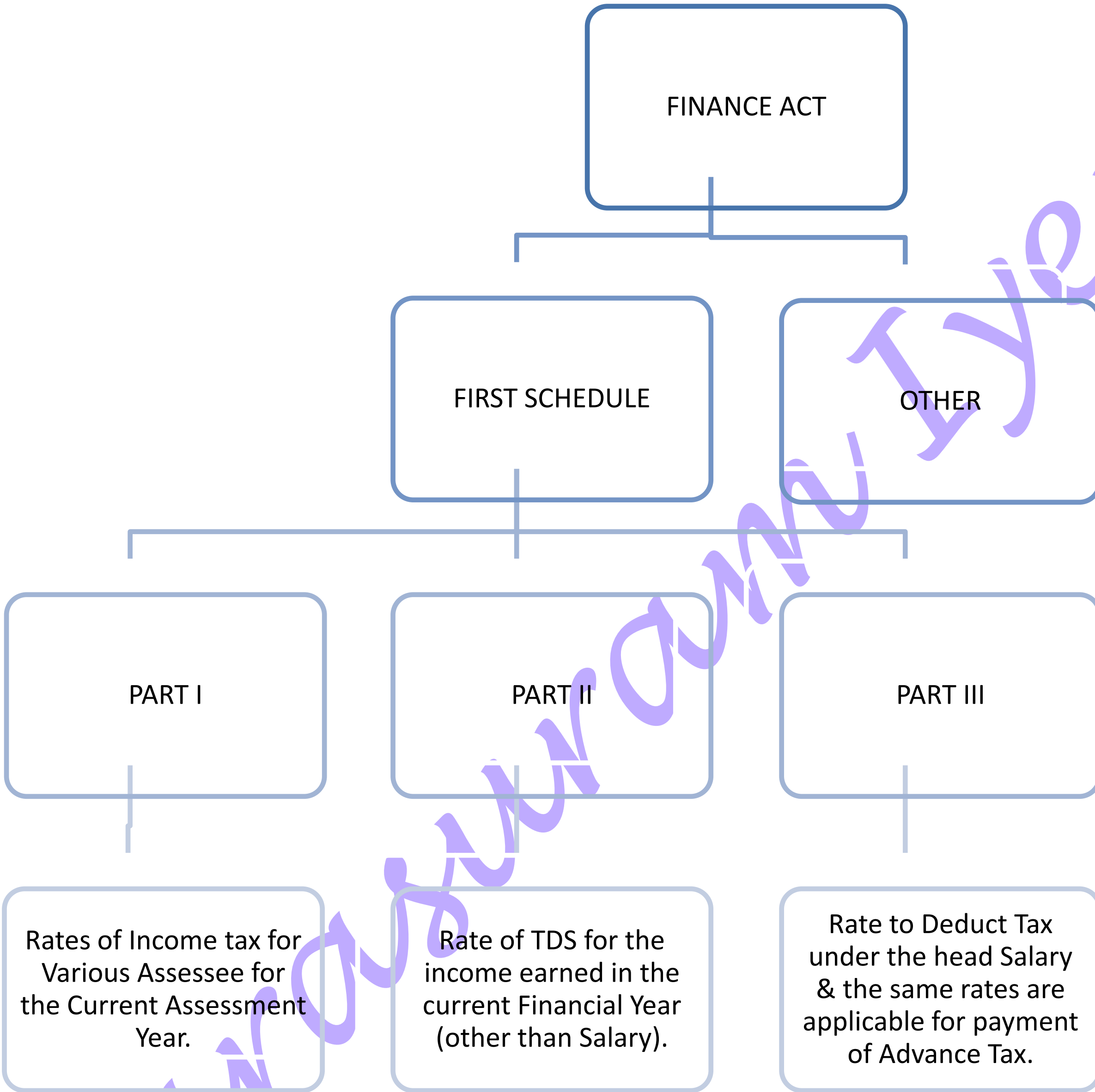
POSSITION OF INCOME TAX ACT IN INDIA:	
Income Tax Act, 1961 (as amended by various Finance Acts.)	The provisions of Income tax are contained in Income Tax Act, 1961 which came into effect on 01.04.1962, in whole of India.
Income Tax Rule, 1962 (as amended upto date.)	Every act gives power to the authority to frame the rule to have proper implementation of Act. Section 295 of the act gives power to Central Board of Direct Taxes (CBDT) to frame rules time to time. This rule were 1st made in 1962 hence known is Income Tax Rules 1962.
Circulars & Clarifications by CBDT.	• CBDT exercise its power conferred under Section 119 Circular & Clarifications which is to be followed by Income Tax Authority. • It is binding on the Department. • But if beneficial to assessee he can take its advantage (U.C.O. Bank *V* CIT (1999) 237 ITR 889 (SC)).
Notifications issued by CBDT.	• CBDT in confirmation with Government issues notification. • It is binding on **all.** • It is the way of bringing any amendment in between the year.
Judicial Decisions	• Any Decisions given by supreme court (SC) becomes Law of Land (i.e. is binding on all High Court, Tribunal, Income Tax Authority, & Assessee). • If the decisions given are contradictory then decision given by larger bench will prevail. • Where the number of different judgments are equal then the latest judgment has to be given the effect. • Decisions given by High Court (HC), Income Tax Appellate Tribunal etc., are binding on all the assessee as well as the Income Tax Authority which fall under its Jurisdiction unless it has been over ruled by a higher authority.



Note: Generally Part III of the Finance Act becomes Part I of the next Finance Act. i.e. Part III of Finance Act 2012 will become Part I of Finance Act 2013 if the government do not think otherwise.

IMPORTANT CONCEPT UNDER INCOME TAX ACT	
India Section 2(25A)	• The territory of India as referred in Article 1 of Constitution. (i.e. States, Union Territory or any Acquired Territory). • Its territorial water, seabed and subsoil underlying such water, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Water, Continental Shelf, Exclusive Economic Zone, and other Maritime Zone Act 1976 (the Territorial Act) and • The Air Space above its territory and territorial waters. (This means India Extends upto 12 nautical miles in water and air other than its territorial boundary.)
Person Section 2(31)	• An Individual • A Hindu Undivided Family (HUF) • A Company • A Firm (Including a LLP.) • An Association of Person (AOP) or a Body of Individual (BOI), whether incorporated or not. • A Local Authority • Every artificial juridical person not falling within any of the preceding sub-clause.
Assessee Section 2(7)	Assessee means a person to whom any tax or any other sum (such as Interest or Penalty) payable under this act and Includes : • Every person in respect of whom any assessment is pending under Income Tax Act (i.e. Assessment of Fringe Benefit, Income, loss, refund due etc.) • A person who is deemed to be assessee under this act. (etc. legal representative or agent of a person) • Every person who is deemed to be assessee in default under any provision of the act.
Assessment Year (A.Y.) Section 2(9)	Assessment Year means the period of **12 months** commencing on the first day of April every Year. This means period between 1st April to 31st March.
Previous Year (P.Y.) Section 2(34) along with Section 3.	Previous Year means the Financial Year immediately preceding the Assessment Year.

GENERAL RULE FOR INCOME DETERMINATION:	
General Rule for Determination of Income is that Income earned in a Previous Year is assessed in Immediately succeeding Assessment Year.	
EXCEPTION FOR THE GENERAL RULE: Where Income earned in a Previous Year is assessed in the same Assessment Year.	
Section 172	Shipping Business of Non-residents.
Section 174	Assessment of person leaving India.
Section 174A	Assessment of Association of Person or Body of Individual or artificial juridical person formed for a particular purpose.
Section 175	Assessment of person likely to transfer property to avoid tax.
Section 176	Discontinued Business.

RATE OF TAXES FOR INDIVIDUAL:

SLAB	AGE BELOW 60 & HUF, AOP, BOI or Artificial Juridical Person	AGE BETWEEN 60 TO 80 YEARS (But Resident)	80 YEARS & MORE (Resident)
Upto Rs. 2,00,000	NIL	NIL	NIL
Rs. 2,00,000 to Rs. 2,50,000	10%	NIL	NIL
Rs. 2,50,000 to Rs. 5,00,000	10%	10%	NIL
Rs. 5,00,000 to Rs. 10,00,000	20%	20%	20%
Above Rs. 10,00,000	30%	30%	30%

Person of the age Above 60 year is known as Senior Citizen & above 80 years is known as super senior citizen & the discrimination between male & female has been removed. The Same shall be increased by **2 %** Education Cess (EC) & **1%** Secondary & higher Secondary Education Cess (SHEC) on tax determined by the above rates.

RATE OF TAXES FOR ASSESSEE OTHER THAN INDIVIDUAL:

PARTICULAR	RATE OF TAX	SURCHARGE(SC)	EC & SHEC ON (Tax Rate + SC)
Firm	30%	NIL	2% +1%
Local Authority	30%	NIL	2% +1%
Domestic Company	30%	5%	2% +1%
Other than Domestic Company			
a. Royalty received from Indian Concern or Government of an agreement between 1.4.1961 to 31.3.1976	50%	2%	2% +1%
b. Fees for technical Services received from Indian Concern or Government of an agreement between1.3.1964 to 31.3.1976	50%	2%	2% +1%
c. Remaining Income Other than (a & b)	40%	2%	2% +1%

Surcharge is Applicable to a company only when the taxable income exceeds Rs. 1,00,00,000/-

RATE OF TAXES FOR CO-OPERATIVE SOCIETY:

SLAB	RATE OF TAX
Where Income Less than 10000	10%
Rs. 10,000 to 20,000	20%
Income Exceeds Rs.20,000/-	30%

The Same shall be increased by **2 %** Education Cess (EC) & **1%** Secondary & higher Secondary Education Cess (SHEC) on tax determined by the above rates.

CONCEPT OF MARGINAL RELIEF:

MARGINAL RELIEF INCASE OF DOMESTIC COMPANY

Income	Income Tax	Surcharge @ 5%	Total Tax = IT + SC	Tax on 1 Cr.	Diff in tax	Diff in income	Marginal Relief
10100000	3030000	151500	3181500	3000000	181500	100000	**81500**
10200000	3060000	153000	3213000	3000000	213000	200000	**13000**
10210000	3063000	153150	3216150	3000000	216150	210000	**6150**
10215000	3064500	153225	3217725	3000000	217725	215000	**2725**
10217500	3065250	153262.5	3218513	3000000	218512.5	217500	**1012.5**
10218500	3065550	153277.5	3218828	3000000	218827.5	218500	**327.5**
10218900	3065670	153283.5	3218954	3000000	218953.5	218900	**53.5**
10218980	3065694	153284.7	3218979	3000000	218978.7	218980	**-1.3**
10219000	3065700	153285	3218985	3000000	218985	219000	**-15**
10250000	3075000	153750	3228750	3000000	228750	250000	**-21250**

MARGINAL RELIEF INCASE OF NON DOMESTIC COMPANY HAVING TAX RATE 40%

Income	Income Tax	Surcharge @ 2%	Total Tax = IT + SC	Tax on 1 Cr.	Diff in tax	Diff in income	Marginal Relief
10040000	4016000	80320	4096320	4000000	96320	40000	**56320**
10050000	4020000	80400	4100400	4000000	100400	50000	**50400**
10100000	4040000	80800	4120800	4000000	120800	100000	**20800**
10130000	4052000	81040	4133040	4000000	133040	130000	**3040**
10135000	4054000	81080	4135080	4000000	135080	135000	**80**
10135135	4054054	81081.08	4135135	4000000	135135.1	135135	**0.08**
10135150	4054060	81081.2	4135141	4000000	135141.2	135150	**-8.8**
10136000	4054400	81088	4135488	4000000	135488	136000	**-512**
10140000	4056000	81120	4137120	4000000	137120	140000	**-2880**

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This concept of Marginal Relief is Applicable only when Surcharge is Applied on the income. This additional levy of tax increases the tax drastically which cannot be compared with the total income of the assessee.
NOTE: Tax Can never exceed the total Income earned by the assessee.
But due to levy of surcharge the difference between the Incomes is less than difference between Taxes. This means Additional tax is more than the Additional Income. Hence the concept of Marginal Relief is applicable in such a situation which is restricted to the amount of Additional Income Earned by the Assessee.

Illustration 1

Total income of Miss Sanjana who is 20 years, for the previous year ending on 31.03.2013 is ₹ 3,72,280/-. Compute the tax payable by him for the assessment year 2013-14.

Illustration 2

Total income of Mr. Mahesh aged 60 years, a resident of India, for the previous year 2012-13 is ₹ 9,17,220/-.

a. Compute the tax liability for the assessment year 2013-14.
b. What shall be tax payable if Mr. Mahesh is non- resident in India.

Illustration 3

Total income of Mrs. Hema who is less than 60 years of age and resident in India, for the previous year 2012-13 (Assessment Year 2013-14)is ₹ 10,94,000/-.

a. Compute the tax liability for the assessment year 2013-14.
b. What shall be tax payable if the total income of ₹ 10,94,000/- is Mrs. Hema who is less than 60 years of age but non-resident India.
c. What shall be tax payable if the total income of ₹ 10,94,000/- is Mrs. Hema who is of 62 year old and resident India.
d. What shall be tax payable if the total income of ₹ 10,94,000/- is Mrs. Hema who is of 62 years of age but non-resident India.
e. What shall be tax payable if the total income of ₹ 10,94,000/- is Mrs. Hema who is of80 years of age but resident India.
f. What shall be tax payable if the total income of ₹ 10,94,000/- is Mrs. Hema who is of80 years of age but non - resident India.

COMPUTATION OFINCOME:

HEADS OF INCOME

- INCOME UNDER THE HEAD SALARY
- INCOME UNDER THE HEAD HOUSE PROPERTY
- INCOME UNDER THE HEAD PROFITS & GAINS FROM BUSINESS OR PROFESSION
- INCOME UNDER THE HEAD CAPITAL GAIN
- INCOME UNDER THE HEAD OTHER SOURSES.

TOTAL INCOME (ROUND OFF U/S 288A)

- LESS DEDUCTION UNDER CHAPTER VIA
- THE TOTAL INCOME IS ROUNDED TO NEAREST MULTIPLE OF 10 (i.e. IF THE INCOME IS 5 OR MORE IN UNITS PLACE. THEN ON THE NEXT 10 MULTIPLE OTHER WISE EARLIER 10 MULTIPLE)

COMPUTATION OF SELF ASSESSMENT TAX U/S 140A.(ROUND OFF U/S 288B)

- ON TOTAL INCOME TAX IS COMPUTED USING ABOVE RATES
- ADD: TAX AT SPECIAL RATES
- TOTAL TAX ON INCOME
- ADD: SURCHARGE IF APPLICABLE
- ADD: SC & SHEC
- LESS: RELIEF U/S 89
- LESS: TDS , TCS & ADVANCE TAX
- SELF ASSESSMENT TAXUNDER SECTION 140 A
- IT IS ALSO TO BE ROUNDED OFF IN THE SIMILAR MANNER AS REFERRED UNDER SECTION 288B.

DETERMINATION OF INCOME IN SPECIAL CASES:	
Persons Covered under Portuguese Civil Law (Section 5A)	• This Section is applicable to who are governed by Portuguese Civil Code 1860 (residing in states of Goa, Union Territories of Dadar and Nagar Haveli and Daman and Diu). • Total Income (except under the head salary) = Divide the total income of the assessee equally in the hand of spouse & assessee and the add income under the head salary (earned individually) to compute the total income of the assessee.

SCOPE OF TOTAL INCOME:

PARTICULARS	Income Received or deemed to be received in India	Income Accrue or deemed to be Accrue in India	Income Accrue or Arise outside India.
Resident (ROR in case of Individual & HUF) (Section 5(1))	FULLY TAXABLE	FULLY TAXABLE	FULLY TAXABLE
Resident (RNOR in case of Individual & HUF)(Section 5(1) & its proviso)	FULLY TAXABLE	FULLY TAXABLE	TAXABLE ONLY WHEN IT IS FROM BUSINESS CONTROLLED IN OR A PROFESSION SET UP IN INDIA
Non Resident (Section 5(2))	FULLY TAXABLE	FULLY TAXABLE	NOT TAXABLE

RESIDENTIAL STATUS

PARTICULARS	RESIDENT (one of the 2 basic condition should be satisfied only in case of Individual & HUF)	RESIDENT BUT ORDINADY RESIDENT (both the additional condition should be satisfied otherwise NOT ORDINARY RESIDENT in case of Individual & HUF.)	NON-RESIDENT
Individual Section 6(1)	a. He is in India for a period of at least 182 days in relevant previous year **or** b. His stay 60 days in relevant P.Y. 365 days in 4 year immediately preceding the relevant P.Y.	**Section 6(6)(a):** a) He is resident in India in at least 2 years out of the 10 years immediately preceding the P.Y. **and** b) His stay has been of at least 730 days in India in 7 year preceding the relevant P.Y.	**Section 2(30):** An individual is said to be non -resident in India if he is not a Resident in India (i.e. both the basic condition of Section 6(1) do not fulfill.)
Hindu Undivided Family (HUF) Section 6(2)	It is always resident **except** when Control & Management of its affair are situated **wholly** outside India.	**Section 6(6)(b): KARTA or MANAGER** a. He is resident in India in at least 2 years out of the 10 years immediately preceding the P.Y. **and** b. His stay has been of at least 730 days in India in 7 year preceding the relevant P.Y.	If he is Not a resident then it is non -resident HUF
Company 6(3)	a. An Indian Company or b. When Control & Management of its affair are situated **wholly** inside India.	N.A.	If he is Not a resident then it is non –resident Company
Firm 6(2), AOP, BOI & any other Person 6(4)	It is always resident **except** when Control & Management of its affair are situated **wholly** outside India.	N.A.	If he is Not a resident then it is non -resident Firm, AOP, BOI or any other person.

Note:

1. In case of an
   a. individual, who is a citizen of India and who leaves India in any PY for employment outside India or
   b. as a crew of an Indian Ship or
   c. Individual who is a Citizen of India or is a person of Indian origin comes to visit India
   In this cases we have to only consider 1st Basic Condition to check his residential status i.e. 182 days.
2. A person is said to be of Indian origin if he himself, either of his parents or grandparents were born in undivided India.

Illustration 4

Mr. John of USA has been staying in India since 1990. He leaves India on 16.07.2012 on a visit to USA and returns on 04.01.2013. Determine his residential status for the previous year 2012-13.

Illustration 5

Indian citizen and businessman Shri Rajgopal, who resides in Jaipur, went to Germany for purposes of employment on 15.8.2012 and came back to India on 10.11.2013. He has never been out of India in the past.

a. Determine residential status of Shri Rajgopal for the assessment year 2013-14.
b. Will your answer be different if he had gone on a leisure trip?

Illustration 5

Mr. Rasmus a Russian national comes to India for the first time during the 2008-09. During the previous year 2008-09, 2009-10, 2010-11 and 2011-12 he was in India for 156 days, 72 days, 183 days, and 161 day respectively. Further during the previous year 2012-13, he is in India for 84 days.
Determine the residential status of Mr. Rasmus for the assessment year 2013-14.

Illustration 6

Ricky Ponting, an Australian cricketer, has been coming to India for 100 days every year since 2000-01:
(a)Determine his residential status for 2013-14.
(b)Will your answer be different if he has been coming to India for 110 days instead of 100 days every year?

Illustration 7

Surya came to India from America for the first time on 10.10.2012. He returns to his home country after staying in India up to 5.7.2013. Will he be a resident in India for the assessment year 2013-14?

Illustration 8

During the previous year 2012-13, Neck Flezer a foreign citizen stayed in India for just 69 days. Determine his residential status for the assessment year 2013-14 on the basis of the following
(a)During 2011-12, he was not present in India but during 2010-11 he came to India for 276 days.
(b)During 2009-10, Neck Flezer was present in India for 90 days.
(c)During 2006-07 and 2005-06, Neck Flezer was in India for 359 and 348 days resp.
(d)Earlier to 2005-06 he had been regularly coming to India for 100 days every year

Illustration 9

During the previous year 2012-13 Rituraj and Sons HUF was partly controlled from India by its Karta Rituraj who is citizen of India but stays outside India. For the purpose of managing the affairs of the HUF, Rituraj has been regularly visiting India. Determine the residential status of the HUF for the assessment year 2013-14 if:
(a) Rituraj has been visiting India for 100 days every year for the last 12 years.
(b) Rituraj has been visiting India for 110 days every year for the last 12 years.
(c) Rituraj has been visiting India for the last 12 yrs. During the immediately preceding 4 previous years he was in India for 50 days every year and prior to that for 200 days every year.

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INCOME DEEMED TO ACCRUE OR ARISE INDIA SECTION 9:

Income From Business Connection in India Section 9(1)(i)

- Maintain a branch for the purchase or sale of goods or transacting other business.
- Appointing a Agent in India
- Having financial association between & a non-resident company.
- Income From any Property, Assets or Sources of Income Situated in India Section 9(1)(i)
- Income From Transfer of any Capital Asset situated in India Section 9(1)(i)

Income which falls under the head salary Section 9(1)(ii)

- if it is earned in India & is payable by the employer other than Government.

Salary payable by the Government Section 9(1)(iii)

- if it is paid to an Indian Citizen/national services outside *India*

Payment of dividend by Indian Company outside India Section 9(1)(iv)

- However such dividend will be exempt from A.Y. 2004-05

Interest Payable outside India Section 9(1)(v)

- Refer next diagram

Royalty Payable outside India Section 9(1)(vi)

- Refer next diagram

Fees for Technical services payable outside India Section 9(1)(vii)

- Refer next diagram

Interest Payable outside India Section 9(1)(v), Royalty Payable outside India Section 9(1)(vi), Fees for Technical services payable outside India Section 9(1)(vii)

If it is paid by Government whether central or State	Payable by resident except in following cases: if it is for a business situated out-side India (whether it is to earn income from any source or business).	Payment payable by Non Resident if it is related to business situated in India.

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<u>TRANSACTIONS WHICH ARE NOT TO BE REGARDEDAS BUSINESS CONNECTION:</u>

Non Resident Exporter Selling goods from abroad to Indian Importer.

Non Resident Selling goods from abroad to its Indian Subsidiary.

Sale of Plant & Machinery to an Indian Importer on Installment Basis.

Foreign Agent of Indian Exporter.

Non - Resident person Purchasing Goods in India.

Operation to Shooting of Cinematograph film in India

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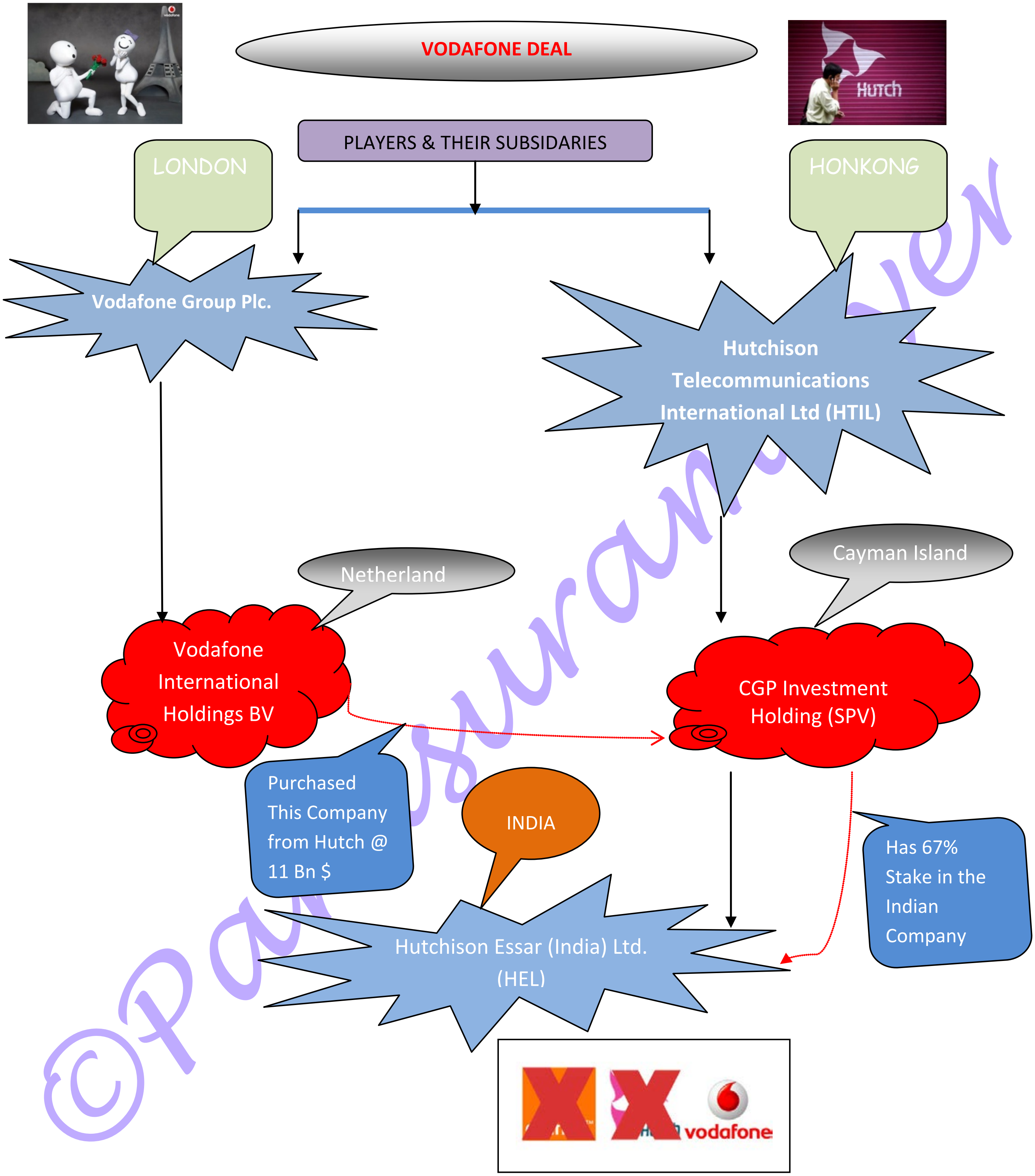

Amendment in Section 9 in consequence of Vodafone International Holding V/s Union of India (2012)	**Basic Amendment:** **When Asset in India is transferred due to any financial asset (i.e. controlling interest) of one Foreign Company to another Foreign Company outside India. The transfer of such Indian Asset shall be Deemed to be Transfer. Such Transfer shall be chargeable as Capital Gain.**
Other Amendment in Section 9 relating to Royalty which are also due to same reason and shall be treated as capital gain transaction.	• If any person receives any consideration for Transfer of all or any right for use or right to use a computer software (including granting of a licence) (shall also be treated as transfer of royalty) when one Foreign Company Transfers its financial asset to other Foreign Company & it has some consideration to effect in that transaction. • The Royalty includes & has always included consideration in respect of any property or information, whether or not: a. The possession or control of such right, property or information is with the payer. b. Such right, property or information is used directly by the payer. c. The location of such right, property or information is in India. • Royalty in respect of "Process" shall include or shall be deemed to have been included transmission by satellite (including up-linking, amplification, conversion for down linking of nay signal), cable, optic fiber or by any other similar technology, whether or not such process is secret. And if such thing are transferred in consequence of transfer of any financial asset outside India by one Foreign Company to other Foreign Company It shall be taxable as Capital Gain(Retro 1st June 1976)

Note:

The Central Government has, vide Notification No. 21/2012 dated 13.06.2012 to be effective from 1st July 2012 Exempted certain payment from applicability of Tax deducted at source under section 194J. Accordingly, where the payment is made by the transferee for acquisition of software from a resident transferor, the provisions of section 194J would not be attracted:

1. The software is acquired in a subsequent transfer without any modification by the transferor.
2. The tax has been deducted either under section 194J or section 195 on payment for any previous transfer of such software and
3. The transferee obtains a declaration from the transferor that tax has been so deducted along with PAN of the transferor.

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Illustration 10

SAP Ltd., a German company which is non-resident in India earned the following incomes by way of fee for technical services. Advice about the taxability of such income in the hands of SAP Ltd. in India :

(a) Govt. Of India paid ₹ 20 lacs under an agreement, to be used for a project in India.

(b)Brilliant Ltd. an Indian Company, paid ₹ 30 lacs for the know-how to be used in India.

(c)Saket Ltd. an Indian Company paid ₹40 lacs for know-how acquired in Germany to be used in China.

(d)Rupesh Ltd. a non-resident company paid ₹ 24 lacs for acquiring know-how to be used in India for carrying on certain manufacturing business.

Illustration 11

Following are the particular of Hritika for the previous year 2012-13:

		₹
A	Rent from a Property in Delhi received in USA	80,000
B	Income from a business in USA controlled from Delhi	1,20,000
C	Income from a business in Bangalore controlled from USA	1,80,000
D	Rent from a property in USA received there but subsequently remitted to India	60,000
E	Interest from deposit with an Indian Company received in USA	20,000
F	Profit for the year 2011-12 of a business in USA remitted to India during the previous year 2012-13 (not taxable earlier).	75,000
G	Gift Received from his parents	45,000

Compute his income for the assessment year 2013-14 if she is:

i. Resident and ordinary resident in India.
ii. Not ordinary resident in India
iii. Non-resident in India.

Illustration 12

Hemant earns the following income during the financial year 2012-13:

		₹
A	Interest from an Indian Company in London	1,20,000
B	Pension from former employer in India received in USA	1,80,000
C	Profit earned from a business in Paris which is controlled in India, half of the profits being received in India	2,00,000
D	Income from agriculture in Bhutan and remitted to India	1,25,000
E	Income from property in England received there	4,00,000
F	Past foreign Income bought to India	10,000

Compute his income for the assessment year 2013-14 if he is:

i. Resident and ordinary resident in India.
ii. Not ordinary resident in India
iii. Non-resident in India.

Illustration 13

During the Financial Year 2012-13 Anuja had the following Income:

		₹
A	Salary Income received in India for services rendered in Hong Kong	3,90,000
B	Income from profession in India, but received in Germany	3,60,000
C	Property Income in Zambia (out of which ₹ 2,40,000 was remitted to India).	5,00,000
D	Profit earned from business in Bangalore	1,50,000
E	Agriculture income in Kenya	1,60,000
F	Profits from a business carried on at Nepal but controlled from India	2,20,000

Compute his income for the assessment year 2013-14 if she is:

i. Resident and ordinary resident in India.
ii. Not ordinary resident in India
iii. Non-resident in India.

Illustration 14

The following is the income of Sumit for the previous year 2012-13:

		₹
A	Profit from business in Turkey received in India	5,00,000
B	Income from House Property in Turkey received in India	1,20,000
C	Income from House Property in Sri Lanka deposited in Bank there	1,80,000
D	Profit of business established in Sri Lanka deposited in bank there, this business is controlled in India. (out of ₹ 2,00,000 a sum of ₹ 1,00,000 is remitted to India)	2,00,000
E	Income from profession in India but received in England	2,40,000
F	Profit earned from business in Mumbai	1,60,000
G	Income from agriculture in England, it is all spent on the education of children in London.	2,70,000

Form the above particulars ascertain the taxable income of Sumit for the previous year 2012-13 if Sumit is:

i. Resident and ordinary resident in India.
ii. Not ordinary resident in India
iii. Non-resident in India.