INCOME TAX ACT 1961

- Extents to whole of India
- Came into force on 1st April 1962
- Direct Tax –Income Tax , Wealth Tax
- Indirect Tax– MVAT, Service Tax , CST

- Introduction to Income Tax Act, 1961
- Basic Definition
- Residential Status
- Scope of Income u/s 5
- Exempt Incomes-- Section 10
- Heads of Income
- Business Income – Deductions, Depreciation as per I.T. Act.
- Business Income – Disallowance u/s Sec 41, 43B and 40(b)
- Capital Gains – Meaning of Capital Asset & Transfer, STCG, LTCG
- Capital Gains – Exceptions to Transfer, Special Cases, Exemptions
- Deduction from Gross total income
- Computation of Tax.

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Definitions

AGRICULTURAL INCOME -Sec 2(1A)– includes

- Any rent or revenue derived from land situated in India and used for agriculture
- Income from agriculture, agricultural process or sale of produce by cultivator
- Income from building used as dwelling house/store house situated beyond 8 kms. from municipality.
- means --Agricultural Income from land in India ,agricultural produce for consumption of man/ animals/ cash crops ; compensation from Insurance company ; growing flowers /creepers/ seedlings/saplings in nursery ; salary or interest on capital received by partner from agricultural partnership firm.
- Excludes—interest on loan to farmer, dairy/ poultry; dividend from agricultural Company ; rent for storing crops, salt from sea water, sale of plants grown on their own(mushroom), trees already standing when land was purchased , sale of agricultural produce by person other than cultivator.

ASSESSEE -Sec 2(7)

_ A person by whom any tax or other sum of money is payable under this Act and includes

- a person on whom any proceeding under this Act is undertaken for assessment of Income, loss or refund of himself or other person
- Person who is deemed to be an assessee—eg. representative assessee
- Person who is deemed to be an assessee in default—eg. person collects TDS but does not deposit it with the Income Tax Dept.

Assessment year -Sec 2(9)
- Period of twelve months commencing from 1st day of April every year.

Sec 3-Previous year– means financial year immediately preceding the assessment year.

Block of Assets -Sec 2(11)
- group of assets falling within a class of assets comprising tangible assets and intangible assets , in respect of which same percentage of depreciation is prescribed.

Business -Sec 2(13) – includes any trade , commerce or manufacture or any adventure or concern in the nature of trade , commerce or manufacture.

Income -Sec 2(24) includes—
- Profits and Gains
- Dividend
- Voluntary contributions received by charitable trust
- Salary, allowance, perquisites,profit in lieu of salary
- Capital gains
- Winnings from lottery, crossword puzzle races etc.

Person -Sec 2(31) -- includes-
- Individual
- Hindu Undivided Family
- Company
- Partnership Firm
- Association of persons or Body of individuals
- Local authority
- Artificial juridical person

BASIS OF CHARGE -Sec. 4
- Income Tax shall be charged for any assessment year , at rates of I Tax , on Total Income of the previous year.

SCOPE OF TOTAL INCOME - Sec. 5

	ROR	**RNOR**	**NR**
Income Received in India	Taxable	Taxable	Taxab
Income accrues/arises in India	Taxable	Taxable	Taxab
Income deemed to be Received in India	Taxable	Taxable	Taxab
Income deemed to accrue/arise in India	Taxable	Taxable	Taxab
Income acrues outside India from business controlled from India	Taxable	Taxable	Not taxab
Other Income accrues/ arises outside India	Taxable	Not taxable	Not taxab

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Total Income of any previous year of a person

♋◑ **Who is a Resident includes all income from all sources which is-**

- Received or deemed to be received in India
- Accrues or arises or deemed to accrue or arise to him in India
- Accrues or arises to him outside India

♌◑ **Who is a non- resident includes all income from all sources which is-**

- Received or deemed to be received in India
- Accrues or arises or deemed to accrue or arises to him in India

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RESIDENCE IN INDIA Sec-6

A) **Resident in India-** Person who

- 1)Stays in India for 182 days or more

  OR

  2)Stays in India for 365 days or more during 4 years preceding the year **AND** stays in India for 60 days or more in that year.

But in case of Indian cityzen leaving India for employment/self employment or as crew member of Indian ship, he should stay in India for 182 days in that year to become Resident in India.

A1) Resident and Ordinarily a Resident

A person who is a **Resident and who also fulfills BOTH the following two conditions:**

a) He is Resident in atleast two years out of the preceding 10 years.

AND

b) He has stayed in India for total 730 days in preceding 7 years.

A2) <u>Resident but not Ordinarily a Resident</u>

A person who is a **Resident but who does *not* fulfill following two conditions:**

a) He is Resident in atleast two years out of the preceding 10 years. **AND**

b) He has stayed in India for total 730 days in preceding 7 years.

B) <u>Non Resident</u>

A person who is not Resident in India is called a Non-Resident.

<u>Deemed Income u/s 9</u>

<u>Income received or deemed to be received in India</u>

a) <u>Incomes received in India</u>

- All Incomes received in India by all persons irrespective of Residential status is taxable in India.
- Receipt means First receipt-- remittance/transmission of money doesnot result into receipt of Income.
- If a Non Resident receives Foreign Income first time in India it is taxable in India.

b) <u>Incomes deemed to be received in India</u>

- Contribution made by employer to RPF exceeding 12% of salary of employee.
- Interest credited to RPF exceeding 9.5% pa.
- Balance transferred from unrecognized PF to RPF (Recognised Providend Fund)
- Contribution made by employer to the A/c. of an employee under notified pension scheme u/s 80CCD.

c) <u>Income which accrue or arise in India.</u>

- Income is earned and assessee becomes entitled to receive.

d) <u>Incomes which are deemed to accrue or arise in India.</u>

- Income from business connection in India
- Income from property , asset or source of Income situated in India
- Income from transfer of capital asset situated in India
- Income salaries earned in India
- Salary payable to Indian citizen by Govt. for services rendered outside India.
- Interest, Royalty, Fees for technical services payable by Govt.

<u>Exemptions (Non Taxable Incomes) u/s 10</u>

Incomes which are not taxable, not to be included in Total Income

1 Agricultural Income from land in India

2 **Share** of profit from HUF

3 Share of profit from Partnership
4 Amt received under Life Ins Policy alongwith bonus.
5 Interest on PPF/PF
6 Payment from PF/RPF/Approved Superannuation fund
7 Scholarship to the extent used for cost of education
8 Daily allowance received by MLA/ MP
9 Constituency Allowance received by MLA
10 Awards and rewards from Govt.
11.Dividend from Indian Company/ units of Mutual Fund specified u/s10(23D)
12.Long term Capital gain from sale of equity shares / unit of equity oriented fund
13.Travel concession from employer to him and family to proceed to any place in India after retirement/termination of employment

14.Allowances and perquisites paid outside by govt to employee.
15.Pension/family pension received by winners / family of winners of Gallantry awards eg. Vir chakra
16.Family pension received by family members of armed forces

17.Income of minor included in parents Income -exempt upto Rs.1500 for each child
But income of minor from manual work/personal skill/talent/knowledge shall not be clubbed.
18.Gift - less than 50000 from any person.
19.Gift of any amount- from relative/ on occasion of marriage/ under a will/ in contemplation of death/ from local authority/ University, hospital, educational institution is exempt.
21.Income from units of UTI
22.POSB int—Post Office Savings Bank A/c. interest.

Heads of Income

1. Income from Salaries
2. Income from House Property
3. Capital Gains
4. Profits and Gains from Business/Profession
5. Income from Other Sources

Heads of Income

1) Income from Salary

Salary includes — Any payments received from employer, by employee under the contract of employment. Salary includes --Wages, allowances, arrears of salary , advance of salary, bonus, commission, perquisites, gratuity, pension, leave encashment etc.

Taxable Alowances include-- Transport Allowance ,Children education Allowance, Children hostel Allowance , Tiffin Allowance, Entertainment Allowance.
Exempt Allowances—
1) Children education Allowance exempt upto Rs. 100 pm. per child
2) Children hostel Allowance exempt upto Rs. 300 pm. per child
3) Transport Allowance exempt upto Rs. 800 pm.

Salary from Partnership firm & interest on capital in partnership is not income from salary but Profit from Business . Share of profit from partnership is exempt.

Taxable Perquisites--

- Rentfree accomodation,
- Concession in rental accomodation,
- Value of sweat equity shares allotted by employer,
- Contribution by employer to approved superannuation fund in excess of 1 lakh,
- Free supply of gas+electricity+water,
- Wages to domestic servants,
- Education facility to children received from employer,
- Life Insurance premium paid,
- Club fees paid,
- Motor car for personal use.

Taxfree perquisites—

- Premium of Mediclaim,
- Free or subsidised lunch/refreshments provided during office hours ,
- Medical treatment to employee + family in employer's/govt/approved hospital,
- Reimbursment of medical expenses upto Rs.15000/-.
- Telephone at residence,
- Recreation facilities,
- Goods (produced by employer) sold at concessional rates ,
- Travelling to and from office,
- Training fees.

Heads of Income

2) INCOME FROM HOUSE PROPERTY

House property means buildings and lands appurtenant thereto owned by the assessee . House property includes approach roads, garden, compound, garages, parking space etc.

SOP – Self Occupied Property—House property used by assessee and/or family for own residence .And this property should not be occupied by assessee for business / profession nor any other benefit derived therefrom.

LOP—Let Out Property—House Property rented out for residential / commercial or any other purpose.

For house property income - interest on loan taken by mortgaging the house for any other purpose like education , marriage etc. cannot be considered for deduction as interest on housing loan.

In case of CO-OWNERSHIP of property , first calculate total value of house property then divide amongst co-owners.

Heads of Income

3) PROFITS AND GAINS FROM BUSINESS

Business **must be carried on during the year** at any time during the PY, by the assessee.

There is no difference in taxability in legal and illegal business.

Method of Accounting—Sec145—1) Mercantile system 2) Cash system can be followed.

Expenses/Amounts debited to P&L A/c. but not allowable

- Purchase of Fixed assets—like machines, furniture , building etc.
- Personal expenses like house expenses, drawings etc.
- Charities and donations
- Income tax and Wealth tax paid—because income tax is not expense but distribution of profits
- Expenses disallowable u/s 40
- Expenses disallowable u/s 40A
- Amounts transferred to Reserve A/c.

Income credited to P&L A/c but not included as business income

- Dividend Income received
- Rental Income from house property received

Business Loss-- Loss should be incidental to the business .

A) **Losses are deductible in following cases—**

- Embezzlement by employees
- Loss of stock by fire , natural calamities ,negligence of employees
- Robbery/theft in the course of business
- Fluctuations in Foreign Exchange rate
- Loss of goods in transit
- Failure of bank—loss of bank deposits
- Enemy action—war

B) **Losses are not deductible in following cases—**

- Violation of law

While computing business profits--

- **Gift from clients** is taxable as business income.
- Insurance premium paid for **health insurance** of employees is allowed as business expense only if paid by **cheque**.
- **Salary & interest received on capital -from Partnership** firm is not income from salary but Profit from Business .

Sec32-- Depreciation—

- Asset must be owned by the assessee, and used during the year ,for the purpose of that business /profession.
- Depreciation to be provided on WDV basis.
- Normal Depreciation for **Block of Assets** and Additional Depreciation in case of eligible new machinery/plant

Additional Depreciation(Depreciation in addition to normal depreciation)—

- Rate of additional Dep—20% of cost of asset if asset used for more than 180 days. 10% if used less than 180 days .
- Eligible Assessee—Manufacturer of any article/thing.
- Assets for which additional Dep allowed-- any new assets purchased after—31.3.05

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u/s.43B -Certain deductions allowed in the Previous year, only on actual payment
Irrespective of the previous year in which the liability for payment arose. Payment should be made before due date for filing the return of income u/s 139(1).

- Any **tax , duty, cess or fee** payable under any law (Sales Tax/excise duty/octroi)
- **Contribution to PF**, Super annuation fund, gratuity fund or other fund for welfare of employees
- **Bonus , commission** payable to employees..
- **Interest on loan** from Public financial institution, State Financial Corporation
- Interest on loan from scheduled bank
- **Leave encashment** to employee
- **Gratuity.**

Heads of Income
4) Capital Gain

Capital asset -Sec 2(14) --property held by assessee , connected to business or not- But excludes–

- Stock in trade, consumable stores, raw material held for business.
- Personal effects- movable assets held for personal use by assessee or his dependent family members but excludes jewellery, drawings, paintings, sculpture etc.
- Agricultural land in India situated beyond 8 Kms from municipality
- 6 ½ % Gold bonds 1977, 7% Gold bonds 1980 or National Defence Gold bonds 1980 issued by Central Govt.
- Special Bearer bonds 1991 issued by Central Govt.
- Gold Deposit bonds 1999 issued by Central Govt.

Transfer of Capital Assets—Capital gain arises only when capital asset is transferred. Transfer can be voluntary from one person to other, or compulsory under a law ie compulsory acquisition of property, Transfer of capital assets includes the following—

- Sale or exchange of capital asset
- Compulsory acquisition of capital asset under the law
- Conversion of capital asset into stock in trade
- Maturity or redemption of bonds

Short term Capital Asset—If any capital asset is **held for 36 months or for less than 36 months** , before transfer of asset, such asset is called Short term Capital Asset. But in case of Financial assets like shares and mutual fund units instead of 36 mths , 12 mths are to be considered. That is in case of shares and mutual fund units if they are held for 12 months or less than 12 mths before transfer , they shall be called as short term capital asset.
Short Term Capital Gain-- Gain from selling Short Term Capital Asset is called as Short Term Capital Gain.
Short Term Capital Gain = Full value of Consideration - Transfer cost - Cost of Acquisition - Cost of Improvement.

Long Term Capital Asset—If any asset is **held for more than 36 months** , before selling it, such asset is called Long term Capital Asset. But in case of shares and mutual fund units instead of 36 mths , 12 mths are to be considered. That is in case of shares and mutual fund units if they are held for more than 12 mths before selling they shall be called as Long Term capital asset.
Long Term Capital Gain-- Gain from selling Long Term Capital Asset is called as Long Term Capital Gain.

Indexation--

- For finding Long term capital gain indexation of Cost of Acquisition and indexation of Cost of Improvement is done using **Cost Inflation Index. (CII).** CII means index calculated at 75% of average rise in Consumer price index of preceding previous year to previous year, for urban non manual employees, CII is notified in the Official Gazette.
- No indexation in case of STCG

Indexed Cost of Acquisition =

$$= \text{Cost of Acquisition} \times \frac{\text{CII of year of transfer}}{\text{CII of year of acquisition}}$$

Indexed Cost of Improvement =

$$= \text{Cost of Improvement} \times \frac{\text{CII of year of transfer}}{\text{CII of year of Improvement}}$$

Long Term Capital Gain = Full value of Consideration - Transfer cost - Indexed Cost of Acquisition - Indexed Cost of Improvement. As shown above.

LTCG taxed at 20%

Full Value of consideration -- means what the transferor receives for transferring the capital asset . The consideration can be money or in kind ie other than cash.

Cost of Transfer—Includes commission, brokerage, stamp duty, registration charges, amount paid to tenants for vacating and handing over possession of property , legal expenses for preparing conveyance deed, travel expenses in connection with transfer of assets.

Cost of Acquisition -- cost incurred for acquiring the asset and acquiring title to the asset.

Cost of Improvement-- cosy of additions and alterations of capital asset after purchasing it.

Capital Gains – Exemptions

Sec 54—Capital gain invested in house property—

- The LTCG from transfer of house property used for residential purpose , can be **invested within one year before or two years after date of transfer for purchase of a residential house , or within three years after transfer for construction** of a residential house.
- The LTCG can be deposited in bank A/c under **Capital Gain Scheme Account** before due date for filing Income Tax Return. The Return should be accompanied by proof of such deposit.
- If it is done , LTCG will not be taxable. But if LTCG exceeds cost of new house , excess LTCG shall be taxable.

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Procedure for assessment

Sec.139- Return of Income- Who shall file Income Tax Return--

- If Income of a person exceeds Taxfree limit the person shall on or before the due date ,file Income Tax Return .
- Person who incurs Rs.50000 or more electricity bill during the year.
- Person occupies immovable property (exceeding particular floor area) ,as owner or as a tenant.
- Person who is owner/lessee of motor vehicle other than 2 wheeler.
- Person has incurred foreign travel expense for himself or others.
- Person who is a holder of credit card.
- Person who is member of a club where entrance fee is Rs.25000 or more.

Due Date of filing Income Tax Return—

a) A company and any person whose A/cs. are required to be audited – 30^{th} September.
b) Any person who has to file report u/s 92 E(for international transaction) --- 30^{th} November.
c) In the case of any other assessee not covered above -- 31^{st} July.

Revised Returns Sec 139(5)

Discovers ommission/ wrong stmt revised return within 1yr after end of AY or completion of assessment whichever is earlier. Belated Income Tax Return cannot be revised.

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Rates for charging Income Tax

For Resident Individual less than 60 years , AOP, HUF, BOI, artificial juridical person—

α) Taxfree upto 2,50,000.
β) More than 2,50,000 upto 5,00,000 → 10% of Total Income exceeding 250000
χ) More than 5,00,000 upto 10,00,000→ 25000 + 20% of Total Income exceeding 500000
δ) More than 10,00,000 → 125000 +30% of Total Income exceeding 10,00,000.

For Resident Individual of 60 years or more but less than 80 years—

a) Taxfree upto 3,00,000.
b) More than 3,00,000 upto 5,00,000 → 10% of Total Income exceeding 300000
c) More than 5,00,000 upto 10,00,000→ 20000 + 20% of Total Income exceeding 500000
d) More than 10,00,000 → 120000+ 30%

For Resident Individual of 80 years or more —

α) Taxfree upto 5,00,000.
β) More than 5,00,000 upto 10,00,000→ 20% of Total Income exceeding 500000
χ) More than 10,00,000 → 100000 +30% of Total Income exceeding 10,00,000.

Surcharge @10% of Income Tax if Total Income exceeds Rs1 crore.

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