

INTRODUCTION TO INCOME TAX

Introduction:

One of the important functions of a government is to promote welfare of the people in general and in particular the poorer section for which purpose the modern governments are working in a planned way. This envisages the Government to undertake economic activities in addition to welfare program. To undertake these program the government mobilizes the funds from various sources. One of the popular sources is through taxes, both direct and indirect. To remove the inequalities of income and to establish a socialistic pattern of society, direct taxes are resorted to.

What is Tax?

Tax refers to compulsory contribution made by every person in the country towards public expenditure of the Government without expecting any return.

There are two types of Tax, viz., Direct Tax and Indirect Tax.

Direct Tax

Direct tax refers to the tax where the incident of tax and burden of the tax lies on the same person and it is not possible to shift or transfer the burden of the tax to the other person. Example: Income Tax, Estate Duty etc.,

Indirect Tax

Indirect Tax refers to the tax where the incident of tax and burden of the tax lies on the different persons who manages to shift or transfer the burden of the tax to the other. Example: Custom duty, Goods and Service Tax.

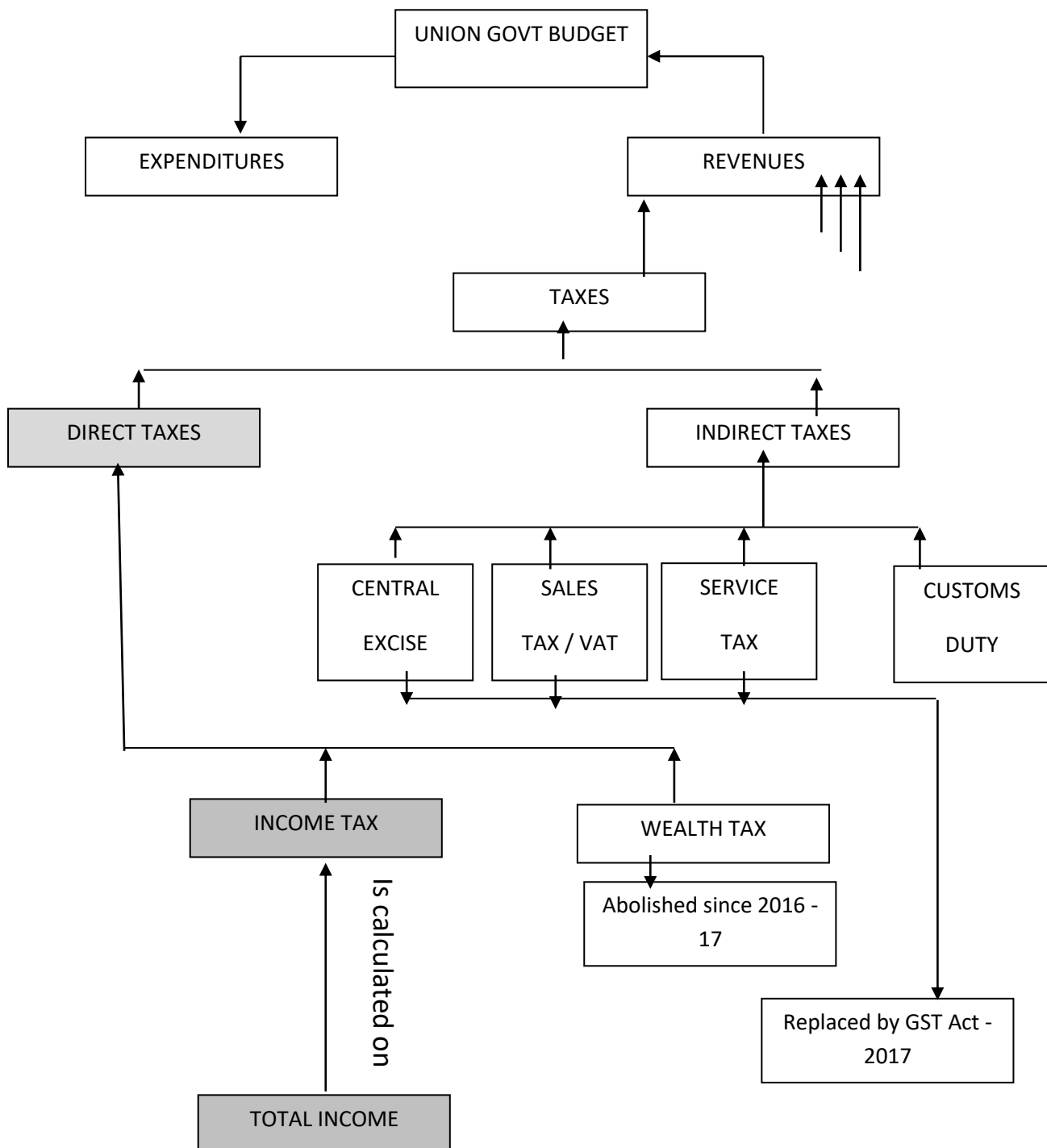
Brief History of Income Tax in India

In India, this tax was introduced for the first time in 1860, by Sir James Wilson in order to meet the losses sustained by the Government on account of the Military Mutiny of 1857. After a several amendments, a new Income Tax Act was passed in 1886. This Act remained in force up to 1917, with various amendments from time to time. In 1918, a new Income tax Act was passed and again it was replaced by another new Act which was passed in 1922. This Act remained in force up to the assessment year 1961-62 with various amendments.

After the independence, The Government of India has set up a Law Commission in 1956 with a view to simplify and prevent the evasion of tax and it submitted its report in September 1958, but in the meantime the Government of India had appointed the Direct taxes Administration Enquiry Committee to suggest measures to minimize inconveniences to assess and to prevent evasion of tax. After considering report of both the committees The Government of India introduced a bill in the parliament in April 1961, it was passed by the parliament in September 1961. This Act came into force on 1st April 1962. The Income Tax Act 1961 till in force with various amendments made from time to time. This Act is applicable to whole territory of India including Jammu and Kashmir.

This Act is administered by a separate Board known as Central Board of Direct Taxes (CBDT) under the supervision of the Ministry of Finance.

Framework of Taxation in India



Cannons of Taxation

1. Equitable – equal treatment of similar situated tax payers
2. Convenient – a tax that can be readily and easily assessed
3. Certain –the tax payer should be able to predict his taxes over time
4. Economical – compliance and administration of a tax should be minimal in cost and time
5. Adequacy – tax should also meet the adequate requirement of the Government
6. Neutrality- not to encourage inefficient allocation of resources
7. Diversity – it should touch all possible incomes and expenses
8. Social and Economical effect,
9. Flexibility

Definitions

INCOME TAX

Income tax refers to tax levied on the income of a person whose income is exceeding the prescribed limit at a prescribed rate during any financial year.

ASSESSEE - sec 2(7)

Assessee is a person by whom any tax or any other sum of money is payable under the Income Tax Act. It includes:

- a. Every person on whom any proceedings has commenced by Income Tax Department
- b. Deemed Assessee (person liable to pay tax of other)
- c. Assessee in default – one who has failed to carryout obligations related to income tax

ASSESSMENT – sec 2(8)

It is a process or procedure to compute taxable income and tax liability of a person in any particular financial year

ASSESSMENT YEAR – sec 2(9)

It is a period of twelve months commencing on 1st April of every year and ending on 31st March of the following year. During this period income of the previous is assessed and levied to tax. The present Assessment year is **2019 -2020**.

PREVIOUS YEAR – sec 3

It is a financial year immediately preceeding to the relevant assessment year. The present previous year is **2018-2019, i.e., from 1.4.2018 to 31.3.2019**. The income earned during this period will be assessed in the assessment year.

Exceptions to the general rule of previous year: in the following cases the previous year and the assessment year is the same

- a. Income of non-resident from shipping
- b. Income of person leaving India either permanently or for a long period of time
- c. Income of bodies formed for short duration
- d. Income of a person trying to alienate his assets with a view to avoiding payment of tax
- e. Income of a discontinued business

INCOME -Sec 2(24): the term ‘income ‘ includes:

- a. Profits and gains
- b. Dividends
- c. Special allowance or profit in lieu of salary
- d. Perquisites
- e. Capital gains
- f. Casual income like winning from lottery, horse race, cross word puzzle etc.,
- g. Contribution to providend fund
- h. Amount received under keyman insurance policy
- i. Any other revenues

PERSON -Sec 2(31): the term person includes;

- a. An Individual
- b. A HUF (Hindu Undivided Family)
- c. A Firm
- d. Body of individual or Association of persons whether registered or not
- e. A local authority
- f. A company
- g. Every Artificial juridical person not falling within any of the preceding categories.

HEADS OF INCOME: **Income Tax Act** 1961 categorized the incomes into 5 heads according to their nature viz.,

- a. Income from Salary
- b. Income from House Property
- c. Profits and Gains from Business or Profession
- d. Capital Gains
- e. Income from Other Sources

GROSS TOTAL INCOME (GTI):

It refers to the aggregate of income from all the heads i.e., income from salary, house property, profits and gains from business or profession, capital gains and other sources computed as per the provision of income tax Act before allowing any deductions under section 80C to 80U.

TOTAL INCOME Sec 2(45):

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PERMANENT ACCOUNT NUMBER (PAN):

It is a ten digit Alpha- numerical number allotted to the every assessee by the Income tax Department for their easy identification. Whenever the returns or correspondence made by the assessee with the tax department he must mention this number. if the assessee files his returns without mentioning this number, it will attract a penalty of Rs. 10,000.

Example: - **AAAPA-1234- A** (i.e., 5 alphabets +4 numeric + 1 alphabet)

CASUAL INCOMES

Casual income refers to the income which is unexpected and non-recurring in nature, it arises from an unknown source, no specific efforts were put in to earn such income.

Example; winning from lottery, cross word puzzle, card games, horse races, races, gambling, betting etc,

Agricultural Income Sec 2(1A):

The term 'Agricultural Income' includes:

- a. Any rent or revenue derived from land which is situated in India and is used for agricultural purposes.
- b. Any income derived from such land by agricultural operations including processing of the agricultural produce, raised or received as rent-in-kind so as to render it fit for the market.
- c. Income attributable to a farm house subject to certain conditions.

Some points to keep in mind while computing agricultural income

- There must be a land.
- The land should be used for agriculture
- Land cultivation is necessary
- If rent is received on land, the land should be used in agriculture operations only

- If the income derived from farm house, the building of the farm house should be situated on that land only

Non agricultural incomes:

The following are non-agricultural income even though they are related to the land:

1. Income from markets
2. Income from stones quarries
3. Income from mining royalties
4. Income from land for storing agricultural produce
5. Income from supply of water for irrigation
6. Income from sale of earth for brick making
7. Remuneration received as a manager of an agricultural farm
8. Income from butter and cheese making
9. Income from poultry farming
10. Income from fisheries
11. Interest on arrears of rent on agricultural land
12. Dividend from company engaged in agriculture
13. Income from sale of self-grown grass, trees, bamboos etc. (i.e., spontaneously grown)
14. Receipts from TV serial shooting in farm house
15. Profit from purchase of standing crop and resale of it after harvest by a merchant, having no interest in land except a mere license to enter upon the land and gather upon the produce, as land is not the direct, immediate or effective source of income
16. Interest received by money lender in the form of agriculture produce
17. Income of sale of agricultural produce received by way of price for water supplied to land
18. Commission earned by the landlord for selling agricultural produce of his tenant
19. Royalty income from mines
20. Maintenance allowance charged on agricultural land

Partial agricultural income:

Income	Agricultural Income	Non Agricultural income
Growing and manufacturing Tea in India	60%	40%
Coffee grown and cured	75%	25%
Coffee grown, cured, roasted and grounded by the seller in India	60%	40%
Sale of centrifuged latex or cenex (variety of rubber)	65%	35%

Taxation of agricultural Income:

Agricultural income is totally exempted from tax u/s 10(1). But agricultural income from land situated outside India, it will be fully taxable under the head 'Income from other sources'.

Partial Integration: the concept of partial integration has been introduced to ensure that non agricultural income is taxed at higher slab rate. The scheme of partial

integration of non agricultural income with agricultural income is applicable if the following conditions are satisfied:

1. The taxpayer is an individual, a HUF, a body of individual, an association of persons or an artificial juridical person.
2. The taxpayer has non agricultural income exceeding the amount of exemption limit
3. The agricultural income of the taxpayer exceeds Rs. 5000.

Step in partial integration:

- a. **Add** Agricultural Income to Non agricultural income and compute tax
- b. **Add** Agricultural Income to maximum income exempted from income tax and compute the tax.
- c. **Gross tax liability**, Step a minus Step b.

DIFFERENCE BETWEEN CAPITAL AND REVENUE RECEIPTS:

CAPITAL RECEIPT	REVENUE RECEIPT
Sale proceeds of a fixed assets	Sale proceeds of a trading assets
A receipt in substitution of a source of income is a capital receipt	A receipt in substitution of income is a revenue receipt
Compensation received for loss of business is a capital receipt	Compensation received for loss of profit is a revenue receipt
Subsidies or grants received from the government for any development scheme is a capital receipt	Subsidies or grants received from the government for meeting foreign competition is revenue receipt
Insurance money received for loss of a capital asset	Insurance money received for the loss of a trading asset

DIFFERENCE BETWEEN CAPITAL AND REVENUE EXPENDITURE:

CAPITAL EXPENDITURE	REVENUE EXPENDITURE
An expenditure which increases the earning capacity of a fixed asset	An expenditure incurred for maintaining a fixed asset
Cost of acquisition and installation of a fixed asset	Purchase price of goods bought for resale and purchase expenses
An expenditure incurred for the acquisition of a source of income	An expenditure incurred for the purpose of earning of an income
An expenditure incurred in obtaining capital by issuing shares	An expenditure incurred for raising loans or issuing debentures

DIFFERENCE BETWEEN CAPITAL AND REVENUE LOSS:

CAPITL LOSS	REVENUE LOSS
It is not arise in the course of regular business	It is arise in the course of regular business
Loss on sale of capital asset	Loss on sale of trading asset
Loss sustained by a person for being surety to another person	Loss suffered by a business on account of embezzlement by employees
Loss due to withdrawal of money from bank	Loss due to embezzlement

Scheme of Income Taxation in India

Income tax is charged under the Indian Income Tax Act, 1961, It is an annual tax on income levied by the Central Government. Tax is charged in respect of the income of the financial year (known as previous year) in the next financial year (known as assessment year) at the rates fixed for such assessment year in the Finance Act passed each year by the Parliament

Generally the word 'income' covers receipts in the shape of money or money's worth which arise with certain regularity or expected regularity from a definite source. It is not all receipt that form the basis of taxation under the Act.

Broadly, an analogy is drawn of a tree and the fruits of that tree. The tree symbolises the source from which one gets fruits which symbolise 'income'. The receipt arising from the sale of tree itself is, therefore, considered a capital receipt which is not income; but the receipts flowing from this source viz., fruits is income.

On application of this analogy, it can be said that while the receipt arising from the sale of a house is not income, the receipt arising from the realisation of rent is income. In the same way, receipt from the sale of a machine is not income but from the sale of produce brought out from the machine is income. In these cases, however, if a person deals in purchase and sale of house properties or machines, these assets do not remain a source and the profit derived from activities of purchase and sale become income. The source need not necessarily be tangible as the return for human exertion is also income.

The above is a broad generalisation. While a distinction is generally made between the capital receipt and revenue receipts, as illustrated above, the Act has widened the scope of income by expressly including within the meaning of 'income' the receipts which do not fall under the broad concept explained above. For instance, the Act specifically makes the profit arising from the sale of certain capital assets also subject to tax under certain circumstance. The winnings from lotteries, cross-word puzzles, races, card games etc. which do not arise from any definite source and do not have the element of regularity have also been specifically clarified to be 'income' under the Act.

INCOME TAX RATE FOR ASSESSMENT YEAR 2018-19:

1. Resident male/female who is below 60 years of age:

Net income range	Income tax rate
Upto Rs.2,50,000	NIL
Rs. 2,50,000 to 5,00,000	5%
Rs. 5,00,000 to 10,00,000	20%
above Rs. 10,00,000	30%

2. Resident senior citizen (who is 60 years or more at any time during the previous year)

Net income range	Income tax rate
Upto Rs.3,00,000	NIL
Rs. 3,00,000 to 5,00,000	5%
Rs. 5,00,000 to 10,00,000	20%
above Rs. 10,00,000	30%

3. Resident super senior citizen (who is 80 years or more at any time during the previous year)

Net income range	Income tax rate
Upto Rs.5,00,000	NIL
Rs. 5,00,000 to 10,00,000	20%
above Rs. 10,00,000	30%

Note:

- 1. Education cess chargeable at 4% on the tax liability**
- 2. Long term capital gain charged at 20% flat rate**
- 3. If the income of an individual whose taxable income does not exceed Rs. 3,50,000 can avail rebate under section 87A upto Rs. 2,500**
- 4. If the taxable income exceeding Rupees 50 lakhs but not more than Rs. 1 crore, a surcharge of 10% is to be levied, and if the net income exceeding Rs. 1crore surcharge of 15% is to be imposed.**

INCOME TAX AUTHORITIES

For effective and efficient administration and implementation of the income tax act 1961, the following classes of income tax authorities have been constituted under sec 116 of the act by the Government of India:

- a. The central board of direct taxes (CBDT)
- b. Directors general of income tax (DGIT) or chief commissioner of income tax (CCIT)
- c. Directors of income tax (DIT) or Commissioner of Income Tax (Appeals)
- d. Additional directors of Income Tax or Additional Commissioner of Income Tax or Additional Commissioner of Income Tax (Appeals)
- e. Joint Directors of Income Tax or Joint Commissioner of Income Tax
- f. Deputy Directors of Income Tax or Deputy Commissioner of Income Tax
- g. Assistant directors of income tax or assistant commissioner of income tax
- h. Income tax officers
- i. Tax Recovery Officers (TRO)
- j. Inspectors of Income Tax

Power and functions of Central Board of Direct Taxes (CBDT)

The highest authority in the administrative set up of the income tax department is the central board of direct tax. The board is constituted as per The Central Board of Revenue Act 1963. The board is functioning under the control of ministry of finance. The board has the following powers:

1. It has the power to make rules and to issues orders, instructions and directions to other income tax authorities for the proper administration of the act
2. To determine the jurisdictions of various authorities of the Act
3. To declare any organization, institution or body as company
4. To authorize any income tax authority to accept applications of claim for any exemption, deduction. Refund or any other relief after the expiry of the prescribed period
5. To approve reductions of waving of penalty by the commissioner in excess of specified amount
6. It may authorize to empower authorities with the power of search and seizure
7. The board may for avoiding genuine hardship, relax the compliance of any requirement contained in section 14 to 59 and 80A to 80U or claiming deductions
8. The board may delegate the authority to any income tax authority below it, so as to discharge their duties efficiently

Powers of commissioner of income tax

Following are the important powers of the commissioner

1. Under the directors of CBDT he can exercise the power of an assessing officer

2. To revise any order issued by income tax officer
3. To appoint income tax authorities below the rank of an deputy commissioner
4. To transfer any case from one assessing officer to another
5. Has the power of search and seizure
6. He is vested with the power to call for the books of accounts of an assessee
7. To approve with holding of refund in certain cases
8. Power to revision of orders passed by the subordinate authority on the application of the assessee

Power of income tax officers/ assessing officers

The income tax officers is the most important authority in the income tax department. He initiates assessment proceedings and make assessment of the income of the assessee. Their power are as under :

1. To granting relief in a special cases
2. To discover and production of evidence
3. To inspect the registers of companies
4. To allot the permanent account number to an assessee
5. He is vested with the power of search and seizure
6. Power to make regular assessment and can issue notice of demand
7. Power to direct any assessee to get his accounts audited with the prior permission from higher authority
8. Power to refund of tax
9. To improve penalty for nonpayment of tax

Assessment: Sec 2(8)

Assessment refers to the process of procedure of ascertaining the taxable income and tax liability of a person for a particular financial year

Types of assessment

There are five types of assessment viz

- a. Self assessment
- b. Assessment on the basis of return
- c. Regular assessment
- d. Re-assessment
- e. Precautionary or protective assessment

a. Self assessment sec 140A

It is a type of assessment, where the assessee himself compute the his taxable income and tax liability as per the provision and deduct any tax paid in advance or tax deducted at source and balance is paid along with interest if any. The return shall be filed along with the proof of payment of such tax and interest

b. Assessment on the basis of return sec 143 (1)

After filing the return by the assessee the income tax authorities, verify the computation. If there, any difference is brought to the notice of the assessee. The excess tax payment if any is refunded and if there is any shortage, intimation is sent to for the remittance of such shortage

c. Scrutiny assessment: Sec 143 (3)

When the income tax authority not satisfied with a return of an assessee, they may issue the notice for getting the complete information regarding the return. What ever the evidence given by the assessee in support of the return, the income tax authorities may make the assessment on such evidence

d. Best judgment assessment sec 144

When the assessee fails to make a voluntary return or not produce such accounts or documents as the assessing officers may refuse etc in such cases the assessing officer relies on his own judgment by considering the available materials and facts in relation to assessment while doing the assessment he must not act dishonestly. He must make fair estimate by using local knowledge and considering previous accounts and his own knowledge. Best judgment can be compulsory in discretionary

e. Re-assessment: (Income escaping Assessment) Sec 147

When the assessing officer has a reason to believe any income chargeable to tax has escaped from the assessment for any assessment year, he may assessor re-assess such income

f. Precautionary assessment or protective assessment

When it is not clear as to who has received the income and prima facie, the assessing officer can commence proceedings against any or all of them to determine the questions has to who is responsible to pay tax

EXEMPTED INCOMES (SEC 10)

- ❖ Agriculture income from land situated in India u/s 10(1)
- ❖ Payment received from family income by a member HUF 10(2)
- ❖ Share of profit from a firm 10(2A)
- ❖ Interest received from prescribed savings certificates by a non-resident Indian Citizen or a person of Indian origin 10(4b)
- ❖ Allowances and perquisites paid by the govt. of India to a citizen of India for service rendered outside India 10(7).
- ❖ Compensation received by the victims of Bhopal Gas Leak Disaster u/s 10(10BB)
- ❖ Compensation from the central government or state government or local authority received by an individual or his legal heirs on account of any disaster u/s 10(10BC)
- ❖ Compensation received from a public sector company at the time of voluntary retirement or separation u/s 10(10C)
- ❖ Payments received from SPF u/s 10(11)
- ❖ Scholarship granted to meet the cost of education u/s 10(16)
- ❖ Allowances received by a MP's and MLA.u/s 10(17)
- ❖ Any Award Received in cash or in kind from central or state govt. or any other body approved by the Central Govt. u/s 10(17A)
- ❖ Pension and family pension of gallantry award winners u/s 10(18)
- ❖ Ant income of a news agency u/s 10(22B)
- ❖ Capital gain on transfer of US-64 u/s 10(33)
- ❖ Long term Capital gain on transfer listed equity shares u/s 10 (36)
- ❖ Dividend from domestic company u/s 10(34)
- ❖ Interest on units of a mutual fund u/s 10(35)
- ❖ Capital gain on compensation received on compulsory acquisition of urban agricultural land u/s 10(37)
- ❖ Income of an international sporting event u/s 10(39)
- ❖ Gift received aggregate amount up to Rs.50000. Gifts from relatives and on the occasion of the marriage of assessee is exempt