



# INTERMEDIATE INCOME TAX



- ▶ ICAI Study Material Questions Covered
- ▶ RTP/MTP Questions Covered
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**Book recommended by AIR 1**

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# CONTENT

<b>1</b>	Basic Concepts.....	<b>1-30</b>
<b>1B</b>	Agriculture Income.....	<b>31-38</b>
<b>2</b>	Residential Status.....	<b>39-58</b>
<b>3A</b>	Income Under Head Salaries .....	<b>59-110</b>
<b>3B</b>	Income u/h House Property .....	<b>111-130</b>
<b>3C</b>	Profits & Gains from Business & Profession .....	<b>131-204</b>
<b>3D</b>	Income Under the Head Capital Gains .....	<b>205-244</b>

<b>3E</b>	Income Under the Head Other Source.....	<b>245-266</b>
<b>4</b>	Clubbing of Income .....	<b>267-278</b>
<b>5</b>	Set-Off and Carry Forward of Losses.....	<b>279-288</b>
<b>6</b>	Deduction from Gross Total Income.....	<b>289-326</b>
<b>7A</b>	Advance Payment of Tax .....	<b>327-334</b>
<b>7B</b>	Tax Deduction at Source.....	<b>335-376</b>
<b>7C</b>	Tax Collection at Source.....	<b>377-384</b>
<b>8</b>	Return of Income .....	<b>385-417</b>

## CHAPTER 1: BASIC CONCEPTS

### Introduction

- In a Welfare State, the Government takes primary responsibility for the welfare of its citizens, as in matters of health care, education, employment, infrastructure, social security and other development needs. To facilitate these, Government needs revenue.
- The taxation is the primary source of revenue to the Government for incurring such public welfare expenditure.
- In other words, Government is taking taxes from public through its one hand and through another hand; it incurs welfare expenditure for public at large.
- However, no one enjoys handing over his hard-earned money to the government to pay taxes. Thus, taxes are compulsory or enforced contribution to the Government revenue by public.
- Government may levy taxes on income, business profits or wealth or add it to the cost of some goods, services, and transactions.

### DIRECT TAX & INDIRECT TAX

There are two types of taxes: Direct Tax and Indirect Tax

- Tax, of which incidence and impact fall on the same person, is known as Direct Tax, such as Income Tax.
- On the other hand, tax, of which incidence and impact fall on two different persons, is known as Indirect Tax, such as GST.

Direct Tax	Indirect Tax
<ul style="list-style-type: none"> <li>• Incidence and impact fall on the same person</li> </ul>	<ul style="list-style-type: none"> <li>• Incidence and impact fall on two different persons</li> </ul>
<ul style="list-style-type: none"> <li>• Assessee, himself bears such taxes. Thus, it pinches the taxpayer.</li> </ul>	<ul style="list-style-type: none"> <li>• Tax is recovered from the assessee, who passes such burden to another person.</li> </ul>
<ul style="list-style-type: none"> <li>• Levied on income</li> </ul>	<ul style="list-style-type: none"> <li>• Levied on goods and services.</li> </ul>
<ul style="list-style-type: none"> <li>• E.g. Income Tax</li> </ul>	<ul style="list-style-type: none"> <li>• E.g. GST, Customs Duty, etc.</li> </ul>
<ul style="list-style-type: none"> <li>• Progressive in nature i.e., higher tax are levied on person earning higher income and vice versa.</li> </ul>	<ul style="list-style-type: none"> <li>• Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability.</li> </ul>

## CONSTITUTIONAL VALIDITY OF TAXES

The Constitution of India is the supreme law of India. It consists of a Preamble, 22 parts containing 444 articles and 12 schedules. Any tax law, which is not in conformity with the Constitution, is called ultra vires the Constitution and held as illegal and void. Some of the provisions of the Constitution are given below:

**Article 265** of the Constitution lays down that no tax shall be levied or collected except by the authority of law. It means tax proposed to be levied must be within the legislative competence of the legislature imposing the tax.

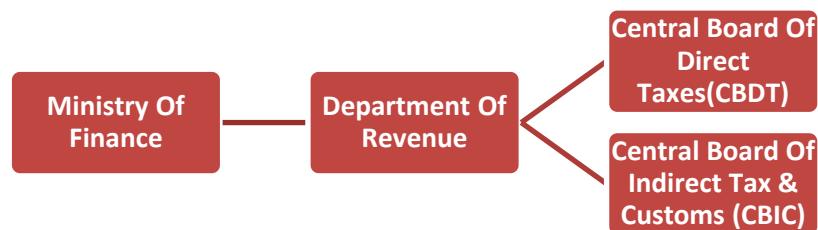
**Article 246** read with Schedule VII divides subject matter of law made by legislature into three categories:

- **Union list** (only Central Government has power of legislation on subject matters covered in the list)
- **State list** (only State Government has power of legislation on subject matters covered in the list)
- **Concurrent list** (both Central & State Government can pass legislation on subject matters).

**Entry 82 of Union List** – Taxes on income other than agricultural income i.e. Income-tax.

**Entry 46 of State List** – Gives power to state Govt to make laws on tax on Agriculture Income.

## ADMINISTRATION OF TAX LAWS



- Both of the Boards have been constituted under the Central Board of Revenue Act, 1963.
- CBDT deals with levy and collection of all direct tax
- CBIC Deals with levy and collection of Central indirect tax.

## SOURCES OF INCOME TAX LAW IN INDIA

### 1. Income tax Act, 1961 (Amended up to date)

The provisions of income tax extends to the whole of India and became effective from 1/4/1962 (Sec. 1). It contains sections 1 to 298 and schedules I to XIV. The Act contains provisions for determination of taxable income; determination of tax liability; procedure for assessment, appeals, penalties and prosecutions; and powers and duties of Income tax authorities.

### 2. The Finance Act (Annual Amendments)

- Every year, a Finance Bill is presented before the Parliament by the Finance Minister. The Bill contains various amendments which are sought to be made in the areas of direct and indirect taxes levied by the Central Government.
- When the Finance Bill is approved by both the Houses of Parliament and receives the assent of the President, it becomes the Finance Act. The provisions of such Finance Act are thereafter incorporated in the Income Tax Act.

### 3. Income tax Rules, 1962 (Amended up to date)

- As per Sec. 295, the Board may, subject to the control of the Central Government, make rules for the whole or any part of India for carrying out the purposes of the Act.
- Such rules are made applicable by notification in the Gazette of India.
- These rules were first made in 1962 and are known as 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 circular While such circulars are not binding on the assesses, they can take advantage of beneficial circular

#### 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. Judicial decision

- a) **Decision of the Supreme Court:** Any decision given by the Supreme Court shall be applicable as law till there is any change in law by the Parliament. Such decision shall be binding on all the Courts, Tribunals, Income tax authorities, assessee, etc.

- b) Decisions given by a High Court or ITAT:** Decisions given by a High Court or ITAT are binding on all assessees and Income tax authorities, which fall under their jurisdiction, unless it is over ruled by a higher authority.

### Levy of Income-tax

As per Section 4, Income of the previous year of a person is charged to tax in the immediately following assessment year.

### PREVIOUS YEAR [SECTION 3]

- Previous Year means the financial year immediately preceding the Assessment Year.
- Income earned in a year is assessed in the next year.
- The year in which income is earned is known as Previous Year and the next year in which income is assessed is known as Assessment Year.
- It is mandatory for all assessee to follow financial year (from 1st April to 31st March) as previous year for Income-Tax purpose.

Business or profession newly set up during the financial year

In such a case, the previous year shall be the period beginning on the date of setting up of the business or profession and ending with 31st March of the said financial year.

If a source of income comes into existence in the said financial year, then, the previous year will commence from the date on which the source of income newly comes into existence and will end with 31st March of the financial year.

### ASSESSMENT YEAR (A.Y.) [SECTION 2(9)]

- Assessment year means the period of 12 months commencing on the 1st day of April every year.
- It is the year (just after the previous year) in which income earned in the previous year is charged to tax.
- E.g., A.Y. 2025-26 is a year, which commences on April 1, 2025 and ends on March 31, 2026. Income of an assessee earned in the PY 2024-25 is assessed in the A.Y. 2025-26.

### PERSON [SECTION 2(31)]

The term person includes the following:

- i) An Individual;
- ii) A Hindu Undivided Family (HUF);
- iii) A Company;
- iv) A Firm (Including LLP);
- v) An Association of Persons (AOP) or a Body of Individuals (BOI);

- vi) A Local authority; &
- vii) Every artificial juridical person not falling within any of the preceding categories.

### ASSESSEE [SECTION 2(7)]

“Assessee” means,

- a. a person by whom any tax or any other sum of money (i.e., penalty or interest) is payable under this Act
- b. every person in respect of whom any proceeding under this Act has been taken (whether or not he is liable for any tax, interest or penalty) for the assessment of his income or loss or the Amount of refund due to him;
- c. a person who is assessable in respect of income or loss of another person;
- d. a person who is deemed to be an ‘assessee in default’ under any provision of this Act. E.g. A person, who was liable to deduct tax but has failed to do so, shall be treated as an ‘assessee in default’.

### Situations Where Income is Taxed in the Same Year (Previous Year Itself)

#### 1. Section 172 - Shipping Business of Non-Residents (NR):

If a non-resident's ship, carrying passengers, livestock, mail, or goods, arrives at an Indian port, the ship cannot leave the port until all applicable taxes are paid. Example: A foreign shipping company's vessel arrives in Mumbai to deliver cargo. Before the ship can depart, it must settle any tax liabilities on the income earned from that voyage.

#### 2. Section 174 - Person Leaving India:

If the Assessing Officer (AO) believes that an individual is leaving India with no intention of returning, the income earned by that person up until their expected departure date is taxed in the current year itself.

Example: Mr. X, an Indian resident, plans to move abroad permanently in October 2024. The AO may tax his income up to October 2024 in the same year i.e. 2024-25

#### 3. Section 174A - AOP/BOI/AJP Formed for a Specific Event or Purpose:

If an Association of Persons (AOP), Body of Individuals (BOI), or Artificial Juridical Person (AJP) is created for a specific event or purpose, and the AO expects it to dissolve within the same year, the income up to the date of dissolution is taxed in that year. Example: A group of investors forms an AOP to organize a one-time international sports event in India. If the event concludes in August 2024 and the AOP is dissolved, the income earned will be taxed in the same PY i.e. 2024-25.



**4. Section 175 - Persons Likely to Transfer Property to Avoid Tax:**

If the AO suspects that a person is likely to sell, transfer, or dispose of assets to avoid paying taxes, the AO can tax that person's total income in the current year itself. Example: Mrs. Y plans to sell her property in December 2023 to avoid tax liabilities. If the AO suspects this, her income from the property sale might be taxed in the assessment year 2024-25.

**5. Section 176 - Discontinued Business:**

If a business or profession is discontinued, the income earned up until the date of discontinuance may be taxed in the current year at the AO's discretion. Example: A company decides to shut down its operations in India by September 2024. The income earned until the shutdown date can be taxed in the same year itself.

**HEADS OF INCOME [SECTION 14]**

According to Sec.14 of the Act, all income of a person shall be classified under the following five heads:

1. Salaries;
2. Income from house property;
3. Profits and gains of business or profession;
4. Capital gains;
5. Income from other sources.

For computation of income, all taxable income should fall under any of the five heads of income as mentioned above. If any type of income does not become part of any one of the above mentioned first four heads, it should be part of the 5<sup>th</sup> head, i.e. Income from other sources, which may be termed as the residual head.

**Difference between Heads of income and Sources of income**

- There are only five heads of income as per Sec. 14 of the Act, but the assessee may generate the income from various sources. In the same head of income, there may be various sources of income.
- E.g. under the head 'Income from house property', there may be two or more house properties and each house property shall be termed as a source of income.
- The source of income decides under which head (among the five heads) income shall be taxable.

### Computation of Income

- Step 1: Determine Residential Status  
 Step 2: Compute Income Under Each Head Of Income  
 Step 3: Apply Clubbing of Income Provisions  
 Step 4: Set-off/carry forward and set-off of losses as per the provisions of the Act  
 Step 5: After Applying Step 2, 3 & 4 You will arrive at Gross total Income  
 Step 6: Claim Deductions Under Section 80C to 80U (if any From GTI)  
 Step 7: Total Income (Taxable Income) is arrived after claiming deductions from GTI

Total Income shall be rounded off u/s 288A in the multiples of 10 and for this purpose, any paisa shall be ignored and if the last digit is 5 or more, it will be rounded off to the higher multiple otherwise it will be rounded off to the lower multiple.

#### Example

- (i) ₹5,28,456 shall be rounded off as ₹5,28,460
- (ii) ₹5,28,455 shall be rounded off as ₹5,28,460
- (iii) ₹5,28,454 shall be rounded off as ₹5,28,450
- (iv) ₹5,28,454.88 shall be rounded off as ₹5,28,450

### Computation Of Tax Liability (Old Regime / Alternate Scheme / Normal Provisions)

In case of Individual / Hindu Undivided Family / AOP / BOI / Artificial Judicial Person

#### A. Any other Individual & HUF or AOP/BOI or Artificial Judicial Person

Income	Tax Rate
On First ₹ 2,50,000	Nil
Next ₹ 2,50,000	5%
Next ₹ 5,00,000	20%
Balance Income	30%

#### B. Resident individual of the age of 60 years or more at any time upto the end of relevant previous year but less than eighty years (senior citizen)

Income	Tax Rate
On First ₹ 3,00,000	Nil
Next ₹ 2,00,000	5%
Next ₹ 5,00,000	20%
Balance Income	30%

## About The Author

**Sir, CA Jasmeet Singh Arora** is a renowned faculty for Taxation at PW with teaching experience of more than 10 years; he has mentored more than 70,000 students through online & offline medium. Sir, CA Jasmeet Singh Arora qualified his CA Exam in the First attempt & has 5 Exemptions in CA final Exam. Sir, CA Jasmeet Singh Arora believes in blended learning & has a learner- centric approach. With real life examples he tries to transform to the pedagogical processes in his field of instruction. Sir, CA Jasmeet Singh Arora is known for imparting quality education for subjects like Taxation & Costing.

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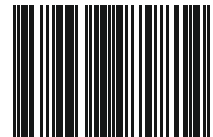
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