IMPORTANT DEFINITIONS & BASIC CONCEPTS

Every ***person***, whose ***total income*** of the ***previous year*** exceeds the ***maximum amount which is not chargeable to tax***, is an ***assessee*** and chargeable to income tax at the ***rate or rates*** prescribed in the ***Finance Act*** for the relevant ***assessment year***. However, his total income shall be determined on the basis of his ***residential status*** in India.

From the above statement it can be said that following important concepts are necessary for understanding the base of Income Tax Laws :

1. Person
2. Income
3. Total Income
4. Previous Year
5. Maximum amount which is not chargeable to tax
6. Assessee
7. Rate or rates of tax
8. Finance Act
9. Assessment Year
10. Residential Status.

1. Person [Section 2 (31)]

Person ***includes*** :

- An individual;
- A Hindu Undivided family (HUF);
- A Company;
- A firm;
- An Association of Persons (AOP) or a Body of Individuals (BOI);
- A Local Authority;
- Every artificial juridical person not falling within any of the above categories.

Individual :

Means a natural person i.e. a human being. It includes a male, female, minor child and a lunatic or idiot.

Hindu Undivided Family :

Means a family which consists of all persons lineally descended from a common ancestor including their wives and unmarried daughters.

Company :

Means an incorporated association which is an artificial person, having an independent legal entity, with a perpetual succession, a common seal, and a common capital comprised of transferable shares and carrying limited liability.

Firm :

Means a partnership firm. A partnership firm is relationship between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.

Association of Persons :

Means two or more ***persons*** who join for a common purpose with a view to earn an income.

Body of Individuals :

Means combination of ***individuals*** who have unity of interest and who carry on some activity with the objective of earning some income.

Distinction between AOP & BOI

An AOP may consist of non-individual but a BOI consists of individual only.

AOP = Mr. X (i.e. an individual) + XYZ & Co. (i.e. a firm) + ABB Ltd. (i.e. a company)

BOI = Mr. X + Mrs. X + Mr. Y + Mr. Z

Local Authority :

Panchayat, Municipality, Municipal Corporation, District Board etc. are called local authorities.

Artificial Juridical Person :

God, deities, idols, universities etc. are called artificial juridical persons

2. Previous Year [Section 3]

Previous Year means period of 12 months commencing from 1st April of a particular year and ending on 31st March of the next year. Previous year 2010-11 means period commencing from 1st April, 2010 and ending on 31st March, 2011. Previous year is the year in which income is ***earned*** by a person.

3. Assessment Year [Section 2 (9)]

Income earned by a person in a particular Previous Year is assessed in the Assessment Year relevant to that particular Previous Year. Assessment Year is a period of 12 months which starts from the very next day on which Previous Year ends i.e. it starts from 1st April. Assessment Year relevant to Previous Year 2010-11 is Assessment Year 2011-12. Previous Year 2010-11 ends on 31st March, 2011 and thereafter Assessment Year 2011-12 commences from 1st April, 2011 and ends on 31st March, 2012.

Previous Year in case of newly set up business / profession

In case of newly set up business / profession, the first Previous Year will be the period commencing from the date of setting up of the business / profession and ending on the immediately following March 31st.

Illustration 1 :

Mr. "A" sets up a new business on 2nd October, 2010. What will be the :

- Previous Year &
- Assessment Year

In case of Mr. "A" ?

Answer :

- Previous Year : 2010-11 (i.e. period commencing from 2nd October, 2010 and ending on 31st March, 2011)
- Assessment Year : 2011-12 (i.e. period commencing from 1st April, 2011 and ending on 31st March, 2012).

When income of previous year is not taxable in the immediately following assessment year

The rule that the income of the previous year is assessable as the income of the immediately following assessment year has certain exception. These are :

(a) Income of a non-resident from shipping business;

(b) Income of a person leaving India either permanently or for a long period of time;

(c) Income of bodies formed for short duration;

(d) Income of a person trying to alienate his assets with a view to avoid payment of tax; and

(e) Income of a discontinued business.

In the above cases income is taxed in the Assessment Year running at that time.

4. Assessee [Section 2 (7)]

Assessee means a person by whom any tax or any other sum of money (say interest or penalty) is payable under Income Tax Act, 1961 and ***includes*** the following :

1. Every person in respect of whom any proceeding under the Income Tax Act has been taken :

    (a) for the assessment of his income or the income of any other person in respect of which he is assessable; or

    (b) to determine the loss sustained by him or by such other person; or

    (c) to determine the amount of refund due to him or to such other person.

2. A person who is ***deemed to be an assessee*** (i.e. who is treated as assessee) under any provisions of this Act (e.g. legal representative of a deceased person or agent of a non-resident or trustee of a trust).

3. Every person who is deemed to be an ***assessee in default*** under any provisions of this Act (e.g. a person who pays interest to other person is under an obligation to deduct tax and deposit the tax so deducted with the Government. If he fails to deduct tax at source or deducts the tax but does not deposit it with the Government, he shall be deemed to be an assessee in default).

5. Income [Section 2 (24)]

Income ***includes*** :

1. Profit and gains;
2. Dividend;
3. Voluntary contribution received by a trust created for religious or charitable purpose;
4. Voluntary contribution received by any university or other educational institution;
5. Value of any perquisite or profit in lieu of salary received by an employee;
6. Any special allowance or benefit received by an employee;
7. Value of any benefit or perquisite obtained from a company :
   (a) By a director of the company or
   (b) By a person who has substantial interest in the company or
   (c) By a relative of the director.
8. Income derived by a trade, professional or similar association from specific services performed for its members;
9. Profit on sale of import licence;
10. Cash assistance received or receivable by any person against exports under any scheme of the Government;
11. Drawback of custom duty or excise duty;
12. The value of any benefit or perquisite, whether convertible into money or not, arising from business or profession;
13. Any interest, salary, bonus, commission or remuneration due to or received by a partner from his partnership business;
14. Any capital gains chargeable under Section 45;
15. The profits and gains of any insurance business;
16. Any winning from lotteries, crossword puzzles, races including horse races, card games and other game of any sort;
17. Any sum received by the assessee from his employees as contribution to any provident fund or superannuation fund or employees state insurance or other fund for the welfare of the employees;
18. Any sum received under a Key-Man Insurance Policy;
19. Any sum received or receivable in cash or kind, under an agreement for :
    (a) Not carrying out any activity in relation to any business;
    (b) Not sharing any know-how, patent right, copyright, trademark, licence, franchise etc.
20. Receipt of any sum of money (without consideration) or receipt of any property (without consideration or inadequate consideration) – Refer "Income from other sources" for detailed discussion.

6. Total Income [Section 2 (45)]

Total Income = Gross Total Income – Deductions under Sections 80C to 80U

Computation of Total Income

a)	Income from salaries	********
b)	Income from house property	********
c)	Profits and gains of business or profession	********
d)	Capital Gains	********
e)	Income from other sources	********
	Gross Total Income	********
	Less : Deductions under Sections 80C to 80U	********
	Total Income / Net Income / Taxable Income	********

7. Rates of Income-Tax

Rates of income-tax for the Assessment Year 2011-12

❖ **For resident woman (who is below 65 years at any time during the Previous Year)**

Income (₹)	Income-Tax Rates	Surcharge	Education Cess	Secondary & Higher Education Cess
Upto ₹ 1,90,000	NIL	NIL	NIL	NIL
Above ₹ 1,90,000 and upto ₹ 5,00,000	10%	NIL	2 % of income-tax	1 % of income-tax
Above 5,00,000 and upto ₹ 8,00,000	20%	NIL	2 % of income-tax	1 % of income-tax
Above ₹ 8,00,000	30%	NIL	2 % of income-tax	1 % of income-tax

❖ **For resident senior citizen (who is 65 years or more at any time during the Previous Year)**

Income (₹)	Income-Tax Rates	Surcharge	Education Cess	Secondary & Higher Education Cess
Upto ₹ 2,40,000	NIL	NIL	NIL	NIL
Above ₹ 2,40,000 and upto ₹ 5,00,000	10%	NIL	2 % of income-tax	1 % of income-tax
Above 5,00,000 and upto ₹ 8,00,000	20%	NIL	2 % of income-tax	1 % of income-tax
Above ₹ 8,00,000	30%	NIL	2 % of income-tax	1 % of income-tax

❖ **For any other individual, every HUF/ AOP/BOI/artificial juridical person**

Income (₹)	Income-Tax Rates	Surcharge	Education Cess	Secondary & Higher Education Cess
Upto ₹ 1,60,000	NIL	NIL	NIL	NIL
Above ₹ 1,60,000 and upto ₹ 5,00,000	10%	NIL	2 % of income-tax	1 % of income-tax
Above 5,00,000 and upto ₹ 8,00,000	20%	NIL	2 % of income-tax	1 % of income-tax
Above ₹ 8,00,000	30%	NIL	2 % of income-tax	1 % of income-tax

❖ **For Firms, Domestic Companies, Foreign Companies and Local Authority**

Category of person	Income-Tax Rates	Surcharge*	Education Cess	Secondary & Higher Education Cess
Firms	30 %	NIL	2 % of income-tax	1 % of income-tax
Domestic company	30 %	7.5% of income-tax	2 % of income-tax and surcharge	1 % of income-tax and surcharge
Foreign Company	40%	2.5 % of income-tax	2 % of income-tax and surcharge	1 % of income-tax and surcharge
Local Authority	30 %	NIL	2 % of income-tax	1 % of income-tax

*Surcharge is applicable in case of companies (both domestic and foreign companies) only if total income exceeds ₹ 1 crore.

Note : In the case of companies (both domestic and foreign companies) having a total income of exceeding ₹ 1 crore, the net amount payable as income-tax and surcharge shall not exceed the total amount payable as ***income-tax*** on total income of ₹ 1 crore ***by more than the amount of income that exceeds ₹ 1 crore***.

Illustration :

Compute tax liability of X Limited (a domestic company). Net income of X Ltd. for the A.Y. 2011-12 is :

Situation 1 : ₹ 1,03,32,100

Situation 2 : ₹ 1,03,32,110

Solution :

Computation of tax liability

	Situation 1	Situation 2
Total Income	**10332100**	**10332110**
Income tax on total income	3099630	3099633
Add : Surcharge @ 7.5%	232472	232472
Income tax and surcharge under normal computation (a)	3332102	3332105
Computation for marginal relief :		
Step 1 – Income-tax on Rs. 1 Crore	3000000	3000000
Step 2 – Tax @ 100% of income in excess of Rs. 1 Crore	332100	332110

Tax under marginal relief computation (b)	3332100	3332110
Normal tax or tax under marginal relief, whichever is lower [(a) or (b), whichever is lower] (c)	3332100	3332105
Add : Education cess @ 2% of (c)	66642	66642
Add : Secondary and higher education cess @ 1% of (c)	33321	33321
Tax liability (rounded off)	3432060	3432070

8. Maximum amount which is not chargeable to tax

Category of person	Maximum amount which is not chargeable to tax
For resident woman (who is below 65 years at any time during the Previous Year)	₹ 1,90,000
For resident senior citizen (who is of 65 years or more at any time during the Previous Year)	₹ 2,40,000
For any other individual, every HUF/ AOP/BOI/artificial juridical person	₹ 1,60,000
Firms, domestic companies, foreign companies, Local authorities	NIL

9. Finance Act

BUDGET

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Contains Finance Bill which covers :

Direct Taxes (Income Tax & Wealth Tax)

Indirect Taxes (Custom Duty, Excise Duty & Service Tax)

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Finance Bill has Schedules and 1st Schedule contains tax rate in 4 parts :

Part I = Income Tax Rate

Part II = TDS Rate

Part III = Advance Tax Rate

Part IV = Rules of computation of Net Agricultural Income

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When Finance Bill is approved by both Houses of Parliament and receives the assent of the president becomes ***Finance Act***.