

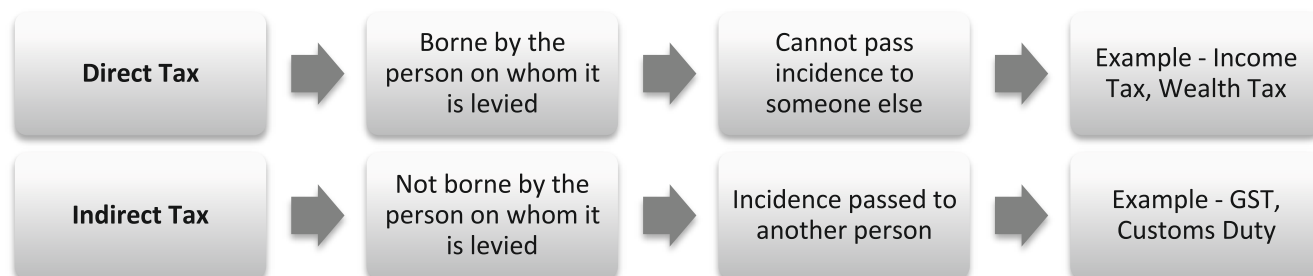
1

Basic Concepts

1. WHAT IS TAX?¹

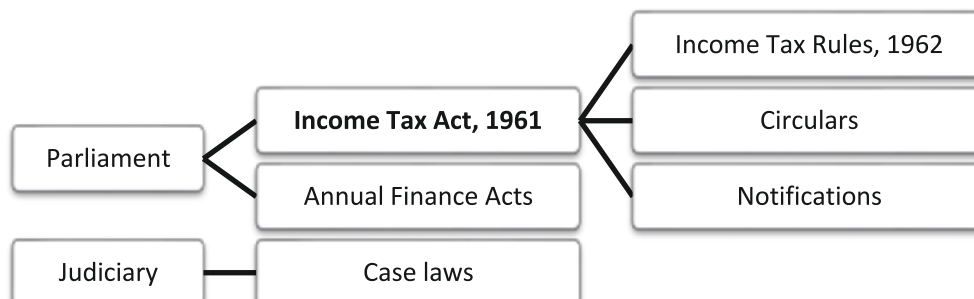
No choice - Compulsory levy by the Government. Consequences arise for non-compliance.

Two types of taxes –



Power to levy income tax – Entry 82 of List I (Union List) of the Seventh Schedule to Article 246 of the Constitution of India empowers the Parliament to levy taxes on income (**other than agricultural income**). State Governments can levy tax on agricultural income under Entry 46 of List II (State List).

2. INCOME TAX LAW



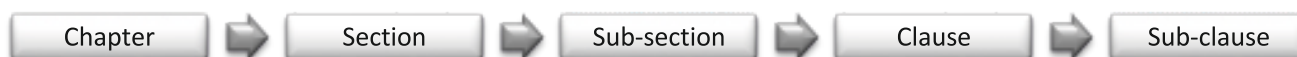
2.1 Income Tax Act, 1961^A

Extent - It extends to the **whole of India** [Section 1].

India - India means (a) the **territory of India**, (b) its **territorial waters**, seabed and subsoil underlying such waters, (c) continental shelf, (d) exclusive economic zone or any other maritime zone and (e) the **air space** above its territory and territorial waters [Section 2(25A)].

Structure - Comprises 23 Chapters, sections 1 to 298 and 14 Schedules.

Levels – The Act is arranged as per the following structure. For example, a Chapter comprises sections, a section comprises sub-sections and so on.



🔗 *Proviso* – The purpose of a Proviso is to carve out an **exception** or **exclusion** to the main provision or to stipulate a condition or modification subject to which the provision would apply.

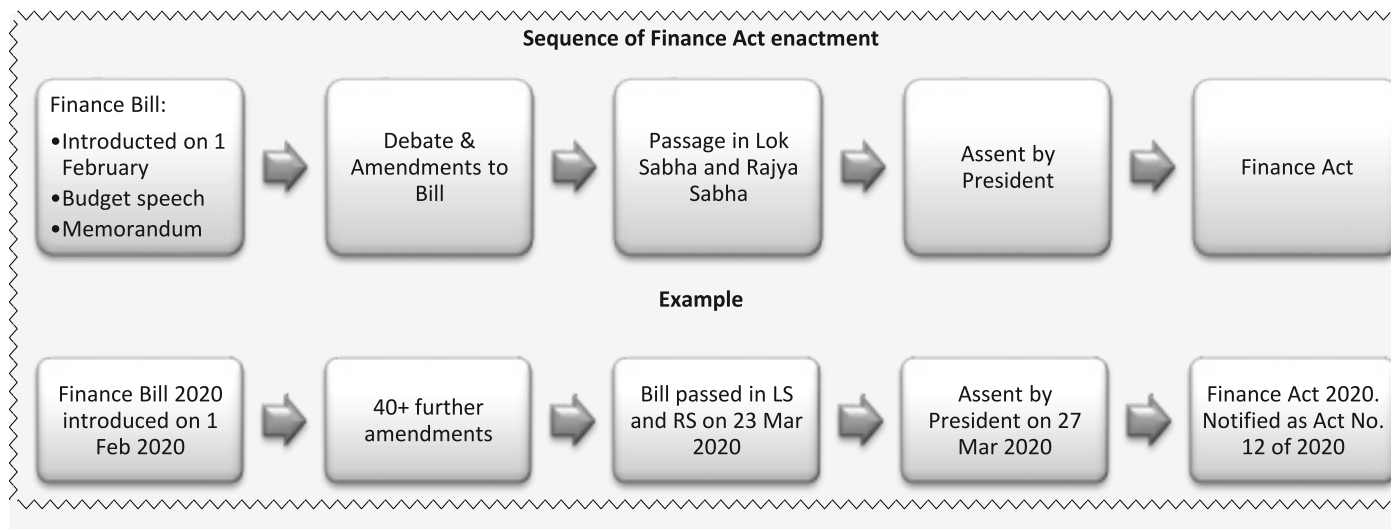
🔗 *Explanation* – The purpose of Explanation is to explain or clarify the meaning of the provision and clear ambiguity. Generally, an Explanation is **clarificatory** in nature.

^A <https://www.incometaxindia.gov.in/Pages/acts/income-tax-act.aspx>

2.2 Annual Finance Act²

Finance Act – Finance Bill is introduced in the Parliament every year as part of the Annual Budget. Upon passage in both houses of Parliament and assent by the President, Finance Bill becomes the Finance Act.^B

Other methods – Sometimes, amendments in the Income Tax Act are also made by way of Amendment Act or Ordinance. For example, the Taxation Laws (Amendment) Ordinance, 2019 and the Taxation Laws (Amendment) Act, 2019.



2.3 Organization³



The **CBDT** looks after administration of direct taxes.

2.4 Income Tax Rules, 1962⁴

Power - The CBDT is empowered to make Rules for carrying out the purposes of the Act. [Section 295]^C

Purpose - To prescribe various conditions, limits, procedures, Forms, etc.

Prescribe – Wherever ‘**prescribed**’ occurs in the Act, it means as prescribed by the **Rules**. [Section 2(33)]

2.5 Circulars and Notifications⁵

Circular - CBDT issues Circulars from time to time to clarify doubts regarding applicability or scope of provisions in specific situations. These are **binding** on tax authorities but not on assessee or courts. Assessee can take advantage of Circulars, to the extent **beneficial**. *Circular cannot override the Act* [Section 119]^D

Notification – Notifications are issued by the Central Government (CBDT) from time to time notifying or specifying certain information required for the administration of the Act. Rules are also made and amended by way of Notifications. Notifications are subordinated legislation and are **binding** on everyone.^E

Notified – A **notification** is required wherever the Act uses the word ‘**notified**’.

2.6 Case laws⁶

Court decisions – The Courts interpret the law in case of a dispute between the assessee and the tax authority and decide on the issue. While Parliament makes the law, Courts interpret.

^B <https://incometaxindia.gov.in/Pages/acts/finance-acts.aspx>

^C <https://www.incometaxindia.gov.in/Pages/rules/income-tax-rules-1962.aspx>

^D <https://www.incometaxindia.gov.in/Pages/communications/circulars.aspx>

^E <https://www.incometaxindia.gov.in/Pages/communications/notifications.aspx>

Example of case citation reported in a journal :: Ram v. CIT [1997] 224 ITR 625 (SC)

| | | | | | | |
|-----------|------------|------|-------------------|---------|-----------------|-------|
| Ram | CIT | 1997 | 224 | ITR | 625 | SC |
| Appellant | Respondent | Year | Volume of Journal | Journal | Page of Journal | Court |

2.7 Definitions⁷

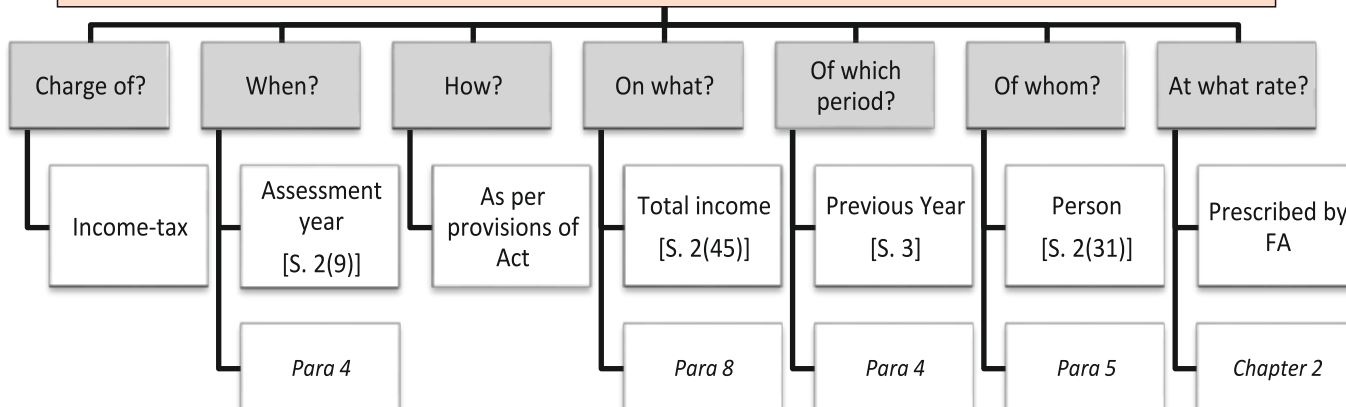
Terms defined - Section 2 provides definitions of various terms used in the Act. Certain sections also contain definitions specific to that section.

Terms not defined – Any term **not** defined in the Act has the meaning given in the *General Clauses Act, 1897* or as interpreted in its *general sense*.

Always check whether any term used in the Act has been defined. If yes, do not resort to its general meaning.

3. 🌀 HOW IS INCOME TAX CHARGED? [S. 4]⁸

Income-tax shall be charged for an **assessment year** in accordance with, and subject to the **provisions** of this Act in respect of the **total income** of the **previous year** of every **person**, at the **rates prescribed** for the year by the **Annual Finance Act**.



4. ASSESSMENT YEAR & PREVIOUS YEAR

4.1 🌀 Concept of AY and PY⁹

| Assessment year | Previous year |
|---|--|
| Period of 12 months commencing on 1st April every year [Section 2(9)] | Financial year immediately preceding the assessment year [Section 3] |

Calendar year or accounting year is not relevant for the concept of AY and PY.

Illustration

- Assessment year (AY) 2022-23 = 1 April 2022 to 31 March 2023
- Previous year (PY) for AY 2022-23 = Financial year 2021-22 = 1 April 2021 to 31 March 2022
- Total Income of PY 2021-22 (earned during 1 April 2021 to 31 March 2022) is charged to tax in AY 2022-23

4.2 Income not earned for the whole of PY¹⁰

| Situation | PY begins with | PY ends with |
|---|---|----------------|
| Business or profession is newly set up | Date of setting up of business or profession | 31 March of FY |
| Source of income newly comes into existence | Date on which source of income newly comes into existence | 31 March of FY |

Illustration:

Mr. Busy starts a new business. It is set up on 1 October 2021 - In this case, PY for income from such business is the period from 1 October 2021 to 31 March 2022. Such income is charged to tax in AY 2022-23.

Mr. Jobs joins a company as an employee on 1 March 2022 - In this case, PY for salary income is the period from 1 March 2022 to 31 March 2022. Such income is charged to tax in AY 2022-23.

4.3 Accelerated assessment – Income of a PY assessed in that PY itself¹¹

In the following cases, income of a PY is taxed in **that PY itself** without waiting for the AY. Thus, its assessment is accelerated. This is done in order to protect the interest of revenue.

| Provision | Situation where applicable | How is income assessed? |
|--|---|---|
| Shipping business of non-residents [S. 172] | <ul style="list-style-type: none"> A ship belongs to or is chartered by a non-resident. The ship carries passengers, livestock, mail or goods shipped at a port in India. | <ul style="list-style-type: none"> 7.5% of the amount paid or payable on account of such carriage is deemed to be the income accruing in India. Before the ship departs from the port in India, the master of the ship <i>should</i> furnish a return and either pay the tax assessed on such income or make satisfactory arrangements for its payment. <p>7.5% is the deemed income and tax is computed thereon. 7.5% is not the amount of tax.</p> |
| Persons leaving India [S. 174] | It appears to the AO that any individual may leave India during the current AY or shortly after its expiry and he has no present intention of returning to India. | The total income of such individual for the period from 1 April of that AY up to the probable date of his departure from India <i>shall</i> be chargeable to tax in that AY . |
| AOP/BOI/AJP formed for a particular event or purpose [S. 174A] | It appears to the AO that any AOP/BOI/AJP , formed or established or incorporated in an AY for a particular event or purpose is likely to be dissolved in that AY or immediately after such AY. | The total income of such entity for the period from 1 April of that AY up to the date of its dissolution <i>shall</i> be chargeable to tax in that AY . |
| Persons likely to transfer property to avoid tax [S. 175] | It appears to the AO during the current AY 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 Act. | The total income of such person for the period from 1 April of that AY to the date when the AO commences proceedings under this section <i>shall</i> be chargeable to tax in that AY . |
| Discontinued business [S. 176] | Where any business or profession is discontinued in an AY. | The income of the period from 1 April of that AY up to the date of such discontinuance <i>may</i> be charged to tax in that AY in the discretion of the AO. |

In addition to accelerated assessment, regular assessment will also be made for the corresponding PY.

AO has discretion only u/s 176 to tax the income in the current AY or regular AY. There is no discretion in other sections.

Illustration: A ship carrying goods is going to leave from the Indian port. Which of the following actions of AO is valid?

- (a) The ship belongs to an Indian company. AO has asked the Managing Director of company to pay 7.5% tax before it departs.
- (b) The ship belongs to a US company. AO has asked the master of ship to pay or make arrangements to pay tax on 10% of total income, computed under the Act, before it departs.
- (c) The ship belongs to a French company. AO has asked the master of ship to pay or make arrangements to pay tax on 7.5% of freight before it departs.
- (d) The ship belongs to a German company. AO has allowed the ship to depart without any obligation to pay tax.

Solution: Correct answer is option C. Relevant section is section 172. The ship belongs to a non-resident. 7.5% of freight will be deemed to be the income accruing in India and tax will need to be paid on this amount or satisfactory arrangements for its payment will need to be made before its departure by the master of the ship.

Illustration: Mr. Runaway runs a business. The AO discovers during October 2022 that Mr. Runaway will leave India on 15 December 2022 and would not return.

Solution: In this case, the AO will make the following assessments in terms of section 174:

- Regular assessment for the period 1.4.2021 to 31.3.2022 (PY 2021-22) will be made during AY 2022-23.
- Accelerated assessment for the period 1.4.2022 to 15.12.2022 will be made during the AY 2022-23 itself without waiting for AY 2023-24.

4.4 Undisclosed sources of income

| Provision | Situation where applicable | How is income assessed? |
|--|---|--|
| Cash credits [S. 68] | Where any sum is found credited in the books of an assessee maintained for any PY, and the assessee offers <i>no or unsatisfactory explanation</i> about its nature and source. | The sum so credited may be charged to tax as the income of the assessee of that PY. |
| Unexplained investments [S. 69] | Where in the FY immediately preceding the AY the assessee has made investments which are not recorded in the books of account and the assessee offers <i>no or unsatisfactory explanation</i> about its nature and source. | The value of the investments may be deemed to be the income of the assessee of such FY. |
| Unexplained money, etc. [S. 69A] | Where in any FY the assessee is found to be the owner of any money, bullion, jewellery or other valuable article, which is not recorded in the books of account and the assessee offers <i>no or unsatisfactory explanation</i> about its nature and source of acquisition. | The money and the value of such articles may be deemed to be the income of the assessee for such FY. |
| Amount of investments, etc., not fully disclosed in the books [S. 69B] | Where in any FY the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the AO finds that the amount <i>spent</i> thereon exceeds the amount <i>recorded</i> in the books of account, and the assessee offers <i>no or unsatisfactory explanation</i> about such excess amount. | The excess amount may be deemed to be the income of the assessee for such FY. |
| Unexplained expenditure, etc. [S. 69C] | Where in any FY, an assessee has incurred any expenditure and he offers <i>no or unsatisfactory explanation</i> about the source of such expenditure or part thereof. | The amount covered by such expenditure or part thereof, may be deemed to be the income of the assessee for such FY. It is not allowed as deduction under any head of income. |
| Amount borrowed or repaid on Hundi [S. 69D] | Where any amount is borrowed on a <i>hundi</i> from, or any amount due thereon is repaid to, any person otherwise than through an A/c payee cheque drawn on a bank. | The amount shall be deemed to be the income of the person borrowing or repaying, for the PY in which the amount was <i>borrowed or repaid</i> . |

Illustration - Mr. Golmal is found to be the owner of 300 gms of gold (market value is Rs. 12 lakh) during FY 2021-22. He has recorded in his books of account to have spent Rs. 4 lakh in acquiring the same. AO can tax the following amount as income for such FY:

- | | |
|----------------|-----------------|
| (a) Rs. 4 lakh | (b) Rs. 12 lakh |
| (c) Rs. 8 lakh | (d) Cannot tax |

Solution: Correct answer is Option C. Relevant section is section 69B. The AO can bring the excess of investments made over the amount recorded in the books of account, to tax, if Mr. Golmal offers no explanation or unsatisfactory explanation about such excess.

5. PERSON [S. 2(31)]¹²

| Person includes: | Points to note |
|--|---|
| Individual | <ul style="list-style-type: none"> Covers only natural persons Assessment of minor, lunatic or idiot is made on the guardian or manager as 'representative assessee' [S. 160] The tax status of a sole proprietorship is the individual himself. |
| Hindu undivided family (HUF) | <ul style="list-style-type: none"> Assessed separately from its members. Jain and Sikh undivided families are treated as HUF. |
| Company | <ul style="list-style-type: none"> Defined u/s 2(17) and taxed separately from its shareholders. Classes of companies defined under the Act: domestic company, foreign company, Indian company. <i>Refer para 16.</i> |
| Firm | <ul style="list-style-type: none"> 'Firm', 'Partner' and 'Partnership' have the same meaning as in the Indian Partnership Act, 1932. Includes a LLP as defined in the LLP Act, 2008. Treated separately from its partners. |
| Association of persons (AOP) or body of individuals (BOI)* | <ul style="list-style-type: none"> Treated separately from its members. Tax provisions are <i>same for AOP and BOI.</i> |
| Local authority* | - |
| Artificial juridical person (<i>not covered above</i>)* | Residuary category. |

*Deemed as 'person' even if not formed with object of deriving income, profits or gains.¹³

HUF - Under the Hindu Law, an HUF is a family which consists of all persons lineally descended from a common ancestor and includes their wives and daughters. For taxation, there should be a coparcenership and joint family property. HUF is a separate taxable entity than its members. HUF status was abolished in Kerala in 1976.

Firm - "Partnership" is the relation 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 called individually, "partners" and collectively "a firm", and the name under which their business is carried on is called the "firm-name".

AOP/BOI - AOP - Two or persons join in a common purpose or action - joint enterprise. BOI - Two or more individual join for a common purpose or cause and there is unity of interest.

Local authority - Not defined in the Income Tax Act but in the General Clauses Act as a municipal committee, district board, body of port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund.

Artificial juridical person - These are juristic entities capable of holding properties and of being taxed through the persons who are entrusted with the possession and management of their properties.

Illustration - Mention the category of person as per the Income Tax Act, in the following cases:

| Person | Category of person as per Income Tax Act |
|--|--|
| Sole proprietor business | Individual |
| Mr. Sharad HUF consisting of self, his wife, son and daughter, earn rental income from inherited property. | HUF |
| Reliance Industries Ltd. | Company |
| BKL & Co., a Chartered Accountant firm, having Mr. B, Mr. K and Mr. L as partners | Firm |
| Consortium of companies executing a project | AOP |
| Municipal Corporation of Delhi, Panchayat of a village | Local authority |
| Temple deity or idol | Artificial juridical person |

6. ASSESSEE [S. 2(7)]¹⁴

"Assessee" means a person by whom any tax or any other sum of money is **payable** under the Act. It *includes* the following:

1. Every person in respect of whom any proceeding under the Act has been taken for the **assessment** of his income, loss or refund or of any other person in respect of which he is assessable.
2. Every person who is **deemed** to be an **assessee**.
3. Every person who is **deemed** to be an **assessee in default**.

It is not necessary that to be treated as an 'assessee', a person should be liable to pay tax.

Every assessee is a person. But not vice-versa.

Illustration - Determine if the person can be called an assessee in the following cases:

| Situation | Whether an assessee? | Category |
|--|----------------------|---|
| Mr. Taxable is liable to pay tax of Rs. 1 lakh on his total income along with interest and penalty. | Yes | By whom any tax or any other sum of money is payable under the Act |
| Mr. Exempt has paid tax by mistake on his exempt income. Proceedings have been initiated for refund. | Yes | In respect of whom any proceeding under the Act has been taken for the assessment of his income, loss or refund |
| Mr. Husband becomes liable to tax because income of wife is clubbed with his income. | Yes |or of any other person in respect of which he is assessable |
| Representative assessee. For example, trustee. | Yes | Deemed to be an assessee |
| Mr. Employer fails to deduct tax on salary paid to employee even though he is himself not liable to tax. | Yes | Deemed to be an assessee in default |

7. INCOME [S. 2(24)]¹⁵

7.1 General concept of income

Income is generally understood as a periodical monetary return coming in with some sort of regularity from definite or identifiable sources.

| Factors irrelevant | | Factors relevant |
|---|---|---|
| <ul style="list-style-type: none"> Cash or kind Actual receipt Legal or illegal Frequency Temporary or permanent | <ul style="list-style-type: none"> Lump sum or installment Exempt or taxable Manner of accounting Disputed or clear title Name by which called | <ul style="list-style-type: none"> Mere relief or reimbursement is not income Diversion of income by overriding title v. Application of income (former is not income) Mutual activity – One cannot earn from self Income already taxed cannot be taxed again Borrowing is not income Capital v. Revenue receipt (see below) |

7.2 Capital v. Revenue

Revenue receipt is **taxable** unless **specifically exempt**. Capital receipt is **exempt** unless **specifically taxable**.

Indicative criteria to distinguish:

| Capital receipt | Revenue receipt |
|--|--|
| Linked to fixed capital | Linked to circulating capital |
| Sale of fixed asset | Sale of trading asset |
| Receipt not in the ordinary course of business | Receipt in the ordinary course of business |
| Receipt in lieu of source of income | Receipt in lieu of income |

Capital v. Revenue – Example

| Capital receipt | Revenue receipt | Example |
|--|--|---|
| Sale of fixed asset | Sale of trading asset | Sale of flat by an artist (capital) v. Sale of flat by a property dealer (revenue) |
| Receipt not in the ordinary course of business | Receipt in the ordinary course of business | Sale of shares by an investor (capital) v. Sale of shares by a share trader (revenue) |
| Receipt in lieu of source of income | Receipt in lieu of income | Compensation on termination of sole agency (capital) v. Compensation on termination of one of several agencies held from time to time (revenue) |

7.3 Definition of income under the Act

Inclusive definition - Section 2(24) contains an **inclusive** definition of income. Thus, items in the nature of income as ordinarily understood, even though not included in the definition, are to be treated as income.

Extended definition - Items **not** in the nature of income as ordinarily understood, but **specifically included** in the definition, are *also treated as income*. For example, capital gains, certain gifts, compensation on termination of agency, winnings from lottery/races/games, etc. This is required otherwise such items would not be charged to tax at all.

Income includes loss.

Illustration: Which of the following is not income under the Income Tax Act?

- (a) Sale price of goods received in the form of shares (b) Fee for a one time assignment lasting one week
 (c) Income from agriculture which is exempt from tax (d) Loan taken from a bank for marriage of daughter

Solution: A: It is income. Whether consideration is in cash or kind is not relevant; B: It is income. Whether receipt is temporary is not relevant; C: It is income. Whether amount is exempt from tax is not relevant. A, B and C are in the nature of income. However, loan taken is not income since it has to be repaid to the bank. Option D is correct.

Illustration: Ram and Shyam write an article for a magazine on agreement that honorarium will be shared in the ratio of 6:4. Ram receives the full honorarium of Rs. 10,000 from the publisher. He pays Rs. 4,000 to Shyam as his share. What amount is taxable in the hands of Ram as his income?

- (a) 10,000 (b) 4,000
(c) 6,000 (d) Nil

Solution: Rs. 4,000 has been diverted by overriding title and it does not accrue to Ram in the first place. Hence, it is not income in the hands of Ram but is income in the hands of Shyam. Option C is correct.

8. 🌀 COMPUTATION OF TOTAL INCOME [S. 2(45)]

| "Total income" means the total amount of income referred u/s 5, computed in the manner laid down in this Act | | | | | | |
|--|---|--|---|---------|-----------------------|---------|
| | # | Step | Section | | Ch/Para | |
| Determine incomes that will enter computation | 1 | Previous year | Determine relevant PY | 3 | Year | Para 4 |
| | 2 | Residential status | Determine residential status for the PY | 6 | ROR / RNOR / NR | Ch. 3 |
| | 3 | Income | Determine all items of incomes for PY | 2(24) | | Ch. 3 |
| | 4 | Scope | Identify incomes to be included within scope of taxation. Exclude incomes outside the scope. | 5 | | Ch. 3 |
| Compute Total Income | 5 | Classification and computation | Classify and compute income under the following Heads of Income: <ol style="list-style-type: none"> Salaries Income from house property Profits and gains of business or profession Capital gains Income from other sources | 14 | | |
| | 6 | Compute income under various Heads after giving effect to: | Exclude: Exemptions | | | Ch. 5 |
| | | | Less: Deductions | | | Ch. 6 |
| | | | Add: Clubbing of income | | | Ch. 7 |
| | | | Less: Set-off and carry forward & set off of loss | | | Ch. 8 |
| | 7 | Gross Total Income (GTI) | | | | Ch. 9 |
| | | | | | | Ch. 4 |
| | | | | | | Various |
| | | | | | | Ch. 10 |
| | 8 | Deductions from GTI | Less : Deductions from GTI | Ch VI-A | | Ch. 11 |
| | 9 | Total Income (TI) | (round off) | 2(45) | | Ch. 12 |
| | | | | | | Ch. 13 |

Round off Total Income to the nearest multiple of 10: Steps: Ignore paise > if last figure is 5 or more, increase to next higher multiple of 10 > If last figure is less than 5, reduce to next lower multiple of 10. [S. 288A]

Illustration: Total income of Rs. 1,45,345.80 will be rounded off to:

- (a) 1,45,345 (b) 1,45,350
(c) 1,45,340 (d) 1,45,400

Solution: Correct option is B. Ignore paise. Increase to next higher multiple of 10 since last figure is 5 or more.

Illustration: Total income of Rs. 10,052.78 will be rounded off as:

- (a) 10,055 (b) 10,050
(c) 10,056 (d) 10,060

Solution: Correct option is B. Ignore paise. Reduce to next lower multiple of 10 since last figure is less than 5.

| Should income be computed on due basis or receipt basis? | |
|--|--|
| Head of income | Computation of income |
| Salaries | Method of accounting is <i>not relevant</i> . Income is computed on the basis of specific provisions of the Act . |
| Income from house property | |
| Capital gains | |
| Profits and gains of business or profession | Income is computed in accordance with cash or mercantile system of accounting regularly employed by the assessee [S. 145] |
| Income from other sources | |

9. 🌀 COMPUTATION OF TAX LIABILITY

Once the total income is computed, the next step is computation of tax and its payment or refund.

| Step | Rs. | Chapter |
|---|--------------|---------|
| Tax on Total Income | | 2, 13 |
| Add: Add interest, penalty, etc. | | 14, 15 |
| Less: Pre-paid taxes: | | |
| 1. Tax paid on self assessment | | 15 |
| 2. Advance tax | | 14 |
| 3. Tax deducted or collected at source | | 14 |
| Tax liability (payable/refundable) (rounded off) | | |

10. RELEVANT LAW ¹⁶

Substantive provisions - Total income and tax liability is computed based on provisions of the Act as on **1st April** of the AY. Any amendment effective from a later date is not relevant for that AY.

Procedural provisions - Change in a procedure is applicable from the date the amendment is **effective**.

Illustration: Finance Act 2020 amended section 6 with effect from 1 April 2021 to change the rules for determining residential status of individuals. The amended law is applicable from:

- (a) AY 2021-22 (b) AY 2020-21
(c) AY 2019-20 (d) AY 2022-23

Solution: Correct option is A. It is a substantive provision. Law standing on 1.4.2021 is relevant for AY 2021-22.

Illustration: Finance Act 2021 inserted a new section 194Q with effect from 1st July 2021 requiring deduction of tax at source on payment of certain sum for purchase of goods. Tax is to be deducted under this provision from:

(a) 1 April 2021

(b) FY 2021-22

(c) 1 April 2022

(d) 1 July 2021

Solution: Correct option is D. Change in procedural is applicable from date the amendment is effective.

11. ASSESSMENT

The procedure by which the income and tax liability of an assessee is assessed or determined is called assessment. It comprises the steps of filing of Return of Income, processing of return, regular assessment and other modes of assessments and includes related procedures like time limits, PAN and issue of notice of demand.

ENDNOTES FOR LOGIC & REASONING

¹ The Government needs money to meet expenditure for growth and development of nation. Tax is the major source of revenue for the Government.

² Law cannot remain static. Changes are made in the Act to take care of emerging needs by way of annual Finance Act.

³ The Government needs a machinery to administer the law.

⁴ Where to prescribe procedures? It is cumbersome to provide for each and every thing in the Act itself and for Parliament to make frequent changes to the procedures. Income Tax Rules take care of this aspect.

⁵ What about guidance, instructions or directions required for effective administration of the Act? Circulars and Notifications address this aspect.

⁶ Courts interpret the law in case of a dispute.

⁷ Assessee and tax authority should not be allowed to interpret terms and words as per their convenience. Hence, terms are defined.

⁸ Tax cannot be levied without a charge. No charge, no tax!

⁹ Income cannot be earned and assessed in parallel. Further, unit of time needs to be fixed and made uniform for everyone and for all sources of income. Hence, need for concept of AY and PY.

¹⁰ What if income is not earned throughout the PY? Will it not be charged to tax?

¹¹ There may be situations where the assessee is not available or does not exist in the AY. Will no tax be levied in such cases?

¹² Income cannot be charged on an imaginative character. Hence, charge of tax is on every 'Person'. There is also a need to categorize persons so that rules can be differently formulated.

¹³ To prevent a claim that such entity is not a 'person' under the Act if it is not supposed to have any income/profits/gains and, hence, it is not taxable.

¹⁴ Since every 'person' is not taxable, there is a need to categorize persons who would come within the ambit of the Act. Some provisions apply to all persons while most provisions apply only to an assessee.

¹⁵ Since charge of tax can only be on income, its meaning needs to be specified. What is not 'income', cannot be taxed.

¹⁶ Act keeps changing. Law as on which date would be relevant in computing total income?



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Basic Concepts**Build Your Confidence (BYC) & MCQ****OVERVIEW OF INCOME TAX LAW**

M1. A person has derived income of Rs. 10 lakh from retail business, Rs. 20 lakh from agriculture and Rs. 1 lakh from interest on deposits. His gross receipts are Rs. 15 lakh from retail business and Rs. 35 lakh from agriculture. Parliament can levy income tax on:

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| (a) 31 lakh | (b) 15 lakh |
| (c) 11 lakh | (d) 10 lakh |

M2. Income Tax Act extends to:

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| (a) The entire world | (b) Whole of Asia |
| (c) Whole of India | (d) Whole of India, except Union Territories |

M3. Mr. X earned income of Rs. 1 lakh from certain activities carried aboard a ship situated in territorial waters of India, off the coast of Mumbai. He claimed such income to be outside the scope of Income Tax Act. Is he correct?

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| (a) Yes | (b) No |
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M4. Section 80GG of the Act allows deduction in respect of rent paid by the assessee in respect of accommodation occupied by him for his residence. The proviso to this section provides that the deduction will not be available where the accommodation is owned by the assessee or a family member in certain cases. What is the purpose of the proviso?

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| (a) Explain or clarify the provision | (b) Provide exception or exclusion |
| (c) Define meaning of a term | (d) Prescribe a procedure |

M5. Section 2(24)(ix) of the Act provides that winnings from lotteries will be included within the scope of 'income'. Explanation to section 2(24)(ix) states that 'lottery' includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner. What is the purpose of the Explanation?

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| (a) Explain or clarify the provision | (b) Provide exception or exclusion |
| (c) Define meaning of a term | (d) Prescribe a procedure |

M6. CA2018(M) - Briefly explain the purpose for which the words 'Proviso' and 'Explanation' are incorporated under various sections of the Income tax Act, 1961. – Refer para 2.1

M7. Which route does the Central Government take every year to make amendments to Income Tax Act?

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| (a) Income Tax (Amendment) Act | (b) Debate in the Parliament |
| (c) Ordinance | (d) Finance Act |

M8. Which of the following is subordinate to the CBDT?

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| (a) Ministry of Finance | (b) Income tax department |
| (c) Department of Revenue | (d) State legislature |

M9. The basic source of Income Tax law is:

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| (a) Income-tax Act, 1961 | (b) Income-tax Rules, 1962 |
| (c) Circulars & notifications | (d) Court decisions |

M10. Which of the following are not notified by the CBDT?

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| (a) Rules | (b) Forms |
| (c) Notifications | (d) Circulars |

M11. Section 80C allows deduction in respect of sum paid as contribution to any provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette. For this purpose, the Central Government will need to issue:

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| (a) Rule | (b) Form |
| (c) Notification | (d) Circular |

M12. Section 10(14) provides exemption in respect of any such special allowance or benefit, not being in the nature of a perquisite, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the

duties of an office or employment of profit, as may be prescribed, to the extent to which such expenses are actually incurred for that purpose. Where would one need to look at for what has been prescribed in this respect?

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|---------------|---------------|
| (a) Rules | (b) Forms |
| (c) Ordinance | (d) Circulars |

M13. CBDT has issued a circular contrary to the provisions of the Act. The circular would be binding on:

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|----------------|-----------------------|
| (a) Assessee | (b) Assessing Officer |
| (c) High Court | (d) Supreme Court |

M14. CBDT wants to clarify certain doubts regarding requirement to deduct tax at source on the GST component of a payment. What can it do?

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| (a) Amend the Act | (b) Issue a notification |
| (c) Issue a circular | (d) Can't do anything |

M15. The Assessing Officer followed a view stated by the CBDT and added Rs. 1 lakh to the income of the assessee. Assessee claimed that the view was contrary to the provisions of the Act and appealed against the order in the Court. The Court upheld the view of the assessee and deleted the addition. Whose word will be final?

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| (a) Assessee | (b) Assessing Officer |
| (c) CBDT | (d) Court |

M16. The word 'local authority' is not defined in the Act. Where should one first look?

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| (a) Dictionary | (b) Ask the CBDT to issue a circular |
| (c) General Clauses Act | (d) Search the internet |

CHARGE OF TAX

M17. Income-tax shall be charged for an _____ in accordance with, and subject to the provisions of this Act in respect of the _____ of the _____ of every _____, at the rates prescribed for the year by the Annual Finance Act [Section 4]

ASSESSMENT YEAR & PREVIOUS YEAR

M18. Mr. X, employed with Z Ltd., resigned on 31.12.2021. He earned salary for the period of service. He has no other source of income. Assessment Year for the income earned during this period will commence on:

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| (a) 1.1.2022 | (b) 1.4.2022 |
| (c) 1.4.2021 | (d) At the discretion of Mr. X |

M19. Mr. Y has filed his return of income for the assessment year 2022-23. Income for which year has been disclosed in the return of income?

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|----------------------------|----------------------------|
| (a) Financial year 2021-22 | (b) Financial year 2022-23 |
| (c) Calendar year 2021 | (d) Calendar year 2022 |

M20. Total Income of Mr. P earned during the PY 2021-22 will be charged to tax in the AY _____

M21. Mr. Z decided to start his manufacturing business. He acquired plant and machinery on 5.3.2021 which were installed on 10.3.2021. The business was set up on 15.4.2021 and was finally commenced on 15.5.2021. What would be the first previous year for this business?

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| (a) 15.4.2021 to 31.3.2022 | (b) 15.5.2021 to 31.3.2022 |
| (c) 10.3.2021 to 31.3.2022 | (d) 1.4.2021 to 31.3.2022 |

M22. Mr. Busy is running grocery business since 2006. What would be the PY for AY 2022-23?

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|-------------|---|
| (a) 2022-23 | (b) Calendar year 2022 |
| (c) 2021-22 | (d) Accounting year from July 2021 to June 2022 |

M23. Mr. Work starts a part-time business on 1.10.2021. He is also employed in a company throughout the year 2021-22. In which AY will his incomes be taxed?

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| (a) AY 2021-22 for business income and AY 2022-23 for salary income | (b) AY 2021-22 for business and salary income |
| (c) AY 2022-23 for business and salary income | (d) Will not be taxed as PY for both incomes are different |

M24. U/s 172, tax can be demanded where a ship belonging to or chartered by a _____ leaves the Indian port.

M25. U/s 174, income of an individual can be taxed in the PY itself if it appears to the AO that he may _____ India shortly and has no present intention of returning.

M26. Mr. US, a citizen of US, is residing in India since the last 10 years. During the assessment proceedings for the PY 2021-22, the AO comes to know on 1 January 2023 that Mr. US would permanently leave India on 15 May 2023. Which of the following assessments can the AO make?

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| (a) Regular assessment for PY 2021-22 in AY 2022-23 | (b) Regular assessment for PY 2021-22 and accelerated assessment for the period 1 April 2022 to 31 March 2023 in AY 2022-23 |
| (c) Regular assessment for PY 2021-22 and accelerated assessments for the periods 1 April 2022 to 31 March 2023 and 1 April 2023 to 15 May 2023 in AY 2023-24 | (d) Regular assessment for PY 2021-22 and accelerated assessments for the periods 1 April 2022 to 31 March 2023 and 1 April 2023 to 15 May 2023 in AY 2022-23 |

M27. On the basis of information received, the AO wants to make assessment in the relevant year itself in the following cases. Which of the following actions is valid?

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| (a) Mr. Run may leave for Finland after 3 months for a 6 month assignment after which he will return. | (b) Three firms have joined together to conduct a mega entertainment event to be held after 2 months, post which the association will dissolve. |
| (c) Mr. Sincere, estimating a huge tax demand, is going to sell one of his many properties, in the ordinary course of business. | (d) Mr. Busy has discontinued his Business A but continues with Business B |

M28. U/s 174A, income of which entity can be taxed in the current year itself and for the period up to which date?

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|--|---|
| (a) Company; up to the 31 March of the FY | (b) Company; up to the date of dissolution |
| (c) AOP/BOI/AJP; up to the date of dissolution | (d) AOP/BOI; up to the date of the event for which it is formed |

M29. U/s 175, income of which person can be taxed in the current year itself and for the period up to which date?

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|--|---|
| (a) Company; up to the date of payment of tax | (b) AOP/BOI/AJP; up to the date of filing of return |
| (c) Any person; up to the date of commencement of proceeding by AO | (d) Any person; up to 31 March of the FY |

M30. When can accelerated assessment be made u/s 176?

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| (a) Where any person commences a business during the AY | (b) Where any business or profession is discontinued during the AY |
| (c) Where any profession is suspended during the AY | (d) Where any business is temporarily halted during the AY |

M31. AO has discretion to either charge income in the PY itself or in the usual AY in case of:

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| (a) Person leaving India with no intention to return | (b) BOI formed for an event and like to be dissolved shortly thereafter |
| (c) Person likely to transfer property to avoid tax | (d) Business or profession which is discontinued |

M32. Rs. 5 lakh was found to have been credited in the books of Mr. Q. He could not provide any explanation about the nature and source of the credit. Can this amount be charged to tax as income of Mr. Q?

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| (a) Yes | (b) No |
|---------|--------|

M33. Mr. V invested Rs. 50 lakh in the shares of UB Pvt. Ltd. This amount was not recorded in the books of account. He could provide satisfactory explanation to the Assessing Officer in respect of Rs. 20 lakh. How much amount can be taxed as income of Mr. V?

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|-------------|-------------|
| (a) 50 lakh | (b) 30 lakh |
| (c) 20 lakh | (d) Nil |

M34. During a search, Mr. C, carrying on a business, was found to be the owner of jewellery whose market value was Rs. 75 lakh. He had not recorded the jewellery in the books of account. During the assessment, he offered detailed explanation about its nature and source of acquisition with which the Assessing Officer was satisfied. How much amount can be taxed as income of Mr. C?

- (a) 75 lakh (b) 150 lakh
(c) Nil (d) At the discretion of AO

M35. Under section 69B, the _____ of amount spent in any financial year on investment or any bullion, jewellery or other valuable article, over the amount recorded in the books, can be taxed as income of such financial year, if it is not explained satisfactorily.

M36. During the FY 2021-22, Mr. K incurred Rs. 1 crore as expenditure on marriage ceremony of his son. Upon inquiry regarding the source of such expenditure, Mr. K could provide satisfactory explanation in respect of Rs. 60 lakh. How much amount can be taxed as income of Mr. K?

- (a) 1 crore (b) 60 lakh
(c) 40 lakh (d) Nil

M37. Under section 69D, any amount borrowed or repaid during a previous year, in respect of a hundi, otherwise than through an _____, can be taxed as income for such previous year.

PERSON & ASSESSEE

M38. Which of the following statements is false?

- (a) Assessment of minor is made on representative assessee (b) Jain undivided family is treated as HUF
(c) Firm and LLP are taxed differently (d) Artificial juridical person is the residual category

M39. BOI consists only of _____ whereas AOP can consist of individuals and other persons.

M40. Every person is an assessee.

- (a) True (b) False

M41. Match the following:

| <i>Person under the Income Tax Act</i> | | <i>Entity</i> | |
|--|-----------------------------|---------------|--|
| 1 | Individual | A | Delhi University |
| 2 | HUF | B | Partner of a firm |
| 3 | Company | C | Brihanmumbai Municipal Corporation |
| 4 | Firm | D | Co-heirs jointly carrying on business of deceased father without constituting a partnership firm |
| 5 | AOP | E | Jain undivided family |
| 6 | Local authority | F | Ernst & Young LLP |
| 7 | Artificial juridical person | G | Body corporate incorporated in France |

M42. Which of the following assessments is valid?

- (a) Assessment of JK Pvt. Ltd. can be made on Mr. C, its majority shareholder (b) Assessment of Ramesh HUF can be made on Ramesh, Suresh and Kanti who are its members, by apportioning its income amongst the members
(c) Assessment of BM LLP can be made on A, B, C, D and E, who are its members, by apportioning its income amongst the members (d) Assessment of Rajat, 10 years, can be made on Mr. Bhagat, his guardian

M43. A village panchayat claims that it was not formed with the objective of earning income, profits or gains but for serving the people of the village. Hence, it is not a 'person' and, thus, not liable to tax. Is the contention valid?

- (a) Yes (b) No

M44. Which of the following persons is not an assessee?

- (a) Mr. Z, in whose income, the income of P, his minor daughter, has been clubbed under the provisions of the Act (b) Mr. K, the agent of Mr. X (a non-resident), who is assessed as a representative assessee of Mr. X and is, thus, deemed to be an assessee under the Act
(c) Mr. Y, who has not deducted tax at source as required under the Act and is, thus, deemed to be an assessee in default (d) Master V, a student aged 10 years, who does not have any source of income and is not required to comply with any obligation under the Act

M45. Which of the following persons is not an assessee?

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| (a) Mr. Exempt is not required to pay tax. However, he fails to deduct tax on salary paid to his employee | (b) Flop Ltd. has incurred huge losses. It files return of income. |
| (c) Mr. Senior is not liable to tax but files return of income to claim refund of TDS | (d) Income of Mr. Poor is below the tax threshold and he does not file his return of income |

M46. CA2016(M), 2013(N) - Define the term 'assessee' as per the Income-tax Act, 1961. – Refer para 6.

INCOME

M47. Which of the following factors are irrelevant to determine whether an item is in the nature of income?

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| (a) Whether it is mere reimbursement of expenses | (b) Whether it is from a mutual activity |
| (c) Whether it has been actually accounted in books | (d) Whether it is diversion or application of income |

M48. Which of the following statements is true?

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| (a) Revenue receipts are always included in total income | (b) Capital receipts are always excluded from total income |
| (c) Definition of income u/s 2(24) is inclusive | (d) All receipts are included in total income |

M49. Which of the following is income?

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| (a) Mr. C incurred taxi expenses for official travel which were reimbursed to him by his employer | (b) Mrs. Keshav received Rs. 1,000 p.m. from Mr. Keshav as pin money for meeting household expenses |
| (c) Rotary Club received Rs. 500 p.m. as membership fee from its members which it used to provide various services to the members | (d) Mr. Rony received Rs. 10,000 as fee for providing consultancy services, which was accounted as loan in the books of account |

M50. Which of the following cannot be characterized as income on grounds of mutuality?

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|--|--|
| (a) Surplus funds of Rs. 3 lakh of XYZ club which is taking monthly fee of Rs. 1,000 from its members and incurring expenses on running the club | (b) Monthly maintenance charges taken by Resident Welfare Association of a Housing Society from its resident members for providing common facilities and services to the members |
| (c) Goods transferred by V-Mart Ltd. from its Head Office in Delhi to Branch Office in Kanpur after adding 10% margin | (d) All the above |

M51. Which of the following is not income?

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|--|---|
| (a) Prize money of Rs. 6 lakh won by Mr. V by participating in the KBC quiz show on television | (b) Income of Rs. 1 lakh earned by Mr. Z from sale of gold jewellery |
| (c) Gain of Rs. 1 lakh on sale of shares in Tata Ltd. by Mr. J, an investor | (d) Receipt of 100 bonus shares in KLM Ltd. issued by the company to Mr. X, an equity shareholder |

M52. For computing the total income of PY 2021-22, Rahul had to classify his incomes into various heads of income, club income of his minor child with his own income, provide permissible deductions from his gross total income and determine his residential status. Which of the following steps would he apply as the last step?

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|---|--|
| (a) Classification into heads of income | (b) Determining the residential status |
| (c) Deductions from Gross Total Income | (d) Clubbing of income |

M53. Rohit earned Rs. 20,000 as interest on his savings bank account with State Bank of India. Under which head of income would this income fall?

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|---|-------------------------------|
| (a) Income from house property | (b) Capital gains |
| (c) Profits and gains of business or profession | (d) Income from other sources |

M54. Rahul computed income of Rs. 50,000 under each of the five heads of income, after allowing exemption of Rs. 10,000 under the provisions of each head. From the gross total income so arrived of Rs. 2,50,000, he allowed deduction of Rs. 50,000 and arrived at the total income of Rs. 2,00,000. On what amount will he need to compute income-tax?

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|---------------------------------------|-----------------|
| (a) On 2,00,000 | (b) On 2,50,000 |
| (c) On 50,000 for each head of income | (d) On 3,00,000 |

M55. Which of the following statements is false?

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| (a) Total income is determined with reference to a previous year | (b) Scope of total income is based on residential status of the assessee |
| (c) Deductions are allowed only after aggregating incomes under all the heads of income | (d) Income is classified under five heads of income |

M56. Total income of Rs. 10,050 will be rounded off as:

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| (a) 10,000 | (b) No need to round off |
| (c) 10,100 | (d) 10,010 |

M57. Total income of Rs. 10,051.10 will be rounded off as:

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| (a) 10,051 | (b) 10,000 |
| (c) 10,050 | (d) 10,060 |

M58. Which of the following statements is true?

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| (a) Income is always computed on due basis | (b) Assessee can adopt cash or mercantile system of accounting to compute income under PGBP and IFOS |
| (c) Capital gains is computed based on method of accounting followed by the assessee | (d) Income under the head 'Salaries' is always computed on receipt basis |

M59. Rohit needs to compute his total income earned during the period 1.4.2021 to 31.3.2022 and tax liability thereon. He should base his computation based on provisions of the Act as they stand on which date?

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|---------------|--|
| (a) 1.4.2021 | (b) 1.4.2022 |
| (c) 31.3.2022 | (d) Dates on which incomes were earned |

M60. Through an amendment in the Rules, it was provided that application for an exemption needs to be made in Form X with effect from 1.9.2021. Before this date, the prescribed Form was Form Y. Through a further amendment, the Form was once again changed to Form Z with effect from 15.3.2022. Which Form will Mr. Z use if he wishes to make application for exemption on 15.9.2021?

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|------------|------------------------------------|
| (a) Form X | (b) Form Y |
| (c) Form Z | (d) Any of these Forms can be used |

Answer Key

M1 C; M2 C; M3 B; M4 B; M5 A; M6 -; M7 D; M8 B; M9 A; M10 D; M11 C; M12 A; M13 B; M14 C; M15 D; M16 C; M17 assessment year, total income, previous year, person; M18 B; M19 A; M20 2022-23; M21 A; M22 C; M23 C; M24 NR; M25 leave; M26 D; M27 B; M28 C; M29 C; M30 B; M31 D; M32 A; M33 B; M34 C; M35 excess; M36 C; M37 A/c payee cheque; M38 C; M39 individuals; M40 B; M41 [1B, 2E, 3G, 4F, 5D, 6C, 7A]; M42 D; M43 B; M44 D; M45 D; M46 -; M47 C; M48 C; M49 D; M50 D; M51 D; M52 C; M53 D; M54 A; M55 C; M56 B; M57 C; M58 B; M59 B; M60 A

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