



# LAW OF TAXATION

Osmania University 6<sup>th</sup> Sem

## PART-A

### Short Answers

#### Agricultural income.

**Answer:** **Agricultural income** holds a special status under Indian taxation law. Here are some key points related to agricultural income:

1. **Exemption:** Agricultural income is **exempt** from income tax under Section 10(1) of the Income Tax Act, 1961. This means that any income earned from agricultural activities is not subject to tax.
2. **Definition of Agricultural Income:**
  - **Land:** Income must arise from land situated in India.
  - **Agricultural Activities:** The income should result from agricultural operations such as cultivation of crops, animal husbandry, dairy farming, poultry farming, and pisciculture (fish farming).
  - **Direct Connection:** The income must have a direct connection with agricultural land and activities.
3. **Non-Agricultural Components:**
  - If agricultural income includes non-agricultural components (e.g., rent from a farmhouse, sale of agricultural land), those non-agricultural components may be taxable.
  - For example, if you sell agricultural land, the capital gains arising from the sale are taxable.
4. **Clubbing Provisions:**
  - Clubbing provisions apply when agricultural income is earned by a taxpayer but is actually derived from land owned by someone else (e.g., spouse, minor child).
  - In such cases, the income is clubbed with the income of the actual owner and taxed accordingly.

#### Advance tax

**Answer:** Advance tax, also known as "pay as you earn" tax, is the system of paying taxes periodically throughout the financial year rather than at the end of the year. It is applicable to individuals, salaried employees, self-employed professionals, and businesses whose tax liability for the year is Rs. 10,000 or more, after considering tax deducted at source (TDS).

Here's how advance tax works:

1. **Estimation of Income:** Taxpayers are required to estimate their total income for the financial year and calculate the tax liability accordingly.
2. **Payment Schedule:** Advance tax is paid in installments on specific due dates as prescribed by the Income Tax Department. For individuals, the due dates are typically June 15, September 15, December 15 of the current financial year, and March 15 of the following year.
3. **Calculation and Payment:** Taxpayers need to calculate the advance tax liability after considering any TDS already deducted and pay it before the due dates.
4. **Penalties:** Failure to pay advance tax or underpayment of advance tax can attract interest under Section 234B and Section 234C of the Income Tax Act.
5. **Adjustment at the Time of Filing Return:** The advance tax paid is adjusted against the total tax liability for the financial year at the time of filing the income tax return. If there's any shortfall, taxpayers may need to pay additional tax or claim a refund if there's an excess payment.

It's crucial for taxpayers, especially self-employed individuals and businesses with fluctuating incomes, to accurately estimate their income and pay advance tax to avoid penalties and interest charges. Additionally, timely payment of advance tax helps in better financial planning and compliance with tax regulations.

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### Capital receipt and revenue receipt.

**Answer:** Capital receipt and revenue receipt are two essential concepts in accounting and taxation, including Indian taxation law. Here's a breakdown of each:

1. **Capital Receipt:**

- Capital receipts are those receipts that either create a liability or reduce an asset. They are non-recurring in nature and usually have long-term implications.
- Examples of capital receipts include proceeds from the sale of fixed assets (land, buildings, machinery), loans raised by issuing debentures or shares, capital contributions from partners in a partnership firm, and grants received for capital purposes. In terms of taxation, capital receipts are typically not taxable as income. Instead, they may have tax implications when there is a capital gain or loss, which is taxed under capital gains tax provisions.

## 2. Revenue Receipt:

- Revenue receipts are those receipts that neither create any liability nor reduce any asset. They are regular and recurring in nature and are usually earned through the ordinary course of business operations.
- Examples of revenue receipts include sales revenue, service fees, interest income, dividends received, rent received, and proceeds from the sale of inventory or goods.
- Revenue receipts are generally considered as income and are subject to income tax as per the applicable tax rates and provisions.

## Education Cess

**Answer:** Let's discuss **Education Cess** in the context of Indian taxation:

### 1. Education Cess

- Education Cess is an additional tax levied on the **income tax** payable by individuals and companies.
- It is specifically earmarked for **education-related purposes**.

### 2. Purpose and Usage:

- The revenue generated from Education Cess is utilized to fund educational initiatives, improve infrastructure, and enhance the quality of education in India.
- It supports programs such as **school education, higher education, and vocational training**.

### 3. Rate and Calculation:

- As of now, the Education Cess rate is **2%** of the total income tax liability.
- It is calculated on the **income tax amount** before any other deductions or exemptions.

- The total tax payable includes both the regular income tax and the Education Cess.

#### 4. Applicability:

- Education Cess applies to **individual taxpayers, companies**, and other entities subject to income tax.
- It is part of the overall tax liability and must be paid along with the regular income tax.

#### 5. Example:

- Suppose an individual's income tax liability (before any deductions) is ₹1,00,000.
- The Education Cess would be 2% of ₹1,00,000, which amounts to ₹2,000.
- The total tax payable would be ₹1,00,000 + ₹2,000 = ₹1,02,000.

### Double tax Relief

**Answer:** the concept of **Double Taxation Relief** in India.

#### 1. Double Taxation

- Double taxation occurs when a person residing in India earns income that is also taxable in a foreign country.
- This results in the same income being taxed twice, once in India and once abroad.

#### 2. Foreign Tax Credit (FTC):

- To address double taxation, individuals can claim a **credit for taxes paid outside India**. This credit is known as **Foreign Tax Credit (FTC)**.
- FTC allows taxpayers to offset the tax paid abroad against their Indian tax liability.

#### 3. Bilateral and Unilateral Relief:

- **Bilateral Relief:** When an assessee has paid taxes in a country with which India has a **Double Taxation Avoidance Agreement (DTAA)**, relief is allowed under Sections 90 and 90A of the Income Tax Act.
  - DTAA is a bilateral treaty that prevents double taxation and provides specific rules for taxing income.
- **Unilateral Relief:** If no DTAA exists with a specific country, relief is allowed under Section 91. In such cases, the taxpayer can claim relief for taxes paid in that country.

#### 4. More Beneficial Provisions:

- If a DTAA is more beneficial to the taxpayer than the provisions of the Income Tax Act, the DTAA provisions take precedence.
- Terms used in DTAA have meanings assigned under that agreement.

#### 5. Claiming Double Taxation Relief:

- Taxpayers can file **Form 67** to claim FTC.
- Form 67 includes details of foreign income, taxes paid, and the applicable DTAA.
- The Income Tax Department verifies and processes the claim.

### TDS (Tax Deducted at Source)

**Answer:** Let's discuss **Tax Deducted at Source (TDS)** in the context of Indian taxation:

#### 1. TDS

- TDS is a system where the **payer deducts tax** from certain payments at the time of making those payments.
- The deducted tax is then remitted to the government on behalf of the recipient.

#### 2. Applicability:

- TDS applies to various types of payments, including:
  - **Salary:** Employers deduct TDS from employees' salaries.
  - **Interest:** Banks deduct TDS on interest income.
  - **Rent:** TDS is applicable on rent payments exceeding a specified threshold.
  - **Professional Fees:** TDS is deducted on payments to professionals (e.g., consultants, lawyers).
  - **Contract Payments:** TDS is applicable on payments to contractors and freelancers.
  - **Dividends:** Companies deduct TDS on dividend payments.

#### 3. TDS Rates:

- Different rates apply based on the nature of the payment and the recipient.
- The Income Tax Act specifies TDS rates for various types of income.

#### 4. TDS Certificate (Form 16/16A):

- Employers issue Form 16 to employees, summarizing TDS details.
- Other deductors (e.g., banks, companies) issue Form 16A for non-salary TDS.

#### 5. Filing TDS Returns:

- Deductors must file quarterly TDS returns (Form 24Q for salaries, Form 26Q for non-salary payments).
- These returns provide details of TDS deductions made during the quarter.

#### 6. Challan 281:

- Challan 281 is used to deposit TDS with the government.
- It includes details of the deductor, deductee, and the tax amount.

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### Assessee under the Income Tax Act

**Answer:** An **income tax assessee** is a person who pays tax or any sum of money under the provisions of the **Income Tax Act, 1961**. According to **Section 2(7)** of the act, an income tax assessee includes anyone who is required to pay taxes on any earned income or incurred loss in a single assessment year. This definition encompasses the following categories:

#### 1. Normal Assessee:

- An individual liable to pay taxes for the income earned during a financial year.
- All individuals who have earned income or incurred losses in previous financial years fall under this category.

- Normal assesseees include those who pay interest, penalties, or are eligible for refunds from the government.
- For example, a salaried individual consistently paying taxes over several years is considered a normal assessee.

## 2. Representative Assessee:

- A person liable to pay taxes on behalf of a third party.
- Representative assesseees come into play when the taxpayer is a non-resident, minor, or lunatic who cannot file taxes independently.
- Representatives can be agents or guardians.
- For instance, if a non-resident owns properties in India and relies on a relative to file taxes, that relative acts as a representative assessee.

## 3. Deemed Assessee:

- Individuals assigned the responsibility of paying taxes by legal authorities.
- Deemed assesseees can be:
  - The eldest son or legal heir of a deceased person who did not leave a will.
  - The executor or legal heir of a deceased person's property.
  - The guardian of a lunatic, idiot, or minor.
- For example, when a deceased person's property is transferred to an executor, that executor becomes a deemed assessee.

## Resident in India

**Answer:** The concept of **residential status** for income tax purposes in India:

### 1. Definition of Residential Status:

- The **taxability** of an individual in India depends on their **residential status** for a particular financial year.
- **Residential status** is determined under the income tax laws of India and should not be confused with an individual's citizenship.

### 2. Types of Residential Status:



- **Resident and Ordinarily Resident (ROR):**
  - An individual qualifies as an ROR if they meet either of the following conditions:
    1. Stay in India for at least **182 days** during the previous year.
    2. Stay in India for at least **365 days** in the immediately preceding four years and at least **60 days** in the relevant financial year.
- **Resident but Not Ordinarily Resident (RNOR):**
  - An RNOR is an individual who was an NRI (non-resident) in India for at least **nine out of ten** previous financial years or stayed in India for less than **729 days** in the preceding seven years.
- **Non-Resident (NR):**
  - An individual is considered an NR if they do not meet the criteria for ROR or RNOR.

### 3. Exceptions to Residential Status:

- In specific cases, exceptions apply:
  - An Indian citizen leaving India as a crew member of an Indian ship or for employment qualifies as a resident if they stay in India for **182 days** or more.
  - An Indian citizen or person of Indian origin visiting India during the previous year will be treated as a resident if their total income (excluding foreign sources) exceeds ₹15 lakhs and they stay in India for **182 days** or more.

### 4. Deemed Residents:

- Certain individuals are deemed residents even if they don't meet the usual criteria:
  - Indian crew serving on foreign ships for **182 days** or more are treated as non-residents.
  - Seafarers serving on Indian ships outside India for **182 days** or more are considered non-residents, except for the time spent in Indian territorial waters.

### Types of Persons under Income Tax Act

**Answer:** Under the Indian Income Tax Act, different categories of persons are recognized based on their legal status, nature of income, and other factors. Here are the main types of persons under the Income Tax Act:

1. **Individuals:** Individuals are natural persons and include residents as well as non-residents. They are taxed on their worldwide income if they are residents and only on income earned or received in India if they are non-residents.
2. **Hindu Undivided Family (HUF):** HUF is a separate legal entity under Hindu law, consisting of members of a family bound together by ancestral customs and traditions. HUFs are taxed separately from their individual members.
3. **Company:** A company is a separate legal entity formed under the Companies Act. It can be classified as:
  - **Domestic Company:** A company whose place of effective management is situated wholly in India, or a company incorporated in India.
  - **Foreign Company:** A company incorporated outside India, but having a place of business in India.
  - **One Person Company (OPC):** A company that has only one person as its member.
4. **Firm, LLP (Limited Liability Partnership):** A firm is an association of persons carrying on a business with a view to earning a profit. LLP is a hybrid form of partnership with limited liability for its partners. Both firms and LLPs are taxed separately from their partners.
5. **Association of Persons (AOP) and Body of Individuals (BOI):** AOP is a group of persons who come together for a joint purpose, other than for carrying on a business, profession, or investment with a view to earning profits. BOI is a group of individuals who come together for a joint purpose, such as inheritance or jointly owning assets.
6. **Trust:** A trust is a legal arrangement where one party (trustee) holds property for the benefit of another party (beneficiary). Trusts may be formed for various purposes, including charitable, religious, or educational.
7. **Artificial Juridical Person:** Any entity other than those mentioned above, which is not a natural person but is recognized as a legal entity for tax purposes, falls under this category. This includes bodies such as universities, societies, local authorities, etc.

### Income Liable to Tax

**Answer:** Income liable to tax refers to the portion of your income that is subject to taxation. Let's break it down:

1. **Taxable Income:**

- Taxable income includes all sources of income that are subject to tax. It encompasses various components:
  - **Salary:** Basic salary, house rent allowance (HRA), special allowance, and other allowances.
  - **Interest Income:** Interest earned from savings accounts, fixed deposits, or other investments.
  - **Profits and Gains:** Income from business, profession, or capital gains (e.g., selling stocks, property).
  - **Rental Income:** Income from renting out property.
  - **Other Sources:** Income from dividends, royalties, lottery winnings, etc.

## 2. Exemptions and Deductions:

- Certain components of income are exempt from tax or eligible for deductions. These include:
  - **HRA Exemption:** If you receive HRA and live on rent, you can claim an exemption on HRA.
  - **Standard Deduction:** A fixed deduction allowed from salary income.
  - **Section 80C Deductions:** Investments in specified instruments (e.g., PPF, ELSS, life insurance premiums).
  - **Other Deductions:** Medical insurance premiums (Section 80D), home loan interest (Section 24), etc.

## 3. Calculating Tax Liability:

- Once you determine your taxable income, apply the applicable tax rates based on your age and the income slabs.
- Deduct any eligible deductions to arrive at your final tax liability.

### Assessment Year

**Answer:** The **Assessment Year (AY)** is the period that follows the **Financial Year (FY)**. Let's break down the difference between these two terms:

#### 1. Financial Year (FY):

- The **Financial Year** spans **12 months** from **1 April to 31 March**.
- It represents the accounting year in which you earn income.
- For example, FY 2023-24 starts on 1 April 2023 and ends on 31 March 2024.

## 2. Assessment Year (AY):

- The **Assessment Year** immediately follows the Financial Year.
- During the AY, the income earned in the previous FY is assessed and taxed.
- For instance, for FY 2023-24, the assessment year is AY 2024-25.
- Both FY and AY begin on 1 April and end on 31 March.

In summary:

- **FY:** The year you earn income.
- **AY:** The year in which your income is assessed and taxed.

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## Previous Year

**Answer:** the concept of the **Previous Year** in the context of the **Income Tax Act, 1961**.

### 1. Definition of Previous Year:

- The **Previous Year (PY)** is the financial year in which you **earn income**.
- It is the **12-month period** during which your income accrues or is received.
- For example, if you earn income from 1 April 2023 to 31 March 2024, the financial year 2023-24 is the previous year.

## 2. Assessment Year (AY):

- The **Assessment Year (AY)** follows the previous year.
- During the AY, your income earned in the previous year is assessed and taxed.
- For instance, for the previous year 2023-24, the assessment year is 2024-25.

## 3. Exceptions:

- In some cases, tax is paid in the **previous year itself**:
  - **Advance Tax**: If your tax liability exceeds ₹10,000, you must pay advance tax during the previous year.
  - **Self-Assessment Tax**: If you calculate additional tax liability after the financial year ends, you pay self-assessment tax during the previous year.

## Body of Individual

**Answer:** The concept of a **Body of Individuals (BOI)** in the context of income tax:

### 1. Definition of Body of Individuals (BOI):

- A **BOI** refers to a **conglomeration of individuals** who come together with the objective of earning some income.
- Unlike a company or firm, a BOI consists **only of individuals**.
- These individuals collaborate for specific purposes, such as joint investments or joint ventures.

### 2. Key Points:

- A BOI is not a separate legal entity like a company.
- It lacks the formal structure and legal recognition of a corporation.
- BOIs are often formed for **specific projects** or **income-generating activities**.
- Examples of BOIs include groups of investors pooling funds for real estate development or joint agricultural ventures.

## Perquisites

### 1. **Answer:** Perquisites

- Perquisites, commonly known as **perks**, refer to **additional benefits or advantages** provided by an employer to employees.
- These benefits are **in addition to the regular salary** and can be either in cash or non-cash form.

## 2. Types of Perquisites:

- **Monetary Perquisites:**
  - These are **cash benefits** provided to employees.
  - Examples include:
    - **House Rent Allowance (HRA):** An allowance for employees who live in rented accommodation.
    - **Special Allowances:** Additional allowances beyond basic salary.
    - **Bonus:** Cash bonuses based on performance.
- **Non-Monetary Perquisites:**
  - These are **non-cash benefits** provided to employees.
  - Examples include:
    - **Company Car:** Use of a company-owned car for personal and official purposes.
    - **Accommodation:** Providing accommodation or housing facilities.
    - **Stock Options:** Offering shares or stock options to employees.
    - **Health Insurance:** Coverage for medical expenses.
    - **Club Memberships:** Access to clubs, gyms, or recreational facilities.
    - **Interest-Free Loans:** Loans provided without interest or at concessional rates.

## 3. Tax Implications:

- Perquisites are **taxable** under the Income Tax Act.
- The value of perquisites is added to the employee's income and taxed accordingly.

- Employers are required to calculate the value of perquisites and deduct TDS (Tax Deducted at Source) accordingly.

#### 4. Exemptions:

- Some perquisites are exempt from tax up to certain limits:
  - **HRA Exemption:** HRA received by employees is partially exempt if they meet specific conditions.
  - **Conveyance Allowance:** Up to ₹1,600 per month is exempt.
  - **Medical Reimbursement:** Up to ₹15,000 per year is exempt.
  - **Meals at Office:** Meals provided during working hours are exempt.
  - **LTA (Leave Travel Allowance):** Exempt for actual travel expenses on leave.

### Commutation of Pension.

**Answer:** **Commutation of pension** refers to the process where a retired individual chooses to receive a lump sum payment upfront in exchange for a reduced portion of their regular pension. Here are the key points related to pension commutation:

#### 1. What is Pension Commutation?

- When a person retires and starts receiving a pension, they have the option to commute a part of their pension.
- Commutation involves converting a portion of the pension into a lump sum payment.

#### 2. Calculation of Commuted Value:

- The commuted value depends on factors such as the individual's age, pension amount, and applicable commutation factor.
- The commutation factor is determined based on the individual's age at the time of retirement.

#### 3. Reduction in Regular Pension:

- By opting for commutation, the individual agrees to receive a reduced pension for the rest of their life.
- The commuted portion is deducted from the regular pension.

#### 4. Tax Implications:

- The lump sum received through commutation is **tax-free** up to a certain limit.
- Any amount exceeding the exempt limit is taxable.

#### 5. Exempt Limit:

- The exempt limit for commutation is determined based on the individual's age at the time of commutation.
- The maximum commutation allowed is 40% of the pension for government employees and 33.33% for non-government employees.

#### 6. Permanent Reduction:

- It's essential to understand that the reduction due to commutation is **permanent**.
- The reduced pension continues for the individual's lifetime.

### Due dates of advance tax payments

**Answer:** Let us Understand with this year example

The due dates for **advance tax payments** during the financial year 2024-25 are as follows:

1. **First Instalment:** Due on or before **15th June 2024**.
  - Pay **15%** of the estimated advance tax liability.
2. **Second Instalment:** Due on or before **15th September 2024**.
  - Pay **45%** of the advance tax (after adjusting for any tax already paid).
3. **Third Instalment:** Due on or before **15th December 2024**.
  - Pay **75%** of the advance tax (after adjusting for any tax already paid).
4. **Fourth Instalment:** Due on or before **15th March 2025**.
  - Pay the remaining **100%** of the advance tax (after adjusting for any tax already paid).

### "Input tax credit" under GST

**Answer:** Input Tax Credit (ITC) is a significant concept under the Goods and Services Tax (GST) regime. Let's explore it in detail:

#### 1. Input Tax Credit (ITC)



- ITC allows a registered taxpayer to **offset the GST paid on inputs** (purchases of goods or services) against the GST liability on outputs (sales of goods or services).
- In simpler terms, it means that when you pay tax on your purchases, you can reduce that tax amount from the tax you owe on your sales.

## 2. Eligibility for ITC:

- To claim ITC, you must be a **registered taxpayer** under GST.
- You can claim ITC for tax paid on inputs used for business purposes.

## 3. Conditions for Claiming ITC:

- You must have a **valid tax invoice** (or debit note) issued by a registered supplier.
- The goods or services on which you are claiming ITC must be used for **furtherance of business**.
- ITC cannot be claimed for personal or non-business expenses.

## 4. How to Claim ITC?

To claim ITC under GST: Ensure you have valid tax invoices for your purchases.

- Report the details of your purchases in your **GST return**.
- The ITC amount will be automatically credited to your electronic credit ledger.

## 5. Recent Updates:

- The rules related to ITC have undergone changes, including restrictions based on GSTR-2B and self-assessment. Make sure to stay updated with the latest guidelines.



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## Capital Gains.

**Answer:** Capital gains refer to the profits or gains realized from the sale of certain assets.

### 1. Types of Capital Gains:

- **Short-Term Capital Gains (STCG):** These arise from the sale of assets held for a short period (usually less than 3 years). STCG is taxed at regular income tax rates.
- **Long-Term Capital Gains (LTCG):** These result from the sale of assets held for a longer duration (more than 3 years). LTCG enjoys preferential tax rates.

### 2. Examples of Capital Assets:

- **Equity Shares:** Gains from selling shares of listed companies.
- **Real Estate:** Profits from selling property.
- **Debt Instruments:** Interest-bearing securities like bonds.
- **Mutual Funds:** Gains from redeeming mutual fund units.
- **Jewelry, Art, and Collectibles:** Profits from selling valuable items.

### 3. Taxation of Capital Gains:

- **STCG:** Taxed at regular income tax rates applicable to the taxpayer.
- **LTCG:**
  - **Equity:** Exempt up to ₹1 lakh per financial year. Beyond that, taxed at 10%.
  - **Other Assets:** Taxed at 20% with indexation benefit (adjusting for inflation).

### 4. Indexation Benefit:

- For LTCG on non-equity assets, indexation adjusts the purchase price based on inflation.
- It reduces the taxable gain, resulting in lower tax liability.

### 5. Exemptions and Deductions:

- Certain investments (like tax-saving bonds) offer exemptions from LTCG tax.
- Reinvesting LTCG in specified bonds or a residential property can save tax.

## Types of Residential status

**Answer:** Different types of **residential status** under the **Income Tax Act**:

### 1. Resident and Ordinarily Resident (ROR):

- An individual qualifies as an ROR if they meet either of the following conditions:
  - Stay in India for at least **182 days** during the previous year.
  - Stay in India for at least **365 days** in the immediately preceding four years and at least **60 days** in the relevant financial year.

### 2. Resident but Not Ordinarily Resident (RNOR):

- An RNOR is an individual who was an NRI (non-resident) in India for at least **nine out of ten** previous financial years or stayed in India for less than **729 days** in the preceding seven years.

### 3. Non-Resident (NR):

- An individual is considered an NR if they do not meet the criteria for ROR or RNOR.

## Kinds of GST

**Answer:** There are **four types of GST** in India, each serving specific purposes.

### 1. Integrated Goods and Services Tax (IGST):

- **Applicability:** IGST is applied on **interstate transactions** (between two states), as well as on **imports** and **exports**.
- **Tax Collection:** The Central Government collects IGST, which is then distributed among the respective states.
- **Example:** If a trader from West Bengal sells goods to a customer in Karnataka, IGST is applicable.

### 2. State Goods and Services Tax (SGST):

- **Applicability:** SGST is levied on **intrastate transactions** (within the same state).
- **Tax Collection:** The state government collects SGST on goods and services purchased or sold within the state.

- **Example:** If a trader in West Bengal sells goods to a customer in West Bengal, both CGST and SGST apply.

### 3. Central Goods and Services Tax (CGST):

- **Applicability:** CGST is also applicable on **intrastate transactions**.
- **Tax Collection:** The Central Government collects CGST.
- **Example:** When a trader sells goods within the same state, both CGST and SGST are charged.

### 4. Union Territory Goods and Services Tax (UTGST):

- **Applicability:** UTGST is specific to union territories.
- **Tax Collection:** The union territory administration collects UTGST.
- **Example:** Transactions within union territories like Chandigarh or Puducherry fall under UTGST.

## Heads of Income under IT Act

**Answer:** Under the **Income Tax Act**, a taxpayer's earnings are divided into **five heads of income**. These heads help classify different types of income for accurate tax calculation. Let's explore each head:

#### 1. Income from Salary:

- This head includes income received in terms of the service provided under a contract of employment.
- Components include salary, advance salary, perquisites, gratuity, commission, annual bonus, and pension.
- Exemptions include House Rent Allowance (HRA) and transport allowance.

#### 2. Income from House Property:

- Taxation occurs on income received from both commercial and residential properties.
- Sub-classifications include self-occupied property, let-out property, and deemed let-out property.

#### 3. Income from Profits and Gains from Business or Profession:

- Profits earned from any business or profession are taxable under this head.

- You can subtract expenses from total income to determine the taxable amount.

#### 4. Income from Capital Gains:

- Capital gains arise from the sale of capital assets like shares, real estate, or other investments.
- Tax rates differ for short-term and long-term capital gains.

#### 5. Income from Other Sources:

- This head includes income not covered by the other four heads.
- Examples include interest income, dividends, and winnings from lotteries or games.

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### Due dates of advance tax payments other than Individual & HUF

**Answer:** Let us understand this with live example of year 2024. The due dates for **advance tax payments** for taxpayers other than individuals and Hindu Undivided Families (HUFs) are as follows:

#### 1. For All Taxpayers (Except Presumptive Taxpayers):

- **First Instalment:** On or before **15th June 2024**, pay **15%** of the estimated advance tax liability.
- **Second Instalment:** On or before **15th September 2024**, pay **45%** of the advance tax (after adjusting for any tax already paid).
- **Third Instalment:** On or before **15th December 2024**, pay **75%** of the advance tax (after adjusting for any tax already paid).
- **Fourth Instalment:** On or before **15th March 2025**, pay the remaining **100%** of the advance tax (after adjusting for any tax already paid).

## 2. For Taxpayers Who Have Opted for Presumptive Taxation Scheme under Sections 44AD & 44ADA (Business Income):

- **Instalment Due Date:** On or before **15th March 2025**, pay **100%** of the advance tax.

### Profit in lieu of Salary.

**Answer:** Profits in lieu of salary refer to payments received by an employee in addition to their regular salary. These profits can include both monetary and non-monetary compensation. Here are some key aspects related to profits in lieu of salary:

#### 1. Terminal Compensation:

- Any compensation received by an employee from their employer or former employer in connection with the termination of employment or modification of terms and conditions of employment is regarded as profits in lieu of salary.
- Examples of terminal compensation include amounts paid on retirement, premature termination, resignation, or other circumstances.

#### 2. Keyman Insurance Policy:

- Any payment received by an employee under a keyman insurance policy, including the sum allocated by way of bonus on such a policy, is regarded as profits in lieu of salary.

#### 3. Unrecognized Provident Fund or Unrecognized Superannuation Fund:

- Payments due or received by an employee from an unrecognized provident fund or unrecognized superannuation fund (to the extent not consisting of contributions by the employee or interest on such contributions) are considered profits in lieu of salary.
- The untaxed portion of the accumulated balance of such funds is taxed when paid to the employee upon retirement or termination of service.

#### 4. Other Payments from Employers:

- Any other payment made by an employer to an employee is taxable under the head “profits in lieu of salary.”
- This provision covers all payments made by an employer to an employee, whether made in pursuance of a legal obligation or voluntarily.

#### 5. Exemptions:

- Certain payments, such as death cum retirement gratuity, commuted value of pension, and retrenchment compensation, are not considered profits in lieu of salary to the extent they are exempt under Section 10.

### Non-Resident under the Income Tax Act.

**Answer:** The concept of **Non-Resident** under the **Income Tax Act, 1961**:

#### 1. Definition of Non-Resident Individual:

- An individual is considered a **Non-Resident** in India for tax purposes if they do not meet the criteria for being a resident.
- The residential status is determined under **Section 6** of the Income Tax Act.

#### 2. Residential Status Criteria:

- An individual will be treated as a **Resident in India** in any previous year if they satisfy any of the following conditions:
  1. If they are in India for a period of **182 days or more** during the previous year.
  2. If they are in India for a period of **60 days or more** during the previous year and **365 days or more** during the **4 years immediately preceding** the previous year.
- An individual who does not satisfy both the conditions mentioned above will be treated as a **Non-Resident** in that previous year.
- However, in respect of an Indian citizen and a person of Indian origin who visits India during the year, the period of 60 days (as mentioned in point 2) is substituted with **182 days**.

#### 3. Exceptions:

- The Finance Act, 2020 introduced amendments:
  - If an Indian citizen or a person of Indian origin whose **Total Income (other than Income from Foreign Sources)** exceeds ₹15 lakh during the previous year, the period of 60 days (as mentioned in point 2) is substituted with **120 days**.
  - A new Section 6(1A) provides that an Indian citizen earning Total Income in excess of ₹15 lakh (other than income from foreign sources) shall be deemed to be a **Resident in India** if they are not liable to pay tax in any country.

#### 4. Applicable ITR Forms for Non-Resident Individuals:

- **ITR-2:** Applicable for Non-Resident Individuals (whether Resident or Non-Resident) and Hindu Undivided Family (HUF) not having income under the head “Profits and Gains of Business or Profession.”
- **ITR-3:** Applicable for Non-Resident Individuals (whether Resident or Non-Resident) and Hindu Undivided Family (HUF) having income under the head “Profits and Gains of Business or Profession.”


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## PART-B

### Long Answers

**Write a note on administrative officer under GST Act? What are their powers?**

**Answer:** Administrative Officers play a crucial role in the effective implementation and administration of the Goods and Services Tax (GST) Act in India. Let's explore their powers and responsibilities:

#### 1. Definition of Administrative Officer:

- An **Administrative Officer** under the GST Act is an officer appointed under **Section 3** of the **Central Goods and Services Tax Act, 2017**.
- These officers are vested with certain statutory powers and duties to ensure the smooth functioning of the GST system.

#### 2. Key Powers of an Administrative Officer:

- **Power to Assess Tax (Section 73 and Section 74):**
  - The Administrative Officer has the authority to assess the tax liability of registered persons under the GST Act.
  - This assessment involves scrutinizing returns and relevant documents to ensure correct tax payment and prevent tax evasion.
  - If discrepancies are identified, the officer can serve a show cause notice to the taxpayer.
- **Power to Conduct Audit (Section 65):**
  - The Administrative Officer can conduct audits at the premises of the taxpayer.
  - The purpose is to verify the correctness of the taxpayer's turnover, taxes paid, refund claimed, and input tax credit availed, ensuring compliance with the provisions of the Act.
- **Power to Search and Seize Goods (Section 67):**
  - If there is reason to believe that goods liable to confiscation or essential documents are concealed, the officer can authorize search and seizure operations.
  - The goods and documents seized shall be returned when proceedings relating to such goods or documents are concluded.

- **Power to Demand Tax (Section 73, 74, and 75):**
  - If a taxpayer fails to pay tax, the officer can determine the tax amount due and demand the tax, along with interest and penalty.
- **Power to Confiscate Goods (Section 130):**
  - If a person transports or stores any goods in violation of the provisions of the Act, the officer can confiscate the goods or conveyances carrying them.

### 3. Case Laws Relevant to Powers of the Administrative Officer:

- **M/s Inox Air Products Pvt. Ltd. vs Union Of India & Others:**
  - This case highlights the Administrative Officer's power of tax assessment.
  - The court ruled that the officer has the authority to determine the tax liability after considering the facts and circumstances of each case.
- **M/s Shabnam Petrofils Pvt. Ltd. vs Union of India & Others:**
  - This case illustrates the Administrative Officer's power to demand tax.
  - The court observed that the officer has the authority to serve a demand notice on the taxpayer for the unpaid tax, and it is the taxpayer's responsibility to pay the due amount.

**Conclusion:** through their powers of tax assessment, audit, search, seizure, demand, and confiscation, the Administrative Officer helps maintain transparency, fairness, and efficiency in the GST system.

**What are the conditions precedent to be complied for claiming exemption of expenses incurred for the treatment of specified diseases under section 80DDB of the Income tax Act?**

**Answer:** Under **Section 80DDB** of the Income Tax Act, taxpayers can claim a deduction for medical treatment expenses incurred for a dependent suffering from specified diseases. Here are the key conditions to be met for claiming this exemption:

#### 1. Eligibility Parameters:

- The taxpayer must be an **individual** or a **Hindu Undivided Family (HUF)**.
- The taxpayer must have incurred expenses on the treatment of a specified disease for **himself/herself** or his/her **dependent**.
- The dependent can be the **spouse, children, parents, brothers, or sisters** of the taxpayer.

## 2. Diseases Covered:

- The specified diseases covered under Section 80DDB include:
  - **Neurological Diseases** (where the disability level is certified to be 40% and above):
    - Dementia
    - Dystonia Musculorum Deformans
    - Motor Neuron Disease
    - Ataxia
    - Chorea
    - Hemiballismus
    - Aphasia
    - Parkinson's Disease
    - Certificate for these diseases can be obtained from a **Neurologist** with a Doctorate of Medicine (D.M.) degree in Neurology or any equivalent degree recognized by the Medical Council of India (MCI).
  - **Malignant Cancers**
  - **AIDS**
  - **Haematological disorders**
  - **Chronic Renal failure.**

## 3. Certificate Requirement:

- The taxpayer needs to obtain a certificate from a **specialist** as per the following guidelines:
  - Patients treated in a **private hospital** do not require a certificate from a government hospital.
  - Patients receiving treatment in a **government hospital** must obtain the certificate from a specialist working full-time in that hospital.
  - The specialist must have a **postgraduate degree** in General Medicine or an equivalent degree recognized by the Medical Council of India (MCI).

- The certificate should include:
  - Patient's name and age
  - Name of the disease or ailment
  - Name, address, and registration number of the specialist issuing the certificate.
  - Qualifications of the specialist
  - If the patient is receiving treatment in a **government hospital**, the certificate should also include the name and address of the hospital.

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**Define Allowances? How many kinds of allowance are there? Provide and explain Allowances fully taxable under IT Act?**

**Answer:** Allowances refer to financial benefits provided by employers to employees over and above their regular salary. These allowances can be categorized into three main types based on their tax implications:

**1. Taxable Allowances:**

- **Dearness Allowance (DA):** Given by certain employers to compensate employees for the increased cost of living due to inflation. It is generally a fixed percentage of the basic salary and is fully taxable under the Income Tax Act.
- **Entertainment Allowance:** Reimburses employees for expenses incurred on customer hospitality. This allowance is completely taxable for private-sector employees.

**2. Partially Taxable Allowances:**

- **City Compensatory Allowance:** Partially taxable.

- **Cash Allowance:** Also partially taxable.
- **Conveyance Allowance** (above Rs. 19,200 per annum under section 10(14)(ii) of the Income Tax Act): Partly taxable.
- **Fixed Medical Allowance:** Taxable to some extent.
- **Special Allowance:** Falls under this category.

### 3. Non-Taxable Allowances:

- **House Rent Allowance (HRA)** (when it qualifies as exempt under Section 10): If certain conditions are met, HRA can be non-taxable.
- **Leave Travel Allowance (LTA):** Exempt subject to specific rules.
- **Payments to government employees posted abroad:** Non-taxable.
- **Allowance for UN employees:** Exempt.
- **Sumptuary allowance paid to judges of Supreme Court and High Courts:** Non-taxable.
- **Compensatory allowance paid to judges of Supreme Court and High Courts:** Also falls under this category

### White a note on Tax liability on composite and mixed supplies?

**Answer:** Tax liability on composite and mixed supplies is a crucial aspect of the Goods and Services Tax (GST) regime in India. Understanding the distinction between composite and mixed supplies helps businesses determine the applicable tax treatment and ensures compliance with GST regulations. Here's a note on the tax liability on composite and mixed supplies:

#### Composite Supply:

A composite supply comprises two or more goods or services that are naturally bundled together and supplied in conjunction with each other in the ordinary course of business. In a composite supply, one of the components is the principal supply, and the other(s) are ancillary to it. The tax liability on a composite supply is determined based on the principal supply.

- **Tax Liability:** The GST rate applicable to the principal supply governs the tax liability on a composite supply. All components of the composite supply are taxed at the same rate as the principal supply.

- **Example:** A restaurant offering a meal package consisting of food items and beverages. Here, the principal supply is the food items, and the beverages are ancillary to it. The GST rate applicable to the meal package is based on the GST rate applicable to food items.

### Mixed Supply:

A mixed supply comprises two or more goods or services that are supplied together, but not necessarily in conjunction with each other, for a single price. Unlike composite supplies, there is no principal supply in a mixed supply, and each component retains its identity.

- **Tax Liability:** In a mixed supply, the tax liability is determined individually for each component based on its respective GST rate. The GST rate applicable to each component is applied to calculate the tax liability on the mixed supply.
- **Example:** A gift hamper containing chocolates, cookies, and a decorative item. Each component has its own GST rate, and the tax liability on the gift hamper is determined by applying the respective GST rates to each component.

In summary, under the GST regime, the tax liability on composite supplies is determined based on the principal supply, while for mixed supplies, the tax liability is calculated individually for each component. Businesses must correctly identify whether a supply is composite or mixed to ensure accurate tax calculation and compliance with GST regulations.

### Write a note on Administrative Officer under SGST & IGST Act. What are their powers?

#### Answer:

Administrative officers play a pivotal role in the implementation and enforcement of the State Goods and Services Tax (SGST) and Integrated Goods and Services Tax (IGST) Acts in India. These officers are appointed by the respective state governments for SGST and by the Central Government for IGST. They are responsible for ensuring compliance with GST laws, facilitating tax administration, and addressing any issues related to GST within their jurisdiction. Here's a note on administrative officers under the SGST and IGST Acts, including their powers:

#### Role of Administrative Officers:

1. **Registration and Compliance:** Administrative officers are responsible for the registration of taxpayers under the SGST and IGST Acts. They verify and process applications for GST registration and monitor compliance with registration requirements.
2. **Assessment and Audit:** Administrative officers conduct assessments and audits of taxpayers to verify the accuracy and completeness of their GST returns and compliance with GST laws. They

have the authority to examine books of accounts, records, and documents related to GST transactions.

3. **Enforcement and Investigation:** Administrative officers have the power to initiate enforcement actions against taxpayers suspected of GST evasion or non-compliance. They can conduct investigations, searches, and seizures to gather evidence of tax evasion or fraud.
4. **Refunds and Rebates:** Administrative officers process refund claims filed by taxpayers for excess GST paid and verify the eligibility criteria for refunds and rebates under the SGST and IGST Acts.
5. **Dispute Resolution:** Administrative officers adjudicate disputes between taxpayers and tax authorities regarding GST liability, input tax credit, and other matters related to GST administration.

#### **Powers of Administrative Officers:**

1. **Search and Seizure:** Administrative officers have the authority to conduct searches and seizures of premises, goods, documents, and records to prevent tax evasion and enforce compliance with GST laws.
2. **Summoning and Examination:** They can summon any person for examination and require the production of documents, books of accounts, or records relevant to GST proceedings.
3. **Detention and Arrest:** Administrative officers have the power to detain goods, vehicles, or documents suspected of GST evasion and to arrest individuals involved in serious cases of tax fraud or evasion.
4. **Penalties and Prosecution:** They can impose penalties on taxpayers for non-compliance with GST provisions and initiate criminal prosecution proceedings against offenders in cases of tax evasion or fraud.

Administrative officers play a crucial role in the effective administration and enforcement of GST laws, ensuring compliance by taxpayers and safeguarding government revenue. Their powers are aimed at maintaining the integrity of the GST system and deterring tax evasion, thereby contributing to the overall efficiency and transparency of the tax regime.

#### **What is PAN its importance and what are the rules regarding PAN for opening Bank Account.**

**Answer:** PAN, or Permanent Account Number, is a unique alphanumeric identifier issued by the Income Tax Department of India to individuals, entities, and businesses. It serves as a universal identification key for tracking financial transactions and ensuring tax compliance. Here's an overview of PAN, its importance, and the rules regarding PAN for opening bank accounts:

**Importance of PAN:**

1. **Tax Identification:** PAN serves as a primary identification number for individuals and entities under the Indian tax system. It is essential for filing income tax returns, paying taxes, and other tax-related activities.
2. **Financial Transactions:** PAN is required for various financial transactions such as opening bank accounts, investing in securities, buying or selling immovable property, conducting high-value transactions, and more.
3. **Avoiding Tax Evasion:** PAN helps the government track financial transactions and detect tax evasion, money laundering, and other financial irregularities by linking transactions to specific individuals and entities.
4. **KYC Compliance:** PAN is a crucial component of Know Your Customer (KYC) norms followed by banks, financial institutions, and other entities. It helps verify the identity of customers and ensure compliance with regulatory requirements.

**Rules Regarding PAN for Opening Bank Accounts:**

1. **Mandatory Requirement:** As per the rules prescribed by the Reserve Bank of India (RBI), individuals and entities are required to provide their PAN when opening bank accounts in India. This applies to all types of accounts, including savings accounts, current accounts, and fixed deposit accounts.
2. **Submission of PAN Card:** To open a bank account, individuals must submit a self-attested copy of their PAN card along with the account opening application form and other KYC documents such as proof of identity, address proof, and recent photograph.
3. **PAN Verification:** Banks are required to verify the PAN provided by the customer with the Income Tax Department's database to ensure its authenticity and validity. This verification is a standard procedure as part of the KYC process.
4. **Exceptions:** In certain cases, individuals who do not have a PAN may be allowed to open a bank account by submitting a Form 60 or Form 61 (in lieu of PAN) along with other KYC documents. However, such accounts may have limitations or restrictions imposed by the bank.

Conclusion: PAN is a vital identification number that facilitates tax compliance, financial transactions, and regulatory compliance. It is mandatory for opening bank accounts in India, helping banks verify the identity of customers and comply with KYC norms. Individuals and entities should ensure they possess a valid PAN card and submit it when required for banking and other financial transactions.



## Explain how tax liability of an assessee is determined with reference to Residence?

**Answer:** The **tax liability** of an assessee in India is determined based on their **residential status** during the relevant financial year. Let's explore this in detail:

### 1. Residential Status:

- The residential status of an assessee is determined with reference to their **residence in the previous year** (the financial year immediately preceding the assessment year).
- It's important to note that **residence** and **citizenship** are distinct concepts for taxation purposes:
  - **Residence:** Refers to the number of days an individual was physically present in India during the financial year and the preceding ten financial years.
  - **Citizenship:** Remains constant or changes infrequently, unlike residence.
- An Indian citizen may be a **non-resident** for tax purposes, and a foreigner may be considered a **resident**.

### 2. Types of Residents:

- Section 6 of the Income Tax Act divides assesses into three categories based on residence:
  - **Ordinary Resident in India:** An individual who satisfies either of the following conditions:
    - Present in India for at least **182 days** during the financial year.
    - Present in India for at least **60 days** during the financial year and for at least **365 days** during the preceding four financial years.
  - **Not Ordinary Resident in India:** An individual who doesn't meet the criteria for ordinary residency.
  - **Non-Resident:** An individual who is not a resident as per the above definitions.
- These categories apply to individuals, Hindu Undivided Families (HUFs), firms, associations of persons, companies, local authorities, and artificial juridical persons.

### 3. Tax Liability Determination:

- The tax liability of an assessee is based on their residential status during the **previous year**, not the assessment year.

- The scope of total income for each person is determined by their residential status.
- The applicable tax rates are determined based on whether the individual is an ordinary resident, not ordinary resident, or non-resident.
- Remember that the assessment year is immaterial for determining residential status.

#### 4. Filing of Income Tax Return:

- Based on the residential status and taxable income, the assessee files an income tax return with the Income Tax Department. The return must be filed within the prescribed due dates, and any taxes due must be paid accordingly.

Conclusion: the determination of the tax liability of an assessee is closely linked to their residential status under the Income Tax Act. Different rules apply to residents and non-residents, affecting the scope of taxable income and the applicable tax rates and exemptions. It's essential for taxpayers to accurately determine their residential status and comply with the relevant tax provisions to fulfill their tax obligations effectively.

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**What are the various deductions allowed under the head salaries and income from house property.**

**Answer:** the deductions allowed under the heads of salaries and income from house property:

#### 1. Deductions Under Income from House Property (Section 24):

- **Municipal Tax Deduction:** Municipal taxes paid by the property owner can be deducted from the **Gross Annual Value** to arrive at the **Net Annual Value** of the house property.
- **Standard Deduction:** A standard deduction of **30%** of the Net Annual Value is allowed. This deduction is irrespective of the actual expenditure incurred on insurance, repairs,

electricity, water supply, etc. For a self-occupied house property, where the Annual Value is Nil, the standard deduction is also zero.

○ **Interest on Home Loan Deduction:**

- If the owner or their family resides in the house property, they can claim a deduction of up to **Rs. 2 lakh** on home loan interest.
- If the property is rented out, the entire interest on the home loan is allowed as a deduction.
- Additional deductions:
  - **Section 80EE:** If the home loan was taken between 01-04-2016 and 31-03-2017, an additional deduction of up to **Rs. 50,000** can be claimed.
  - **Section 80EEA:** If the loan was borrowed between 01-04-2019 and 01-04-2022, an additional deduction of up to **Rs. 1,50,000** is available.

**2. Deductions Under the Head Salaries:**

- **House Rent Allowance (HRA):** Salaried individuals living in a rented house/apartment can claim HRA to lower tax payment. The deduction available is the least of:
  - Actual HRA received.
  - **50%** of Basic Salary for those in metro cities (or **40%** for non-metro cities).
  - Rent paid minus **10%** of Basic Salary.
- Other deductions under the head of salaries include **standard deduction, professional tax, and entertainment allowance** (for government employees).

**Give a detail note on procedure of Registration under GST Act 2017?**

**Answer:** The procedure for registration under the Goods and Services Tax (GST) Act, 2017 in India involves several steps to ensure compliance with GST regulations. Here's a detailed note on the registration process under the GST Act:

**1. Determine Eligibility:**

- Before applying for GST registration, assess whether you are required to register under GST. Businesses meeting any of the following criteria are required to register:

- Aggregate turnover exceeds the threshold limit prescribed for registration (currently Rs. 20 lakhs for most states; Rs. 10 lakhs for special category states).
- Engaged in inter-state supply of goods or services.
- Required to pay tax under reverse charge mechanism.
- Casual taxable persons or non-resident taxable persons.
- Input service distributor (ISD).
- E-commerce operator or aggregator.
- Person liable to deduct TDS or TCS under GST.

## 2. Gather Documents:

- Collect the necessary documents and information required for GST registration, including:
  - PAN of the business entity.
  - Aadhaar card, passport, or voter ID of the authorized signatory.
  - Proof of business ownership (e.g., partnership deed, memorandum of association, articles of association).
  - Address proof of the principal place of business (e.g., utility bills, rental agreement, property tax receipt).
  - Bank account details (e.g., account number, IFSC code).

## 3. Online Registration:

- Visit the GST portal (<https://www.gst.gov.in/>) and navigate to the 'Services' > 'Registration' section.
- Click on 'New Registration' and fill in the required details in the GST registration application form (GST REG-01).
- Provide accurate information about the business entity, its promoters/partners/directors, and the authorized signatory.
- Upload scanned copies of the required documents and submit the application.

## 4. Verification and Validation:

- After submitting the application, a verification code (OTP) is sent to the mobile number and email ID provided in the application.

- Verify the application using the OTP received to authenticate the details provided.

#### **5. ARN Generation:**

- Upon successful verification, an Application Reference Number (ARN) is generated and sent to the applicant's email and mobile number.
- The ARN is used to track the status of the GST registration application.

#### **6. Processing of Application:**

- The GST authorities review the application and documents submitted.
- If additional information or clarification is required, the applicant may be asked to provide the same within a specified timeframe.

#### **7. GST Registration Certificate:**

- Once the application is approved, a GST registration certificate (Form GST REG-06) containing the GSTIN (GST Identification Number) is issued electronically.
- The applicant can download and print the GST registration certificate from the GST portal.

#### **8. Post-Registration Formalities:**

- After obtaining GST registration, businesses are required to comply with various GST compliance obligations, including filing GST returns, maintaining proper records, issuing tax invoices, and collecting and remitting GST to the government.

#### **9. Amendment and Cancellation:**

- Any changes to the details provided in the GST registration application must be updated promptly using the appropriate amendment forms.
- In case of cessation of business or any other reason for cancellation of registration, the registered person must apply for cancellation of registration using Form GST REG-16.

It's essential for businesses to follow the prescribed procedure for GST registration and ensure timely compliance with GST regulations to avoid penalties and legal repercussions. Consulting with a tax advisor or GST practitioner can provide additional guidance on the registration process and GST compliance requirements.

**Explain the principles relating to computation on Income under the head salaries under the Income Tax Act. 1961,**

**Answer:** Under the Income Tax Act, 1961, the computation of income under the head "Salaries" follows specific principles and rules. Here are the key principles relating to the computation of income under the head "Salaries":

### **1. Scope of Income:**

- Income under the head "Salaries" includes any salary or wages, gratuity, pension, fees, commission, perquisites, profits in lieu of salary, advance salary, leave encashment, annual bonuses, and any other payments received by an employee from an employer.

### **2. Basis of Taxation:**

- The income chargeable under the head "Salaries" is taxable on an accrual basis, i.e., it is taxable in the hands of the employee in the year in which it is due or received, whichever is earlier.

### **3. Components of Salary:**

- Salary comprises various components such as basic salary, allowances (e.g., house rent allowance, transport allowance, special allowance), bonuses, incentives, perquisites (e.g., rent-free accommodation, company car), and other benefits provided by the employer.

### **4. Exempt Allowances and Perquisites:**

- Certain allowances and perquisites are exempt from tax up to specified limits or conditions. For example, house rent allowance (HRA) is exempt to the extent of the least of the following: actual HRA received, 50% of salary for individuals residing in metro cities, or actual rent paid minus 10% of salary. Similarly, perquisites like medical reimbursement up to a certain limit are exempt from tax.

### **5. Deductions and Exemptions:**

- Certain deductions and exemptions are allowed under the Income Tax Act to reduce the taxable income under the head "Salaries." Common deductions include standard deduction (a fixed deduction from salary income), deductions under section 80C (for investments in specified avenues), section 80D (for health insurance premiums), and others.

### **6. Taxable Perquisites:**

- Certain perquisites provided by the employer are taxable in the hands of the employee. The value of taxable perquisites is determined based on specified valuation rules prescribed under the Income Tax Rules, 1962.

### 7. Reporting and Documentation:

- Employers are required to provide employees with a Form 16, which contains details of salary income, taxes deducted at source (TDS), and other relevant information. Employees must use this information to report their salary income accurately in their income tax returns.

### 8. Tax Deduction at Source (TDS):

- Employers are responsible for deducting TDS on salary income at the time of payment and remitting it to the government. TDS rates vary based on the income slab and applicable tax rates.

**Conclusion:** Adhering to these principles ensures accurate computation and reporting of income under the head "Salaries" and compliance with the provisions of the Income Tax Act, 1961. It's essential for both employers and employees to understand these principles to fulfill their tax obligations effectively.

### What does Transfer means for the purpose of charging tax on Capital gain?

**Answer:** The charging tax on capital gains under the Income Tax Act, 1961, the term "transfer" holds significant importance. The definition of "transfer" determines when a capital gain is deemed to arise, triggering tax liability. Here's what "transfer" means for the purpose of charging tax on capital gains:

#### 1. Definition of Transfer:

- Section 2(47) of the Income Tax Act defines "transfer" in an inclusive manner. According to this definition, "transfer" includes:
  - Sale, exchange, or relinquishment of the asset.
  - Extinguishment of any rights in the asset.
  - Compulsory acquisition of the asset under any law.
  - Conversion of capital asset into stock-in-trade.
  - Distribution of assets by a company upon liquidation.
  - Transfer of beneficial interest in the asset, and other similar transactions.

#### 2. Deemed Transfer:

- In addition to actual transfers, certain transactions are deemed to be transfers for the purpose of capital gains taxation. These include transactions where there is no actual transfer of ownership but a change in the rights or status of the asset, resulting in a capital gain.

### 3. Impact on Tax Liability:

- When a transfer occurs, whether actual or deemed, it triggers tax liability on any capital gains arising from the transaction. Capital gains are computed by deducting the cost of acquisition/improvement and any other allowable expenses from the full value of consideration received or accruing as a result of the transfer.

### 4. Exemptions and Exceptions:

- Certain transfers are exempt from capital gains tax under specific provisions of the Income Tax Act. For example, gains from the transfer of agricultural land in rural areas, gains from the transfer of specified securities like equity shares held for the long term, and gains from the transfer of residential property invested in specified avenues such as purchasing another residential property or investing in specified bonds.

### 5. Documentation and Reporting:

- Taxpayers are required to document and report all transactions resulting in capital gains accurately in their income tax returns. Proper documentation of the transfer and computation of capital gains is essential for tax compliance and avoiding any disputes with tax authorities.

**Conclusion:** Understanding the concept of "transfer" is crucial for determining tax liability on capital gains and complying with the provisions of the Income Tax Act. Taxpayers should seek guidance from tax professionals to ensure proper treatment of capital gains arising from various transactions.

**What do you understand "best judgment assessment"? What are the safeguards of its against regular assessment?**

**Answer:** "Best judgment assessment" is a provision under the Income Tax Act, 1961, that empowers tax authorities to make an assessment of a taxpayer's income to the best of their judgment in cases where the taxpayer fails to file a tax return or provide the required information despite notices and reminders. Here's a detailed understanding of best judgment assessment and its safeguards against regular assessment:

#### 1. Understanding Best Judgment Assessment:



- **Trigger:** Best judgment assessment is initiated when a taxpayer fails to comply with the statutory requirements, such as filing a tax return or providing necessary documents, despite receiving notices and reminders from the tax authorities.
- **Discretion of Tax Authorities:** In such cases, the assessing officer exercises their discretion to estimate the taxpayer's income to the best of their judgment based on the information available to them. They may consider various factors, including past records, industry standards, financial information, and any other relevant data.
- **Notification:** The taxpayer is notified of the proposed best judgment assessment and given an opportunity to present their case and provide any additional information or explanations to challenge the assessment.
- **Finalization:** After considering the taxpayer's submissions, if any, the assessing officer finalizes the best judgment assessment and issues an assessment order determining the tax liability and any applicable penalties or interest.

## 2. Safeguards against Best Judgment Assessment:

- **Opportunity to be Heard:** Taxpayers have the right to be heard before a best judgment assessment is finalized. They can present their case, provide explanations, and submit additional information or evidence to contest the proposed assessment.
- **Reasoned Order:** The assessing officer is required to provide a reasoned assessment order detailing the basis for the best judgment assessment, including the factors considered, the method of estimation, and any discrepancies or inconsistencies in the taxpayer's records.
- **Appellate Remedies:** Taxpayers have the right to appeal against the best judgment assessment to higher authorities, such as the Commissioner of Income Tax (Appeals) or the Income Tax Appellate Tribunal (ITAT). They can challenge the assessment order and provide further evidence or arguments to support their case.
- **Rectification:** Taxpayers can also request rectification of any errors or inaccuracies in the best judgment assessment order by filing an application with the assessing officer. The assessing officer is obligated to consider such requests and make necessary corrections if warranted.
- **Judicial Review:** In extreme cases where taxpayers believe that the best judgment assessment is arbitrary, biased, or based on incorrect facts or law, they can seek recourse through judicial review by approaching the appropriate courts.

Conclusion: while best judgment assessment empowers tax authorities to estimate income in cases of non-compliance by taxpayers, it is subject to various safeguards to ensure fairness, transparency, and the protection of taxpayers' rights. Taxpayers should be aware of their rights and avenues of recourse to challenge any unjust or erroneous best judgment assessments.

### Explain the salient features of General Sales Tax Act.

**Answer:** The General Sales Tax (GST) Act is a state-level legislation that governs the levy and collection of sales tax on the sale of goods within a state in India. While the GST Act has been subsumed by the Goods and Services Tax (GST) regime, which is a comprehensive indirect tax regime implemented at the national level, some states may still have their own GST Acts with specific provisions. Here are the salient features of a typical General Sales Tax Act:

#### 1. Scope of Taxation:

- The GST Act applies to the sale of goods within the geographical jurisdiction of the respective state. It covers the transfer of ownership of goods for consideration, including sales, exchanges, barter, lease, and other forms of transfer.

#### 2. Taxable Event:

- The taxable event under the GST Act is the sale of goods. It is the point at which the liability to pay tax arises. The tax is levied on the value of goods sold, typically at a specified rate prescribed by the state government.

#### 3. Registration:

- The GST Act mandates registration for dealers or businesses engaged in the sale of goods above a certain threshold turnover limit as specified by the state government. Registered dealers are required to collect and remit sales tax to the government.

#### 4. Tax Rates and Exemptions:

- The GST Act prescribes tax rates applicable to different categories of goods. It may classify goods into different schedules with varying tax rates. Certain goods may be exempted from tax altogether, based on criteria set forth in the Act.

#### 5. Input Tax Credit:

- The Act may provide for the mechanism of input tax credit, allowing registered dealers to claim credit for the tax paid on inputs or purchases used in the course of business. This helps avoid cascading taxes and reduces the tax burden on businesses.

## 6. Compliance Requirements:

- Dealers registered under the GST Act are required to comply with various procedural requirements, including filing periodic tax returns, maintaining proper records of transactions, issuing tax invoices, and other documentation as prescribed by the Act.

## 7. Enforcement and Penalties:

- The GST Act empowers tax authorities to enforce compliance with the provisions of the Act. It may provide for penalties, fines, or other punitive measures for non-compliance, tax evasion, or other offenses under the Act.

## 8. Dispute Resolution:

- The Act may establish mechanisms for the resolution of disputes between taxpayers and tax authorities, including provisions for appeals, adjudication, and settlement of disputes through quasi-judicial or administrative authorities.

## 9. Administration and Implementation:

- The GST Act outlines the administrative structure for the levy and collection of sales tax, including the roles and responsibilities of tax authorities, appellate authorities, and other stakeholders involved in the administration of the Act.

**Conclusion:** While the specifics of the General Sales Tax Act may vary from state to state, these are the common features that are typically found in such legislation. The introduction of the Goods and Services Tax (GST) regime has brought about significant changes in the indirect tax landscape in India, replacing various state-level taxes, including the General Sales Tax, with a unified tax system.

**Taxation Power is derived from Article 265 of the constitution of India-Explain the object of Taxation.**

**Answer:** Article 265 of the Constitution of India lays down the fundamental principle of taxation, stating that "no tax shall be levied or collected except by the authority of law." This provision ensures that the power to impose taxes is subject to legal authorization and cannot be exercised arbitrarily. It emphasizes the rule of law and the need for clear legislative authority for the imposition and collection of taxes. Let's explore the object of taxation as derived from Article 265:

### 1. Revenue Generation:

- The primary object of taxation is to generate revenue for the government to finance its expenditure on various public services and infrastructure development. Taxes serve as a major source of

government revenue, enabling it to fund essential functions such as education, healthcare, defense, infrastructure, and welfare programs.

## 2. Redistribution of Wealth:

- Taxation is often used as a tool for redistributing wealth in society by imposing higher taxes on those with higher incomes or wealth. Progressive taxation, where tax rates increase with income levels, helps reduce income inequality by transferring resources from the affluent to the less privileged sections of society through government expenditure and social welfare programs.

## 3. Economic Stabilization:

- Taxation can also be used to achieve macroeconomic objectives such as price stability, economic growth, and equitable distribution of resources. Through fiscal policy measures, governments may use tax policies to control inflation, stimulate investment, encourage consumption, and address cyclical fluctuations in the economy.

## 4. Regulation and Control:

- Taxation serves as a tool for regulating and controlling various economic activities and behaviours. Governments may impose taxes on specific goods or activities (sin taxes on alcohol, tobacco, and gambling) to discourage their consumption or to address externalities (environmental taxes). Tax incentives and disincentives may also be used to promote desired behaviors or discourage undesirable ones.

## 5. Social Justice and Equity:

- Taxation is guided by principles of social justice and equity, aiming to ensure a fair distribution of the tax burden based on the ability to pay. Progressive taxation, exemptions, deductions, and credits are designed to mitigate the regressive impact of taxes on low-income earners and vulnerable groups, thereby promoting social cohesion and inclusivity.

## 6. Public Goods and Services:

- Taxation enables the provision of public goods and services that benefit society as a whole, such as roads, bridges, public transportation, healthcare, education, and law enforcement. By pooling resources through taxes, governments can finance the provision of essential services that may not be efficiently provided by the private sector.

**Conclusion:** the object of taxation, as derived from Article 265 of the Constitution of India, encompasses revenue generation, redistribution of wealth, economic stabilization, regulation and control, social justice,

equity, and the provision of public goods and services. Taxation is a crucial instrument of fiscal policy that plays a vital role in shaping economic and social outcomes in a country.

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## PART-C

### Problems

1. The assessee an NRI wants to sell the house property of his father who purchased forty years back and died leaving behind his legal heirs i.e his wife, son and his two daughters. The assessee needs your advise on the following issues-

- (a) Do he has to pay tax on the amount that he receives?
- (b) How he can avoid paying Tax?
- (c) Does his mother who is a senior need to pay any tax?

As tax consultant advise the party accordingly with explanation.

2. An employee retires from service and his monthly pension is fixed at Rs. 3000/- PM He commuted Rs. 2500/- out of his pension and received Ra. 2,00,000/- as commuted value of pension. Work out the amount of commuted pension of the employee both. 1 received Gratuity and 2. Employee not received gratuity.

3. Prepare the preforms statement of income for the A.Y. 2017-18 of the assessee pertains to his heads of income from salary, house property and long term capital gains (on sale of his house property), by correctly applying the following sections-sec 16, 10(13), 10(14), 80DDB, "OG, 24 and 30% statutory Deduction, 45(1A), 48, 54. Deduction under chapter VIA-820C, IDS and calculate tax liability

4. The assessee during the financial year 2016-17 estimated his income and calculated the tax which is around Rs. 20,000/-. The assessee did not pay any installment of advance tax as envisaged under the income tax Act, nor he had any TDS. He paid the entire tax as self assessment tax and filed the returns before the due date. As an assessing officer while assessing and passing the assessment order how will you impose the tax as per of the Income Tax Act?

5. The assessee is a retired employee and he is having income front salary (pension), income from house property, income from other sources. His, taxable income for the financial year 2017-18 was 2,85,000/- In the month of April 2018 he became senior citizen. Since he has attained 60 years of age and since the exempted income of for senior citizen Rs. 3,00,000/- he has filed nil return. The

assessing officer assessed the income and levied tax and interest. You as the consultant advise the assessee.

6. 'X' Ltd, is an Indian Company and subsidiary of an American company manufacturing and selling copier machines. The Indian company among other things purchases and sells these copier machines also. Does the manufacturing American company selling copier machines in India is attracted to sales tax and the Indian company 'X' Ltd. a subsidiary of American company is liable to sales tax? If so under what Act? Explain.

7. X; a minor Ali earns Income by participating in a reality show on a TV channel, whether the amount is taxable. Decide.

8. Y, is the owner of a business and he was due for the payment of income tax. Suddenly, he died due to cardiac arrest. His legal representatives are liable for the tax dues. If so to what extent?

9. What is the taxability of the medical services including medicines provided to the employees of state Govt, the rent-free quarters for the High Court Judges and their expenditure on travelling?

10. 'X' holds 5000 equity shares in TCS for the year ending 31.3.2011 and the company declared dividend @ 12 per share. Assess the taxable income if the dividends is received in two instalments of each Rs.6/- each into two different assessment years.

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