

Circular No. 23 (23-07-1969)

A foreign agent of Indian exporter operates in his own country and no part of his income arises in India. His commission is usually remitted directly to him and is, therefore, not received by him or on his behalf in India. *Such an agent is not liable to income-tax in India on the commission.*

Income from Property, asset or Source of Income

Any income which arises from any property **situated in India** deemed to accrue or arise in India.

Income from Transfer of Capital Asset

Capital gain arises from the transfer of a capital asset situated in India would be deemed to accrue or arise in India.

Income from Salary

Salary would be deemed to accrue or arise in India if it is in respect of services rendered in India.

Exceptions

1. Pension payable outside India by the Govt to its officials & Judges who permanently resides outside India.
2. Salary of an employee in UNO

Question 5

Mr. A, a citizen of India, left for USA for the purposes of employment on 1-05-2009. He has not visited India thereafter; Mr. A borrows money from his friend Mr. B who left India one week before Mr. A's departure, to the extent of Rs.10 lakhs and buys debentures in X Ltd, an Indian company. Discuss the taxability of the interest on debentures Rs. 100000/- in B's hands where the same has been received in USA.

Question 6

Determine the tax liability in case of the following incomes for Assessment Year 2010-11 in the hand of:

- | | | |
|-------|--|-------------|
| | a) Resident and Ordinary resident | |
| | b) Resident but not ordinary resident | |
| | c) Non Resident | |
| i) | Interest on UK bond, 50% received in India | Rs. 10000/- |
| ii) | Income from Business in Chennai (50% received in India) | Rs. 20000/- |
| iii) | Profit on sale of shares of an Indian Co. received in London | Rs. 20000/- |
| iv) | Dividend from British Company received in London | Rs. 5000/- |
| v) | Profit on sale of plant at USA 50% profit received in India | Rs. 40000/- |
| vi) | Profit from Business in Delhi but managed wholly from USA | Rs. 15000/- |
| vii) | Rent from Property at USA deposited in Indian Bank at USA | Rs. 50000/- |
| viii) | Fees for Technical services rendered in India but received USA | Rs. 12000/- |
| ix) | Past foreign untaxed income brought in India | Rs. 50000/- |
| x) | Agriculture income from Land situated at Nepal received in India | Rs. 10000/- |

FOR BATCH CA-IPCC TAXATION
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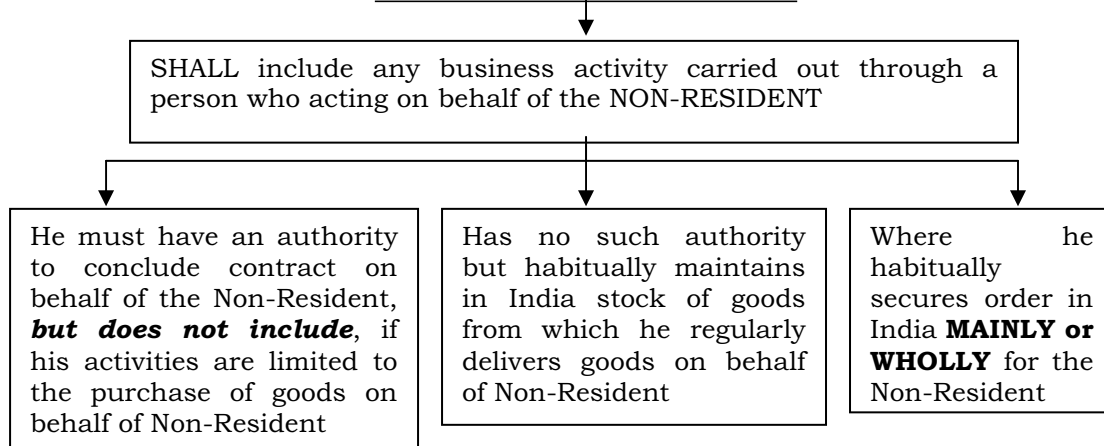
- ❖ Income which falls under the head salary if it is earned in India
- ❖ Income from Salary which is payable by Government of India to the Citizen of India for rendering services outside India.
- ❖ Dividend paid by Indian Company outside India
- ❖ Interest
- ❖ Royalty
- ❖ Fees for Technical Services

Meaning of Royalty

“Royalty” means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head “Capital gains”) for—

- (i) The transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property;
- (ii) The imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property.
- (iii) The use of any patent, invention, model, design, secret formula or process or trade mark or similar property.
- (iv) The imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill.

Business Connection in India



Exception

Business connection shall not include any business activity carried out through a broker, General Commission agent or any other agent having an independent status and activity in the ordinary course of business

Important

Indian Importer's foreign agent

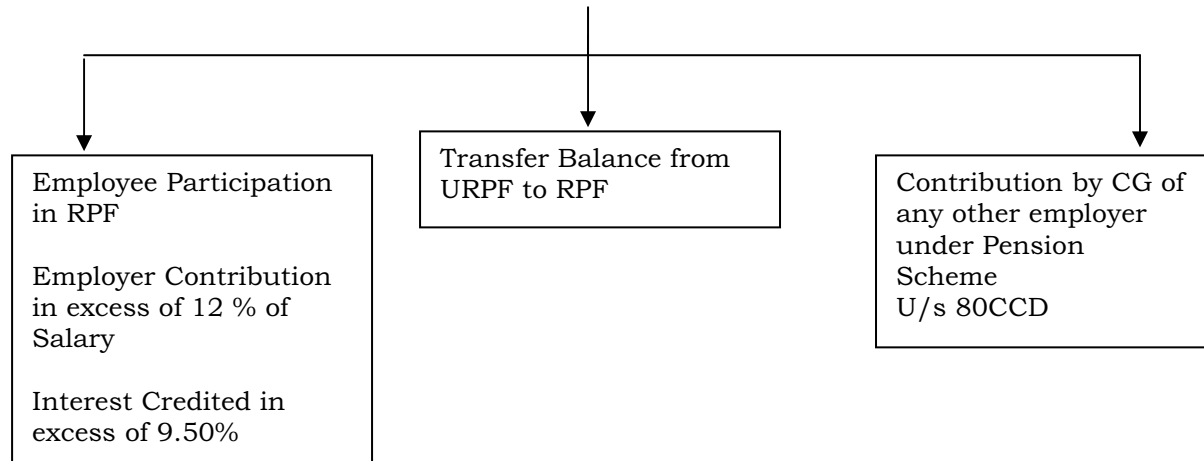
Circular No. 23 (23-07-1969) has been withdrawn w.e.f. 22-10-2009.

INCOME RECEIVED OF DEEMED TO BE RECEIVED**Meaning of “Received”**

“Received” for this purpose means the **FIRST RECEIPT** i.e when the recipient gets the money under his control.

Section 7 Income deemed to be received

Income deemed to be received in India means that in the following case income deemed to be received in India irrespective of whether he has actually received or not.

**Meaning of “Accrue” or “Arise”**

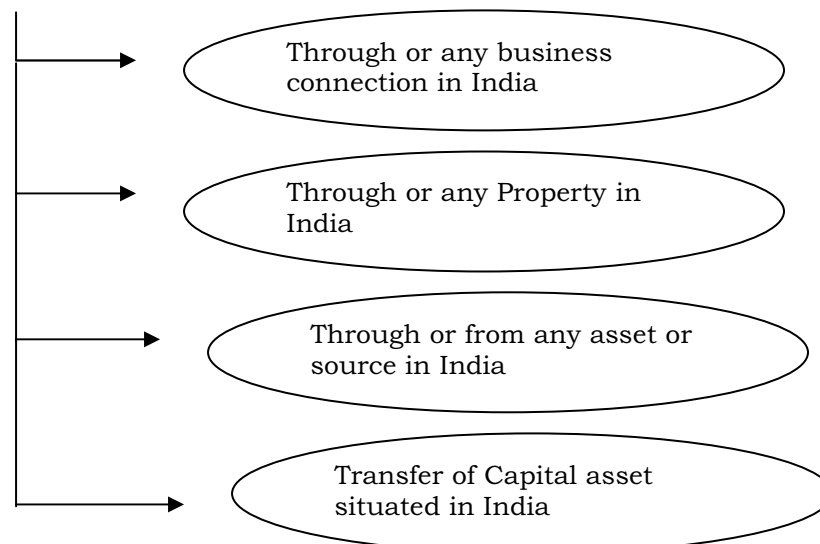
Accrue → Day to Day accumulation

Arise → Right to Receive

Section 9 Income deemed to be accrue or arise in India

Some of the income has been specifically assumed to accrue or arise in India even though it is not actually accrue or arise in India.

❖ *Accrue/arise at any place outside India directly or indirectly*



Question 1

Mr. Akash an American Citizen, comes to India for the First time during the previous year 2004-05 and remain in India as under:

2004-05	55 Days
2005-06	60 Days
2006-07	90 Days
2007-08	150 Days
2008-09	70 Days
2009-10	181 Days

Determine his residential status for AY 2010-11.

Question 2

Mr. D, an Indian citizen, leaves India on 22-09-2009 for the first time, to work as an officer of a Company in USA. Determine residential status for AY 2010-11.

Question 3

The business of HUF is executed from USA and all the decisions are taken over there. Mr. E the Karta of HUF, who born in Delhi, visit India during the previous year 2009-10 after 10 Years. He came India on 01-04-2009 and leave India on 01-12-2009. Determine residential status of Mr. E and HUF for the AY 2010-11.

Question 4

G, an American citizen, is appointed by a multi-national company to its branch in New Delhi in 2006. G has never been to India before this appointment. He arrives in Bombay on 15th April, 2006 and joins the New Delhi office on 20th April, 2006. His wife and children join him in India on 20th October, 2006. The company allotted him a leased residence for purposes of his stay. This residence is occupied by him from the beginning of October, 2006.

On 10th February, 2007, he is transferred by his employer, on deputation basis, to be the regional chief of his employer's operations in South East Asia having headquarters in Hong Kong. He leaves New Delhi on 11th February and arrives in Hong Kong on 12th February, 2007. G leaves behind his wife and children in India till 14th August, 2008, when they leave along with him for Hong Kong. G had come to India earlier on 15th June, 2007, on two months' leave. The members of the family occupied the residence till date of departure to Hong Kong.

At the end of the period of deputation, G is reposted to India and joins the New Delhi office of his employer as chief of Indian operations on 1st February, 2010.

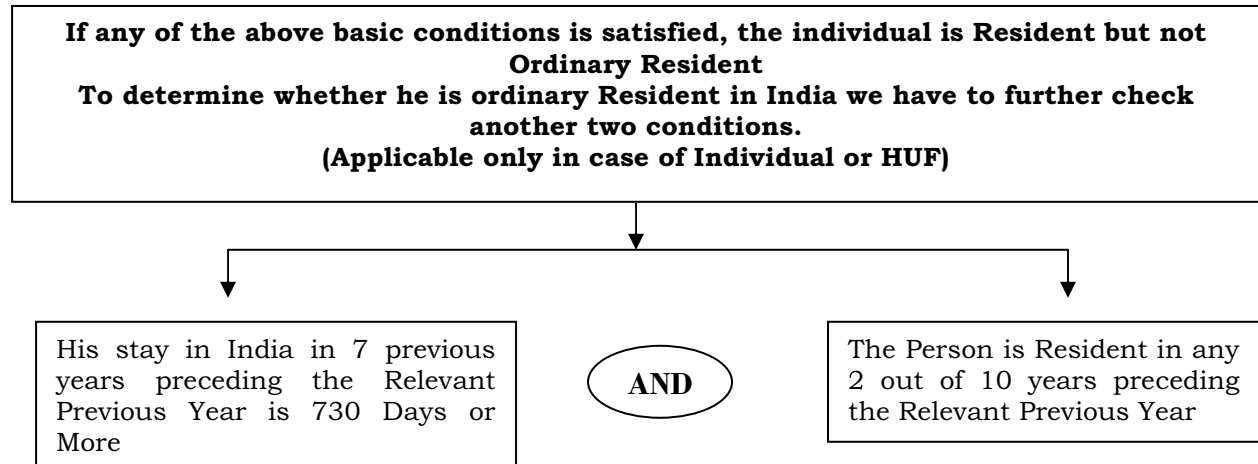
In what residential status G will be assessable, for the various years, to income tax in India?

SECTION 5: Scope of Total Income

Particular of Income	R & OR	R but NOR	NR
Income received or deemed to be received in India	Yes	Yes	Yes
Income accrues/arises or deemed to accrue/arise in India	Yes	Yes	Yes
Income which accrue or arise outside India even if it is not received or brought in India	Yes	No*	No

* If income derived from a business controlled from India it shall be included in the income of R but NOR.

Person is said to be Indian origin if either of his Parents or Grand Parents was born in undivided India.



HUF

A HUF would be resident in India if the control and management of its affairs is situated **WHOLLY OR PARTLY** in India.

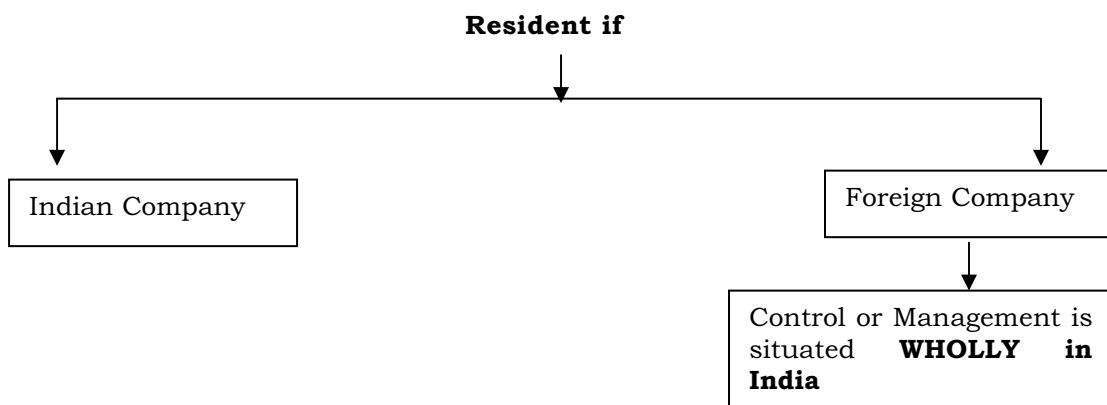
HUF is Resident but not Ordinary Resident

The Status of Karta is to be checked whether HUF is Ordinary Resident

FIRM & ASSOCIATION OF PERSON

A Firm & AOP will be resident in India if the **Control & Management of its affairs** is situated **wholly or partly in India**.

COMPANY



ARTIFICIAL PERSON

“Artificial Person” would be resident in India if the Control and Management of its affairs is situated **WHOLLY OR PARTLY in India**.

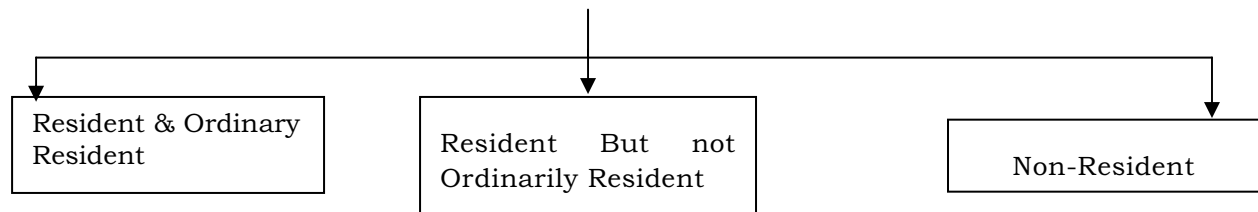
Chapter II

Residential Status & Scope of Total Income

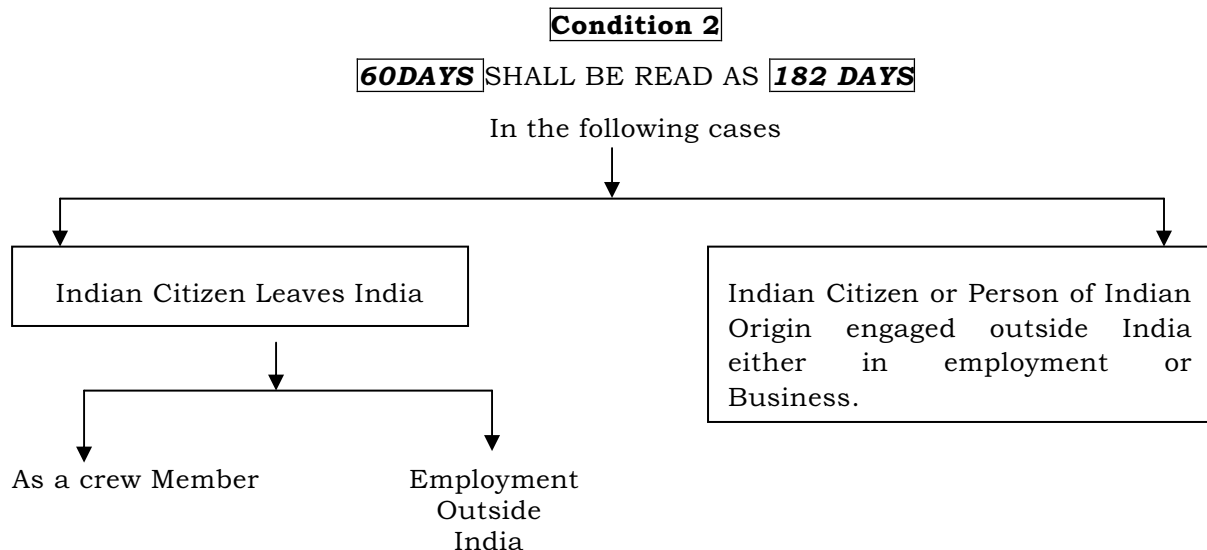
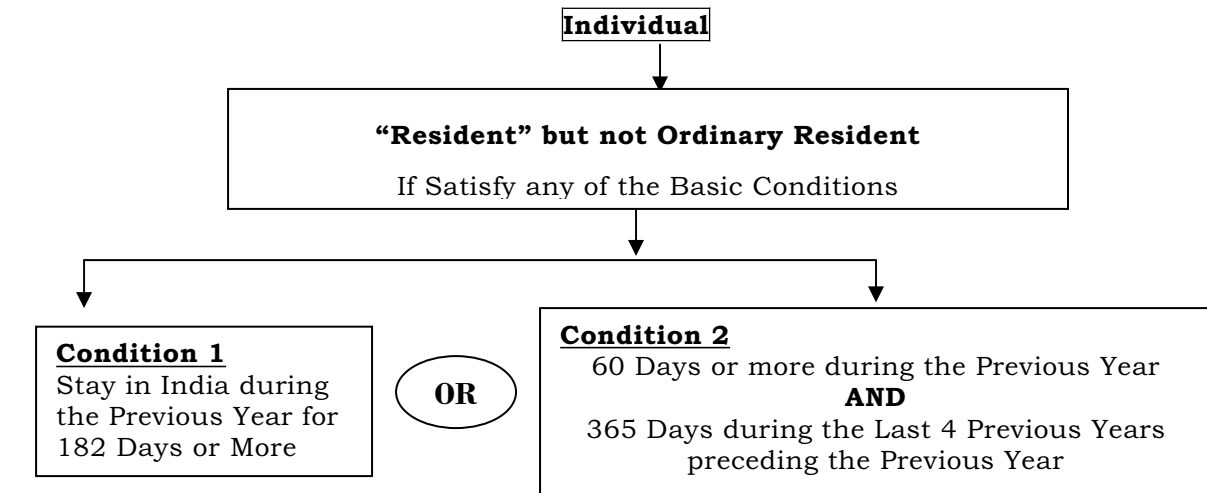
RESIDENTIAL STATUS

Whether a particular Income of any person is taxable or not in India is depends upon his/her/its residential status

The Status of the assessee has been classified under 3 Categories



NOTE: Residential Status is to be checked for each assessment year



Section 2(9): Assessment Year

“Assessment year” means the period of twelve months commencing on the 1st day of April every year

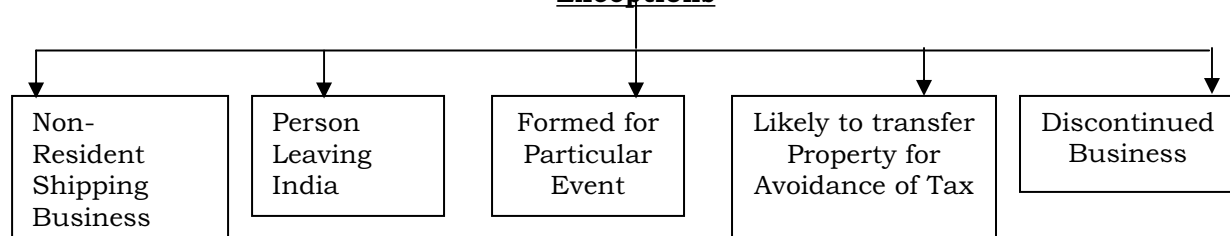
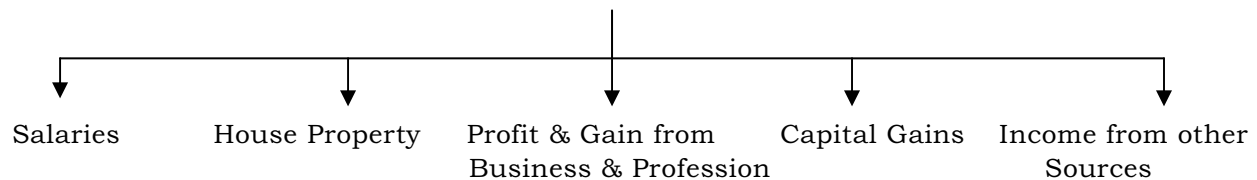
Example: Assessment Year 2010-11- Commences on 01-04-10 and ends on 31-03-11

Section 3: Previous Year

“Previous year” means the financial year immediately preceding the assessment year

Example: Previous Year 2009-10 Assessment Year 2010-11

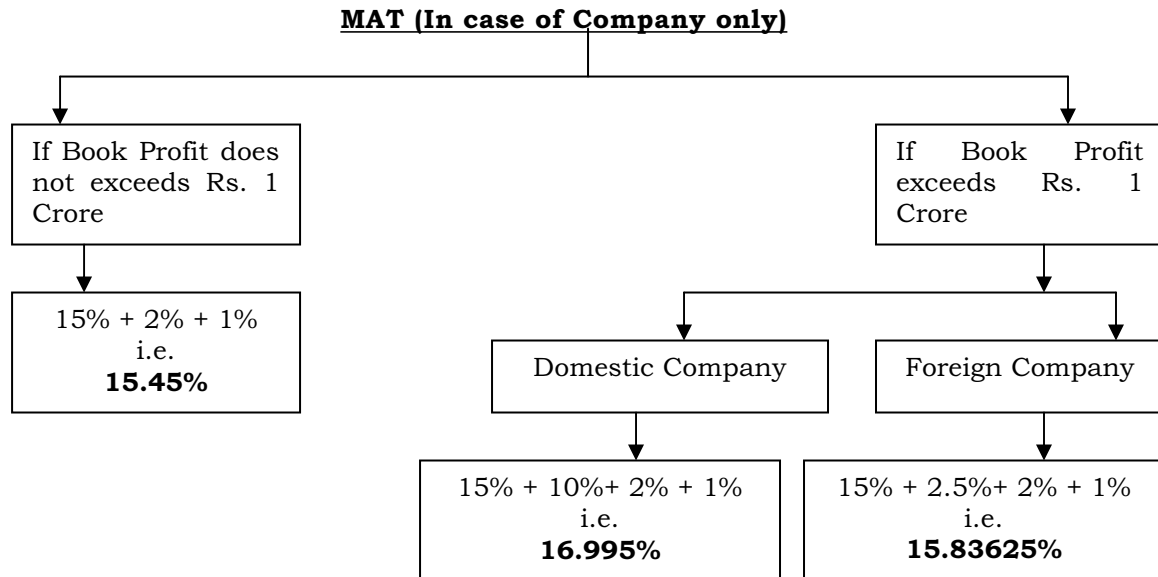
General Rule: **Income of the Previous Year is assessable in the Assessment Year**

Exceptions**Section 14: Heads of Income****CONCEPT**

The Income tax Act 1961 has broadly explained as to which income is to include under which head. Income under a particular head can not be included under any other head. Different heads have different deduction available.

Section 14A

Where a particular income is not included being not forming part of total as per this Act, no expenses to earn that income is to be allowed as expenses.



Note: Marginal Relief is available.

e) **Local Authorities**

Rate 30% Flat

Note: E. Cess & S.H.E.C is applicable but no Surcharge.

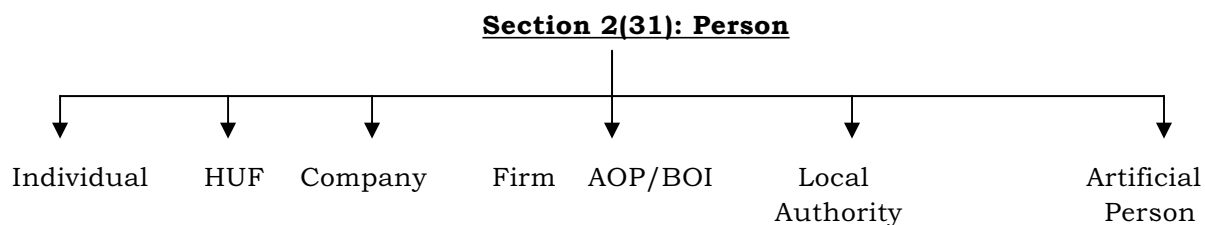
Question 6

Ramesh Industries Limited is having an Income of Rs. 1.02 Crore, Calculate Tax payable?

Question 7

USA Inc., a Foreign Company, business is wholly controlled from India is having an Income of Rs. 1.02 Crore, Calculate Tax payable?

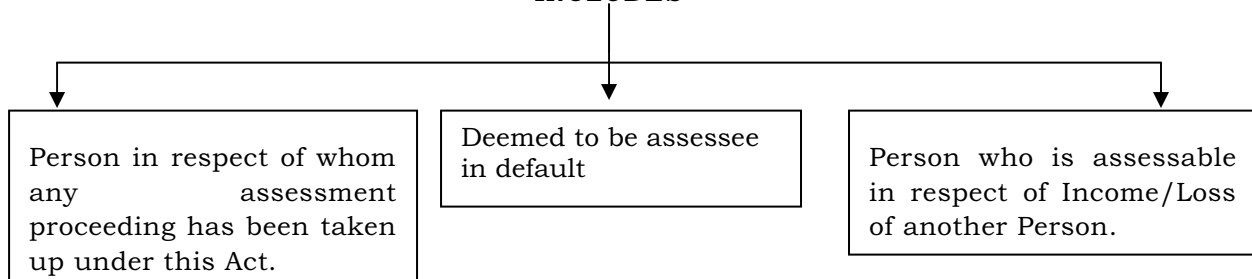
Important Definitions



Section 2(7): Assessee

Means a person by whom any Tax/Other sums payable under Income Tax Act 1961

INCLUDES



Question 1

Calculate Tax for the Assessment Year 2010-11

The Mr. Assessee (Aged 45 Years) is having the Total Income

- i) Rs. 300000/-
- ii) Rs. 140000/-
- iii) Rs. 740000/-

Question 2

Calculate Tax for the Assessment Year 2010-11

The Mr. Assessee (Aged 66 Years) is having the Total Income

- i) Rs. 300000/-
- ii) Rs. 140000/-
- iii) Rs. 740000/-

Question 3

Calculate Tax for the Assessment Year 2010-11

The Mrs Assessee (Aged 35 Years) is having the Total Income

- i) Rs. 300000/-
- ii) Rs. 140000/-
- iii) Rs. 740000/-

Question 4

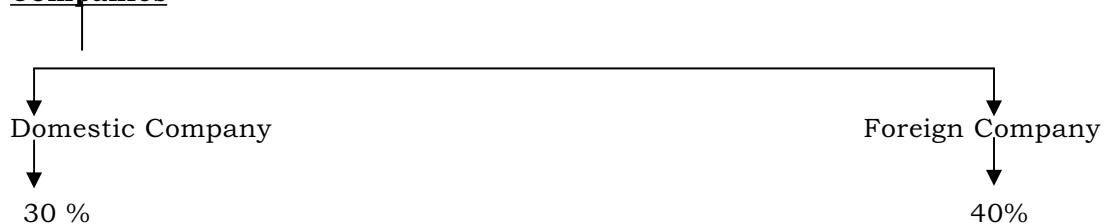
Calculate Tax for the Assessment Year 2010-11

The Mrs Assessee (Aged 70 Years) is having the Total Income

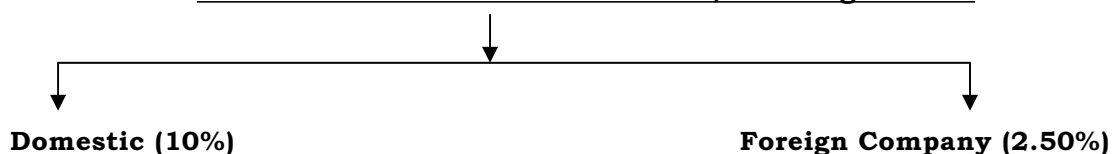
- i) Rs. 300000/-
- ii) Rs. 140000/-
- iii) Rs. 740000/-

Question 5

A Co-Operative Society is having an income for the assessment year 2010-11 of Rs. 200000/-. Calculate tax.

d) Companies

Note: No Surcharge applicable if the Total Income does not exceeds Rs. 1 Crore

If Total Income exceeds Rs. 1 Crore, surcharge will be

Note: Marginal Relief allowed. EC & SHEC is applicable.

Chapter I Basic Concepts

SALIENT FEATURES

- Income Tax in India is governed by Income Tax Act 1961
- Came into force 01-04-1962
- Having 298 Sections
- XIV Schedules
- Every year changes are made through finance Bill
- Income Tax Rules framed by CBDT
- Circulars and Notification

RATES OF INCOME TAX

Income tax is levied and collected as per the rates of income tax given under Part I of First Schedule of the Income Tax Act, 1961

a) Individual/HUF/AOP/BOI/Artificial Person

Up to Rs. 160000/- *	Nil
From 160001 to 300000/-	10% i.e. 14000/-
From 300001 to 500000/-	14000/- Plus 20%
Above Rs. 500000/-	54000/- Plus 30%

*

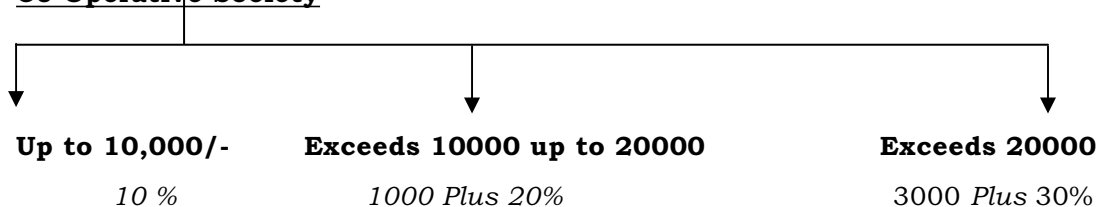
For Women Rs. 190000/-

For Senior Citizen (65 Years) Rs. 240000/-

Besides Income Tax calculated as above Education cess (EC) @ 2% and Secondary Higher Education Cess (SHEC) @1% is also payable (To be calculated on the tax payable).

No Surcharge (w.e.f. Assessment Year 2010-11)

b) Co-Operative Society



Note: EC & SHEC is applicable but no surcharge.

c) Firm

Tax Rate: 30% (Flat)

Note: EC & SHEC is applicable.