculture or by the process employed to render the produce fit for the market or by sale of such produce by a cultivator or receiver of rent in kind,
- (C) Any income derived from any building provided the following conditions are satisfied (i) The Building is immediate vicinity of the agriculture land (ii) it is occupied by the cultivator or received of rent or revenue (iii) It is used as a dwelling house or store house/out house. (iv) The land is assessed to land revenue or a local rate.
- (D) Any income derived from saplings/seedling grown in a nursery shall be deemed to be agricultural income.

**Partly Agricultural Income Shown by Chart**

S.No.	Partly Agricultural Income	Agricultural Income	Non Agricultural Income
1	Growing & manufacturing tea in India	60%	40%
2	Growing & cured coffee in India by the seller	75%	25%
3	Sale of Coffee grown, cured, roasted and grounded	60%	40%
4	Sale of centrifuged latex or cenex manufactured from rubber	65%	35%
5	Other Agricultural produce grown by the manufacturer and used for own product.	Market value of agricultural produce used in production	Remaining Business income will be taxable.

**Income connected with land but not agricultural income –**

- 1. Profit earned on purchasing the standing crop.
- 2. Income from mines
- 3. Income from self grown grass, trees/bamboos
- 4. Divided from a company engaged in Agricultural
- 5. Income from warehouses and godowns.
- 6. Income from land used for brick making
- 7. Income from supply of water for irrigation purposes.
- 8. Remuneration for managing agricultural property.
- 9. Income from dairying.
- 10. Interest accrued on promissory notes executed for arrears of rent.

**Agricultural Income and Tax Liability –**

Though agricultural income is exempt and it is not included in computation of total income of an assessee but from tax calculation point of view it is added to total income. The agricultural income is integrated with non-agricultural income in those cases where assessee has both incomes. Such integration is done only in the case of individual, HUF, AOP/BOI and Artificial juridical person.



### Condition for Integration -

When the following two conditions are satisfied-

- (i) Non agricultural income of the assessee exceeds the maximum exemption limit which for the assessment year 2017-18 is Rs. 2.5 lakh in the case of an individual, Women and HUF in case of Senior citizen it will be Rs. 3,00,000 and Super senior citizen Rs. 5,00,000 instead of Rs. 2,50,000/-.
- (ii) Net agricultural income exceed Rs. 5,000

### Procedure for computation of Tax-payable on non-agricultural income after Integration-

1. Aggregate the Agricultural income with non Agricultural income and determine the tax payable on such amount.
2. Aggregate the Agricultural income with basic exemption limit and determine the tax payable on such amount.
3. The difference between the tax computed in step (a) and step (b) will be the tax payable in respect of non-agricultural income.

### CASUAL INCOME

Causal Income means such income the receipt of which is accidental and without any stipulation. It is the nature of an unexpected windfall. Casual income is on recurring in nature. Though causal income is fully taxable but it is necessary to clear this meaning from the following point of view -

1. Causal income like lottery, race income are taxable at special rate of 30%
2. Causal income cannot be set off against other causal income as well as casual income cannot be used for setting off loss of other head.

### **4. ASSESSMENT YEAR : (2017-2018) [Section 2 (9)]**

It means the period of twelve months commencing on 1<sup>st</sup> of April every year and ends by 31<sup>st</sup> March. In other words period of 12 months - 1<sup>st</sup> April to 31<sup>st</sup> March is called assessment year.

### **5. PREVIOUS YEAR : (2016-2017) (Section 3)**

Previous year means the financial year immediately preceding the assessment year e.g. for the assessment year 2017-2018 previous year will commence on 1<sup>st</sup> of April, 2016 and end on 31<sup>st</sup> March, 2017. Previous year for income tax purposes will be financial year which ends on 31<sup>st</sup> of March, however the assessee can close his books of accounts on other date e.g. an assessee may maintain books of accounts on calendar year basis but his previous year, for Income Tax purpose, will be financial year and not the calendar year. This uniform previous year has to be followed for all sources of income.

Important points in relation to previous year: Under the following situation the previous year would be -

1. Where a different accounting year is followed
2. Previous year in case of newly set up business
3. In case of newly created source of income

### **Exception to the rule of Previous Year:**

These exceptions are:

1. Shipping business income of non-resident ship-owners
2. In case of persons leaving India
3. In case of persons who are likely to transfer their assets to avoid tax
4. In case of discontinued business



## PERSON [SECTION-2 (31)]

The term 'person' includes:

- (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 like Municipalities, Panchayats, Cantonment Boards, Port Trusts etc.
- (7) Every artificial juridical person Like Life Insurance Corporation, University etc.

## ASSESSEE [SECTION-2 (7)]

In simple word, An Assessee is a person who is liable to pay any sum under Income Tax Act or in respect In respect of whom the proceeding have been initiated under this Act.

The word 'assessee' has been defined in Section 2(7) of the Act according to which assessee means a person by whom any tax or any other sum of money is payable under the Act and includes –

### (a) Every person:

- (i) Who is liable to pay any tax; or
- (ii) Who is liable to pay any other sum of money under this Act (e.g. interest, penalty, etc); or
- (iii) In respect of whom any proceeding under this Act has been taken for the assessment of the income; or
- (iv) In respect of whom any proceeding under this Act has been taken for the assessment of the income of any other person in respect of which he is assessable; or
- (v) In respect of whom any proceeding under this Act has been taken for the assessment for the loss sustained by him or by such other person; or
- (vi) In respect of whom any proceeding under this Act has been taken for the amount of refund due to him or to such other person;

### (b) A Deemed Assessee:

A person who is liable to pay tax not only on his own income but on the income of any another person. Deemed assesses includes legal representative, agent of non resident, guardian or manager of an infant and lunatic, trustees and administrators etc.

### (c) Who is deemed to be an assessee in default?

A person is said to be an assessee in default if he fails to comply with the duties imposed upon him under the Income tax Act.

## GROSS TOTAL INCOME

Gross Total Income means aggregate amount of taxable income computed under five heads of income i.e. salary, house property, business & profession, capital gains and other sources. In other words, Gross Total Income means total income computed in accordance with the provisions of the Act before making any deduction under sections 80C to 80U.

In Simple words, the aggregate amount of the following heads of income is called Gross Total Income –

- (i) Salaries (Cash receipts and perquisites from the employer),
- (ii) Income from House Property (Rental income)
- (iii) Profits an Gains of Business or Profession,
- (iv) Capital Gains from transfer of movable and immovable assets,
- (v) Income from other Sources i.e. interest, royalty, lottery etc.

In computation of gross total income. Losses are to be set off.

## TOTAL INCOME

Total income is also called as taxable income because tax payable by an assessee is calculated on this income only.





When deduction U/S 80 C to 80 U are deducted from the Gross total income, then remaining is called as total income.

Total income is to be rounded off to the nearest rupee in the multiples of Rs. 10.

The following are the current rates of taxation for an individual, Hindu, Undivided Family, firm, company and co-operative society for the assessment year 2017-18.

### **BASIS OF CHARGE (TAX RATE)**

#### **Tax Rates -**

Applicable tax rates for the Assessment Year 2017-2018 (Previous year 2016-17.) are as follows -

1. Tax rates applicable on individual and HUF (less than 60 years)-

Income	Tax Rate
On First Rs. 250000	NIL
On Next Rs. 250001 to 5,00,000	10%
On Next Rs. 5,00,001 to 1000000	20%
On above 10,00,000	30%

2. **Resident senior citizen Assessee** (Whose age is 60 year or more but less than 80 years) Male or Female

Income	Tax Rate
On First Rs. 3,00,000	-
On Next Rs. 3,00,001 to 5,00,000	10%
On Next Rs. 5,00,001 to 10,00,000	20%
On above 10,00,000	30%

3. **Super Senior Citizen Assessee** (80 years or more)

Income	Tax Rate
On First Rs. 5,00,000	-
On Next Rs. 5,00,001 to 10,00,000	20%
On above 10,00,000	30%

4. **Partnership firm** - 30% flat Rate on Income of firm.

5. **Domestic Company** - Domestic Company 30% flat rate on income, if income is more than Rs. 1 Crore then 7% Surcharge & 12% surcharge in case exceed of 10 Crore is also applicable on tax payable.

6. **Foreign Company** - Foreign Company 40% flat rate on income if income is more than Rs. 1 Crore then 7% Surcharge & 12% surcharge in case exceed of 10 Crore is also applicable on tax payable.

7. **Co-operative Society** -

Income	Tax Rate
On First Rs. 10,000	10%
On Next Rs. 10,000	20%
On remaining balance	30%

8. **Tax Rate on special income-**

a. Long term capital gain	20% (Flat)
b. Short term capital gain (U/s 111A)	15% (Flat)



c. Income on lottery, horse race, Cross word Puzzle etc. 30% (Flat)

9. **Education Cess** – 3% Education Cess is applicable on taxable Income of all type of assessee but in case of company education cess is applicable after adding of surcharge (if any).

## **INCOME WHICH DOES NOT FROM PART OF TOTAL INCOME** **EXEMPTED INCOME**

**Section -10 of Income Tax Act laye down income which is totally or partially exempted from tax-**

### **A. EXEMPTED INCOME FOR ALL ASSESSES**

1. Agricultural Income Sec. 10(1)
2. Share of income from partnership firm Sec. 10 (2A)
3. Share of HUF Income Sec. 10(2)
4. Scholarships – Sec.10(16)
5. Income as divided Sec. 10 (34 & 35)
6. Capital gain on transfer of u/s 64 (Sec. 10 (33)
7. Allowance of M.P./MLA Sec. 10 (17)
8. Award / reward Sec. 10 (17A)
9. Pension to gallantry award winner Sec. 10(18)
10. Family Pension received by the family members of armed forces Sec. 10(19).
11. Capital gain on compulsory acquisition of urban Agriculture land Sec. 10(37)
12. Interest on notified Government Securities Sec. 10(15)
13. Income of minor child which is clubbed Sec. 10(32) [Up to 1,500/- per child]
14. Compensation under Bhopal Gas Leak Disaster Sec. 10(10BB)
15. Income of subsidy from Tea Board Sec. 10(30)
16. Income of schedule Tribe members Sec. 10(26)
17. Amount received under a life Insurance Policy Sec. 10(10D)
18. Income of subsidy from Rubber Board/Coffee Board /spices board / any other notified Board Sec. 10(31)
19. Income from Sukanya Samriddhi Account – Sec. 10(11)A.

### **B. EXEMPTED INCOME FOR EMPLOYEES**

1. House Rent Exempted upto a certain limit Sec.10(13A)
2. a) Gratuity, Commuted pension, leave encashment to Government employees is fully exempted Sec. 10(10)  
b) Gratuity, leave encashment, commuted pension to non-government, employees is exempted up to a certain limit.
3. a) Commutation of pension received by an employees pension for government employees, fully exempted Sec. 10(10A)  
b) Pension for non-government employee exempted upto certain limit.
4. Leave travel concession in India Sec. 10(5)

Actual Amount Received or  
Amount Prescribed or  
Amount Actual Spent } Which ever is less  
is exempted

5. Amount received as leave encashment on retirement Sec.-10 (10AA)  
a) Central/State Government Employee – Fully Exempted  
b) Other Employee exempted upto certain limit
6. Compensation on retrenchment Exempted upto certain limit.Sec.10(10 B)



7. Allowance or perquisite outside India Sec 10(7)
8. Allowance/perquisite paid outside India by Indian Government is exempted.
9. Provident fund Sec. 10(11)
  - a) P.F. received from Recognised P.F. fully exempted
  - b) P.F. received from unrecognised P.F. Taxable
10. Superannuation fund Sec. 10(13)
11. Voluntary retirement Scheme Sec. 10(10c) (Amount received by this scheme is exempted upto 5 lakh.)
12. Tax on perquisite paid by the employer is exempted Sec. 10 (10 CC)
13. **Special Allowance Sec. 10 (14) for performing duty**

1	Travel/Tour Allowance	Actual Expenses Exempted
2	Daily Allowance	Actual Expenses Exempted
3	Conveyance Allowance	Actual Expenses Exempted
4	Helper Allowance	Actual Expenses exempted
5	Training Allowance	Actual Expenses exempted
6	Uniform Allowance	Actual Expenses exempted
<b>14.</b>	<b>compensatory allowances to Employee ---</b>	
1	Education Allowance	100/- Per month Per Child (for 2 child)
2	Hostel Allowance	300/- Per month Per Child (for 2 child)
3	Transfer Allowance	70% of Allowance Or 10,000 Rs. Per month } Whichever is less
4	Tribal Area Allowance	Up to 200 Rs. Per month
5	Field Area Allowance	Rs. 2,600 Per month
6	Composite Hill Compensatory Allowance	From 300 Rs. to 7000 Rs. Per month. according to place
7	Border/Remote area allowance	200 to Rs. 1,300 Per month. according to place
8	Allowance to workers of coal mines	Rs. 500 Per month
9	High Attitude allowance	Rs. 1060 to Rs. 1600 Per month
10	Highly Active field area allowance	Rs. 4,200 Per month
11	Modified field area allowance	Rs. 1,000 per month.
12	Counter Insurgency Allowance	Rs. 3,900 per month.
13	Transport Allowance	Rs1600 per month (Rs. 3200 per month in the case of handicapped, blind or disabled employee)
14	Island (Duty) Allowance	Rs. 3,250 per month.

### C. EXEMPTED INCOME FOR INSTITUTIONS

1. Income of scientific research association Sec. 10(21)
2. Income of employee's welfare fund Sec. 10 (23AAA)
3. Venture capital fund/Company Sec. 10 (23F)
4. Income of news Agency Sec. 10 (22B)
5. Income of Professional institutions Sec. 10 (23A)
6. Income of Regimental Fund of the Armed forces Sec. 10(23AA)
7. Income of Khadi/Village industrial Sec. 10(23B)
8. Income of Khadi Board Sec. 10(23BB)
9. Income of the European Economic Community Sec. 10 (23BBB)
10. Income of statutory bodies Sec. 10 (23 BBA)





11. Income of pension fund (Set up by LIC) Sec. 10 (23AAB)
12. Income from mutual fund Sec. 10 (23D)
13. Income of Registered Trade unions Sec. 10 (24)
14. Income of local authorities Sec. 10(20)
15. Income of Co-operative Societies for Scheduled castes/Tribes Sec. 10 (27)
16. Income of political party Sec. 13 (A)
17. Income of the SAARC fund for regional Project Sec. 10(23BBC)
18. Income of a corporation promoting the interest of a minority community Sec. 10 (26BB)
19. Income of certain national funds Sec. 10 (23 c)
20. Income of Hospitals and Educational Institution association Sec. 10 (23C)
21. Exemption of income of Investor Protection Fund – Sec. 10 (23EA)
22. Income of Swachh Bharat Kosh and Clean Ganga Fund – Sec. 10 (23C)

#### **D. EXEMPTIONS FOR NON-RESIDENT /FOREIGN CITIZEN**

1. Interest received on securities.
2. Interest received by “non-resident(External) Account”
3. Interest from notified central Government if such certificates are subscribed in foreign currency.
4. Remuneration received by foreign diplomats.
5. Salary received by foreign citizen in India/by non-resident foreign citizen/by an employee being a foreign national.
6. Tax paid by Government/Indian concern in case of non-resident/Foreign company.
7. Income arising to notified foreign companies projects connected with security of India.
8. Foreign allowance granted by the Indian government to its employee posted abroad.
9. Remuneration received from foreign government by an individual who is in India in connection with any sponsored Co-operative technical assistance programme.
10. Remuneration received by non-resident consultants and their foreign employers.

#### **E. EXEMPTIONS FOR OTHERS**

1. Exemptions for newly established industrial undertaking in free trade zones Sec. 10 (A)
2. Exemptions for newly established industrial undertaking in special Economic Zone Sec. 10 (AA) after 31<sup>st</sup> March, 2005
3. Exemptions for newly established industrial undertaking Hundred percent export oriented undertakings Sec. 10(B)
4. Deduction in respect of export of artistic hand made wooden articles section 10 (BA)
5. Income exempted of charitable/Religions trusts Sec.-11

### **RESIDENTIAL STATUS AND TAX LIABILITY**

The tax liability under income tax is determined on the basis of residential status of an assessee but not according to the citizenship hence it becomes necessary that first of all the residential status of an assessee should be determined.

**On the basis of residential status there are 3 categories of assessee:**

- 1) Resident/Ordinarily resident
- 2) Not ordinarily resident
- 3) Non resident

There are separate rules for different types of assesses like; individual, H.U.F., firm, companies etc. for determination of residential status.

#### **Individual Assessee**

- 1) **Resident / Ordinarily Resident** : - If an individual wants to become ordinarily resident in India, then he has to fulfill the basic condition as well as two additional conditions:



- i) **Basic conditions:** In the basic conditions, there are two conditions. On satisfying any one of these, it will be assumed that the basic condition is satisfied.
- The assessee must have lived for at least 182 days in India during the previous year.

**OR**

- The assessee must have lived for at least 365 days in 4 years preceding the previous year and at least 60 days in 4 years preceding the previous year.

### EXCEPTIONS TO THE BASIC CONDITIONS

- If an assessee is an Indian citizen and goes aboard for the employment purpose or leaves the country as a member of crew of an Indian ship.
- If an assessee is an Indian citizen or an Indian origin, living in a foreign country and comes to India on tour during the previous year.

In both these exceptional cases an assessee has to live for at least 182 days for satisfying the basic condition.

### ii) Additional Conditions

There are two additional conditions and assessee has to satisfy both of these conditions. These are :

- An assessee must have been assessed as ordinarily resident for at least 2 out of 10 years preceding the previous year.

**AND**

- An assessee must have lived for at least 730 days out of 7 years preceding the previous years.

**Thus on satisfying any of the two options of the basic condition and two additional conditions an individual assessee can be termed as "ordinarily resident".**

- Not Ordinarily Resident:** If an assessee satisfies the basic condition but fails to satisfy the two additional conditions, then he will be assessed as "not ordinarily resident".
- Non Resident:** If an assessee fails to satisfy even the basic condition, then he will be assessed as "non resident".

### Hindu Undivided Family (H.U.F.)

- Ordinarily Resident :** An HUF will be assessed as **Ordinarily Resident** in India if :
  - Management and control of the business is wholly/partly situated in India.

**AND**

- "Karta" of the HUF satisfies the two additional conditions.

- Not Ordinarily Resident :** An HUF will be assessed as NOR if:

- Management and control of the business is wholly/partly situated in India

**BUT**

- Karta of HUF does not satisfy the two additional conditions.

- Non Resident:** An HUF will be assessed as Nonresident if control and management of the HUF is wholly situated outside in India.

### FIRM OR ASSOCIATION OF PERSONS

- Resident :-** A firm or an AOP will be assessed as Resident of India if its control and management is wholly/partially situated in India
- Non Resident :** A firm or an AOP will be assessed as Nonresident in India if it is wholly/partly controlled and managed from outside India.



**COMPANY**

1) **Resident** : A company will be assessed as resident in India if :

i) It is an Indian Company

OR

ii) It is controlled and managed wholly within India.

2) **Non-Resident** : A company which is neither an Indian company nor it is wholly/partly controlled and managed from outside India, is called as non-resident.

**RESIDENTIAL STATUS AND TAX INCIDENCE (LIABILITIES)**

Tax liability of an assessee depends upon the residential status on which income he is liable to pay tax and which incomes are not taxable for him, for determination of this matter, now we have to understand the relationship between residence and tax liabilities :

a) Tax liability of **Resident**

i) Income received or deemed to be received in India.

ii) Income accrued or deemed to be accrued in India.

iii) Income received or accrued outside the India

b) Tax liability of **Not ordinarily resident**:

i) Income received or deemed to be received in India.

ii) Income occurred or deemed to be accrued in India.

iii) Income business situated outside India but controlled and managed from India

c) Tax liability of **non residents**:

i) Income received or deemed to be received in India

ii) Income occurred or deemed to be accrued in India.