

Chapter 1

Introduction

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STATUTORY PROVISIONS AND ANALYSIS

1.1 Income Tax Law

An understanding of the Income-tax law requires a study of the following:

- (A) The Income-tax Act, 2025 (amended up-to-date).
- (B) The Income-tax Rules, 2026 (amended up-to-date).
- (C) Circulars, directions, instructions, notifications, orders issued or rules or any schemes framed from time to time by the CBDT.
- (D) Judicial decisions.

1.1-a The Income-tax Act, 2025 (Amended upto date)

The provisions of income-tax are contained in the Income-tax Act, 2025 which extends to the whole of India and became effective from 1.4.2026. [Section 1]

The Act contains sections 1 to 536 and Sixteen Schedules.

Scope of Income-tax Act, 2025: The Income-tax Act contains provisions for determination of taxable income, determination of tax liability, procedure for assessment, appeals, penalties and prosecutions. It also lays down the powers and duties of various income-tax authorities.

The Income-tax Act, 2025 is a revenue law, there are bound to be amendments from time to time in this law. These amendments are generally brought in annually alongwith the Union Budget. Besides these amendments, whenever it is found necessary, the Government can introduce amendments in the form of various Amendment Acts and Ordinances.

Frame work of the Income-tax Act, 2025: The Income-tax Act, 2025 has been divided into 23 Chapters and sixteen schedules. A separate subject heading has been dealt with in each of such Chapters. Some of these Chapters have been further subdivided sectionwise and each such sub-head of the Chapter deals with a specific portion of the subject-matter discussed in the Chapter.

Annual amendments: Every year a Budget is presented before the Parliament by the Finance Minister. One of the most important components of the Budget is the Finance Bill, which declares the financial proposals of the Central Government for the next financial year. The Bill contains various amendments which are sought to be made in the areas of direct and indirect taxes levied by the Central Government. The Finance Bill (which ultimate becomes the Finance Act) also mentions the rates of income-tax and other taxes which are given in the various Schedules attached to such Finance Bill.

1. When the Finance Bill is approved by both the Houses of Parliament and receives the assent of the President, it becomes the Finance Act. The provisions of such Finance Act are thereafter incorporated in the Income-tax Act.
2. The total income of the assessee is taxable at the following two rates:
 - (1) Normal rates, which are given in section 3 (Generally, Section 2 of Finance Act) of Chapter II read with First Schedule of the Finance Act, every year.
 - (2) Special rates, which are given in the Income-tax Act itself e.g. long-term capital gain is taxable @ 12.5% both under section 197 and section 198, short-term capital gain referred to in section 196 is taxable @ 20% and income from lotteries, crossword puzzles or income from transfer of virtual digital assets and winnings from online games etc. is taxable @ 30% for tax year 2026-27. Special rates of tax are also given for an assessee, who is under the new regime or opted for the new regime. These sections are 199, 200, 201, 202, 203 and 204.
3. The rates of income tax other than of TDS given in the first schedule are for those assesseees who opt to be taxed or wish to remain under the old regime of taxation.

The concessional rates of income-tax other than of TDS for certain assesseees are also given under various sections, mentioned below provided certain conditions specified in the

relevant sections are satisfied.

- (1) For a domestic company, the concessional rate of income tax is given under section 199, 200 or 201 (known as new regime of taxation). Such concessional rate of tax is applicable, if the conditions mentioned under sections 199(1), 200(1) or Table given under Section 201(1) and Section 201(3) read with Section 205, as the case may be, are satisfied. In this case the company has to opt for the new regime of taxation, otherwise it will remain under the old regime.
- (2) For an individual or HUF or AOP/BOI or an artificial juridical person, the concessional rates of income tax are given under section 202(1). Such concessional rates of income-tax are applicable if certain conditions mentioned under section 202(2) are satisfied. These rates are default rates under the new regime and applicable for such assessee unless he/it opts to be taxed under the old regime. Section 202, shall be discussed in details, separately under Chapter 18 on Taxation of Individuals.
- (3) For a cooperative society, the concessional rate of income tax is given under section 203 or 204 (known as new regime of taxation). Such concessional rate of tax is applicable if the conditions mentioned under section 203(1) or Table given under 204(1) or Section 204(3) read with Section 205, as the case may be, are satisfied. In this case the cooperative society has to opt for new regime of taxation, otherwise it will remain under the old regime.

1.1-a (a) Act to have effect pending legislative provision for charge of tax. [Section 530 (erstwhile Section 294)]

If on the 1st April in any tax year, provision has not yet been made by a Central Act for the charging of income-tax for that tax year, this Act shall nevertheless have effect until such provision is so made, as if the provision in force in the preceding tax year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force.

1.1-b Income-tax Rules, 2026 (amended upto date)

Every Act normally gives power to an authority, responsible for implementation of the Act, to make rules for carrying out purposes of the Act.

Section 533 (*erstwhile Section 295*) of the Income-tax Act has given power to the Central Board of Direct Taxes to make such rules, subject to the control of Central Government, for the whole or any part of India. These rules are made applicable by notification in the Gazette of India.

The Board has brought the new Income-tax Rules, 2026 corresponding to the provisions of Income Tax Act, 2025.

As per section 533(4) (*erstwhile section 295(4)*), the power to make rules conferred by section 533 shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act (Income Tax Act, 2025), to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessee.

1.1-b (a) Laying before Parliament. [Section 534 (erstwhile Section 296)]

The Central Government shall cause—

1.1-b (b) Head

- (a) every rule made under this Act;
- (b) rules of procedure framed by the Appellate Tribunal under section 364; or
- (c) every notification issued under sections 263(3) and 264 and Chapter XIII-G,

to be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of 30 days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the

successive sessions aforesaid, both Houses agree in making any modification in such rule, or notification or both Houses agree that the rule, should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

1.1-c Notifications, Circulars and Clarifications by CBDT

Notification:

Notification is a subordinate legislation and is issued under powers delegated by parliament/State assembly. These powers are in abundance both in direct taxes and indirect taxes legislations of the Union and State Governments.

In case of direct taxes of the Central Government, Notifications are issued either by Central Government or CBDT in the Official Gazette as per power given to them in the relevant sections. These notifications generally lay down the law taking care of some procedural aspects of the enactment.

To carry out purposes of the Income Tax Act, in certain sections, the power has been given to CBDT to make rules, subject to the control of Central Government, by way of notifications in the Official Gazette of India.

Notifications issued by the Central Government as well as CBDT are binding on everyone.

Circular:

Circular is like administrative guideline or clarificatory in nature. A circular clarifies certain aspects of law and *explanations*. Thus, circulars are normally explanatory/interpretative or these relax the rigours of law.

Further, sometimes certain guidelines are issued by the CBDT with the previous approval of the Central Government by way of circulars to remove difficulties in the implementation of the provisions of certain sections. These guidelines are to be laid before each House of Parliament. These circulars are binding both on the income-tax authorities as well as on the assessee.

For example, the following sub-sections (2) and (3) have been inserted in section 205 relating to conditions for tax on income of certain companies and co-operative societies.

Section 205(2): For the purposes of section 205(2), if any difficulty arises in fulfilling any of the conditions contained in clause (b) or (c) or (d) [*clause (b) or (c) or (d) of section 205(2) specify the conditions which shall apply to section 201 or 204*], the Board may, with the previous approval of the Central Government, ISSUE GUIDELINES for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery

Section 205(3): Every guideline issued by the Board under section 205(2) shall be laid before each House of Parliament while it is in session for a total period of 30 days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

Judicial Decisions:

(1) The CBDT in exercise of the powers conferred on it under section 119 has been issuing certain circulars and clarifications from time to time. Circulars are issued by CBDT to deal with certain specific problems and to clarify doubts regarding scope and meaning of the provisions. These circulars have to be followed and applied by the Income-tax Authorities. However, these circulars are not binding on the assessee or Commissioner (Appeals) or the ITAT or on the Courts. But whenever there is any instruction which is in favours of the assessee, the Income-tax Authorities would not be

permitted to go back on these instructions or circulars. Therefore, such circulars or clarifications are binding upon the Income-tax Authorities, but the same are not binding on the assessee, although the assessee can claim benefit under such circulars. [*U.C.O. Bank v CIT* (1999) 237 ITR 889 (SC)].

(2) The directions given in the circular clearly deviated from the provisions of the Act, yet it was held that the circular was binding on the Assessing Officer. [*Ellerman Lines Ltd. v CIT* (1971) 82 ITR 913 (SC)].

(3) A circular of the Board has the force of law and can even supplant the law in cases where it is beneficial to the assessee and has mitigated or relaxed the rigour of the law. [*CIT v Aspinwall & Co. Ltd.* (1993) 204 ITR 225 (Ker)]

(4) The circulars may be binding on the revenues in executing the provisions of the Act. But these are not binding either on the Tribunal or on the Court. [*Grindlays Bank PLC v CIT* (1993) 201 ITR 348 (Bom)]

(5) Despite the power to recall or withdraw the circulars, the assessee's right to have the assessment completed in accordance with the circulars, as they stood on the first day of the relevant assessment year, cannot be prejudicially affected by its recall or withdrawal before the actual assessment for that year is made. [*CIT v Rama Rao (N.T.) (HUF)* (1987) 167 ITR 453 (AP)]

(6) Although wherever there is any instruction which is in favour of the assessee, the income-tax authorities would not be permitted to go back on these instructions or circulars, but, a circular or a direction cannot be permitted to curtail the provisions of the Act. They cannot curtail the statute or whittle down its effect. Instructions cannot cut down the scope of a notification prescribing qualifications for a certain exemption. [*State of M.P. v G.S. Dal and Flour Mills* (1991) 187 ITR 478 (SC)]

IMPORTANT NOTE: Since, Income-tax Act, 1961 is repealed by Income-tax Act, 2025, there is a need to save the applicability of the circulars, instructions, directions etc. issued under the said Income-tax Act, 1961. Therefore, clause (j) to section 536(2) of Income-tax Act, 2025 has been introduced as follows.

"(j) any agreement entered into, appointment made, approval given, recognition granted, circular, direction, instruction, notification, order or rule or any scheme framed therein issued under any provision of the repealed Income-tax Act shall, so far as it is not inconsistent with the corresponding provisions of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision of this Act and shall continue in force accordingly."

Accordingly, the circulars, instructions, directions, notifications etc. issued under any provision of the repealed Income-tax Act shall, **so far as it is not inconsistent with the new Act shall continue in force.**

1.1-d Judicial Decisions

Any decision **given by the Supreme Court** becomes a law which will be binding on all the Courts, Appellate Tribunals, the Income-tax Authorities as well as on all the assesseees. Where there are apparently contradictory rulings by the Supreme Court, the decision of larger bench (whether earlier or later in point of time) should always prevail. However, where the apparently irreconcilable decisions are given by benches having equal number of judges, the principle of the later decision being applicable would be attracted.

Decisions **given by a High Court, Income-tax Appellate Tribunal**, etc., are binding on all the assesseees as well as the Income-tax Authorities which fall under their jurisdiction, unless it is overruled by a higher authority. The decision of a High Court is binding on the Tribunal and the Income-tax Authorities situated in the area over which the High Court has jurisdiction.

Judicial Decisions

(1) The decision of one High Court is neither binding precedent for another High Court nor for Courts or Tribunals outside its territorial jurisdiction. [*CIT v Thane Electricity Supply Ltd.* (1994) 206 ITR 727 (Bom)]

(2) The decision of the higher authority is binding on the lower authority in the judicial hierarchy. Accordingly, it would stand to reason that CIT (Appeals) would be bound by the decision of the Income-tax Appellate Tribunal. Tribunal Bench consisting of two members ought to follow the decision of larger Bench of the Tribunal which had decided the same issue, even if the two-member Bench formed a different view. [*Paras Laminates Pvt. Ltd. v CEGAT* (1990) 183 ITR 167 (Del)].

(3) Law declared by the decisions of the High Court will be binding upon all authorities and Tribunals functioning within State; when an appeal is not entertained then the order of the Tribunal holds the field and the Co-ordinate benches of Tribunal are obliged to follow the same. Duty of Tribunal to follow decision of jurisdictional High Court and Co-ordinate Tribunal. Not following the judgment of Jurisdictional High Court, the Writ is maintainable and the Court would quash such an order. [*HDFC Bank Ltd. v DCIT* (2016) 383 ITR 529 (Bom)]

Therefore, a study of such case laws is also important to understand the Income-tax laws.

1.2 Scheme of Taxation

Every *person*, whose *total income* of the *tax year* exceeds the *maximum amount* which is not chargeable to income-tax, is an *assessee* and *chargeable* to income-tax in *India* at the *rate or rates* prescribed in the *Finance Act* and the *Income-tax Act* for the relevant *tax year*. However, his total income shall be determined on the basis of his *residential status in India*.

Although the income of a tax year is to be charged at the rate or rates enacted by the Central Act and is subject to income-tax in the financial year succeeding the relevant tax year but income-tax shall be:

- (a) deducted or collected at source, or
- (b) paid in advance

where it is so deductible or collectible or payable under any provisions of the Act.

An analysis of the above statement would reveal the following important concepts, which are necessary for understanding the framework of the Income-tax Act.

1. India;
2. Person;
3. Assessee;
4. Tax year;
5. Charge of income-tax;
6. Rate or rates of tax;
7. Maximum amount which is not chargeable to income-tax;
8. Total income;
9. Residential status in India (Discussed in Chapter 2 on Scope of Total Income and Residential Status).

1.3 Important concepts

1.3-a India [Section 2(52) (*erstwhile section 2(25A)*)]

India, **unless the context otherwise requires under the Act**, is defined under section 2(52) (*erstwhile section 2(25A)*) to mean:

- (i) the territory of India as referred to in article 1 of the Constitution,
- (ii) its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters,

Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, ("Territorial Act") and

(iii) the air space above its territory and territorial waters;

Section 2(52) is an extended statutory definition of India for Income-tax Act purposes. It expressly includes specified maritime zones and airspace, in addition to the constitutional territory of India, but its application is subject to the qualification "unless the context otherwise requires". Consequently, whether a particular offshore area or activity falls within "India" must be determined first by reference to section 2(52), read with the relevant provisions of the Territorial Waters Act and applicable international law, and then by considering whether the context of the particular provision displaces the statutory definition.

The ordinary definition of 'India' is found in section 3(28)(c) of the General Clauses Act, 1897 which defines India as 'all territories for the time being comprised in the territory of India'. The definition refers to the 'territory of India', the meaning of which could be derived from Article 1 of the Constitution of India. Thus, in situations where the definition under the Act is not applicable, India would be considered as defined under the Constitution of India and would not include the definition under the Territorial Act or the airspace above its territory and territorial waters.

Article 1(3) of the Constitution of India states that the territory of India shall comprise:

- (a) the territories of the States;
- (b) the Union Territories specified in the First Schedule; and
- (c) other territories as may be acquired.

The First Schedule refers to 28 States and 8 Union Territories which comprise the territories of India.

Further, section 3(1) of the Territorial Act provides that the limit of the territorial waters is a line, every point of which is at a distance of 12 nautical¹ miles from the nearest point of the appropriate baseline. Territorial waters would also include the seabed and subsoil underlying such waters and the airspace over such waters. Furthermore, the limit of the waters is with reference to the mainland of India as well as the individual or composite group or groups of islands constituting part of the territory of India.

The term "baseline" is not defined in the Act. However, Article 5 of the Convention of the Law of the Sea, 1982 refers to the normal baseline for measuring the breadth of the territorial sea as the low water line along the coast as marked on the large-scale charts officially recognised by the coastal States.

In the absence of a measurement mechanism being provided under the Territorial Act, the distance of 12 nautical¹ miles from the baseline should be considered or determined in accordance with the customary international law.

Section 6(1) provides that:

'The continental shelf comprises the seabed and subsoil of the submarine areas that extend beyond the limit of its territorial waters throughout the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baseline referred to in sub-section (2) of section 3 where the outer edge of the continental margin does not extend up to that distance'.

The continental shelf would extend to the outer edge of the continental margin or to a distance of 200 nautical miles from the baseline.

Article 76(3) of the Convention of the Law of the Sea, 1982 provides that the continental margin comprises the submerged prolongation of the land mass of the coastal State, seabed and subsoil of the shelf, slope and rise. It does not include the deep ocean floor with its oceanic ridges and the subsoil

¹ A nautical mile is exactly 1.852 kms.

thereof. The "slope" would refer to the steep slope with which the shelf terminates and the "rise" refers to the less sharply sloping area between the slope and the seabed.

Section 7(1) of the Territorial Act defines the exclusive economic zone as:

"an area beyond and adjacent to the territorial waters, and the limit of such zone is two hundred nautical miles from the baseline".

However, section 9 of the Territorial Act provides that notwithstanding anything contained in the Territorial Act, where the maritime boundaries between India and other states, having coasts opposite or adjacent to those of India in regard to their respective territorial waters, contiguous zones, continental shelves, exclusive economic zone and other maritime zones, shall be as determined by an agreement between India and such state, and pending agreement between India and any such state. Unless any other provisional arrangements are agreed between them, the maritime boundaries between India and another state shall not extend beyond the line, every point of which is equidistant from the nearest point from which the breadth of the territorial waters of India and another state is measured.

Though the definitions of the various maritime zones are mutually exclusive, for the purpose of the Act they would now practically be considered to apply to an area of up to 200 nautical miles from the appropriate baseline.

Airspace would cover the area over the territory and the territorial waters that extends up to airspace above 12 nautical miles from the nearest point of the appropriate baseline. However, airspace would not extend to space above the contiguous zones, continental shelves, exclusive economic zone and other maritime zones as defined under the Territorial Act.

Airspace has not been defined and, hence, its meaning would have to be considered in accordance with international principles or customary international laws. A number of schools of thought on what could constitute an airspace describe airspace as being equivalent to atmospheric space, any space where air is found, or where the area where an artificial satellite may be put in orbit or an area after which outer space would be considered. At the UN Committee on the Peaceful Uses of Outer Space, Forty-ninth Session, Vienna, 7-16 June 2006, the members considered that the lack of a definition or delimitation of outer space brought about legal uncertainty concerning the applicability of space law and air law and those matters concerning state sovereignty and the boundary between airspace and outer space needed to be clarified in order to reduce the possibility of disputes among states. However, the Committee remained inconclusive on account of the fact that the current framework on outer space was functioning well and there would not be a need to address this concern until such time as there was a demonstrated need and a practical basis for developing a definition or delimitation of outer space. Any attempt to define or delimit outer space would be a theoretical exercise, could lead to complicating existing activities and might not be able to anticipate continuing technological developments.

It may seem that the perimeter which would limit the airspace of an orbiting satellite may be considered as the most likely boundary to be accepted. However, in the absence of a clear definition, there is likely to be litigation in respect of what constitutes airspace.

1.3-b Person [Section 2(77) (*erstwhile section 2(31)*)]

"Person" includes—

- (a) an individual;
- (b) a Hindu undivided family;
- (c) a company;
- (d) a firm;
- (e) an association of persons or a body of individuals, whether incorporated or not;
- (f) a local authority; and
- (g) every artificial juridical person, not falling within any of the preceding sub-clauses,

whether or not such an association of persons or a body of individuals or a local authority or an artificial juridical person was formed or established or incorporated with the object of deriving income, profits, or gains;

Definition inclusive, not exhaustive: The definition of 'person' in this clause is inclusive and not exhaustive. Therefore, though the aforesaid seven categories of assessee are enumerated, the primary description of an assessee under the Act is 'a person'. 'A person by itself has been held to include both a natural person and any artificial legal person. Hence, any person, though not falling within the seven categories aforementioned, may still be an assessee, being a person. But the principle is well settled that the crown (in India, the Union Government itself), unless expressly named, is not liable to tax. [CIT v Dredging Corporation of India (1988) 174 ITR 682 (AP)]

1.3-b (a) Individual

An individual means a natural person, i.e., a human being. It includes a male, female, minor child and a lunatic or idiot. However, the income of a minor is now generally included in the income of parent. The assessment of lunatic or idiot or minor whose income is taxable in his own hands is done in accordance with the provisions of section 160 (*Section 303 of IT Act, 2025*), i.e., through representative assessee. Trustees of a discretionary trust and charitable trust are also being assessed as individuals and not in status of "association of persons". [CIT v Deepak Family Trust (No. 1) (1994) 72 Taxman 406 (Guj)].

For Taxation of Individuals, see Chapter 18 on "Taxation of Individuals".

1.3-b (b) Hindu Undivided Family:

A Hindu undivided family has not been defined under the tax laws. However, as per the Hindu law, it means a family which consists of all persons lineally descended from a common ancestor including their wives and their daughters w.e.f. 9.9.2005.

For Concept and Taxation of Hindu Undivided Family, see Chapter 19 on "Taxation on HUF".

1.3-b (c) Company

A company 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 comprised of transferable shares and carrying limited liability. For definition of "company" under Income-tax Act, refer to para 25.1.

For Concept and Taxation of Company, see Chapter 25 on "Taxation of Companies".

1.3-b (d) Firm

A firm refers to a partnership firm. Partnership has been defined under the Partnership Act, 1932 as "relationship between persons who have agreed to share the profits of a business carried on by all or any of them acting for all". Persons who have entered into partnership with one another are individually called partners and collectively a firm and the name under which their business is carried on, is called the firm's name. The term "firm" includes a "Limited Liability Partnership" (LLP) as well. An LLP is treated as a separate legal entity as per section 3 of the Limited Liability Partnership Act, 2008. In line with taxation of partnership firms, an LLP is taxed at the entity level and the share of partners in the total income of the LLP is exempt from tax.

For Concept and Taxation of Firms, see Chapter 20 "Taxation of Firms"

1.3-b (e) Association of persons

The Income-tax Act does not define what constitutes an association of persons which under section 2(77)(e) of the Income-tax Act, 2025 is an entity or unit of assessment. In the absence of any definition, the words must be construed in their plain ordinary meaning.

An Association of Persons does not mean any and every combination of persons. It is only when they associate themselves in an income-producing activity that they become an association of persons. They must combine to engage in such an activity; the engagement must be pursuant to the combined

will of the persons constituting the association; there must be a meeting of the minds, so to speak. In a nutshell, there must be a common design to produce income.

Judicial Decisions

(1) Association of persons means two or more *persons* who join for a common purpose with a view to earn an income. [*CIT v Indira Balkrishna* (1960) 39 ITR 546 (SC)]

(2) It need not be on the basis of a contract. Therefore, if two or more persons join hands to carry on a business but do not constitute a partnership, they may be assessed as an Association of Persons (AOP). [*Deccan Wine & General Stores v CIT* (1977) 106 ITR 111 (AP)]

(3) Assessee, three brothers, inherited agricultural land. The said land was acquired by Government and compensation was awarded. During current year, Compensation was enhanced along with interest. The Assessing Officer assessed interest income in hands of assessee in status of AOP. It was held that since it was not a case where any 'Association of persons' was formed by volition of parties for purpose of generation of income, these persons were to be given status of 'individual' and assessed accordingly; and not as AOP. [*CIT v Govindbhai Mamaiya* (2014) 52 taxmann.com 270 (SC); (2014) 367 ITR 498 (SC)]

(4) But the mere circumstance that income accrues jointly to more persons than one would not constitute them an association of persons in respect of such income. Thus, if two or more heirs succeed to the estate of a Hindu deceased, they would under sections 11 and 19 of the Hindu Succession Act, 1956, take the deceased's property as tenants-in-common and with equal rights *inter se*. If such properties happen to be, say, shares in a limited company, or Government securities, or deposits in a bank, the dividends or the interest arising therefrom would accrue to the heirs together. But, in such a case, there would have been no act of management done by the heirs in receiving the dividends or interest from the shares or securities. The mere keeping of the shares or securities or deposits by the heirs in their joint names and the receipt by them of the dividends or the interests jointly, do not involve any element of association to earn any income. A joint receipt is not necessarily the outcome of joint effort. Unless the associates so-called have done some acts or performed some operations together, which have helped to produce the income in question and have resulted in that income, they cannot be called an Association of Persons. [*CIT v Ram Narain* (1980) 126 ITR 267 (P&H)]

(5) Co-heirs, co-legates or co-donees joining together for a common purpose or action would be chargeable as an association of persons. In the case of an association of persons, there were conflicting judgments whether the Assessing Officer has the option, to assess the tax either on the association itself as a unit of assessment or on the members of the association as individuals in respect of their respective share of the profits made by the association. The Supreme Court in the case of *ITO v Ch. Achaiah* (1996) 218 ITR 239 (SC) has held that no such option is provided to the Assessing Officer under the 1961 Act (*IT Act, 2025*). If it is the income of the Association of Persons in law, the Association of Persons alone has to be taxed; the members of the Association of Persons cannot be taxed individually in respect of the income of the Association of Persons.

1.3-b (f) Body of individuals (BOI)

Body of Individuals means a conglomeration of individuals who carry on some activity with the objective of earning some income. It would consist only of individuals. Entities like companies or firms cannot be members of a body of individuals. Income-tax shall not be payable by an assessee in respect of the receipt of share of income by him from BOI and on which the tax has already been paid by such BOI.

Judicial Decision

The expression "body of individuals" should receive a wide interpretation perhaps not wide enough to include a combination of individuals who merely receive income jointly without any thing further as income of co-heirs inheriting shares, and securities but certainly wide enough to include a combination of individuals who have unity of interest and are actively engaged in the business carried on for the benefit of all of them, by one of them. Therefore, a business run by the widow on her behalf

and on behalf of her children would be assessed as a body of individuals. [*Meera & Co. v CIT* (1997) 224 ITR 635 (SC)] Similarly, where income arose to the firm after it has transferred business to another firm, the partners were assessable as a body of individuals and not separately as individual partners.

Distinction between AOP and BOI

1. An AOP may consist of non-individuals but a BOI has to consist of individuals only. If two or more persons (like firm, company, HUF, individual, etc.) join together, it is called an AOP. But if only individuals join together then it is called a BOI. For example, where X, ABC Ltd. and PQ & Co. (A firm) join together for a particular venture then they may be referred to as an AOP. If X, Y and Z join together for a particular venture, but do not constitute a firm then they may be referred to as a body of individuals.
2. An AOP implies a voluntary getting together for a common design or combined will to engage in an income producing activities, whereas a BOI may or may not have such common design or will. In other words, persons who do nothing but stand and wait may not be association of persons; but they may yet be body of individuals, if they stand together, and wait for something to be shared between them.

1.3-b (g) A local authority [Note 6 under Schedule III of IT Act, 2025] [erstwhile Explanation to section 10(20)]:

For the purposes of Schedule III (Table: Sl. No. 22), the expression "local authority" means—

- (i) Panchayat as referred to in article 243(d) of the Constitution; or
- (ii) Municipality as referred to in article 243P(e) of the Constitution; or
- (iii) Municipal Committee and District Board,
legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or
- (iv) Cantonment Board constituted under section 3 of the Cantonments Act, 2006.

A local authority is a separate entity under the definition of a person and thus shall be liable to income-tax unless its income is exempt Schedule II (Table: Sl. No. 22) (*erstwhile section 10(20)*) of the Income Tax Act, 2025.

1.3-b (h) Artificial Juridical Persons

Artificial Juridical Persons are entities which are not natural persons but are separate entities in the eyes of law. Though they may not be sued directly in a court of law but they can be sued through persons managing them. Therefore, God, idols 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. However, under the Income-tax Act, they have been provided exemption from payment of tax under separate provisions of the Act, if certain conditions mentioned therein are satisfied.

Similarly, all other artificial persons, with a juristic personality, will also fall under this category, if they do not fall within any of the preceding categories of persons *e.g.*, University of Delhi is an artificial person as it does not fall in any of the six categories mentioned above.

A State Government is also a person as it will fall under the category of artificial juridical person and thus should be liable to income-tax. But Article 289(1) of the Constitution provides that the property and income of a State shall be exempt from Union Taxation.

Judicial Decision

Thus, artificial juridical persons not only cover deities but also all artificial persons with a juridical personality. Guru Granth Sahib is to be regarded as a juristic person [*Shrimoni Gurdwara Parbhandak Committee, Amritsar v Som Nath Dass* (2000) 160 CTR 61(SC) : (2000) 68 CCH 0199]

1.3-c Assessee [Section 2(11) (*erstwhile* Section 2(7))]

"Assessee" means a person by whom any tax or any other sum of money is payable under this Act, and includes—

- (a) every person in respect of whom any proceeding under this Act has been taken—
 - (i) for the assessment of his income or of the loss sustained by him or refund due to him; or
 - (ii) for the assessment of the income of any other person in respect of which he is assessable, or of the loss sustained by such other person or refund due to such other person;
- (b) every person who is deemed to be an assessee under this Act;
- (c) every person who is deemed to be an assessee in default under this Act;

1. Every assessee is a 'person', but every person need not be an 'assessee'. For example, X, an individual has earned total income of ₹3,90,000 in the tax year. He is a person but not an assessee because his total income is less than the maximum exemption limit of ₹4,00,000 as per the new regime and no tax or any other sum is due from him.
2. A person may not have his own assessable income but may still be an assessee. For example, an assessee, who has earned an income of ₹3,25,000 in a tax year, fails to deduct the tax at source on salary paid by him, which he was required to do under the Act, shall be deemed to be an assessee in default. Although, he is not assessable in respect of his own income, as it is below the maximum exemption limit, but shall still be an assessee for not deducting the tax at source, which he was obliged to do.

1.3-d Definition of "tax year" [Sections 3 (*erstwhile* definition of "*Previous Year*" was given under Section 3)]

1. Meaning of tax year [Section 3(1)]: For the purposes of this Act, "tax year" means the 12 months period of the financial year commencing on the 1st April.

- According to section 2(21) of the General Clauses Act, 1897, a financial year means the year commencing on the 1st day of April.
- All assesseees are required to follow a uniform tax year, *i.e.*, the financial year (1st April to 31st March) as their tax year. Tax year, for Income Tax purposes, will be financial year which ends on 31st of March although the assessee can close his books of account on any other date *e.g.*, an assessee may maintain books of account on calendar year basis but his tax year, for Income Tax purpose, will be financial year and not the calendar year.

2. First Tax year in case of a business/profession newly set-up or a source of income newly coming into existence in any financial year. [Section 3(2)]: In the case of a business or profession newly set up, or a source of income newly coming into existence in any financial year, the tax year shall be the period beginning with—

- (a) the date of setting up of such business or profession; or
- (b) the date on which such source of income newly comes into existence, and ending with the said financial year.

For example, if a new business is set up on 21.10.2026, then the first tax year for that business will be the period starting from 21.10.2026 to 31.3.2027. Therefore, the first tax year of a newly set-up business/profession or a new source of income will be either 12 months or less than 12 months. It can never exceed a period of 12 months.

1. From the above, it is clear that in case of a new business, the first tax year must in every case commence on the date of the setting up of the business. A business is set up when it is established or set on foot. There may be an interregnum between the setting up of a

business and its actual commencement and the tax year would begin on the date the business is set up and not when it is actually commenced.

2. Where an assessee has an existing regular income from various sources and he earns an income from a new source during the financial year, his tax year, for the existing income, will be that relevant financial year and the tax year for the new source of income will start from the date from which the new source of income came into existence and would end on 31st March next following. Since he is assessable on the aggregate of the income from all the sources, therefore, all the income will be included in the tax year. For example, X has regular income from salary and house property. On 21.10.2026, he commences a business of trading in paper. The tax year for income from salary and house property will be the financial year 2026-27 and tax year for the new business will be 21.10.2026 to 31.3.2027. However, for computation of income of the tax year 2026-27, we shall take the aggregate of income from salary and house property of financial year 2026-27 and income earned from 21.10.2026 to 31.3.2027 for the business.

1.3-d (a) Tax year for unexplained Cash Credits, Investments, Asset, Expenditure, etc.:

In certain cases, unexplained cash credit, unexplained investment, unexplained asset or unexplained expenditure, etc., is detected by the Assessing Officer. Such detected credit/investment/asset/expenditure, etc., is chargeable to Income-tax and the tax year for such income is explained as under:

1. Unexplained Credits [Section 102 (erstwhile Section 68)]: Where any sum is found credited in the books of an assessee maintained for any tax year, and—

- (a) the assessee offers no explanation about the nature and source of such credit; or
- (b) the explanation offered about the nature and source of such credit by assessee is not satisfactory in the opinion of the Assessing Officer,

then, the sum so credited shall be charged to income-tax **as income of the assessee of that tax year.**

2. Unexplained investment. [Section 103 (erstwhile Sections 69 & 69B merged)]: Where in any tax year, any investment has been made by the assessee which is not recorded in the books of account, if any, maintained by such assessee for any source of income, or, the Assessing Officer finds that the amount of such investment exceeds the amount recorded in such books of account and—

- (a) the assessee offers no explanation about the nature and source of such investment, or such excess amount, as the case may be; or
- (b) the explanation offered about the nature and source of such investment by the assessee, is not satisfactory in the opinion of the Assessing Officer,

then, the value of such investment, or such excess amount, as the case may be, shall be **deemed to be the income of the assessee of that tax year.**

3. Unexplained asset. [Section 104 (erstwhile Sections 69A & 69B merged)]

(I) Where in any tax year, any asset has been found to be owned by or belonging to the assessee which is not recorded in the books of account, if any, maintained by such assessee for any source of income, or the Assessing Officer finds that the amount expended in acquiring such asset exceeds the amount recorded in such books of account and—

- (a) the assessee offers no explanation about the nature and source of acquisition of such asset, or such excess amount, as the case may be; or
- (b) the explanation offered about the nature and source of acquisition of such asset by the assessee, is not satisfactory in the opinion of the Assessing Officer,

then, the value of such asset, or such excess amount, as the case may be, shall be **deemed to be the income of the assessee of the tax year in which such asset has been found to be owned by, or belonging to, the assessee.**

(2) For the purposes of this section, "asset" includes money, bullion, jewellery, virtual digital asset or other valuable article.

4. Unexplained expenditure. [Section 105 (erstwhile Section 69C)]: Where any expenditure has been incurred by the assessee in any tax year, and—

- (a) the assessee offers no explanation about the source of such expenditure or part thereof; or
- (b) the explanation offered about the source of such expenditure by the assessee is not satisfactory in the opinion of the Assessing Officer,

then, the amount covered by such expenditure or part thereof, shall be deemed to be the income of the assessee for that tax year.

5. Amount borrowed or repaid through negotiable instrument, hundi, etc. [Section 106 (erstwhile Section 69D)]: Where any amount (including interest thereof) is borrowed or repaid through a negotiable instrument or on a *hundi*, otherwise than an account payee cheque, or through any mode as specified by the Board in this behalf, the amount so borrowed or repaid (including interest paid on the borrowed amount) shall be **deemed to be the income of the person borrowing or repaying, as the case may be, for the tax year in which the amount was borrowed or repaid.**

1.3-d (b) Cases where income of tax year is assessed in the same tax year itself:

As a normal rule, the income earned during any tax year is assessed or charged to tax in the immediately succeeding financial year. However, in the following circumstances the income is taxed in the same tax year in which it is earned. This is also known as accelerated assessment. Such accelerated assessment shall have to be made by Assessing Officer on the current income of the assessee at the rates specified for the relevant tax year as per Finance Act. These exceptions have been provided to safeguard the collection of taxes so that assessees, who may not be traceable later on, are not allowed to escape the payment of the taxes. The exceptions are as follows:

- 1. Shipping business of non-residents. [Section 316 (erstwhile Section 172)]:** A non-resident who is carrying on a shipping business and earns income from carrying passengers/livestock/mail/goods from a port in India, **SHALL be charged income-tax** before the ship is allowed to leave the Indian port. Therefore, before the ship leaves the Indian port, the master of the ship is under an obligation to furnish a return of the full amount paid or payable on account of fare and freight (including the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature) and pay the tax accordingly. In this case 7.5% of the amount of fare/freight/charge, etc., shall be deemed to be income of such assessee on which the Income-tax will be charged. Therefore, in this case the tax is chargeable on the income in the same tax year in which it is earned.

Where the Assessing Officer is satisfied that it is not possible for the master of ship to furnish the return before the departure of the ship from the port and the master of the ship has made satisfactory arrangement for filing of the return and payment of tax by any other person on his behalf, he (the Assessing Officer) may, if the return is filed within 30 days of the departure of the ship, deem the filing of the return by the person so authorised by the master as sufficient compliance for the purpose of said section.

- 2. Assessment of persons leaving India. [Section 317 (erstwhile Section 174)]:** When it appears to the Assessing Officer that any individual may leave India during the current tax year or shortly after its expiry, with no present intention of returning to India, the total income of such individual for the period beginning from the first day of that current tax year up to the probable date of departure from India (referred to as specified period in this section) **SHALL be chargeable to tax in that current tax year.**

In such a case, the Assessing Officer may estimate the income of such individual for such specified period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

For the purposes of making an assessment under section 317(1), the Assessing Officer may serve a notice upon such individual requiring him to furnish within such time, not being less than 7 days, as specified in the notice, a return in the same form and verified in the same manner as a return under section 268(1).

Example 1.—A wishes to migrate to USA permanently and plans to leave India on 15.11.2027. He submitted his return for tax year 2026-27 on 31.7.2027, the assessment of which is still pending.

In this case the Assessing Officer will make two assessments:

- (a) regular assessment for tax year 2026-27 at the rates applicable for tax year 2026-27.
- (b) assessment of income of the period 1.4.2027 to 15.11.2027 (either actual or estimated basis) and tax should be levied on such income in the tax year 2027-28 itself

Example 2.—On 15.3.2028, while making the assessment of tax year 2026-27 of A, a foreign national who was resident in India for several years, the Assessing Officer came to know that A shall leave India on 14.4.2028 with no intention of returning back. In this case besides making the assessment for tax year 2026-27, the Assessing Officer shall make two more assessments as under:

- (a) assessment of income of tax year 2027-28,
- (b) assessment of income for the period 1.4.2028 to 14.4.2028.

3. **Assessment of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose.** [Section 318 (*erstwhile Section 174A*)]: Where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person, formed or established or incorporated for a particular event or purpose in a tax year is likely to be dissolved in the same year or immediately after such year, the total income of such association or body or juridical person for the period beginning from the first day of that tax year up to the date of its dissolution SHALL be chargeable to tax in that tax year.
4. **Assessment of persons likely to transfer property to avoid tax.** [Section 319 (*erstwhile Section 175*)]: (1) Where it appears to the Assessing Officer during any current tax year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period beginning from the first day of that current tax year up to the date when the Assessing Officer commences proceedings under this section SHALL be chargeable to tax in the current tax year.
(2) For the purpose of section 319(1), the provisions of section 317(2) to (6) shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.
5. **Discontinued business.** [Section 320 (*erstwhile Section 176*)]: (1) Where any business or profession is discontinued in any tax year, the income of the period beginning from the first day of that tax year up to the date of such discontinuance MAY, at the discretion of the Assessing Officer, be charged to tax in that tax year.
(2) The total income of each completed tax year or part of any tax year included in such period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.
For example, if a business is discontinued on 16.7.2027 then the income for the period 1.4.2027 to 16.7.2027 may at the discretion of the Assessing Officer, be charged to tax in that tax year. The total income of each completed tax year i.e., 2026-27 or part of any tax year (i.e. 1.4.2027 to 16.7.2027) included in such period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.
(3) Any person discontinuing any business or profession shall give to Assessing Officer notice of such discontinuance within 15 days thereof.

It may be noted that in the first four exceptions given above, the Assessing Officer *shall* charge the tax on such persons in the same tax year, *i.e.*, it is mandatory for the Assessing Officer to charge the tax in the same tax year. On the other hand, in the fifth exception given above the Assessing Officer has the discretionary power and as such he *may* charge in the same tax year or may wait till the financial year succeeding the relevant tax year.

1.3-e Charge of income-tax. [Section 4 (*erstwhile* Section 4)]

No tax can be levied or collected in India except under the authority of law. Section 4 of the Income-tax Act, which gives such authority for charging of income-tax provides as under:

- 1. Tax to be charged for any tax year at any rate or rates, enacted by the Central Act [Section 4(1)]:** Where any Central Act enacts that income-tax shall be charged for any tax year at any rate or rates, income-tax for such tax year shall be charged at that rate or those rates in accordance with and subject to the provisions of this Act.

Act to have effect pending legislative provision for charge of tax. [Section 530 (*erstwhile* Section 294 of ITA 1961)

If on the 1st April in any **tax year**, provision has not yet been made by a Central Act **for the charging of income-tax for that tax year**, this Act shall nevertheless have effect until such provision is so made, as if the provision in force in the preceding tax year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force

- 2. Charge of tax shall be on the total income of the tax year of every person. [Section 4(2)]:** The charge of income-tax under section 4(1) shall be on the total income of the tax year of every person as per the provisions of this Act.
- 3. Income-tax to include any additional income-tax [Section 4(3)]:** Income-tax shall also include any additional income-tax, by whatever name called, levied under this Act.
- 4. Charge of tax in respect of income of a period other than the tax year [Section 4(4)]:** If this Act provides that income-tax is to be charged in respect of income of a period other than the tax year, it shall be charged accordingly. (Such exceptions are already discussed above)
- 5. Tax to be deducted or collected at source or paid in advance [Section 4(5)]:** For the income chargeable under this section, income-tax shall be deducted or collected at source or paid in advance as provided under this Act.

The base for levy of tax in any year is normally the income of the tax year. However, in some cases, income-tax may be charged in respect of the income of a period other than the relevant tax year. These have been discussed under para 1.3-d as exception to the tax year.

1.3-e (a) Essential features of the charge of income-tax:

What is levied by virtue of the provisions of section 4 is income-tax including additional income-tax, if any.

Authors' Note:

The Income tax Act, 2025 contains 4 substantive charging provisions for additional income tax, namely:

1. Section 69(2) – Additional Income Tax payable by Promoter on Buy-back of shares/securities by a Company (See Chapter 7 on "Income under the head Capital Gains" for details)
2. Section 170(5) – Additional Income Tax on Excess money not repatriated within the prescribed time in India. (See Chapter 15 on "Special Provisions relating to Avoidance of Tax" for details)
3. Section 267 – Additional Income Tax Payable at the time of furnishing Updated return of Income. (See Chapter 31 on "Return of Income" for details)

4. Section 352 – Additional Income Tax on Accreted Income (See Chapter 22 on "Special Provisions for Registered NPO" for details)

Interest, penalties and fines, which are also payable under the other provisions of the Act cannot be termed as income-tax. They are charged in addition to income-tax for the purpose of enforcing the levy of income-tax. The term 'income-tax' has however been held to include surcharge and additional surcharge wherever provided. The characteristic features of the charge of income-tax are discussed below. It is the earning of the income that attracts the charge and, hence, it will be inappropriate to say that income-tax, unlike levies like GST, Customs Duty, etc., is paid or expended for the purposes of earning the income:

- (a) *Income-tax is an annual tax*: It is imposed for each tax year commencing from the 1st April and ending with the 31st March. *Rates of tax are provided in the Finance Acts and not in the Income-tax Act*. However, tax in case of new regimes and some special rates of tax are given in the Income-tax Act
- (b) *Charge on person*: This section brings to charge the total income of the tax year of every person. The definition of the expression "person" is given in section 2(77) (erstwhile section 2(31)). It is an inclusive definition and is not exhaustive. See also para 1.3-b.
- (c) *Charge in respect of total income*: Total income in respect of which charge is made is the aggregate of the incomes which are classified under five different heads.
- (d) *Charge in respect of income of the tax year*: The income that is taken into account as aforesaid for assessment in the financial year (the tax base) immediately succeeding the relevant tax year is the income of the tax year.
- (e) *Exceptional case of charge for the current tax year*: Though, as stated above, the income charged is that of the tax year, there are certain exceptions to this general rule. See para 1.3-d for such exceptions.
- (f) *Each year is a self-contained accounting period*: In *Kikabhai Premchand (Sir) v CIT* [(1953) 24 ITR 506 (SC)] the Supreme Court pointed out that the revenue is concerned with the actual income, profits or gains made in each previous year (as per IT Act, 2025 "tax year") and not with any potential profits likely to be made in another year or with losses likely to occur in the future.
- (g) *Charge in respect of deductions at source and advance payments*: The 2025 Act provides the authority for collection of taxes by deduction or collection at source or by advance payments. The effect of deduction or collection of tax at source and advance tax is that it amounts to payment of tax by the assessee concerned.

Judicial Decisions

(1) Where amount of interest which accrued on grants received by assessee-society from State Government for various purposes including construction of houses for police officials could be used only for that purpose and in event it could not be used for that purpose, same has to be refunded back to Government, assessee was not recipient of income arising on account of interest earned on deposits with banks. [*PCIT v Punjab Police Housing Corporation Ltd.* (2020) 116 taxmann.com 400 (P&H)]

(2) Where assessee, a retired bank employee, availed early retirement scheme but did not claim section 10(10C) (*Section 19(1) (Table: Sl. No. 12) of IT Act, 2025*) benefit in his return and thereafter filed letter for rectification and sought to claim section 10(10C) (*Section 19(1) (Table: Sl. No. 12) of IT Act, 2025*) benefit but as no order had been passed in respect of said letter, he filed section 119 (*Section 239 of IT Act, 2025*) application for filing revised return after 6 years and sought to condone delay, but it was rejected, since Assessing Officer had noticed that assessee was entitled to said exemption, and no order had been passed on said letter, a fit case for consideration of revised return was made out and it would be apt to set aside order under section 119 (*Section 239 of IT Act, 2025*) and condone delay [*Devendra Pai v ACIT* (2022) 135 taxmann.com 196 (Kar)]

(3) The well-settled proposition that the law as on the 1st day of April of any assessment year should govern the assessment for that year is not absolute but is subject to qualification by any express provision or necessary implication. A provision may be retrospectively brought into the statute book even subsequent to 1st April so as to affect any assessment year. Where any provision expressly states the date from which it is to be effective, it must be given effect to accordingly. [*Commissioner of Income-tax, Tamil Nadu-I v Best & Co (P) Ltd.* (1979) 119 ITR 830 (Mad)]

(4) *Amendment in income-tax whether applicable from financial year or assessment year*: Unless it is made clear in an amendment as to whether it comes into effect for the assessment year or financial year, normally it is to be deemed that such benefit of the amendment is for the assessment year. [*Mukesh C. Patel v CIT* (2011) 238 CTR 332 (Kar) : (2011) 79 CCH 0055 : (2011) 51 DTR 0062]

(5) Where the assessee-company was carrying on business in television sets and collected certain amount from customers as charges for services to be rendered in future. The assessee bifurcated the said amount into two items, one as pertaining to the relevant year and another pertaining to the subsequent years. The service charges of the relevant year were included in the income of the relevant year and the amount pertaining to the subsequent years was excluded. The Assessing Officer taxed the entire amount in the relevant year. It was held that only when the service is done, the assessee has a right over the amount that was deposited. Till then, he has no right over the same. It is in that sense, it cannot be considered as an income of the assessee and is not exigible to tax. Therefore, the issue is answered in favour of the assessee and against the Revenue. [*CIT v Coral Electronics Pvt. Ltd.* (2005) 274 ITR 336 (Mad)]

(6) Similarly, in *CIT v Gajapathy Naidu (A.)* (1964) 53 ITR 114 (SC), the Supreme Court summed up the legal position as to the year in which a receipt should be taxed thus: when an Assessing Officer proceeds to include a particular income in the assessment, he should ask himself, *inter alia*, two questions, namely: (i) what is the system of accountancy adopted by the assessee; and (ii) if it is the mercantile system, subject to the deeming provisions, when has the right to receive accrued. In the case before the Supreme Court, the assessee, a contractor, who was maintaining accounts on mercantile basis, agreed to supply provisions to the Government at certain rates stipulated in the contract. He supplied the provisions in a certain year, but, subsequently, he petitioned the Government for a review of the terms of agreement and requested for payment of an additional sum. The Government thereupon granted him an additional sum in a later year. It was held that the charge on such additional sum could only be made in the year of assessment relevant to the receipt by the assessee and not in the assessment year relevant to the year of supply.

1.3-f Rate or Rates of Tax

Different categories of assessee are chargeable to income-tax at the rates prescribed either under the relevant Finance Act or under specific provisions of the Income-tax Act. Such rates may be based on progressive slab rates or flat rates, depending upon the category of assessee. Further, special tax regimes and concessional tax rates may apply in specified cases, including those contained in sections 199 to 205 (New Regimes). The tax so computed may be increased by surcharge (as applicable based upon the total income of the assessee), subject to marginal relief wherever applicable, and further by Health and Education Cess at the prescribed rate.

The rates of income tax, surcharge, marginal relief and cess have been discussed appropriately under the relevant chapters.

1.3-g Maximum amount which is not chargeable to income-tax

In case of certain assessee, there is no income-tax on income earned during the tax year upto a certain limit. The limit for tax year 2026-27 for different assessee who have opted to be taxed under the old regime is as under:

(i)	For an individual (man or woman), resident in India who is of the age of 60 years or more but less than 80 years at any time during the tax year	₹3,00,000
(ii)	Individual resident in India who is of the age of 80 years or more at any	₹5,00,000

time during the tax year	
(iii) Individuals, [other than those mentioned in (i) and (ii) above] HUF, AOP/BOI* (other than co-operative societies)	₹2,50,000
(iv) Artificial Juridical Persons	₹2,50,000
(v) Firms, Companies (whether domestic or foreign), Co-operative Societies and Local authorities	Nil
* In case of AOP/BOI, exemption limit shall be ₹2,50,000 provided that no member of AOP/BOI has income exceeding the maximum exemption limit. Note: Where an Individual, HUF, AOP/BOI (other than co-operative society) or any artificial juridical person does not opt to be taxed under the old regime, the maximum amount not chargeable to tax shall be ₹ 4,00,000 for tax year 2026-27.	

1.3-h Total Income

To understand Total Income, one must know the following:

- (A) Definition of Income.
- (B) Concept of Income.
- (C) Gross Total Income.
- (D) Deductions permissible from Gross Total Income

1.3-h (a) Definition of "Income" [Section 2(49) (erstwhile section 2(24))]:

"Income" includes—

- (a) profits and gains;
- (b) dividend;
- (c) voluntary contributions received by—
 - (i) a registered non-profit organisation; or
 - (ii) an association referred to in Schedule III (Table: Sl. No. 23); or
 - (iii) any University or other educational institution or any hospital or other institution referred to in Schedule VII (Table: Sl. No. 19); or
 - (iv) an electoral trust;
- (d) the value of any perquisite or profit *in lieu* of salary taxable under sections 17 and 18;
- (e) any special allowance or benefit, other than perquisite included under sub-clause (d), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;
- (f) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;
- (g) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company, either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or that person;
- (h) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in section 303(I)(c) or (d) or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being herein referred to as the beneficiary), and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;
- (i) any sum chargeable to income-tax under—

- (A) section 26(2)(b) or (c) or (d) or section 38 or 95;
- (B) section 26(2)(e) or (g);
- (j) the value of any benefit or perquisite taxable under section 26(2)(f);
- (k) any capital gains chargeable under section 67;
- (l) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed as per section 55 or any surplus taken to be such profits and gains as per Schedule XIV;
- (m) the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;
- (n) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature;
- (o) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948, or any other fund for the welfare of such employees;
- (p) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy;
- (q) any sum referred to in section 26(2)(h);
- (r) the fair market value of inventory referred to in section 26(2)(j);
- (s) any sum referred to in section 92(2)(k) or (l);
- (t) any sum of money referred to in section 92(2)(h);
- (u) any sum of money or value of property referred to in section 92(2)(m);
- (v) any compensation or other payment referred to in section 92(2)(j);
- (w) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency, in cash or kind, to the assessee other than—
 - (i) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset as per section 39(1)(d) and (3); or
 - (ii) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government,
 where,—
 - (A) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;
 - (B) "Keyman insurance policy" shall have the meaning assigned to it in Schedule II (Note 1);
 - (C) "lottery" includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner, under any scheme or arrangement, called by any name;

Income is a word of wide import: The Supreme Court in *Dooars Tea Co. Ltd. v CIT* has held that the word 'income' is of the widest amplitude and it must be given its natural and grammatical meaning.

Inclusive definition, not exhaustive: The definition of the term 'income' starts with the word "includes"; the list is inclusive and not exhaustive. The Supreme Court in *CIT v Karthikeyan (G.R.)* (1993) 201 ITR 866 (SC) has held that the purpose of the inclusive definition is not to limit the meaning but to widen its net, and the several clauses therein are not exhaustive of the meaning of income; even if a receipt did not fall within the ambit of any of the clauses, it might still be income if it partakes of the nature of income.