

## Chapter 1

# BASIC CONCEPTS IN INCOME TAX LAW

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## 1.1 Elements of Tax Law

### 1.1.1 Direct Tax vs Indirect Tax

| Aspect                | Direct Tax  | Indirect Tax   |
|-----------------------|---|--|
| 1. Nature             | Direct Taxes are the taxes <b>directly incurred and paid by the person concerned.</b>   | Indirect Taxes are <b>paid by one person</b> (Assessee / Dealer), but the same is <b>recovered from another person</b> (Consumer). |
| 2. Levied on          | Levied on the <b>income / wealth</b> of the Assessee.                                   | Levied on <b>Purchase / Sale / Manufacture</b> of goods and <b>Provision of Services.</b>  |
| 3. Shifting of Burden | There is <b>no shifting of tax burden.</b> Hence, it is directly borne by the taxpayer. | Tax burden is <b>shifted to the subsequent user.</b>   |
| 4. Time of Collection | Direct Taxes are collected after the income for a year is <b>earned.</b>                | It is collected <b>at the time</b> of sale or purchase or rendering of services.   |
| 5. Examples           | Income Tax. [Wealth Tax Abolished from Financial Year 2016–2017]                        | Goods and Services Tax, Customs Duty   |

### 1.1.2 Powers of Central or State Government to levy Tax

| Article        | Exercised by                 | Power   |
|----------------|------------------------------|---|
| 246(1)         | Central or State Government  | Levy of various taxes.  |
| 246(1)         | Central Government           | Levy taxes in List I of Seventh Schedule of the Constitution.     |
| 246(3)         | State Government             | Levy taxes in List II of Seventh Schedule of the Constitution.    |
| —              | Central and State Government | List III of Seventh Schedule of the Constitution.                 |
| <b>246A(1)</b> | Central and State Government | <b>Levy of Goods and Services Tax</b>                             |
| <b>246A(2)</b> | Central Government           | Levy of Goods and Services Tax on Inter – State Trade or Commerce |

#### List I Union List

| Entry No. | Items  |
|-----------|--|
| <b>82</b> | <b>Income Tax other than Tax on Agricultural Income.</b>   |
| 83        | Customs Duty including Export duties.  |
| 84        | Excise Duty on certain specified products (Petroleum Crude, High Speed Diesel, Tobacco etc)          |
| 85        | Corporation Tax  |
| 97        | Any other matter not included in List II or List III [Levy of Service Tax through Finance Act, 1994] |

#### List II State List

| Entry No. | Items  |
|-----------|--|
| <b>46</b> | <b>Agricultural Income Tax</b>   |
| 51        | State Excise Duty  |
| 54        | Tax on sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods. |

**List III Concurrent List**

| Entry No. | Items     |
|-----------|-----------|
| 17A       | Forests   |
| 25        | Education |

**1.1.3 Components / Elements / Ingredients / Sources of Income Tax Law**

**1. The Income Tax Act, 1961:**

- (a) Levy of Income Tax in India is governed by the Income Tax Act, 1961, which came into force w.e.f.1962.
- (b) The Income Tax Act, 1961 (hereinafter referred to as “the Act” or “IT Act”) contains Chapters from I to XXIII, 298 Sections and XIV Schedules.
- (c) IT Act provides for determination of Total Income, Tax Liability and Procedure for Assessment, Appeal, Penalties and Prosecutions.
- (d) Provisions of IT Act undergo changes, based on amendments brought about by the Finance Act every year.

**2. Finance Act:**

- (a) The Finance Minister of the Union Government presents the **Finance Bill** in both Houses of Parliament.
- (b) Part A of the Budget Speech contains the proposed policies of the Government in Fiscal areas. Part B contains the detailed Tax Proposals.
- (c) Once the Finance Bill is approved by the Parliament, and gets the assent of the President, it becomes the Finance Act.
- (d) The rates, at which income shall be charged to tax, are prescribed in **Schedule I** of Finance Act.
- (e) The **Finance Act** brings amendments to Direct Tax Laws and Indirect Tax Laws.

**3. The Income Tax Rules, 1962:**

- (a) The administration of Direct Taxes is vested with the Central Board of Direct Taxes (CBDT) hereinafter referred to as (“Board” or “CBDT”).
- (b) Under Sec.295 of IT Act, the CBDT is empowered to frame Rules from time to time to carry out the purposes of the Act, and for proper administration of the Act.
- (c) All forms, procedures and principles of valuation of perquisites prescribed under the Act are provided in the Rules framed by CBDT.

**4. Circulars / Notifications from CBDT:**

- (a) In exercise of powers u/s 119, CBDT issues Circulars and Notifications from time to time. These Circulars clarify doubts regarding the scope and meaning of the various provisions of the Act.
- (b) These Circulars act as guidance for Officers and Assesseees.
- (c) These Circulars are binding on Assessing Officers, but **not** on Assesseees and Courts. However, Assesseees can take advantage of Circulars which are beneficial to them.
- (d) The Circulars issued by the CBDT shall **not** be contrary to the provisions of the Act.

**5. Supreme Court and High Court Decisions:**

- (a) The Supreme Court and the High Court can give judgment **only on Questions of Law**.
- (b) The Law laid down by the Supreme Court is the Law of the land.
- (c) The decision of High Court will apply in the respective States, within its jurisdiction.

### 1.1.4 Gamut of Income Tax and Stages of Tax Imposition

| Gamut of Taxation (i.e. Conditions for Taxability)   | Stages of Imposing Tax   |
|--|--|
| The factors determining the gamut of taxation are –<br>1. <b>Residential Status</b> of the Assessee.<br>2. The <b>Place</b> of accrual or receipt of Income.<br>3. The <b>Time</b> of accrual or receipt of such Income, i.e. Previous Year. | 1. Declaration of Liability<br>2. Assessment of Income<br>3. Process of Collection and Recovery of Tax |

## 1.2 Heads of Income and Total Income

### 1.2.1 Significance of Heads of Income [Sec.14]

- The **Heads of Income** under the IT Act are – (a) Salaries, (b) Income from House Property, (c) Profits and Gains of Business or Profession, (d) Capital Gains, and (e) Income from Other Sources.
- Income chargeable under a particular head **cannot be charged under any other head**.
- The IT Act has **self-contained** provisions in respect of each Head of Income.
- If any Income is **charged under a wrong head** of income, the Assessee will **lose the benefit** of deductions available to him under that Head.

### 1.2.2 Heads of Income vis-a-vis Method of Accounting:

| Heads of Income   | Relevance of Method of Accounting  |
|---|--|
| <b>Chapter IV–A<br/>Salaries (15 – 17)</b>              | (a) Taxable on <b>due basis or on receipt basis</b> , whichever is <b>earlier</b> .<br>(b) Method of accounting is <b>irrelevant</b> .   |
| <b>Chapter IV–C<br/>House Property (22–27)</b>          | (a) Income from House Property is taxable only on <b>accrual basis</b> .<br>(b) Method of accounting is <b>irrelevant</b> .  |
| <b>Chapter IV–D<br/>Business Income<br/>(28 – 44DB)</b> | (a) Under Sec.145, the Assessee may employ either <b>Cash or Mercantile System</b> of accounting <b>regularly</b> .<br>(b) <b>Exceptions:</b> However, certain payments are allowable only on actual payment basis. Accrual Concept does not hold good in respect of –<br><ul style="list-style-type: none"> <li>• Employer’s Contribution to PF, ESI, Tax, Duty, Cess, Fees to Government, Interest on Loans and Advances from Banks and Financial Institutions, Provision for Leave Encashment, Bonus or Commission, etc. (<b>Sec. 43B</b>)</li> <li>• Telecommunication License Fee is allowable in installments only from the year of payment. (<b>Sec. 35ABB</b>)</li> <li>• Preliminary Expenses distributed over 5 years. (<b>Sec. 35D</b>)</li> <li>• Amalgamation/Demerger Expenses distributed over 5 years. (<b>Sec. 35DD</b>)</li> <li>• Amount paid in connection with Voluntary Retirement Scheme distributed over five years (<b>Sec. 35DDA</b>)</li> </ul> |
| <b>Chapter IV–E<br/>Capital Gains (45–55A)</b>          | (a) Taxable during the <b>previous year in which the Capital Asset is transferred, i.e. year of accrual</b> .<br>(b) Method of accounting is <b>irrelevant</b> .   |
| <b>Chapter IV–F<br/>Other Sources (56–59)</b>           | U/s 145, the Assessee may employ either <b>Cash or Mercantile System</b> of accounting <b>regularly</b> . [ <b>Note: Exception:</b> Interest on Compensation / Enhanced Compensation is taxable on <b>receipt basis</b> only.]   |

**Note:**

- Except Profits and Gains from Business or Profession and Income from Other Sources, the method of accounting is not relevant in determining the taxable income.
- One has to **follow the statutory provisions** of the Income Tax Act which expressly provide whether revenue or expenditure is taxable or deductible on “Accrual” basis or “Cash” basis.

**1.2.3 Gross Total Income and Total Income**

1. **Gross Total Income** means the Total Income computed in accordance with the provisions of the Income Tax Act, **before** making any deduction under Chapter VIA. [**Sec. 80B**]
2. **Total Income** means the total amount of Income referred to in Sec.5, computed in the manner laid down in the Income Tax Act. [**Sec. 2(45)**]
3. **Rounding–Off Total Income** [**Sec. 288A**]: The Total Income computed under this Act, shall be rounded off to the **nearest multiple of ₹ 10**.

| If last figure (Unit Digit) is              | Rounded off as under                 |
|---|--------------------------------------|
| 5 or more                                   | Increased to next multiple of 10     |
| Less than 5                                 | Reduced to next lower multiple of 10 |
| While Rounding off, Paise shall be ignored. |                                      |

**1.2.4 Steps in Computation of Total Income and Taxability**

|                |  |
|----------------|--|
| <b>Step 1</b>  | Determination of Residential Status [ <b>Sec. 6</b> ]  |
| <b>Step 2</b>  | Classification of Income under different Heads [ <b>Chapter IV</b> ] – 5 Heads as per IT Act [See <b>Para 2.1</b> ]                                  |
| <b>Step 3</b>  | Exclusion of Income not chargeable to tax [ <b>Chapter III</b> ]   |
| <b>Step 4</b>  | Computation of Income under each head [ <b>Chapter IV</b> ] – <b>Sec.14 to Sec.59</b>  |
| <b>Step 5</b>  | Clubbing of Income of Spouse, Minor Child, etc. [ <b>Chapter V</b> ] – <b>Sec.60 to Sec.69D</b>  |
| <b>Step 6</b>  | Set–Off or Carry Forward and Set–Off of Losses [ <b>Chapter VI</b> ] – <b>Sec.70 to Sec.80</b>   |
| <b>Step 7</b>  | Computation of Gross Total Income [ <b>Chapter VI A</b> ]  |
| <b>Step 8</b>  | Deductions from Gross Total Income [ <b>Chapter VI A</b> ] – <b>Sec.80C to Sec.80U</b>   |
| <b>Step 9</b>  | Computation of Total Income [ <b>Chapter VI A</b> ]  |
| <b>Step 10</b> | Application of the Rates of Tax on the Total Income [ <b>Schedule I of the Finance Act</b> ]/Rates prescribed u/s <b>115BAA/115BAB/115BAC/115BAD</b> |
| <b>Step 11</b> | Rebates & Reliefs [ <b>Chapter VIII</b> ] – <b>Sec.87A &amp; Sec.89</b>  |
| <b>Step 12</b> | Surcharge [ <b>Sec.2 of Finance Act</b> ]  |
| <b>Step 13</b> | Health and Education Cess on Income Tax [ <b>Sec.2 of Finance Act</b> ]  |
| <b>Step 14</b> | Advance Tax and Tax Deducted at Source [ <b>Chapter XVII</b> ]   |
| <b>Step 15</b> | Return of Income [ <b>Sec. 139</b> ]   |

## 1.3 Rates of Income Tax

### 1.3.1 Basis of Charge [Sec.4]

1. **Charging Section:** Sec. 4 of the Income Tax Act provides that the Income Tax shall be charged –
  - (a) for any **Assessment Year (AY)**, at the **rate(s)** specified in the annual Finance Act for that year, and
  - (b) in respect of the Total Income of the **Previous Year** of every **person**.
2. **Liability to Pay Tax:** The liability to pay tax arises —
  - (a) by virtue of charging Section alone.
  - (b) at the close of the Previous Year, though quantification of the amount payable is postponed.  
So, the liability to tax is **not dependent upon assessment**.
3. **Payment of Tax:** In respect of income chargeable to tax, tax shall be deducted at source or paid in advance in accordance with the relevant provisions.
4. **Rates of Tax:** Income shall be charged at the rates **prescribed under the Finance Act**. The following terms are relevant in this regard –
  - (a) **Maximum Marginal Rate** means the Rate including Surcharge, if any applicable to Individual, AOP / BOI at the **highest slab** of Income as specified in the Finance Act of the relevant year. [Sec.2(29C)]
  - (b) **Average Rate of Income Tax** means the rate arrived at by dividing the amount of Income Tax calculated on the Total Income, by such Total Income, i.e.  $\frac{\text{Income Tax on Total Income}}{\text{Total Income}}$  [Sec.2(10)]
5. **Rounding-Off of Tax [Sec. 288B]:** The amount of Tax including Tax Deducted at Source (TDS) and Advance Tax, Interest, Penalty, Fine or any other sum payable, and the amount of Refund due under the Income Tax Act, shall be rounded off to the **nearest multiple of ₹ 10**. [See Para 1.2.3 for Rounding off]

### 1.3.2 Determination of Rates of Tax

1. Income Tax shall be charged at the rates fixed for the year by the annual Finance Act.
2. The **First Schedule** to the Finance Act provides the following rates of taxation.

|          |   |
|----------|---|
| Part I   | Tax Rates applicable to Income of various types of Assesseees for the current Assessment Year (AY). |
| Part II  | Rates of TDS during that Financial Year.  |
| Part III | Rates of TDS for Salary and Advance Tax (which would become Part I of the next Finance Act.)        |

3. For Example, Schedule I of the **Finance Act, 2025** shall contain:

|          |  |
|----------|--|
| Part I   | Tax Rates applicable to Income of various types of Assesseees for <b>AY 2025–2026</b>                              |
| Part II  | Rates of TDS for the <b>Previous Year 2025–2026</b>  |
| Part III | Rates of TDS for Salary and Advance Tax for <b>AY 2026–2027</b> . (which would become Part I of Finance Act, 2026) |

**1.3.3 TAX RATES FOR ASSESSMENT YEAR 2026–2027**  
**(Previous Year 2025–2026)**

Abbreviations in Tables below: IT = Income Tax, TI = Total Income, SC = Surcharge, EC = Health and Education Cess = 4%, TP = Tax Payable.

**FOR INDIVIDUALS**

| Total Income<br>(₹)  | Tax Rate |     |      | Income Tax (IT)                             | TP = IT + SC + HEC |
|--|----------|-----|------|---|--------------------|
|  | IT       | SC  | Cess |   |                    |
| <b>(A) FOR INDIVIDUALS OTHER THAN (B) &amp; (C) BELOW</b>            |          |     |      |   |                    |
| Upto 2,50,000  | Nil      | Nil | Nil  | Nil   | Nil                |
| 2,50,010–5,00,000  | 5%       | Nil | 4%   | IT = (TI Less 2,50,000) × 5%                | TP = IT + 4% of IT |
| 5,00,010–10,00,000   | 20%      | Nil | 4%   | IT = 12,500 + [(TI Less 5,00,000) × 20%]    | TP = IT + 4% of IT |
| Above 10,00,000  | 30%      | Nil | 4%   | IT = 1,12,500 + [(TI Less 10,00,000) × 30%] | TP = IT + 4% of IT |
| <b>(B) RESIDENT SENIOR CITIZENS OF THE AGE 60 – 80 YEARS</b>         |          |     |      |   |                    |
| Upto 3,00,000  | Nil      | Nil | Nil  | Nil   | Nil                |
| 3,00,010–5,00,000  | 5%       | Nil | 4%   | IT = (TI Less 3,00,000) × 5%                | TP = IT + 4% of IT |
| 5,00,010–10,00,000   | 20%      | Nil | 4%   | IT = 10,000 + (TI Less 5,00,000) × 20%      | TP = IT + 4% of IT |
| Above 10,00,000  | 30%      | Nil | 4%   | IT = 1,10,000 + [(TI Less 10,00,000) × 30%] | TP = IT + 4% of IT |
| <b>(C) RESIDENT VERY SENIOR CITIZENS OF THE AGE 80 YEARS OR MORE</b> |          |     |      |   |                    |
| Upto 5,00,000  | Nil      | Nil | Nil  | Nil   | Nil                |
| 5,00,010–10,00,000   | 20%      | Nil | 4%   | IT = (TI Less 5,00,000) × 20%               | TP = IT + 4% of IT |
| Above 10,00,000  | 30%      | Nil | 4%   | IT = 1,00,000 + [(TI Less 10,00,000) × 30%] | TP = IT + 4% of IT |

**Finance Act, 2024 vide insertion of Section 115BAC(1A)(iii) has Revised the Concessional Rate Scheme option from AY – 2026-2027 and Onwards**

1. w.e.f. 01.04.2024 Applicability of Sec.115BAC(1A):
  - (a) Individual
  - (b) HUF
  - (c) AOP (other than a Co-operative Society),
  - (d) Body of individuals, whether incorporated or not,
  - (e) Artificial Juridical Person referred u/s 2(31)(vii), other than a person who has exercised an option u/s 115BAC(6),

2. **Computation of Tax: (Tax Slab Comparison)**

| Upto FY 2024–2025          |          | W.e.f FY 2025–2026         |          |
|----------------------------|----------|----------------------------|----------|
| Total Income               | Tax Rate | Total Income               | Tax Rate |
| Up to ₹ 3,00,000           | Nil      | Up to ₹ 4,00,000           | Nil      |
| ₹ 3,00,001 to ₹ 7,00,000   | 5%       | ₹ 4,00,001 to ₹ 8,00,000   | 5%       |
| ₹ 7,00,001 to ₹ 10,00,000  | 10%      | ₹ 8,00,001 to ₹ 12,00,000  | 10%      |
| ₹ 10,00,001 to ₹ 12,00,000 | 15%      | ₹ 12,00,001 to ₹ 16,00,000 | 15%      |
| ₹ 12,00,001 to ₹ 15,00,000 | 20%      | ₹ 16,00,001 to ₹ 20,00,000 | 20%      |
| Above ₹ 15,00,000          | 30%      | ₹ 20,00,001 to ₹ 24,00,000 | 25%      |
|                            |          | Above 24,00,000            | 30%      |

3. **Conditions to avail the benefit u/s 115BAC:** The total income is computed(a) **without the following exemption /deduction –**

|  |   |
|--|---|
| (i) Leave travel concession u/s 10 (5)   | (viii) Interest u/s 24 in respect of self-occupied/vacant property u/s 23(2)  |
| (ii) House rent allowance u/s 10(13A)  | (ix) Additional depreciation u/s 32(1)(ia)  |
| (iii) Some of the allowance u/s 10(14)   | (x) Deductions u/s 32AD   |
| (iv) Allowances to MPs/MLAs u/s 10(17)   | (xi) Various deduction for donation for or expenditure on scientific research u/s 35 (1)(ii)/(ia)/(iii)/(2AA).  |
| (v) Allowance for income of minor u/s 10(32)   | (xii) Deduction u/s 35AD / 35CCC/ 33AB / 33ABA  |
| (vi) Exemption for SEZ unit u/s 10AA   | (xiii) Any deduction under Chapter VI–A except u/s 80CCD (employer contribution on account of employee in notified pension scheme) / 80JJAA (for new employment) / <b>80CCH</b> |
| (vii) Deduction for entertainment allowance and employment / professional tax u/s 16, (refer Note below) |   |

**Note: W.e.f.** When an assessee has opted for default regime, they are eligible to avail standard deduction u/s 16 to the extent of ₹ 75,000.

4. **Conditions:** Option to opt for this scheme of tax shall be exercised by –

| Person                              | having business /professional income   | not having such income  |
|-------------------------------------|--|---|
| <b>Time for exercise</b>            | On or before the due date u/s 139(1) for furnishing ITR for such AY in Form 10–IEA ( <b>Rule 21AGA</b> )   | along with ITR to be furnished u/s 139(1) for AY  |
| <b>Option</b>                       | Once exercised shall apply to subsequent AY [ <b>Note</b> ]  | Option shall be exercised for every PY  |
| <b>Failure to satisfy condition</b> | Option shall become invalid for subsequent AY also and other provisions shall apply for those years accordingly, as if the option had not been exercised for AY relevant to that PY. | Option shall become invalid in respect of AY relevant to that PY & other provisions shall apply, as if the option had not been exercised. |

**Note:** The option once exercised, for any PY can be withdrawn only once for a PY other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise option under this section, except where such person ceases to have any income from Business or profession. The withdrawal shall also be in Form 10–IEA.

**Procedures to be specified:** The PDGIT (Systems) or DGIT (Systems) shall,

- Specify the procedure for furnishing of Form 10–IEA
- Specify the data structure, structure, standards and manner of generation of EVC, for verification of the person furnishing the said Form, and
- Shall be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the form so furnished.

## 5. In a case where –

- The assessee has not exercised the option u/s 115BAC(5) for any PY relevant to AY beginning on or before 01.04.2023,
- IT on the total income of the assessee is computed u/s 115BAC(1A), and
- There is **depreciation allowance** in respect of a block of assets which has not been given full effect prior to AY beginning on 01.04.2024,

Corresponding adjustment shall be made to WDV of such block of assets as on 01.04.2023 in the manner as may be prescribed.

**Adjustment to WDV:** Where income is chargeable to tax u/s 115BAC(1A), the WDV of the block of asset as on the 01.04.2024 shall be increased by such additional depreciation which is not allowed to be set off u/s 115BAC, if both the following conditions are satisfied, namely, –

- (i) the assessee has not exercised option for any PY relevant to the AY beginning on or before 01.04.2025, and
- (ii) there is a additional depreciation allowance u/s 32(1)(iia) in respect of a block of assets which has not been given full effect prior to the AY beginning on 01.04.2025,

**Notification 43/2023 [W.e.f. 21.06.2023]**

**Exempt Allowances in case of Sec 115BAC(1A) [Rule 2BB(3)]:** An, employee, being an assessee, who has opted for concessional rate of taxation u/s 115BAC(1A), shall be entitled to exemption only in respect of the allowances in the nature of the following subject to conditions specified u/r 2BB.

- (a) Transport allowances,
- (b) Daily allowance,
- (c) Conveyance allowance (**Note:** Free conveyance shall not be provided by the employer),
- (d) Transport allowance to disabled employees for commuting between place of residence and place of duty.

**Exemption related to Free Food and Non-Alcoholic Beverages:** The exemption provided relating to Free Food and Non-Alcoholic Beverages provided by the employer through paid voucher shall not apply to employees who opt for concessional rate scheme u/s 115BAC(1A).

**Depreciation u/s 32(1)(ii):** Depreciation allowance u/s 32(1)(ii) in respect of depreciation of any block of assets shall not exceed 40% of the WDV of such block of assets in case of, –

- (a) Domestic Company which has exercised option u/s 115BA(4) or 115BAA(5) or 115BAB(7)
- (b) Individual or HUF u/s 115BAC(5)
- (c) Individual or HUF or AOP (Not being Cooperative Society) or BOI or AJP whose income is chargeable to tax u/s 115BAC(1A)
- (d) Resident Cooperative Society exercising option u/s 115BAD(5) or 115BAE(5)

**Adjustment to WDV:** Where income is chargeable to tax u/s 115BAC(1A), the WDV of the block of asset as on the 01.04.2024 shall be increased by such additional depreciation which is not allowed to be set off u/s 115BAC, if both the following conditions are satisfied, namely, –

- (iii) the assessee has not exercised option for any PY relevant to the AY beginning on or before the 01.04.2024, and
- (iv) there is a additional depreciation allowance u/s 32(1)(iia) in respect of a block of assets which has not been given full effect prior to the AY beginning on 01.04.2025,

|   |             |
|---|-------------|
| <b>Exercise of Option u/s 115BAC(6) [Rule 21AGA]:</b> The Option to be exercised u/s 115BAC(6) by an Individual, HUF, AOP (Other than Cooperative Society) or BOI (Whether Incorporated or not) or AJP, for any PY relevant to the AY beginning on or after 01.04.2024, shall be in, – <b>Situation</b> | <b>Form</b> |
| In case of such person having income from business/profession on/before the due date of filing ROI  | 10-IEA      |
| In case of such person having income from business or profession  | ROI         |

**Note:**

- Section 115BAC shall be the default tax regime w.e.f. AY 2025-26. Therefore, option shall be exercised by the assessee, in cases where he wishes to pay tax under the Old Regime.
- The withdrawal of option shall also be in Form 10-IEA
- Form 10-IEA shall be furnished electronically either under DSC or under EVC (Electronic Verification Code (EVC) means a code generated for the purpose of electronic verification of the person furnishing the Form as per the data structure and standards specified)
- Procedures to be specified: The PDGIT (Systems) or DGIT (Systems) shall,
  - Specify the procedure for furnishing of Form 10-IEA
  - Specify the data structure, structure, standards and manner of generation of EVC, for verification of the person furnishing the said Form, and
  - Shall be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the form so furnished.

6. In case of a person, having a Unit u/s 2(zc) of SEZ Act in IFSC u/s 80LA(1A) –
- who has exercised option u/s 115BAC(5) for any PY relevant to AY beginning on or after 01.04.2021 but before 01.04.2024,
  - whose total income is computed u/s 115BAC(1A), the conditions u/s 115BAC(2) shall be modified to the extent that the deduction u/s 80LA shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

### TAX RATES FOR OTHER ASSESSEES/PERSONS

| FOR OTHER ASSESSEES / PERSONS          |             |                      |                                     |                 |                |
|--|-------------|----------------------|-------------------------------------|-----------------|----------------|
| Assessee                               | Rate of Tax | Applicable Surcharge |                                     |                 | Rate of EC+HEC |
|  |             | TI < ₹ 1 Crore       | TI > ₹ 1 Crore, but TI ≤ ₹10 Crores | TI > ₹10 Crores |                |
| <b>1. Domestic Companies</b>           |             |                      |                                     |                 |                |
| • TT/ GR ≤ ₹ 400 Crores in FY 2022–23  | 25%         | –                    | 7%                                  | 12%             | 4%             |
| • TT/ GR > ₹400 Crores in FY 2022–23   | 30%         | –                    | 7%                                  | 12%             | 4%             |
| • Domestic Companies opting u/s 115BA  | 25%         | –                    | 7%                                  | 12%             | 4%             |
| • Domestic Companies opting u/s 115BAA | 22%         | 10%                  | 10%                                 | 10%             | 4%             |
| • Domestic Companies opting u/s 115BAB | 15%         | 10%                  | 10%                                 | 10%             | 4%             |
| <b>2. Foreign Companies</b>            | 40%         | –                    | 2%                                  | 5%              | 4%             |
| <b>3. Firms and LLP</b>                | 30%         | –                    | 12%                                 | 12%             | 4%             |
| <b>4. Local Authorities</b>            | 30%         | –                    | 12%                                 | 12%             | 4%             |
| <b>5. Co-operative Societies</b>       |             |                      |                                     |                 |                |
| For First ₹ 10,000                     | 10%         | –                    | –                                   | –               | 4%             |
| For Next ₹ 10,000                      | 20%         | –                    | –                                   | –               | 4%             |
| For the Balance                        | 30%         | –                    | 7% (W.e.f. FY 22-23)                | 12%             | 4%             |

**TT – Total Turnover, GR – Gross Receipts**

**Note:** W.e.f. AY 2025–26, For Foreign Companies the rate of Tax shall be 35% (Upto AY 2024–25, the rate shall be 40%)

### 1.3.4 Special Rates of Tax in Income Tax Act

The following rates are fixed by the Income Tax Act, 1961 – (only illustrative list is provided here.)

| S. No. | Sec.    | Income   | Income–Tax                |
|--------|---------|--|---------------------------|
| 1.     | 111A    | Short Term Capital Gains on Equity Share in a Company or Units of an Equity Oriented Fund, or a Unit of a Business Trust or units of fund of funds set up for disinvestment of Central Public Sector Enterprises (CPSEs) and subject to Specified Conditions.  | 20%                       |
| 2.     | 112     | Long Term Capital [General Rate]<br><b>Note:</b> For Special Rates, Refer Chapter on Capital Gains   | 12.5%                     |
| 3.     | 112A    | Long Term Capital Gains on transfer of Certain Capital Assets on the gains in excess of ₹ 1,25,000   | 12.5%                     |
| 4.     | 115BB   | Income in respect of Winnings from Lotteries, Cross Word Puzzles, Races including Horse Races, Card Games, Gambling or Betting – For all types of Assessee. [ <b>Note:</b> No Basic Exemption, No Chapter VI A Deduction.]   | 30%                       |
| 5.     | 115 BBC | <b>Anonymous Donations</b> (subject to specified conditions)received by –<br>(a) University / Educational Institution referred u/s 10(23C)(iiiad) / (vi),<br>(b) Hospital or Institution referred u/s 10(23C) (iii ae) / (via),<br>(c) Fund or Institution referred u/s 10(23C) (iv),<br>(d) Trust or Institution referred u/s 10(23C) (v),<br>(e) Trust or Institution referred u/s 11<br><b>Note:</b> Conditions apply as to the limit of Anonymous Donations, Institutions exempted from Sec.115BBC, etc. | 30%                       |
| 6.     | 115 BBE | Undisclosed Income referred to in Sec.68, 69, 69A, 69B, 69C and 69D.<br>No deduction in respect of any expenditure/ allowance or any set off of any loss shall be allowed to the Assessee under any provisions of this Act against 30% Tax on amount taxable u/s 68, 69, 69A, 69B, 69C, 69D.   | 60% +<br>Surcharge at 25% |
| 7.     | 115B    | Income from Life Insurance Business  | 12.5%                     |
|        | 115 BBD | Income of an Indian Company by way of Dividends declared, distributed or paid by a Specified Foreign Company.<br>(a) Tax Rate would be applied on “Gross Dividend”, i.e. no Expenditure would be allowable in respect of such Dividend.<br>(b) Dividend means Dividend u/s 2(22) of IT Act, except Sec.2(22)(e).<br>(c) Specified Foreign Company means a Foreign Company in which the Indian Company holds 26% or more in Nominal Value of the Equity Share Capital of the Company.                         | 15%                       |
| 9      | 115 BBF | Royalty Income   | 10%                       |
| 10     | 115BBG  | Income on transfer of Carbon Credit  | 10%                       |

**Note:**

- Surcharge & Cess:** Tax Rates given above are subject to Surcharge (wherever applicable), and HEC. Other Special Rates for Non Residents, etc. are contained in Sec.115A, 115AB, 115AC, 115ACA, 115AD, 115BBA, 115E.
- For detailed discussion on Section 111A/112/112A, refer Chapter 7 – Capital gains

## 1.4 Marginal Relief from Tax Payable

### 1.4.1 Applicability of Surcharge

Surcharge is applicable for Individuals–

| Total Income               | Surcharge |
|----------------------------|-----------|
| TI > ₹50 Lakhs ≤ ₹ 1 Crore | 10%       |
| TI > ₹1 Crore ≤ ₹ 2 Crore  | 15%       |
| TI > ₹2 Crore ≤ ₹ 5 Crore  | 25%       |
| TI > ₹5 Crore              | 25%       |

Note: Marginal Relief shall be available.

Surcharge for other Assessee's–

| Assessee                  | Applicable Surcharge            |                 |
|---------------------------|---------------------------------|-----------------|
|                           | TI > ₹1 Crore, but ≤ ₹10 Crores | TI > ₹10 Crores |
| 1. Firms and LLP          | 12%                             | 12%             |
| 2. Domestic Companies     | 7%                              | 12%             |
| 3. Foreign Companies      | 2%                              | 5%              |
| 4. Local Authorities      | 12%                             | 12%             |
| 5. Co-operative Societies | <b>W.e.f FY 22-23 7%</b>        | 12%             |

**Note:** HUF = Hindu Undivided Family, AOP = Association of Persons, BOI = Body of Individuals, LLP = Limited Liability Partnership, TI = Total Income

### 1.4.2 Concept of Marginal Relief

- Marginal Relief is a reduction from the Tax Payable by the Assessee.
- Relief from Tax Payable shall be given, where the Tax Payable together with Surcharge **exceeds** the Income earned by an Assessee in **excess** of the specified limits. (eg. ₹ 50 Lakhs / ₹ 1 Crore / ₹2 Crores / ₹ 5 Crores). Such Relief is known as **Marginal Relief**.
- The principle in Marginal Relief is that the Additional Amount of Income Tax Payable with Surcharge in excess of Income over the specified limit, should not be more than the amount in excess of the specified limit eg. ₹ 50 Lakhs / ₹1 Crore / ₹2 Crores / ₹ 5 Crores.

### 1.4.3 Computation of Marginal Relief under various surcharge slabs

| Particulars  | Marginal Relief   |
|--|---|
| Where the total income > ₹ 50 lakhs but ≤ ₹ 1 crore  | Step 1 - Compute income-tax payable on total income; and add surcharge@10% on such income-tax ( <b>A</b> )<br>Step 2 - Compute income-tax payable on ₹ 50 lakhs<br>Step 3 - Total income (-) ₹ 50 lakhs<br>Step 4 - Add the amount computed in Step 2 and Step 3 ( <b>B</b> )<br>Step 5 – Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>A</b> ) or Step 4 (i.e., <b>B</b> ). Consequently, if <b>A</b> > <b>B</b> , the marginal relief would be <b>A – B</b> .                                     |
| Where the total income > ₹ 1 crore but ≤ ₹ 2 crores  | Step 1 - Compute income-tax on total income; and add surcharge@15% on income-tax ( <b>C</b> )<br>Step 2 - Compute income-tax payable on total income of ₹ 1 crore + surcharge on such income-tax@10%<br>Step 3 - Total income (-) ₹ 1 crore<br>Step 4 - Add the amount computed in Step 2 and Step 3 ( <b>D</b> )<br>Step 5 – Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>C</b> ) or Step 4 (i.e., <b>D</b> ). Consequently, if <b>C</b> > <b>D</b> , the marginal relief would be <b>C – D</b> . |
| Where the total income > ₹ 2 crores but ≤ ₹ 5 crores | Step 1 - Compute income-tax on total income; and add surcharge@25% on income-tax ( <b>E</b> )<br>Step 2 - Compute income-tax payable on total income of ₹ 2 crore + surcharge on such income-tax@15%<br>Step 3 - Total income (-) ₹ 2 crore<br>Step 4 - Add the amount computed in Step 2 and Step 3 ( <b>F</b> )<br>Step 5 – Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., <b>E</b> ) or Step 4 (i.e., <b>F</b> ). Consequently, if <b>E</b> > <b>F</b> , the marginal relief would be <b>E – F</b> . |
| Where the total income > ₹ 5 crores                  | Step 1 - Compute income-tax on total income; and add surcharge@37% on income-tax ( <b>G</b> )<br>Step 2 - Compute income-tax payable on total income of ₹ 5 crore + surcharge on such income-tax @ 25%  |

### 1.4.4 Computation of Marginal Relief for Individuals

|                   | Total Income exceeds ₹ 50 Lakhs   | Total Income exceeds ₹ 1 Crore  |
|-------------------|---|---|
| Marginal Relief = | Tax on Total Income including Surcharge<br>Less: Total Income – ₹ 50 Lakhs<br>Less: Tax on ₹ 50 Lakhs | Tax on Total Income including Surcharge<br>Less: Total Income – ₹ 1 Crore<br>Less: Tax on ₹ 1 Crore (Including SC @10%) |
| Tax Payable =     | Tax on Total Income including Surcharge<br>Less: Marginal Relief as computed above                    |   |

**Illustration – Marginal Relief – PY 2025–2026 – For Individuals**

Compute the Tax Liability and the Marginal Relief in the following situations, for Resident Assessee with Taxable Income as under for Previous Year 2025–2026. Assume that the assessee has opted out of default tax regime.

| Name of Individual | Arun          | Bala          | Chandru       |
|--------------------|---------------|---------------|---------------|
| Age of Assessee    | 45 years      | 65 years      | 84 years      |
| Total Income       | ₹ 1.01 Crores | ₹ 1.01 Crores | ₹ 1.01 Crores |

  

| Particulars                              | Arun  | Bala  | Chandru   |
|--|---|---|---|
| 1.(a) Tax on Total Income                | $1,12,500 + (1,01,00,000 - 10,00,000) \times 30\%$<br>= 28,42,500 | $1,10,000 + (1,01,00,000 - 10,00,000) \times 30\%$<br>= 28,40,000 | $1,00,000 + (1,01,00,000 - 10,00,000) \times 30\%$<br>= 28,30,000 |
| (b) Surcharge at 15%                     | 4,26,375  | 4,26,000  | 4,24,500  |
| <b>Total of above</b>                    | <b>32,68,875</b>  | <b>32,66,000</b>  | <b>32,54,500</b>  |
| 2.(a) Tax if Income = ₹ 1 Crore          | $1,12,500 + (1,00,00,000 - 10,00,000) \times 30\%$<br>= 28,12,500 | $1,10,000 + (1,00,00,000 - 10,00,000) \times 30\%$<br>= 28,10,000 | $1,00,000 + (1,00,00,000 - 10,00,000) \times 30\%$<br>= 28,00,000 |
| Add Surcharge at 10%                     | + 2,81,250  | + 2,81,000  | + 2,80,000  |
| <b>Total</b>                             | <b>30,93,750</b>  | <b>30,91,000</b>  | <b>30,80,000</b>  |
| (b) Amount of Income exceeding ₹ 1 Crore | 1,00,000  | 1,00,000  | 1,00,000  |
| <b>Total of above</b>                    | <b>31,93,750</b>  | <b>31,91,000</b>  | <b>31,80,000</b>  |
| <b>3. Marginal Relief (1-2)</b>          | <b>75,125</b>   | <b>75,000</b>   | <b>74,500</b>   |
| 4. Tax Payable (1-3)                     | <b>31,93,750</b>  | <b>31,91,000</b>  | <b>31,80,000</b>  |
| 5. HEC at 4% on (4)                      | 1,27,750  | 1,27,640  | 1,27,200  |
| 6. Tax Payable                           | <b>33,21,500</b>  | <b>33,18,640</b>  | <b>33,07,200</b>  |

## 1.5 Assessment Year and Previous Year

### 1.5.1 “Assessment Year” and “Previous Year”

|    | Assessment Year [Sec. 2(9)]  | Previous Year [Sec. 3]   |
|----|--|--|
| 1. | Assessment Year means the <b>period of twelve months commencing on the 1<sup>st</sup> day of April every year.</b> | Previous Year means <b>Financial Year</b> immediately preceding the assessment year. The Income earned during the Previous Year is taxed in the Assessment Year. |
| 2. | The year for which tax is paid is called Assessment Year.  | The year in respect of the income of which tax is levied is called Previous Year.  |

**Note: Previous Year for Newly Established Business / Profession**—From the date of setting-up of the business / profession to the end of the Financial Year in which business / profession was set up.

### 1.5.2 Rule of Taxability

Income of any previous year shall be chargeable to tax in the immediately following Assessment Year.

[Note: The exceptions to this rule are given in Para 1.6 below.]

## 1.6 Income of Previous Year taxed in same Year

Generally, Income of any Previous Year shall be chargeable to tax in the immediately following Assessment Year. The exceptions to this Rule are –

### 1.6.1 Shipping Business of Non-Resident [Sec. 172]

1. **Assessee:** Assessee should be a **Non-Resident**.
2. **Owner/Chartered:** The Non-Resident should either be the **Owner** of a Ship or has **chartered** the Ship.
3. **Business:** The Ship carries passengers, goods, livestock, mail or goods shipped at a Port in India.
4. **Agency in India:** The Non-Resident Assessee may or may not have an Agent in India.
5. **Presumptive Income:** **7.5%** of Amount of Carriage (including demurrage and handling charges) paid or payable, shall be **deemed as Income** of the Assessee. [Sec. 44B]
6. **Payment of Tax:** The **Master of the Ship should file the Return and pay tax** on such Income before departure of the Ship, or must make necessary arrangements for payment of such tax **within 30 days** of departure of the Ship.
7. **Clearance:** If the above conditions are fulfilled, the Collector of Customs shall grant the Port Clearance.
8. **Mandatory:** This assessment is **mandatory**. The Assessing Officer may call for such accounts or documents as he may require, so as to determine the tax liability.

### 1.6.2 Persons leaving India [Sec. 174]:

1. **Situation:** It appears to the Assessing Officer that any Individual may leave India either during the current previous year or immediately thereafter, **and** he does not have any intention to return to India immediately.
2. **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.
3. **Mandatory:** This assessment is **mandatory**.

**1.6.3 AOP / BOI / AJP formed for a particular event or purpose [Sec. 174A]:**

1. **Assessee:** AOP or BOI or AJP established or incorporated for a particular event or purpose.
2. **Situation:** It is likely to be dissolved in the assessment year in which it was established or incorporated or immediately after such assessment year.
3. **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. **Mandatory:** This assessment is **mandatory**.

**1.6.4 Persons likely to transfer property to avoid tax [Sec.175]:**

1. **Situation:** The Assessee is likely to charge, sell or transfer or dispose of his asset. The Asset may be movable or immovable property.
2. **Intention:** The intention of transfer is to avoid payment of any tax liability under Income Tax Act.
3. **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.
4. **Mandatory:** This assessment is **mandatory**.

**1.6.5 Discontinued Business [Sec. 176]:**

1. **Situation:** Business or Profession carried on by the Assessee is discontinued during the previous year.
2. **Period:** The Income from the first day of the previous year upto the date of discontinuation may be assessed in the previous year itself.
3. **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.
4. **Discretionary:** This assessment is **discretionary**.

**1.7 Previous Year for Undisclosed Income**

The provisions relating to previous year for Undisclosed Incomes are covered in Sec.68 to Sec.69D –

**1.7.1 Unexplained Cash Credits [Sec.68]:**

1. **All Assesseees:**
  - (a) The amount is **credited in the books** of the Assessee.
  - (b) (i) The Assessee offers **no** explanation about its nature & source, **or**(ii) the explanation offered is **not** satisfactory.
  - (c) The amount credited is treated as the Income of the **previous year** in which it is found credited.
2. **In case of a Company in which Public are not Substantially Interested:**
  - (a) **Upto 01.04.2023** Amount credited consists of Share Application Money, Share Capital, Share Premium and any such amount by whatever name called.
  - (b) **W.e.f 01.04.2023** Amount credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such assessee shall be deemed to be not satisfactory **[Note]**
  - (c) If the Resident Person in whose name such credit is recorded in the books of the Company, offers no proper explanation as regards the nature and source of such sum, or the explanation offered is not satisfactory, it is deemed that the Assessee Company has **not** offered satisfactory explanation.
  - (d) This provision shall not apply to the Person in whose name the sum is recorded is a Venture Capital Fund or Venture Capital Company as referred u/s 10(23FB).

**Note:**

1. Where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such assessee shall be deemed to be not satisfactory, unless –
  - (a) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited, and
  - (b) such explanation in the opinion of AO aforesaid has been found to be satisfactory.
2. This provision shall not be applicable, if a person, in whose name the sum referred above is recorded, is a Venture Capital Fund / Company as referred u/s 10(23FB).

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**1.7.2 Unexplained Investments [Sec. 69]**

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1. The Assessee has made investments, but has **not recorded** in his books.
2. He offers **no explanation** about its nature and source, or the explanation offered is **not satisfactory**.
3. The value of the investment made shall be treated as the Income of that **FY** in which the **Investment is made**.

---

**1.7.3 Unexplained Money, Bullion or Jewel or Valuable Article [Sec. 69A]**

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1. The Assessee is found to be the **Owner** of any Money, Bullion or Jewel or other Valuable Article, etc.
2. Such Money, Bullion, etc. are **not recorded in the books** of accounts of the Assessee.
3. He offers no explanation about its nature and source of acquisition, or the explanation offered is not satisfactory.
4. The **value** of such items shall be treated as the Income of that **financial year** in which it is **found**.

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**1.7.4 Investment not fully disclosed [Sec. 69B]**

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1. The Assessee has **made Investments**, or found to be the **Owner** of Bullion, Jewellery or other Valuable Article, but has not **fully** recorded in his books of accounts.
2. He offers **no explanation** about such excess amount, or the explanation offered is **not satisfactory**.
3. The excess amount (i.e. to the extent not recorded in the books of account) shall be **treated as the Income** of that FY.

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**1.7.5 Unexplained Expenditure [Sec. 69C]**

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1. The Assessee has **incurred expenditure** during the Financial Year.
2. He offers **no explanation** about the source of such expenditure, or the explanation **offered** is not satisfactory.
3. The amount of such expenditure shall be treated as Income of the previous year in which it was **incurred**.
4. Such amount shall **not be allowed as a deduction** under any head of income.

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**1.7.6 Amount borrowed / repaid on Hundi, other than by A/c Payee Cheque [S.69D]**

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1. This Section relates to a situation when any amount is **borrowed** on a **Hundi** or is **repaid otherwise** than through an **Account Payee Cheque**.
2. 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.
3. The amount repaid shall **include** the **amount of interest paid** on the amount borrowed.
4. **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 mentioned Incomes shall be chargeable to tax under the head “**Income from Other Sources**”, at **special rates u/s 115BBE at the rate of 60%**.

**Note: Effect of Intangible Additions**

1. **Intangible Additions** made to the Total Income can be treated as **Real Income available to the Assessee**.
2. It can be **considered as available to the Assessee, for meeting any expenditure or investment** to be made in the subsequent year.
3. It may **serve as a Source of Income** to meet the requirements of the Assessee, but the **onus of responsibility** is on the Assessee to **prove that the expenditure or investment was derived only from the earlier year Undisclosed Income and not from any other Undisclosed Income** related to the year of expenditure or investment.

**Illustrations – Taxability on Undisclosed Income – M 22**

**The assessee is found to be the owner of the gold (market value of which is ₹50,00,000) during the FY ending 31-03-2025 but he recorded to have spent ₹10,00,000 in acquiring the same. Explain how the assessing officer will deal with the issue.**

**Solution:**

**Refer Page 1.16 Sec.69B**

| Nature  | Provision   | Amount                               | Taxability  |
|---|---|--------------------------------------|---|
| An Assessee found to be the Owner of Bullion, Jewellery or other Valuable Article, but has <b>not fully recorded in his books of accounts</b> | The <b>excess amount</b> (i.e. to the extent not recorded in the books of account) shall be treated as the <b>Income of that FY</b> | 50,00,000 – 10,00,000<br>= 40,00,000 | Incomes shall be chargeable to tax under the head “ <b>Income from Other Sources</b> ”, at <b>special rates u/s 115BBE at the rate of 60%</b> . |

## 1.8 Assessee

### 1.8.1 Assessee [Sec.2(7)]

1. **Assessee means** any person who is liable to pay any tax or any other sum under the Income Tax Act, 1961.
2. **Assessee includes** –
  - (a) Every person in respect of whom any proceedings has been taken for the assessment of –
    - **His Income or Fringe Benefits, or Income** of any other person.
    - **Loss** sustained by him or other person.
    - **Refund** due to him or such other person.
  - (b) Every person who is **deemed to be an Assessee** under the Act
  - (c) Every person who is **deemed to be an Assessee in Default** under the Act.

**Note:** If an Assessing Officer issues a letter to a Person, to conduct an enquiry, without mentioning any of the provisions of the Act, it **shall not be treated as a proceeding** under the Income Tax Act. Such Person shall not be treated as an “Assessee”.

### 1.8.2 Deemed Assessee

“Deemed Assessee” means a person who is **treated** as an Assessee under the IT Act. This would include –

1. Trustee of a Trust,
2. Legal Representative of a Deceased Person u/s 159,
3. Representative Assessee of a Non-Resident u/s 160(2) (Agent of a Non-Resident),
4. Legal Guardian or Manager entitled to receive the Income on behalf of a Minor, Lunatic or Idiot,
5. Court of Wards/Official Trustee/Receiver entitled to receive Income on behalf of any other person.

### 1.8.3 Assessee in Default

**Assessee in Default:** Assessee in Default includes persons who –

1. fail to deduct and remit TDS (Sec. 191).
2. fail to pay tax and any other sum demanded (Sec. 220).

## 1.9 Person

**Person [Sec. 2(31)] includes —**

1. Individual (Natural Person, i.e, Human Being, including Minor or a person of unsound mind),
2. Hindu Undivided Family,
3. Company,
4. Firm,
5. An Association of Persons (AOP) or Body of Individuals (BOI), whether incorporated or not,
6. Local Authority, and
7. Artificial Juridical Person (AJP).

**Profit Motive Not Required:** An AOP or BOI or Local Authority or AJP shall be deemed to be a Person, irrespective of whether they were formed / established / incorporated with the object of deriving income, profits or gains.

## 1.10 Hindu Undivided Family (HUF)

### 1.10.1 Hindu Undivided Family vs Hindu Coparcenary

| Particulars                         | HUF  | Hindu Coparcenary   |
|-------------------------------------|--|---|
| 1. <b>Composition</b>               | <b>All persons</b> lineally descended from a common ancestor, including their wives and unmarried daughters. | <b>Only Male Members</b> acquire interest in joint Coparcenary property, being sons, grandsons and great grandsons. |
| 2. <b>Maximum Number of Degrees</b> | No upper limit.  | Limited to Members within <b>four degrees</b> inclusive of common ancestor.   |
| 3. <b>Size</b>                      | Wider body than Coparcenary.   | Part of HUF.  |
| 4. <b>Fluctuations in size</b>      | Size fluctuates by births, deaths, <b>marriage</b> and adoption.   | Size fluctuates by births, deaths and adoption.   |