Tax is mandatory payment made by PERSON to the Government for the welfare of Society

Direct Tax

- levied directly on the income or wealth of a person
- Type of Direct Tax:
  1) Income Tax
  2) Prperty Tax
  3)Corporate Tax

Indirect tax

- Charged on Goods & services + Burden can be shifted to ultimate consumer
- Type of Indirect Tax:
  1) GST
  2)Custom Duty

Power to levy taxes

Constitution of India gives the power to levy and collect taxes, whether direct or indirect, to the Central and State Government. The Union and State Government are empowered to levy taxes by virtue of **Article 246 of the Constitution of India**.

Article 246 of the Constitution of India contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws for the purpose of levy of taxes.

The following are the lists:

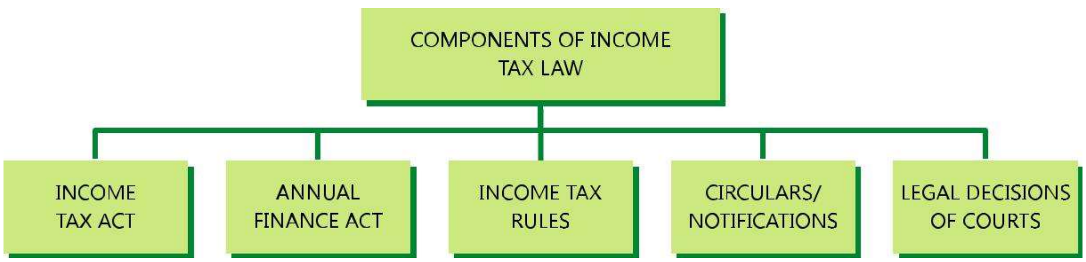
(i) **Union List:** Central Government has the exclusive power to make laws on the matters contained in Union List.

(ii) **State List:** State Government has the exclusive power to make laws on the matters contained in the State List.

(iii) **Concurrent List:** Both Central and State Governments have the power to make laws on the matters contained in the Concurrent list.

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

COMPONENT OF INCOME TAX LAW



1) 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 came into force on **1st April, 1962**.

It contains 298 sections and XIV(14) schedules.

2) 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.

3) 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**.

4) Circulars and Notifications

Circulars

- 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.
- Circulars are issued for the guidance of the officers and/or assessees.
- The department is bound by the circulars. While such circulars are not binding on the assessees, 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.

5) Case Laws

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 assessees and the department and give decisions on various issues.

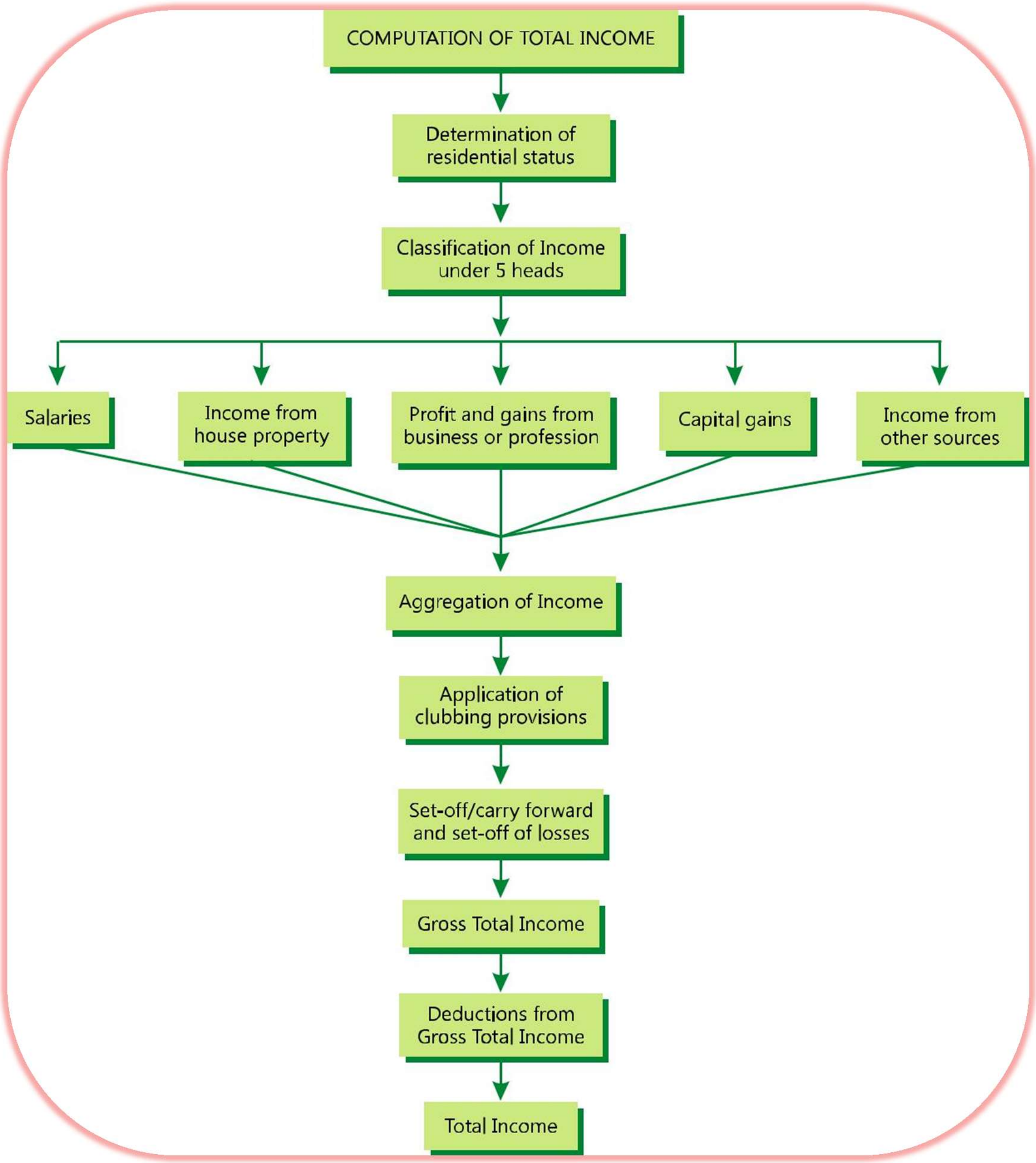
The Supreme Court is the Apex Court of the country and the law laid down by the Supreme Court is the law of the land. The decisions given by various High Courts will apply in the respective states in which such High Courts have jurisdiction.

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

LEVY OF INCOME TAX

Section 4:- Income Tax always levied on previous year's **"TOTAL INCOME"** *of Every Person(Sec 2(31))*

HOW TO ARRIVE ON TOTAL INCOME ??



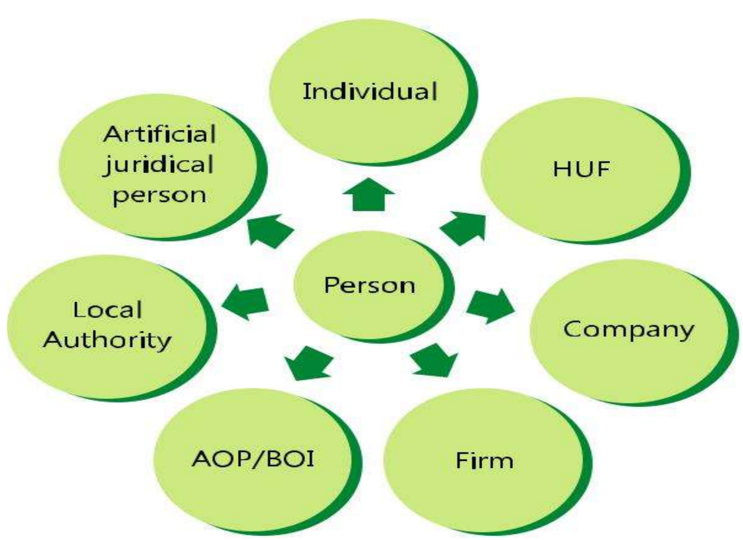
IMPORTANT DEFINITION:-

1) Assessee [Section 2(7)]

"Assessee" means a person by whom **any tax or any other sum of money is payable** under this Act. In addition, it includes –

- Every person in respect of whom any proceeding under this Act has been taken for the assessment of
  - his income; or
  - assessment of fringe benefits; 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 by such other person.
- Every person who is deemed to be an assessee under any provision of this Act;
- Every person who is deemed to be **an assessee-in-default** under any provision of this Act.

2) Person [Section 2(31)]

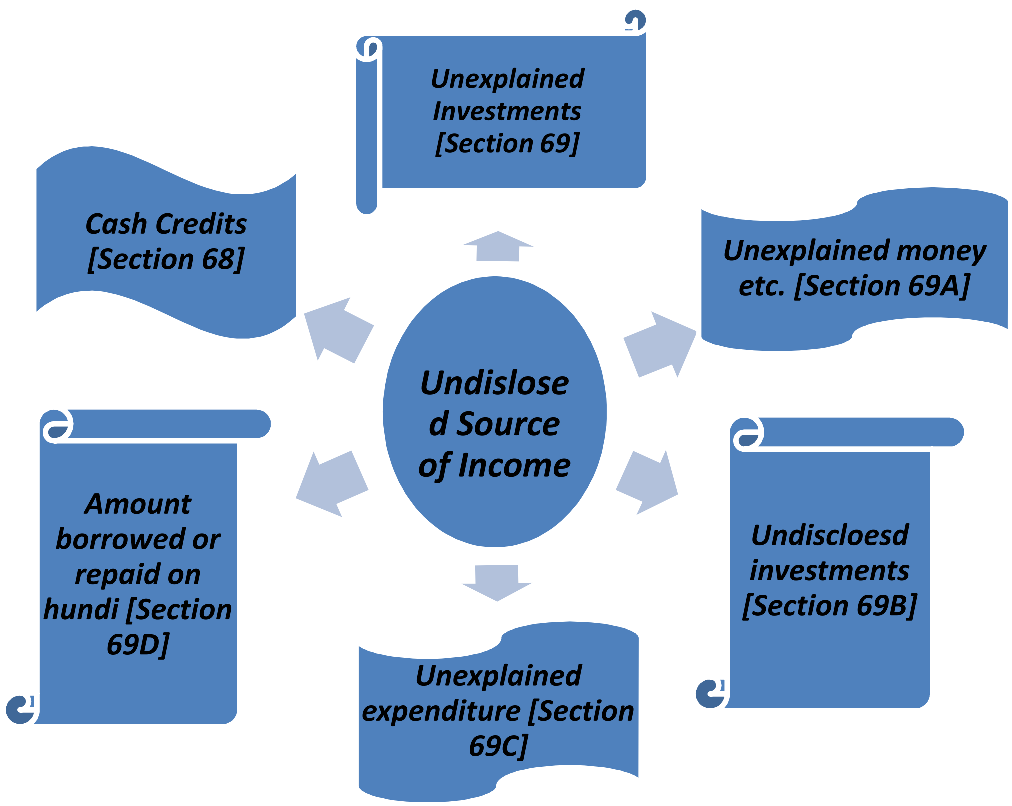


3) **Assessment Year [Section 2(9)] :-** Period of 12 Month starting from 1st April of every year & end on 31st March of next year.

4) **Previous Year [Section 3] :-** It means financial year immediately preceding to the Assessment year.

Any Income which is earned in Previous Year will be taxable in Assessment Year. E.g. Income earned in F.Y.2017-18 will be taxable in A.Y. 2018-19

5) **Previous year for undisclosed sources of income**

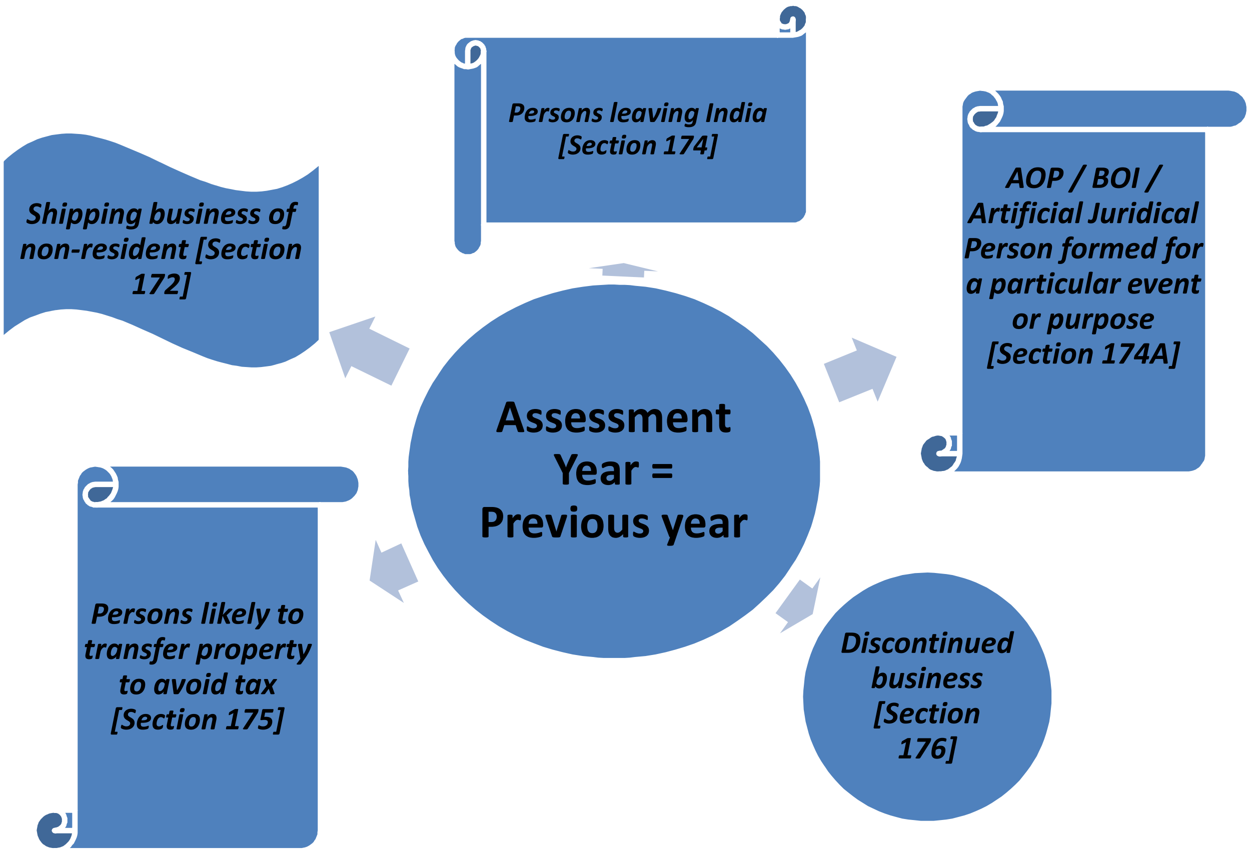


Section 115BBE provides the rate at which such cash credits, undisclosed income, undisclosed expenditure, deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D would be subject to tax

CA Darshan Oza
8655312305

CERTAIN CASES WHEN INCOME OF A PREVIOUS YEAR WILL BE ASSESSED IN THE PREVIOUS YEAR ITSELF

(i.e. Assessment Year = Previous year)



Assessment Year = Previous Year Means Income will be taxable in the previous year itself.

Above is the exception to Section 4

TAX RATES FOR PERSON

1) INDIVIDUAL/HUF/AOP/BOI/ARTIFICAL JURIDICAL PERSON/NON RESIDENT

a)RESIDENT INDIVIDUAL/HUF/AOP/BOI/ARTIFICAL JURIDICAL PERSON/NON RESIDENT(EXCLUDE:- RESIDENT SENIOR CITIZEN, RESIDENT SUPER SENIOR CITIZEN)

INCOME	TAX RATE
UPTO Rs. 250000	Nil
250001 – 500000	5%
500001 – 1000000	20%
Above 1000000	30%

b) RESIDENT INDIVIDUAL being senior citizen(Age≥60 Years but <80 Years)

INCOME	TAX RATE
UPTO Rs. 300000	Nil
300001 – 500000	5%
500001 – 1000000	20%
Above 1000000	30%

c) RESIDENT INDIVIDUAL being super senior citizen(Age≥80 Years & above)

INCOME	TAX RATE
UPTO Rs. 500000	Nil
500001 – 1000000	20%
Above 1000000	30%

REBATES U/S 87A

Applicability: - Only to "RESIDENT INDIVIDUAL" whose total income ≤ Rs. 350000

Rebate allowable from Tax:-

1) Income tax paid

OR

2) Rs.2500

Whichever is lower.

(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

INCOME	TAX RATE
UPTO Rs. 10000	10%
10001-20000	20%
Above 20000	30%

COMPANY

Domestic Co.

- If Turnover/Gross Receipt in P.Y. 2016-17 is $\leq$ 250 Crore then Tax Rate = 25%(Amendment)
- In other case:- 30% of Total Income

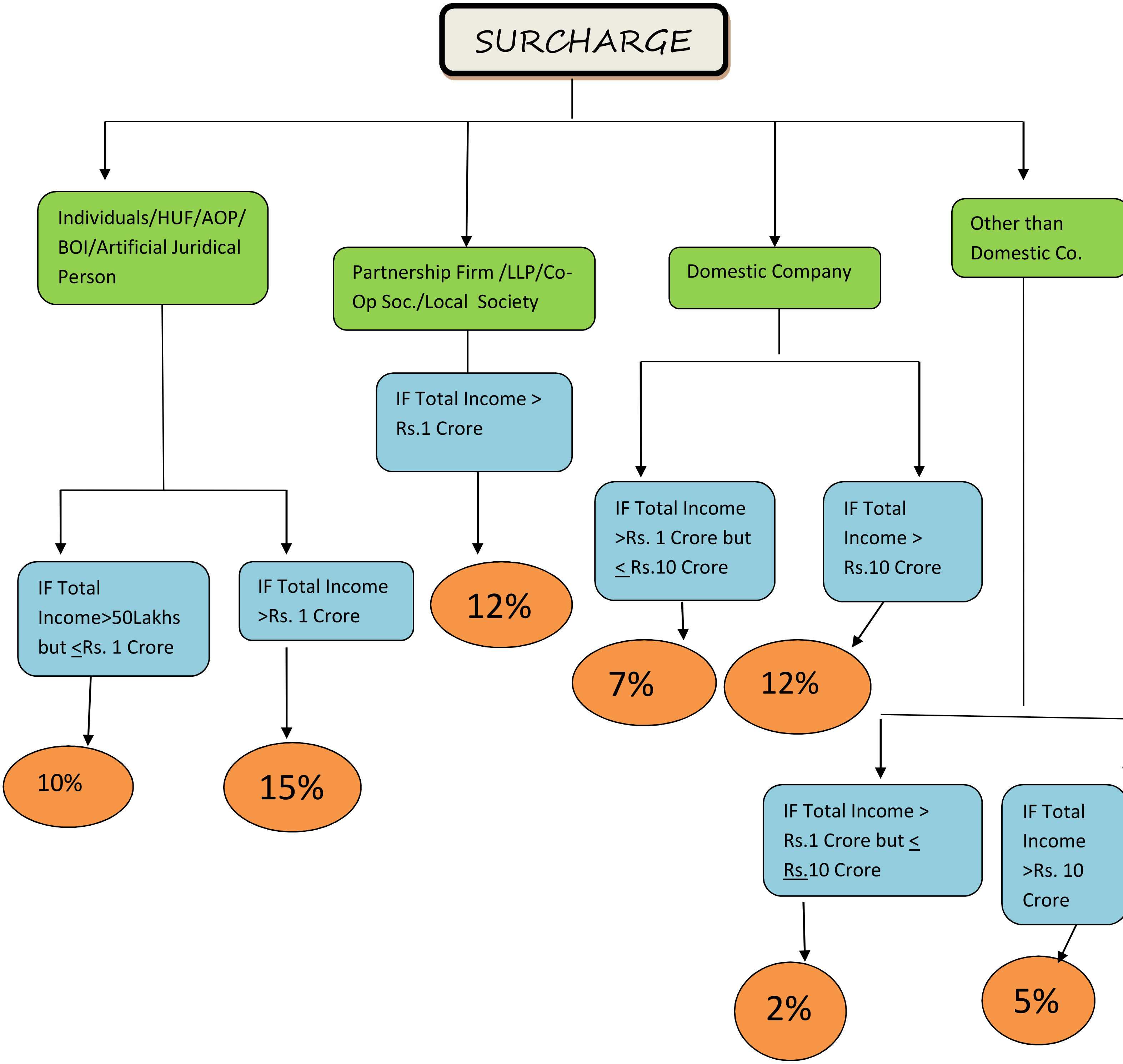
Foreign Co.

- 40% of Total Income

FLAT RATE PRESCRIBED BY FINANCE ACT 2018

S.No	Section	Income	Rate of Tax
1	112(see CG)	Long term capital gains	20%
2	111A (See CG)	Short-term capital gains on:- **a) transfer** of **Equity shares** in a company **b)**Unit of an **equity oriented fund** **c)** Unit of **Business trust**	15%
3	115BB (See IFOS)	Winning From a) Lotteries b) Cross Word Puzzles c) Race including Horse Races d) Any Card Games e) Gambling or betting	30%
4	115BBDA (See IFOS)	Income by Way of **Dividend Received exceeding 10 Lakhs** in Aggregate	10%
5	115BBE (See IFOS)	Unexplained money, investments, expenditure	60%+25% surcharge+4%Cess =78%

**Sec 112A Tax on Long Term Capital Gain on Transfer of Shares, unit of equity oriented fund & Unit of Business Trust will be dealt in Chapter Capital Gain (Amendment).


SURCHARGE
Individuals/HUF/AOP/ BOI/Artificial Juridical Person
Partnership Firm /LLP/Co-Op Soc./Local Society
Domestic Company
Other than Domestic Co.
IF Total Income > Rs.1 Crore
IF Total Income >Rs. 1 Crore but ≤ Rs.10 Crore
IF Total Income > Rs.10 Crore
12%
IF Total Income>50Lakhs but ≤Rs. 1 Crore
IF Total Income >Rs. 1 Crore
7%
12%
10%
15%
IF Total Income > Rs.1 Crore but ≤ Rs.10 Crore
IF Total Income >Rs. 10 Crore
2%
5%

CESS:- 4%, HEALTH & EDUCATION CESS(AMENDEMENT)

CESS IS COMPULSORY PAYMENT & ALWAYS CHARGE ON FINAL TAX AMOUNT

MARGINAL RELIEF

Marginal relief is available to the Assessee if the **amount of income tax and surcharge exceeds income tax payable** on specified limit plus amount of income over the specified limit. The concept of marginal relief is that the amount of increase in income tax should not be more than the amount of increase in income.

Marginal relief is available in respect of surcharge only. **It is not applicable in case of education cess and Senior and higher education cess.**

STEPS TO CALCULATE MARGINAL RELIEF:-

Step-1:- Calculate Tax Payable on Total Income(Excluding Cess)

Step-2:- Calculate Tax Payable on 50 Lakhs/ 1 Crore/10 Crore

Step-3:- Add (Step 2 + Excess income over 50 Lakhs/1 Crore/10 Crore)

Step 4:-(Marginal Relief):- Step 1 – Step 3

Tax Payable = Step 1- Step 4