GOVERNMENT COLLEGE FOR GIRLS

LUDHIANA

INCOME-TAX LAW AND ACCOUNTS P.Y. 2022-23 A.Y. 2023-24

CHAPTER- 2
BASIC CONCEPTS

PERSON U/S 2(31)

Person includes the following:

(i) An individual

(ii) A Hindu Undivided Family (HUF)

(iii) A Company

(iv) A Firm

(v) An Association of Person (AOP) or Body of Individual (BOI)(whether incorporated or not)

(vi) A local Authority

(vii) Every artificial juridical person not falling within any of the proceeding sub clauses.

The definition of 'Person' in this clause is **inclusive and not exhaustive (complete)**. The brief description of above sub clauses of person are as follows:

(i) **An Individual** – means a **natural person** i.e. a human being. It includes a male, female, minor child and a lunatic or idiot. Generally, the **income of minor child is clubbed** with the income of his parents. The income of **lunatic or idiot** is taxable through his guardian or representative.

(ii) **A HUF** – The definition of HUF is **not given** under the Income Tax Act. According to Hindu Law, it means a family, which consist of all persons **lineally descendants from a common ancestor** including their wives and unmarried daughters.

(iii) **A Company** – It may be defined as an incorporated association which is an artificial person having an **independent legal entity** with a perpetual succession, a common seal, a common capital and limited liability.

(iv) **A Firm** – Here it means a partnership firm. The definition of partnership has been given in Partnership Act, 1932

(v) **Association of Persons** – The definition of AOP has not given in the Income-tax Act, 1961. However, generally AOP means two or more persons who join for a common purpose with a view to earn an income. Co-heirs, Co-legatees or co-donees joining for a common purpose or action would be chargeable as an AOP.

Body of Individuals – It means a ***conglomeration*** (collection) of individuals who carry on same activity with the objective of earning some income. It would consist **only of individuals**.

(vi) **A Local Authority –** The Income-tax Act has **not defined the meaning** of local authority. It includes a municipality, **district board, or other authorities legally entitled** to or entrusted by the Govt. with the control and management of a municipal or local fund.

(vii) **Artificial Juridical Person –** These are entities, which are **not natural person but are separate entities** in the eyes of law. Such persons cannot be sued directly but can be sued through persons managing them. Therefore, **God, idol and deities are artificial persons**. Though they may not be sued directly they can be legally sued through the priests or the managing committee of the place of worship etc. They are persons and their income like offerings are taxable. If certain conditions are satisfied then the exemption of I. tax has been provided to such persons. Similarly, **all other artificial persons,** with a juristic personality, will also full under these categories **e.g.** university.

Example- Determine the status of the following:

(i) Calcutta university (ii) Essen Paints Pvt. Ltd. (iii) Punjab national Bank Ltd. (iv) A and B are legal heirs of C. C died in 2015 and A and B carry on his business without entering into a partnership. (v) Sh. Krishna Enterprises, a firm consisting of S, K and P. (vI) A joint family consisting of P, Mrs P and their son s. (vii) Municipal Corporation of Delhi.

Answer- (i) Artificial Person (ii) A Company (iii) A Company (iv) A Body of individuals (v) A Firm (vi) A Hindu Undivided Family (vii) A Local Authority

PREVIOUS YEAR {Section 2(34)and3}	08 A, 10 S

The definition of previous year is **very important** from income tax point of view because income tax is levied on the total income earned by the assessee during the relevant previous year. Therefore, previous year is an **income generating year.**

"Previous year is a period of twelve months ending immediately before the commencement of relevant assessment year."

W.e.f. previous year **1988-89**, it is **also known as financial year** i.e. it always ends on 31st march although the assessee is still free to maintain his books of accounts for any period of **12 months** as he likes **e.g.** he can choose calendar year, Diwali to Diwali etc. etc. However, the assessee is required to make up the account on the basis of financial year for I. tax purposes.

Previous year can be **shorter than 12 months** period in case of **newly started business or profession.**

EXCEPTIONS TO THE GENERAL RULE OF PREVIOUS YEAR

Generally, income earned during the previous year is assessed in the following assessment year. However, there are following **certain exceptions to this rule**, when income of previous year is assessable in the same previous year in which he earns the income.

1. INCOME OF NON-RESIDENT FROM SHIPPING BUSINESS U/S 172--

- **Assessee:** Assessee should be a **non-resident**.
- **Owner/Chartered:** He should either be the owner of the ship or has chartered the ship.
- **Business:** The ship carries passengers, goods, livestock, mail or goods shipped at a port in India.
- **Agency in India**: The non-resident assessee may or may not have an agent in India.
- **Presumptive Income: 7.5% of amount of such carriage** including demurrage and handling charges shall be **deemed as income** of the assessee **u/s 44B.**
- **Payment of tax:** The Master of the Ship should file the return and pay tax on such income before departure or must make necessary arrangement for payment of such tax **within 30 days of departure of the ship.**
- **Clearance:** If the above conditions are fulfilled, the collector of Customs shall **grant the port clearance**.
- **Mandatory:** This assessment is mandatory. The Assessing Officer may call for such accounts as to determine the tax liability.

2. INCOME OF PERSON LEAVING INDIA PERMANENTLY U/S 174

- **Assessee:** The assessee leaves India either during the current previous year or immediately thereafter.
- **Intention:** He does **not have any intention** to return to India immediately.
- **Period of Income:** His total income from the date of commencement of previous year upto the date of departure shall be assessed as income of the same previous year.
- **Mandatory:** This assessment is mandatory.

3. ASSESSMENT OF ASSOCIATION OF PERSONS OR BODY OF INDIVIDUALS OR ARTIFICIAL JURIDICAL PERSON FORMED FOR A PARTICULAR EVENT OR PURPOSE U/S 174A

- **Assessee:** AOP or BOI or AJP established or incorporated for a particular event or purpose.
- **Situation:** It is likely to be dissolved in the assessment year in which it was established or incorporated or immediately after such assessment year.
- **Period of Income:** The total income of the period from the expiry of the previous year for that assessment year upto the date of dissolution shall be chargeable to tax in that assessment year.

4. TRANSFER OF PROPERTY TO AVOID INCOME TAX U/S 175

- **Assessee:** The assessee is likely to charge, sell or transfer or dispose of his asset.
- **Asset transferred:** The asset may be movable or immovable property.
- **Intention:** The intention of transfer is to avoid payment of any tax liability under income tax Act.

- **Period of Income:** The total income from the commencement of previous year upto the date of proceedings u/s 175 is taxable in that year itself.
- **Mandatory:** This assessment is mandatory.

5. ON DISCONTINUED OR CLOSURE OF BUSINESS OR PROFESSION U/S 176

- **Source:** Business or profession carried on by the assessee is discontinued during the previous year.
- **Period:** The income from the first day of the previous year upto the date of discontinuation may be assessed in the previous year itself.
- **Notice to the Assessing Officer:** The assessee discontinuing the business/profession shall give **within 15 days of such discontinuance** a notice about the discontinuance to the assessing officer.
- **Discretionary:** This assessment is discretionary **(as per desire of the A.O).**

It is **mandatory** for assessing authority to charge the tax in the same previous year in the first **four exceptions** and has **discretionary** power in the case of fifth **exception** and as such he may charge in the same previous year or wait till the assessment year.

ASSESSMENT U/S 2(8)

This is the procedure by which the income of an assessee is determined by the Assessing Officer. It may be by way of normal assessment or by way of reassessment of an income previously assessed.

ASSESSMENT YEAR U/S 2(9)

"Assessment year is always a fixed period of **12 months** starting immediately after the end of R.P.Y" It is always **starts from 1st April** of every year and **ends on 31st March** of next year. It is the period during which the assessee is required to file his income tax return of income earned during R.P.Y. In other words, it is an income assessing year. In the assessment year, income of the previous year has been assessed by the Assessing Authority. E.g. Previous year is 2022-23, then the assessment year is 2023-24 for this previous year. It starts from 1.4.2023 and ends on 31.3.2024.

DEFINITON OF ASSESSEE U/S 2(7) (2009 Apr.)

Assessee means a person **who is liable to pay any tax or any other sum of money under this Act.** The word "any other sum of money " means **fines, penalties, interest** etc. paid by assessee on a/c of late filing of his Income Tax return, late deposit of tax in govt. treasury, evasion of tax by concealing his total income etc. during the relevant previous year.

Assessee includes—

a) Every person in respect of whom **any proceedings under the Act has been taken** for the assessment of—
   - His income or
   - the income of any other person in respect of which he is assessable; or

- Loss sustained by him or other person; or
- The amount of refund due to him or to such other person.

b) Every person who is **deemed to be an assessee** under any provision of this Act.

c) Every person who is **deemed to be an assessee in default** under any provision of this Act.

b) **Deemed Assessee**: - Deemed Assessee means a person who is treated as an assessee under the Income Tax Act. The person who files the return on the behalf of another person, is known as Deemed assessee. This would **include—**

- **Trustee** of a trust.
- **Legal Representative** of a deceased person
- Representative Assessee of a Non-Resident
- **Legal Guardian** or Manager entitled to receive the income on behalf of a **Minor, Lunatic or Idiot.**
- **Court of Wards/**Officials Trustee/Receiver entitled to receive income on behalf of any other person.

c) **Assessee in Default**: - Assessee in default includes persons who—

- **Fails to deduct** and remits **TDS u/s 191**
- **Fails to pay tax** and any other sum demanded **u/s 220**

e.g. if a person is liable to deduct the income tax on source of income before making payment to another person and if he does not deduct income tax or fails to deposit the deducting amount in the govt. treasury then he will be treated as in assessee in default.

INCOME U/S 2(24)

The definition of Income is very important from Income Tax point of view because **I. Tax is charged on the income of the assessee earned by him** during the relevant previous year. The definition of Income has not been defined in the I. Tax Act, except that it states as to what is included in the Income. The term **Income includes** the following: -

1. Profit & Gains
2. Dividend
3. Any allowance, perquisites or profit in lieu of salary etc. received by employee from the Employer.
4. Any interest, salary, bonus, commission or remuneration etc. received by a partner from the firm
5. Any capital gains
6. Any winning from lotteries, cross word Puzzles, race including horse races, card games etc.
7. Any sum received under a **Key man Insurance Policy** including the sum received by way of Bonus on such policy.
8. **Gift as defined u/s 56 (2)(vi)**
9. Deemed income u/s 41 or 59
10. **W.e.f. 1.10.2009**, any sum of money or value of property as defined u/s **56(2)(vii)**

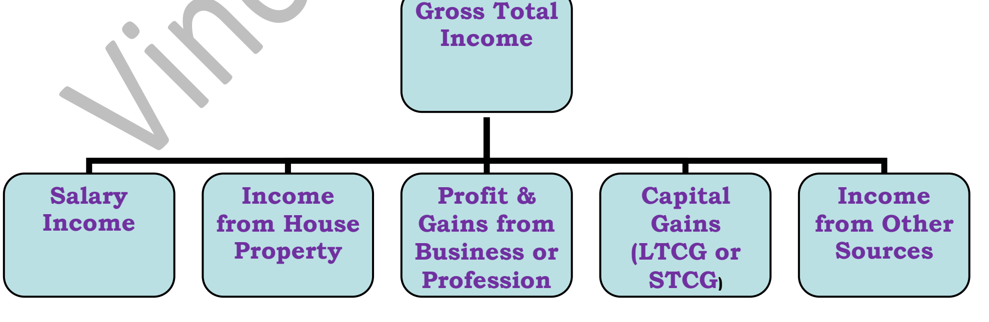
The following are some **important rules** regarding income, which must be kept in mind while studying the definition of Income.

1	There should be a **definite source of income.**
2	Incomes earned, **legally or illegally, both are taxable** under this Act.
3	It is not necessary that the income should be received regularly and periodically.
4	Income should be received from **outside.**
5	Income received **in kind** can also be treated as Income under this Act.
6	Income earned by assessee but **not actually received** by him will be treated as taxable income of the assessee because he is entitled to receive it.
7	**Relief from expenses** or reimbursement expenses is not treated as income.
8	**Pin money** received by wife or pocket money received by children etc. is not treated as income.
9	**Disputed income** will be taxable in the hands of the recipient of such income.
10	A **contingent income** is not income.
11	Personal Gifts received by a person on occasions like birthdays, marriage, festivals, etc. is not the income of the assessee and therefore cannot be taxed.

Pin Money here means amount received by a woman for her dress or private expenditure as also small saving effected by a housewife out of money given to her by her husband for running the expenses of kitchen would not be the income in the eyes of the law. **If the capital asset has been purchases by her out of this saving, then such capital asset belongs to her.**

Tainted income is an illegal income. There is **no difference between legal and tainted income** according to Income-tax Act. Such tainted income is taxable just like as any legal income.

TOTAL INCOME U/S 2(45): - The definition of total income is very important from income tax point of view because income tax is levied on the total income earned by the asseesee during the relevant previous year. The total income of an assessee is to be calculated according to his residential status. **Total income = Gross Total Income - All Applicable Deductions from 80C to 80U.** It is also known as Taxable Income.



COMPUTATION OF TOTAL INCOME OF Mr.__________________________

For the Assessment Year 2023-24

1. Salary Income	**Xx**
2. Income from House Property	**Xx**
3. Business Income	**Xx**
4. Capital Gains	**Xx**
5. Income from Other Sources	**xx**

Gross Total Income **Less: Deduction U/s 80C to 80U**	Xxx xx
Total Income	xxx

It is always to be rounded off to the nearest Rs. Ten as section 288A.

Question 1— What is the relevant previous year for undisclosed sources of income?

Answer—

Nature of Undisclosed Income	**Previous Year for treating as Income**
Unexplained Cash Credits u/s 68	• The amount is **credited in the books** of assessee. • He offers **no explanation about its nature and source** or offers unsatisfactory explanation. • The amount credited is treated as the income of the **previous year** in which books of accounts are **found credited**.
Unexplained Investments u/s 69	• The assessee made investments but has **not recorded** in his books. • He offers **no explanation about its nature** and source or the explanation offered is not satisfactory. • The value of the investments made shall be treated as the income of that **financial year** in which **investment is made.**
Unexplained Money, bullion or Jewel or Valuable article u/s 69A	• In case of **search u/s 132,** the assessee was found to be owner of any money, bullion or jewel or other valuable article etc. • Such money, bullion, etc. are **not recorded in the books** of accounts of the assessee. • He offers no explanation about its nature and source of acquisition or the explanation offered is **not satisfactory.** • The **value** of such items shall be treated as the income of that **financial year** in which it is **found.**
Investment not fully disclosed u/s 69B	• The assessee **made investments** or found to be owner of bullion, jewellery or other valuable article, but has not fully recorded in his books of accounts. • He offers **no explanation** about such excess amount or the explanation offered is **not satisfactory.** • The **value of the investment made** to the extent not recorded in books shall be **treated as the income** of that Financial year in which investment is made.
Unexplained Expenditure u/s 69C	• The assessee has **incurred expenditure** during the financial year. • He offers **no explanation** about the source of such expenditure or the explanation **offered is not satisfactory.** • The amount of such expenditure shall be treated as income of the previous year in which it was **incurred.**

	• Such amount shall **not be allowed as deduction** under any head of income.
Amount borrowed or repaid on hundi, other than by way of account payee cheque u/s 69D	• The amount is **borrowed on a Hundi** or the same was **repaid otherwise** than through an **Account Payee Cheque.** • The amount so **borrowed or repaid** shall be **treated as income** of the person borrowing or repaying the amount for the previous year in which the amount was borrowed or repaid. • The amount repaid shall include the **amount of interest paid** on the amount borrowed. • **No double taxation:** Any amount borrowed on Hundi and treated as income u/s 69D shall not be taxed once again at the time of repayment.

Note: All the above amounts shall be chargeable to tax under the head **"Income from Other Sources". The rate of income tax on all such incomes is 30%.**

Question 2--- Distinguish between AOP and BOI.

Answer--

Basis	**AOP**	**BOI**
Creation	Created **Voluntarily**	Created by **operation of Law**.
Members	AOP may consist of individuals or non-individuals.	BOI consists of **individuals** only.
Condition	AOP means **two or more persons joining together for a common purpose** to earn income, and without an intention to form partnership.	The business run by a widow on her behalf or on behalf of her children would be assessed as BOI.
Examples	Co-Heirs, Co-legatees or Co-Donees joining together for common purpose/action shall be chargeable as AOP.	Co-Executors, Co-Trustees are assessable as BOI.

Notes:

- **Maximum number of members:** The number of members is **not restricted** for AOP or BOI.
- **Share of the member:** The share of each member need not be definite or ascertainable.

Question 3—Distinguish between capital receipts and revenue receipts.

Answer—There are two types of receipts i.e capital receipts and revenue receipts. The difference between the two is vital because capital receipts are exempt from tax unless they are expressly taxable u/s 45. On the other hand, revenue receipts are taxable unless they are expressly exempt u/s 10. Income Tax Act does not define the term "Capital receipts" and "revenue receipts", one has to depend upon natural meaning of the concepts as well as decided cases.

	Capital Receipts	**Revenue Receipts**

1	Any amount received towards fixed capital or for fixed asset is capital receipt.	Amount received towards circulating capital or for floating asset is a revenue receipt.
2	Any receipt towards substitution of a **source of income** is a capital receipt.	Any receipt towards substitution of **income** is a revenue receipt.
3	The amount received as a compensation for **surrender of any rights of ownership** is a capital receipt.	Any compensation received for the **loss of future profit** is a revenue receipt.
4	Receipt of insurance claim from GIC against capital assets, is termed as capital receipt.	Receipt of insurance claim from GIC against revenue assets, is termed as revenue receipt.

Note- Whether a receipt is a capital receipt or revenue receipt is determined by its nature, in the hands of the recipient and not its character in the hands of the payer.

Question 4—Distinguish between Capital expenditure and Revenue expenditure.

Answer--

Capital Expenditure	Revenue Expenditure
1. **Cost of acquisition** and installation charges of a **fixed asset is a capital expenditure**.	1. **Purchase price of a current asset** for resale or manufacture is **revenue expenditure.**
2. Expenditure incurred to **free oneself from a capital liability** is a capital expenditure.	2. Expenditure incurred to **free oneself from a revenue liability** is revenue expenditure.
3. Expenditure incurred towards acquisition of a **source of income** is a capital expenditure	3. Expenditure incurred towards **earning an income** is revenue expenditure.
4. Expenditure incurred **to increase the operating capacity** of fixed asset is capital expenditure.	4. Expenditure incurred **to maintain the fixed assets** is revenue expenditure.
5. Expenditure incurred for obtaining capital **by issue of shares** is a capital expenditure.	5. Expenditure incurred towards **raising loan or issue of debentures** is revenue expenditure.

When you are number 2 or 3, try harder – but when you are number 1, try even harder

You cannot predict your future, but you can create a future for you…………………………………………….

Never lose faith in yourself; you can do anything in the universe……………………………….My dears"