

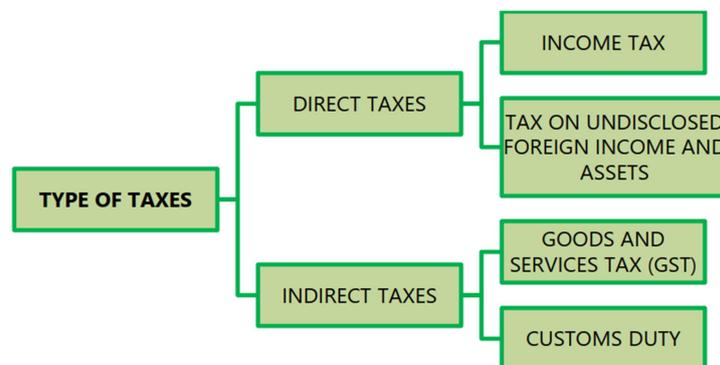
**What we will study in this Chapter:**

- Components of Income Tax Law
- Steps for computation of Total Income and Tax Liability.
- Some important definitions.
- Basis of charge of Income Tax
- Rates of Income Tax

**1. Introduction**

## ❖ What is Tax?

Taxes are levied by the Governments to meet the common welfare expenditure of the society.



## ❖ Power to Levy Taxes

Constitution of India gives the power to levy and collect taxes, whether direct or indirect, to the Central and State Government.

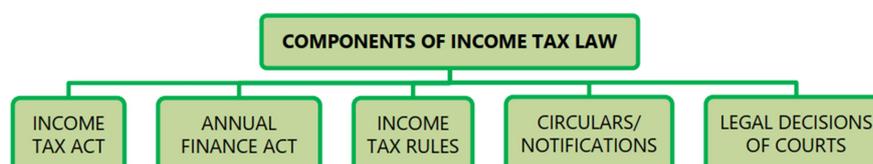
**Seventh Schedule to Article 246** contains three lists which enumerate the matters under which the Parliament and the State Legislatures have the authority to make laws for the purpose of levy of taxes.

The following are the lists:

- Union List: Parliament has the exclusive power to make laws on the matters contained in Union List.
- State List: The Legislatures of any State has the exclusive power to make laws on the matters contained in the State List.
- Concurrent List: Both Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent list.

Income-tax is the most significant direct tax. Entry 82 of the Union List i.e., List I in the Seventh Schedule to Article 246 of the Constitution of India has given the power to the Parliament to make laws on taxes on income other than agricultural income.

## ❖ Overview of Income Tax Law in India

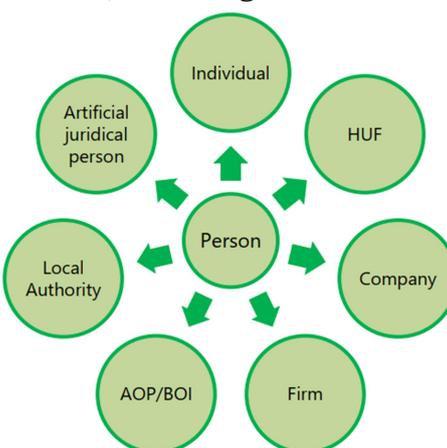


<p>Income-tax Act, 1961</p>	<p>The levy of income-tax in India is governed by the Income-tax Act, 1961. In this book, we shall briefly refer to this as the Act.</p> <ul style="list-style-type: none"> <li>• It extends to the whole of India.</li> <li>• It came into force on 1st April, 1962.</li> <li>• It contains sections 1 to 298 and schedules I to XIV.</li> </ul> <p>➤ <b>A section may have sub-sections or clauses and sub-clauses.</b></p> <p>When each part of the section is independent of each other and one is not related with other, such parts are called a “Clause”. “Sub section”, on the other hand refers to such parts of a section where each part is related with other and all sub sections taken together completes the concept propounded in that section.</p> <p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>✚ The clauses of section 2 define the meaning of terms used in the Income-tax Act, 1961. Clause (1A) defines “agricultural income”, clause (1B) defines “amalgamation” and so on. Each one of them is independent of other clause of the same section.</li> <li>✚ Likewise, the clauses of section 10 contain the exemptions in respect of certain income, like clause (1) provides for exemption of agricultural income and clause (2) provides for exemption of share income of a member of a Hindu undivided family and so on.</li> <li>✚ Section 5 defining the scope of total income has two sub- sections (1) and (2). Sub-section (1) defines the scope of total income of a resident and sub-section (2) defines the scope of total income of a non-resident. Each sub section is related with the other in the sense that only when one reads them all, one gets the complete idea related with scope of total income.</li> </ul> <p>➤ <b>A section may also have Provisos and Explanations.</b></p> <p>The Proviso(s) to a section/sub-section/clause spells out the exception(s)/condition(s) to the provision contained in the respective section/sub-section/clause, i.e., the proviso spells out the cases where the provision contained in the respective section/sub-section/clause would not apply or where the provision would apply with certain modification.</p> <p>The Explanation to a section/sub-section/clause gives a clarification relating to the provision contained in the respective section/sub-section/clause.</p> <p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>✚ Sections 80GGB and 80GGC provides for deduction from gross total income in respect of contributions made by companies and other persons, respectively, to political parties or an electoral trust.</li> <li>✚ The proviso to sections 80GGB and 80GGC provide that no deduction shall be allowed under those sections in respect of any sum contributed by cash to political parties or an electoral trust. Thus, the provisos to these sections spell out the circumstance when deduction would not be available thereunder in respect of contributions made.</li> <li>✚ The Explanation below section 80GGC provides that for the purposes of sections 80GGB and 80GGC, “political party” means a political party registered under section 29A of the Representation of the People Act, 1951. Thus, the Explanation clarifies that the political party has to be a registered political party.</li> </ul>
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	<p>The Income-tax Act, 1961 undergoes change every year with additions and changes brought in by the Annual Finance Act passed by Parliament. Sometimes, legislative amendments are made for amending the provisions of the Income-tax Act, 1961 through legislations like Taxation Laws (Amendment) Act, 2019.</p>
The Finance Act	<p>Every year, the Finance Minister of the Government of India introduces the Finance Bill in the Parliament's Budget Session. When the Finance Bill is passed by both the houses of the Parliament and gets the assent of the President, it becomes the Finance Act. Amendments are made every year to the Income-tax Act, 1961 and other tax laws by the Finance Act.</p> <p>The First Schedule to the Finance Act contains four parts which specify the rates of tax –</p> <ul style="list-style-type: none"> <li>• <b>Part I</b> of the First Schedule to the Finance Act specifies the rates of tax applicable for the current Assessment Year. Accordingly, Part I of the First Schedule to the Finance Act, 2020 specifies the rates of tax for A.Y. 2020-21.</li> <li>• <b>Part II</b> specifies the rates at which tax is deductible at source for the current Financial Year. Accordingly, Part II of the First Schedule to the Finance Act, 2020 specifies the rates at which tax is deductible at source for F.Y. 2020-21</li> <li>• <b>Part III</b> gives the rates for calculating income-tax for deducting tax from income chargeable under the head “Salaries” and computation of advance tax.</li> <li>• <b>Part IV</b> gives the rules for computing net agricultural income.</li> </ul>
Income-tax Rules, 1962	<p>The administration of direct taxes is looked after by the Central Board of Direct Taxes (CBDT).</p> <ul style="list-style-type: none"> <li>• The CBDT is empowered to make rules for carrying out the purposes of the Act.</li> <li>• For the proper administration of the Income-tax Act, 1961, the CBDT frames rules from time to time. These rules are collectively called Income-tax Rules, 1962.</li> <li>• Rules also have sub-rules, provisos and Explanations. The proviso to a Rule/Sub-rule spells out the exception to the limits, conditions, guidelines, basis of valuation, as the case may be, spelt out in the Rule/Sub-rule. The Explanation gives clarification for the purposes of the Rule.</li> <li>• It is important to keep in mind that along with the Income-tax Act, 1961, these rules should also be studied.</li> </ul>
Circulars and Notifications	<p><b>Circulars</b></p> <ul style="list-style-type: none"> <li>• Circulars are issued by the CBDT from time to time to deal with certain specific problems and to clarify doubts regarding the scope and meaning of certain provisions of the Act.</li> <li>• Circulars are issued for the guidance of the officers and/or assesseees.</li> <li>• The department is bound by the circulars. While such circulars are not binding on the assesseees, they can take advantage of beneficial circulars.</li> </ul> <p><b>Notifications</b></p> <p>Notifications are issued by the Central Government to give effect to the provisions of the Act. The CBDT is also empowered to make and amend rules for the purposes of the Act by issue of notifications which are binding on both department and</p>

Case Laws	<p>Case Laws refer to decision given by courts. The study of case laws is an important and unavoidable part of the study of Income-tax law. It is not possible for Parliament to conceive and provide for all possible issues that may arise in the implementation of any Act. Hence the judiciary will hear the disputes between the assesseees and the department and give decisions on various issues.</p> <p>The Supreme Court is the Apex Court of the Country and the law laid down by the Supreme Court is the law of the land. The decisions given by various High Courts will apply in the respective states in which such High Courts have jurisdiction.</p>
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## 2. Important Definitions

Assessee Section 2(7)	<p>“Assessee” means a person by whom any tax or any other sum of money is payable under this Act. In addition, it includes –</p> <ul style="list-style-type: none"> <li>• Every person in respect of whom any proceeding under this Act has been taken for the assessment of <ul style="list-style-type: none"> <li>✓ his income; or</li> <li>✓ the income of any other person in respect of which he is assessable; or</li> <li>✓ the loss sustained by him or by such other person; or</li> <li>✓ the amount of refund due to him or to such other person.</li> </ul> </li> <li>• Every person who is deemed to be an assessee under any provision of this Act;</li> <li>• Every person who is deemed to be an assessee-in-default under any provision of this Act.</li> </ul>
Assessment Section 2(8)	<p>This is the procedure by which the income of an assessee is determined by the Assessing Officer. It may be by way of a normal assessment or by way of reassessment of an income previously assessed.</p>
Person Section 2(31)	<p>The definition of ‘assessee’ leads us to the definition of ‘person’ as the former is closely connected with the latter. The term ‘person’ is important from another point of view also viz., the charge of income-tax is on every ‘person’.</p> <div style="text-align: center;">  <pre> graph TD     Person((Person)) --&gt; Individual((Individual))     Person --&gt; HUF((HUF))     Person --&gt; Company((Company))     Person --&gt; Firm((Firm))     Person --&gt; AOPBOI((AOP/BOI))     Person --&gt; LocalAuthority((Local Authority))     Person --&gt; ArtificialJuridicalPerson((Artificial juridical person)) </pre> </div> <p>We may briefly consider some of the above seven categories of assesseees each of which constitute a separate unit of assessment or a separate tax entity.</p> <p>❖ <b>Individual</b></p> <p>The term ‘individual’ means only a natural person, i.e., a human being.</p> <ul style="list-style-type: none"> <li>• It includes both males and females.</li> </ul>

- It also includes a minor or a person of unsound mind. But the assessment in such a case may be made on the guardian or manager of the minor or lunatic who is entitled to receive his income. In the case of deceased person, assessment would be made on the legal representative.

❖ **HUF**

Under the Income-tax Act, 1961, a Hindu undivided family (HUF) is treated as a separate entity for the purpose of assessment. It is included in the definition of the term “person” under section 2(31). The levy of income-tax is on “every person”. Therefore, income-tax is payable by a HUF.

"Hindu undivided family" has not been defined under the Income-tax Act. The expression is, however, defined under the Hindu Law as a family, which consists of all males lineally descended from a common ancestor and includes their wives and daughters.

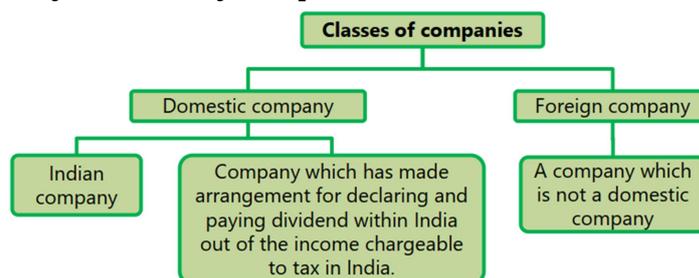
Some members of the HUF are called co-parceners. They are related to each other and to the head of the family. HUF may contain many members, but members within four degrees including the head of the family (Karta) are called co-parceners. A Hindu Coparcenary includes those persons who acquire an interest in joint family property by birth. Earlier, only male descendants were considered as coparceners. With effect from 6th September, 2005, daughters have also been accorded coparcenary status. It may be noted that only the coparceners have a right to partition.

A daughter of coparcener by birth shall become a coparcener in her own right in the same manner as the son. Being a coparcener, she can claim partition of assets of the family. The rights of a daughter in coparcenary property are equal to that of a son. However, other female members of the family, for example, wife or daughter-in-law of a coparcener are not eligible for such coparcenary rights.

❖ **Company [Section 2(17)]**

Under the Act, the expression ‘Company’ means:

- any Indian company as defined in section 2(26); or
- anybody corporate incorporated by or under the laws of a country outside India, i.e., any foreign company; or
- any institution, association or body which is assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922 or for any assessment year commencing on or before 1.4.1970 under the present Act; or
- any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by a general or special order of the CBDT to be a company for such assessment years as may be specified in the CBDT’s order.



Domestic company [Section 2(22A)] - It means an Indian company or any other company which, in respect of its income liable to income-tax, has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, payable out of such income.

Indian company [Section 2(26)] - Two conditions should be satisfied so that a company can be regarded as an Indian company -

- (a) The company should have been formed and registered under the Companies Act, 1956 and
- (b) The registered office or the principal office of the company should be in India.

The expression 'Indian Company' also includes the following provided their registered or principal office is in India:

- (i) a corporation established by or under a Central, State or Provincial Act (like Financial Corporation or a State Road Transport Corporation);
- (ii) an institution or association or body which is declared by the Board to be a company under section 2(17)(iv);
- (iii) a company formed and registered under any law relating to companies which was or is in force in any part of India;
- (iv) in the case of the State of Jammu and Kashmir, a company formed and registered under any law for the time being in force in that State;
- (v) in the case of any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory.

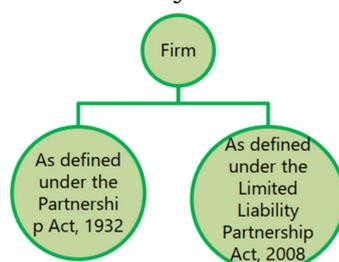
Foreign company [Section 2(23A)] - Foreign company means company which is not a domestic company

❖ **Firm [Section 2(23)]**

The terms 'firm', 'partner' and 'partnership' have the same meanings as assigned to them in the Indian Partnership Act, 1932. In addition, the definitions also include the terms limited liability partnership and a partner of limited liability partnership as they have been defined in the Limited Liability Partnership Act, 2008.

However, for income-tax purposes a minor admitted to the benefits of an existing partnership would also be treated as partner.

A partnership is the relation between persons who have agreed to share the profits of business carried on by all or any of them acting for all. The persons who have entered into partnership with one another are called individually 'partners' and collectively a 'firm'.



	<p>❖ <b>Association of Persons (AOP)</b> When persons combine together for promotion of joint enterprise they are assessable as an AOP, if they do not in law constitute a partnership. In order to constitute an association, persons must join for a common purpose or action and their object must be to produce income; it is not enough that the persons receive the income jointly. Co-heirs, co-legatees or co-donees joining together for a common purpose or action would be chargeable as an AOP</p> <p>❖ <b>Body of Individuals (BOI)</b> It denotes the status of persons like executors or trustees who merely receive the income jointly and who may be assessable in like manner and to the same extent as the beneficiaries individually. Thus, co-executors or co-trustees are assessable as a BOI as their title and interest are indivisible. Income-tax shall not be payable by an assessee in respect of the receipt of share of income by him from BOI and on which the tax has already been paid by such BOI. Section 2(31) further explains that an association of persons/body of individuals or a local authority or an artificial juridical person shall be treated as a person, whether or not it was formed with the object of deriving income, profits or gains. Accordingly even if such entities have been formed not for earning any income/ profit still they are "person" for the purpose of the act and are covered by the provisions of the act.</p> <p>❖ <b>Local Authority</b> The term means a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund. Note: A local authority is taxable in respect of that part of its income which arises from any business carried on by it in so far as that income does not arise from the supply of a commodity or service within its own jurisdictional area. However, income arising from the supply of water and electricity even outside the local authority's own jurisdictional area is exempt from tax.</p> <p>❖ <b>Artificial Juridical Persons</b> This category could cover every artificial juridical person not falling under other heads. An idol, or deity would be assessable in the status of an artificial juridical</p>
Income [Section 2(24)]	<p>❖ The <b>definition of income</b> as per the Income-tax Act, 1961 begins with the words "Income includes". Therefore, it is an inclusive definition and not an exhaustive one. Such a definition does not confine the scope of income but leaves room for more inclusions within the ambit of the term.</p> <p>Section 2(24) of the Act gives a statutory definition of income. At present, the following items of receipts are specifically included in income:—</p> <ol style="list-style-type: none"> <li>1. Profits and gains.</li> <li>2. Dividends.</li> <li>3. Voluntary contributions received by a trust/institution created wholly or partly for charitable or religious purposes or by certain research association or universities and other educational</li> </ol>

institutions or hospitals and other medical institutions or an electoral trust.

4. The value of any perquisite or profit in lieu of salary taxable under section 17.
5. Any special allowance or benefit, other than the perquisite included above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit.
6. Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living.
7. The value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company or by a relative of the director or such person and any sum paid by any such company in respect of any obligation which, but for such payment would have been payable by the director or other person aforesaid.
8. The value of any benefit or perquisite, whether convertible into money or not, which is obtained by any representative assessee<sup>3</sup> or by any beneficiary and any amount paid by the representative assessee for the benefit of the beneficiary which the beneficiary would have ordinarily been required to pay.
9. Deemed profits chargeable to tax under section 41 or section 59.
10. Profits and gains of business or profession chargeable to tax under section 28.
11. Any capital gains chargeable under section 45.
12. The profits and gains of any insurance business carried on by Mutual Insurance Company or by a cooperative society<sup>4</sup> or any surplus taken to be such profits and gains by virtue of the provisions contained in the First Schedule to the Act.
13. The profits and gains of any banking business (including providing credit facilities) carried on by a co-operative society with its members.
14. Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling, or betting of any form or nature whatsoever. For this purpose,
  - (i) "Lottery" includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;
  - (ii) "Card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.
15. Any sum received by the assessee from his employees as contributions to any provident fund (PF) or superannuation fund or Employees State Insurance Fund (ESI) or any other fund for the welfare of such employees.
16. Any sum received under a Key man insurance policy including the sum allocated by way of bonus on such policy will constitute income. "Key man insurance policy" means a life insurance policy taken by a

person on the life of another person where the latter is or was an employee of former or is or was connected in any manner whatsoever with the former's business. It also includes such policy which has been assigned to a person with or without any consideration, at any time during the term of the policy.

17. Any sum referred to in section 28(va). Thus, any sum, whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business or profession; or not sharing any know-how, patent, copy right, trade-mark, licence, franchise, or any other business or commercial right of a similar nature, or information or technique likely to assist in the manufacture or processing of goods or provision of services, shall be chargeable to income tax under the head "profits and gains of business or profession".
18. Fair market value of inventory which is converted into, or treated as a capital asset [Section 28(iva)].
19. Any consideration received for issue of shares as exceeds the fair market value of the shares [Section 56(2) (viib)].
20. Any sum of money received as advance, if such sum is forfeited consequent to failure of negotiation for transfer of a capital asset [Section 56(2)(ix)].
21. Any sum of money or value of property received without consideration or for inadequate consideration by any person [Section 56(2)(x)].
22. Any compensation or other payment, due to or received by any person, in connection with termination of his employment or the modification of the term and conditions relating thereto [Section 56(2)(xi)].
23. Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement, by whatever name called, by the Central Government or a State Government or any authority or body or agency in cash or kind to the asses see is included in the definition of income.

However, subsidy or grant or reimbursement which has been taken into account for determination of the actual cost of the depreciable asset in accordance with Explanation 10 to section 43(1) shall not be included in the definition of income

❖ **Concept of Income** under the Income-tax Act, 1961

- **Regular receipt vis-a-vis casual receipt:** Income, in general, means a periodic monetary return which accrues or is expected to accrue regularly from definite sources. However, under the Income-tax Act, 1961, even certain casual receipts which do not arise regularly are treated as income for tax purposes e.g. Winnings from lotteries, crossword puzzles.
- **Revenue receipt vis-a-vis Capital receipt:** Income normally refers to revenue receipts. Capital receipts are generally not included within the scope of income in general parlance. However, the Income-tax Act, 1961 has specifically included certain capital receipts within the definition of income e.g., Capital gains i.e., gains on sale of a capital assets like land.
- **Net receipt vis-a-vis Gross receipt:** Income means net receipts and

not gross receipts. Net receipts are arrived at after deducting the expenditure incurred in connection with earning such receipts. The expenditure which can be deducted while computing income under each head is prescribed under the Income-tax Act, 1961. Income from certain eligible businesses/professions is also determined on presumptive basis i.e., as a certain percentage of gross receipts.

- **Due basis vis-a-vis receipt basis:** Income is taxable either on due basis or receipt basis. For computing income under the heads “Profits and gains of business or profession” and “Income from other sources”, the method of accounting regularly employed by the assessee should be considered, which can be either cash system or mercantile system. Some receipts are taxable only on receipt basis, like, income by way of interest received on compensation or enhanced compensation.

**Capital Receipts vis-a-vis Revenue Receipts:** Tests to be applied

❖ **Transaction entered into the course of business:**

Profits arising from transactions which are entered into in the course of the business regularly carried on by the assessee, or are incidental to, or associated with the business of the assessee would be revenue receipts chargeable to tax.

For example, a banker’s or financier’s dealings in foreign exchange or sale of shares and securities, a shipbroker’s purchase of ship in his own name, a share broker’s purchase of shares on his own account would constitute transactions entered and yielding income in the ordinary course of their business. Whereas building and land would constitute capital assets in the hands of a trader in shares, the same would constitute stock-in-trade in the hands of a property dealer.

❖ **Profit arising from sale of shares and securities:**

In the case of profit arising from the sale of shares and securities, the nature of the profit has to be ascertained from the motive, intention or purpose with which they were bought. If the shares were acquired as an investor or with a view to acquiring a controlling interest or for obtaining a managing or selling agency or a directorship, the profit or loss on their sale would be of a capital nature; but if the shares were acquired in the ordinary course of business as a dealer in shares, it would constitute his stock-in-trade. If the shares were acquired with speculative motive, the profit or loss (although of a revenue nature) would have to be dealt with separately from the profit or loss of other businesses.

Note: However, securities held by Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992 would be treated as a capital asset. Even if the nature of such security in the hands of the Foreign Portfolio Investor is stock-in-trade, the same would be treated as a capital asset and the profit on transfer would be taxable as capital gains.

❖ **A single transaction - Can it constitute business?**

Even a single transaction may constitute a business or an adventure in the nature of trade even if it is outside the normal course of the assessee’s business. Repetition of such transactions is not necessary. Thus, a bulk purchase followed by a bulk sale or a series of retail sales or bulk sale followed by a series of retail purchases would constitute an adventure in the nature of trade and consequently, the income arising there from would be taxable. Purchase of any article with no intention to resell it, but resold under changed circumstances would be a transaction of a capital nature and capital gains arise. However, where an asset is purchased with the intention to resell it,

the question whether the profit on sale is capital or revenue in nature depends upon (i) the conduct of the assessee, (ii) the nature and quantity of the article purchased, (iii) the nature of the operations involved, (iv) whether the venture is on capital or revenue account, and (v) other related circumstances of the case.

❖ **Liquidated damages:**

Receipt of liquidated damages directly and intimately linked with the procurement of a capital asset, which lead to delay in coming into existence of the profit-making apparatus, is a capital receipt. The amount received by the assessee towards compensation for sterilization of the profit earning source is not in the ordinary course of business. Hence, it is a capital receipt in the hands of the assessee.

❖ **Compensation on termination of agency:**

Where an assessee receives compensation on termination of the agency business being the only source of income, the receipt is of capital nature, but taxable under section 28(ii)(c). However, where the assessee has a number of agencies and one of them is terminated and compensation is received therefor, the receipt would be of a revenue nature since taking up an agency and exploiting the same for earning income is in the ordinary course of business. The loss of one agency would be made good by profit from another agency. Compensation received from the employer or from any person for premature termination of the service contract is a capital receipt, but is taxable as profit in lieu of salary under section 17(3) or as income from other sources under section 56(2)(xi), respectively. Compensation received or receivable in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income.

❖ **Gifts:**

Normally, gifts constitute a capital receipt in the hands of the recipient. However, certain gifts are brought within the purview of income-tax, for example, receipt of property without consideration is brought to tax under section 56(2)(x).

For example, any sum of money or value of property received without consideration or for inadequate consideration by any person, other than a relative, is chargeable under the head "Income from Other Sources".

<p>India [Section 2(25A)]</p>	<p>The term 'India' means –</p> <ul style="list-style-type: none"> <li>• the territory of India as per Article 1 of the Constitution,</li> <li>• its territorial waters, seabed and subsoil underlying such waters,</li> <li>• continental shelf,</li> <li>• exclusive economic zone or</li> <li>• Any other specified maritime zone and the air space above its territory and territorial waters.</li> </ul> <p>Specified maritime zone means the maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.</p>
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**Maximum Marginal Rate and Average Rate of income-tax**

As per section 2(10), "Average Rate of income-tax" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income.

Section 2(29C) defines "Maximum Marginal Rate" to mean the rate of income-tax (including surcharge on the income-tax, if any) applicable in relation to the highest slab of income in the case of an individual, AOP or BOI, as the case may be, as specified in Finance Act of the relevant year.

### 3. Previous year and assessment year



#### I. Assessment year

The term has been defined under section 2(9). This means a period of 12 months commencing on 1st April every year. The year in which income is earned is the previous year and such income is taxable in the immediately following year which is the assessment year. Income earned in the previous year 2020-21 is taxable in the assessment year 2021-22. Assessment year always starts from 1st April and it is always a period of 12 months.

#### II. Previous year

The term has been defined under section 3. It means the financial year immediately preceding the assessment year. As mentioned earlier, the income earned during the previous year is taxable in the assessment year

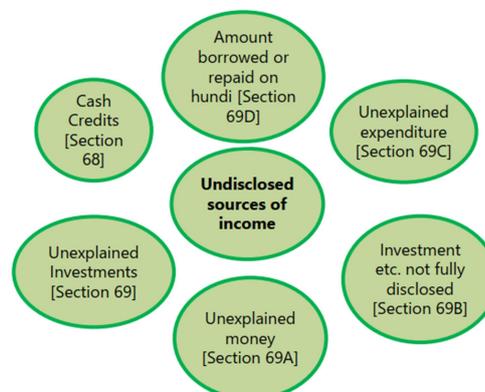
#### Business or profession newly set up during the financial year

In such a case, the previous year shall be the period beginning on the date of setting up of the business or profession and ending with 31st March of the said financial year. If a source of income comes into existence in the said financial year, then, the previous year will commence from the date on which the source of income newly comes into existence and will end with 31st March of the financial year

Examples:

- ✚ A is running a business from 1993 onwards. Determine the previous year for the assessment year 2021-22.  
The previous year will be 1.4.2020 to 31.3.2021.
- ✚ A chartered accountant sets up his profession on 1st July, 2020. Determine the previous year for the assessment year 2021-22.  
The previous year will be from 1.7.2020 to 31.3.2021.

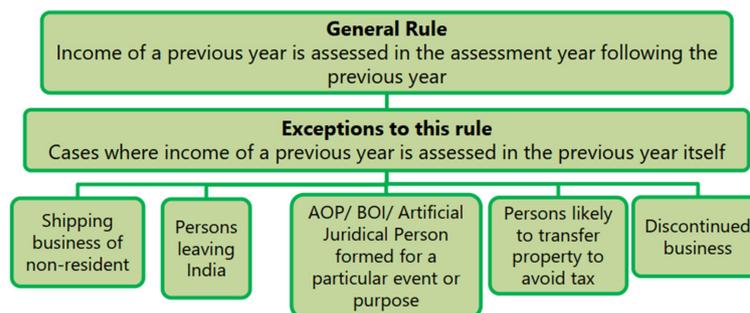
#### III. Previous year for undisclosed sources of income



Normally, income earned in a previous year gets taxed in its assessment year. However, in certain cases, where income is not disclosed by the taxpayer but is detected by the Income Tax department and the source for which is not satisfactorily explained by the assessee to the Assessing Officer, it is deemed to be the income of the year in which it is so detected. Following are such cases –

<p>❖ <b>Cash Credits [Section 68]</b></p> <p>Where any sum is found credited in the books of the assessee and the assessee offers no explanation about the nature and source or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the sum so credited may be charged as income of the assessee of that previous year.</p>
<p>❖ <b>Unexplained Investments [Section 69]</b></p> <p>Where in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of account and the assessee offers no explanation about the nature and the source of investments or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the value of the investments are taxed as deemed income of the assessee of such financial year.</p>
<p>❖ <b>Unexplained money etc. [Section 69A]</b></p> <p>Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and the same is not recorded in the books of account and the assessee offers no explanation about the nature and source of acquisition of such money, bullion etc. or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the money and the value of bullion etc. may be deemed to be the income of the assessee for such financial year.</p>
<p>❖ <b>Amount of investments etc., not fully disclosed in the books of account [Section 69B]</b></p> <p>Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article and the Assessing Officer finds that the amount spent on making such investments or in acquiring such articles exceeds the amount recorded in the books of account maintained by the assessee and he offers no explanation for the difference or the explanation offered is unsatisfactory in the opinion of the Assessing Officer, such excess may be deemed to be the income of the assessee for such financial year.</p> <p><b>Example:</b> If the assessee is found to be the owner of say 300 gms of gold (market value of which is ₹25,000) during the financial year ending 31.3.2021 but he has recorded to have spent ₹15,000 in acquiring it, the Assessing Officer can add ₹10,000 (i.e., the difference of the market value of such gold and ₹15,000) as the income of the assessee, if the assessee offers no satisfactory explanation thereof.</p>
<p>❖ <b>Unexplained expenditure [Section 69C]</b></p> <p>Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or the explanation is unsatisfactory in the opinion of the Assessing Officer, Assessing Officer can treat such unexplained expenditure as the income of the assessee for such financial year. Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under any head of income.</p>
<p>❖ <b>Amount borrowed or repaid on hundi [Section 69D]</b></p> <p>Where any amount is borrowed on a hundi or any amount due thereon is repaid other than through an account-payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying for the previous year in which the amount was borrowed or repaid, as the case may be. However, where any amount borrowed on a hundi has been deemed to be the income of any person, he will not be again liable to be assessed in respect of such amount on repayment of such amount. The amount repaid shall include interest paid on the amount borrowed.</p> <p>Section 115BBE provides the rate at which such cash credits, undisclosed income, undisclosed expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D would be subject to tax.</p>

#### IV. Certain cases when income of a previous year will be assessed in the previous year itself



The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. For instance, income of previous year 2020-21 is assessed during 2021-22. Therefore, 2021-22 is the assessment year for assessment of income of the previous year 2020-21.

**However, in a few cases**, this rule does not apply and the income is taxed in the previous year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

<p>❖ <b>Shipping business of non-resident [Section 172]</b></p> <p>Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.</p>
<p>❖ <b>Persons leaving India [Section 174]</b></p> <p>Where it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of his departure from India is chargeable to tax in that assessment year.</p> <p><b>Example:</b></p> <p>Suppose Mr. X is leaving India for USA on 10.6.2020 and it appears to the Assessing Officer that he has no intention to return. Before leaving India, Mr. X may be asked to pay income-tax on the income earned during the P.Y. 2019-20 as well as on the total income earned during the period 1.4.2020 to 10.06.2020</p>
<p>❖ <b>AOP/BOI/Artificial Juridical Person formed for a particular event or purpose [Section 174A]</b></p> <p>If AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or in the next year, he can make assessment of the income up to the date of dissolution as income of the relevant assessment year.</p>
<p>❖ <b>Persons likely to transfer property to avoid tax [Section 175]</b></p> <p>During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous year to the date, when the Assessing Officer commences proceedings under this section is chargeable to tax in that assessment year.</p>

❖ **Discontinued business [Section 176]**

Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that assessment year.

#### 4. Charge of Income Tax

Section 4 of the Income-tax Act, 1961 is the charging section which provides that:

- Tax shall be charged at the rates prescribed for the year by the Annual Finance Act or the Income-tax Act, 1961 or both.
- The charge is on every person specified under section 2(31);
- Tax is chargeable on the total income earned during the previous year and not the assessment year. (There are certain exceptions provided by sections 172, 174, 174A, 175 and 176);
- Tax shall be levied in accordance with and subject to the various provisions contained in the Act.

This section is the back bone of the law of income-tax in so far as it serves as the most operative provision of the Act. The tax liability of a person springs from this section.

#### Rates of Tax

Income-tax is to be charged at the rates fixed for the year by the Annual Finance Act.

Section 2 of the Finance Act, 2020 read with

- Part I of the First Schedule to the Finance Act, 2020, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2020-2021.
- Part II lays down the rate at which tax is to be deducted at source during the financial year 2020-21 from income subject to such deduction under the Income- tax Act, 1961;
- Part III lays down the rates for charging income-tax in certain cases, rates for deducting income-tax from income chargeable under the head "salaries" and the rates for computing advance tax for the financial year 2020-21.
- Part III of the First Schedule to the Finance Act, 2020 will become Part I of the First Schedule to the Finance Act, 2021 and so on.

#### Slab Rates

The slab rates applicable for A.Y. 2021-22 are as follows:

❖ <b>Individual</b>		
❖ Hindu Undivided Family (HUF)		
❖ Association of Persons (AOP)		
❖ Body of Individuals (BOI)		
❖ Artificial Juridical Person (AJP)		
(i)	where the total income does not exceed ₹ 2,50,000	NIL
(ii)	where the total income exceeds ₹2,50,000 but does not exceed ₹5,00,000	5% of the amount by which the total income exceeds ₹ 2,50,000
(iii)	where the total income exceeds ₹5,00,000 but does not exceed ₹10,00,000	₹12,500 plus 20% of the amount by which the total income exceeds ₹ 5,00,000
(iv)	where the total income exceeds ₹10,00,000	₹1,12,500 plus 30% of the amount by which the total income exceeds ₹10,00,000

It is to be noted that for a senior citizen (being a resident individual who is of the age of 60 years but not more than 80 years at any time during the previous year), the basic exemption limit is ₹3,00,000. Further, resident individuals of the age of 80 years or more at any time during the previous year, being very senior citizens, would be eligible for a higher basic exemption limit of ₹5,00,000.

Therefore, the tax slabs for these assesseees would be as follows –

**For senior citizens (being resident individuals of the age of 60 years or more but less than 80 years)**

(i)	where the total income does not exceed ₹ 3,00,000	NIL
(ii)	where the total income exceeds ₹3,00,000 but does not exceed ₹5,00,000	5% of the amount by which the total income exceeds ₹3,00,000
(iii)	where the total income exceeds ₹5,00,000 but does not exceed ₹10,00,000	₹10,000 plus 20% of the amount by which the total income exceeds ₹5,00,000
(iv)	where the total income exceeds ₹ 10,00,000	₹1,10,000 plus 30% of the amount by which the total income exceeds ₹ 10,00,000

**For resident individuals of the age of 80 years or more at any time during the previous year**

(i)	where the total income does not exceed ₹ 5,00,000	NIL
(ii)	where the total income exceeds ₹5,00,000 but does not exceed ₹10,00,000	20% of the amount by which the total income exceeds ₹5,00,000
(iii)	where the total income exceeds ₹10,00,000	₹1,00,000 plus 30% of the amount by which the total income exceeds ₹10,00,000

- Clarification regarding attaining prescribed age of 60 years/80 years on 31st March itself, in case of senior/very senior citizens whose date of birth falls on 1st April [Circular No. 28/2016, dated 27-07-2016]
- An individual who is resident in India and of the age of 60 years or more (senior citizen) and 80 years or more (very senior citizen) is eligible for a higher basic exemption limit of ₹3,00,000 and ₹5,00,000, respectively.
- The CBDT has, vide this Circular, clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday. In particular, the question of attainment of age of eligibility for being considered a senior/very senior citizen would be decided on the basis of above criteria.
- Therefore, a resident individual whose 60th birthday falls on 1st April, 2021, would be treated as having attained the age of 60 years in the P.Y.2020-21 and would be eligible for higher basic exemption limit of ₹3,00,000 in computing his tax liability for A.Y.2021-22. Likewise, a resident individual whose 80th birthday falls on 1st April, 2021, would be treated as having attained the age of 80 years in the P.Y.2020-21, and would be eligible for higher basic exemption limit of ₹5,00,000 in computing his tax liability for A.Y.2021-22.

**Note** – As per section 115BAC, individuals and HUFs have an option to pay tax in respect of their total income (other than income chargeable to tax at special rates under Chapter XII) at following concessional rates, if they do not avail certain exemptions/deductions like Leave Travel Concession, standard deduction under the head “Salaries”, interest on housing loan on self-occupied property, deductions under Chapter VI-A (other than 80CCD(2) or section 80JJAA) etc. –

(i)	Up to ₹2,50,000	NIL
(ii)	From ₹2,50,001 to ₹5,00,000	5%
(iii)	From ₹5,00,001 to ₹7,50,000	10%
(iv)	From ₹7,50,001 to ₹10,00,000	15%
(v)	From ₹10,00,001 to ₹12,50,000	20%
(vi)	From ₹12,50,001 to ₹15,00,000	25%
(vii)	Above ₹15,00,000	30%

Individuals and HUFs exercising option u/s 115BAC **are not liable** to alternate minimum tax u/s 115JC.  
For **detailed discussion** on section 115BAC, refer to Chapter 8 in Module 3 of the Study Material.

### Illustration 1

Mr. X has a total income of ₹12,00,000 for P.Y.2020-21, comprising of income from house property and interest on fixed deposits. Compute his tax liability for A.Y.2021- 22 assuming his age is –

- (a) 45 years
- (b) 63 years
- (c) 82 days

Assume that Mr. X has not opted for the provisions of section 115BAC.

### Solution:

<b>(i) Computation of Tax liability of Mr. X (age 45 years)</b>		
First ₹2,50,000	NIL	
Next ₹2,50,001 – ₹5,00,000	@5% of ₹2,50,000	12,500
Next ₹5,00,001 – ₹10,00,000	@20% of ₹5,00,000	1,00,000
Balance (12,00,000 -10,00,000)	@30% of ₹2,00,000	60,000
		<b>1,72,500</b>
Add: Health and Education cess @4%		6,900
		<b>1,79,400</b>

<b>(ii) Computation of Tax liability of Mr. X (age 63 years)</b>		
First ₹3,00,000	NIL	
Next ₹3,00,001 – ₹5,00,000	@5% of ₹2,00,000	10,000
Next ₹5,00,001 – ₹10,00,000	@20% of ₹5,00,000	1,00,000
Balance (12,00,000 -10,00,000)	@30% of ₹2,00,000	60,000
		<b>1,70,000</b>
Add: Health and Education cess @4%		6,800
		<b>1,76,800</b>

<b>(iii) Computation of Tax liability of Mr. X (age 82 years)</b>		
First ₹5,00,000	NIL	
Next ₹5,00,001 – ₹10,00,000	@20% of ₹5,00,000	1,00,000
Balance (12,00,000 -10,00,000)	@30% of ₹2,00,000	60,000
		<b>1,60,000</b>
Add: Health and Education cess @4%		6,400
		<b>1,66,400</b>

❖ <b>Firm</b>	
❖ <b>LLP</b>	
❖ <b>Local authority</b>	
On the whole of the total income	30%

❖ <b>Co-operative society</b>		
(i)	Where the total income does not exceed ₹10,000	10% of the total income
(ii)	Where the total income exceeds ₹10,000 but does not exceed ₹20,000	₹1,000 plus 20% of the amount by which the total income exceeds ₹10,000
(iii)	Where the total income exceeds ₹20,000	₹3,000 plus 30% of the amount by which the total income exceeds ₹20,000

**Note –**

Co-operative society, resident in India, can opt for concessional rate of tax @25.168% (i.e., tax@22% plus surcharge@10% plus health and education cess (HEC)@4%) under section 115BAD in respect of its total income computed without giving effect to deduction under section 10AA, 32AD, 35AD, 35CCC, additional depreciation under section 32(1)(ia), deductions under Chapter VI-A (other than section 80JJAA) etc. and set off of loss and depreciation brought forward from earlier years relating to the above deductions. The provisions of alternate minimum tax under section 115JC would not be applicable to co-operative society opting for section 115BAD. This section will be dealt with in detail at Final level.

❖ <b>Company</b>		
<input type="checkbox"/> In the case of a domestic company		
(i)	If the total turnover or gross receipt in the P.Y.2018-19 ≤ ₹400 crore	25% of the total income
(ii)	In any other case	30% of the total income

**Notes –**

- In case of a domestic manufacturing company [set up and registered on or after 1.10.2019 and commences manufacture of article or thing (Including business of generation of electricity) before 31.3.2023] exercising option u/s 115BAB: **15% of income derived** from or incidental to manufacturing or production of an article or thing
- In case of a domestic company exercising option u/s 115BAA: **22% of total income**

Domestic company can opt for section 115BAA or section 115BAB, as the case may be, subject to certain conditions. The total income of such companies would be computed without giving effect to deductions under section 10AA, 32AD, 33AB, 33ABA, 35AD, 35CCC, 35CCD, 80-IA to 80RRB (except section 80JJAA or section 80M), additional depreciation under section 32(1)(ia) etc. and without set-off of brought forward loss and unabsorbed depreciation attributable to such deductions. These sections will be dealt with in detail at Final Level.

<input type="checkbox"/> In the case of a company other than a domestic company		
(i)	Royalties and fees for rendering technical services (FTS) received from Government or an Indian concern in pursuance of an agreement, approved by the Central Government, made by the company with the Government or Indian	50%

	concern between 1.4.1961 and 31.3.1976 (in case of royalties) and between 1.3.1964 and 31.3.1976 (in case of FTS)	
(ii)	Other income	40%

The above rates are prescribed by the Finance Act, 2020. However, in respect of certain types of income, as mentioned below, the Income-tax Act, 1961 has prescribed specific rates –

	Section	Income	Rate of Tax						
(a)	112	Long term capital gains (other than LTCG taxable as per section 112A) (For details, refer Unit 4 of Chapter 4 on “Capital gains”)	20%						
(b)	112A	<p>Long term capital gains on transfer of –</p> <ul style="list-style-type: none"> <li>• Equity share in a company</li> <li>• Unit of an equity oriented fund</li> <li>• Unit of business trust</li> </ul> <p>Condition for availing the benefit of this concessional rate is that securities transaction tax should have been paid–</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">In case of (Capital Asset)</th> <th style="width: 50%;">Time of payment of STT</th> </tr> </thead> <tbody> <tr> <td>Equity shares in a company</td> <td>Both at the time of acquisition and transfer</td> </tr> <tr> <td>Unit of equity oriented fund or unit of business trust</td> <td>at the time of transfer</td> </tr> </tbody> </table> <p><b>Note:</b> LTCG upto ₹1,00,000 is exempt. LTCG exceeding ₹1,00,000 is taxable @10%. (For details, refer Unit 4 of Chapter 4 on “Capital gains”)</p>	In case of (Capital Asset)	Time of payment of STT	Equity shares in a company	Both at the time of acquisition and transfer	Unit of equity oriented fund or unit of business trust	at the time of transfer	10% [On LTCG > ₹1,00,000]
In case of (Capital Asset)	Time of payment of STT								
Equity shares in a company	Both at the time of acquisition and transfer								
Unit of equity oriented fund or unit of business trust	at the time of transfer								
(c)	111A	<p>Short-term capital gains on transfer of –</p> <ul style="list-style-type: none"> <li>• Equity shares in a company</li> <li>• Unit of an equity oriented fund</li> <li>• Unit of business trust</li> </ul> <p>The conditions for availing the benefit of this concessional rate are –</p> <p>(i) the transaction of sale of such equity share or unit should be entered into on or after 1.10.2004; and</p> <p>(ii) Such transaction should be chargeable to securities transaction tax.</p>	15%						
(d)	115BB	<p>Winnings from</p> <ul style="list-style-type: none"> <li>• Lotteries;</li> <li>• Crossword puzzles;</li> <li>• Races including horse races;</li> <li>• Card games and other games of any sort;</li> <li>• Gambling or betting of any form or nature</li> </ul>	30%						

(e)	115BBE	Unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D [See discussion below]	60%
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**Unexplained money, investments etc. to attract tax@60% [Section 115BBE]**

(i) In order to control laundering of unaccounted money by availing the benefit of basic exemption limit, the unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D would be taxed at the rate of 60% plus surcharge @25% of tax. Thus, the effective rate of tax (including surcharge@25% of tax and cess@4% of tax and surcharge) is 78%.

(ii) No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income.

(iii) Further, no set off of any loss shall be allowable against income brought to tax under sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

### Surcharge

The rates of surcharge applicable for A.Y.2021-22 are as follows:

<p>❖ <b>Individual</b></p> <p>❖ <b>HUF</b></p> <p>❖ <b>AOP</b></p> <p>❖ <b>BOI</b></p> <p>❖ <b>AJP</b> (Artificial Judicial Person)</p> <p>Income-tax computed in accordance with the Above provisions &amp; section 111A or section 112 or section 112A or section 115BAC would be increased by surcharge given under the following table – <b>(Rate of surcharge would be applied on income- tax)</b></p>				
	Particular	Rate	Components of total income	Applicable rate of surcharge
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A and 112A) > ₹50 lakhs but ≤ ₹1 crore	10%	<ul style="list-style-type: none"> <li>Dividend ₹10 lakhs;</li> <li>STCG u/s 111A ₹20 lakhs;</li> <li>LTCG u/s 112A ₹25 lakhs; and</li> <li>Other income ₹40 lakhs</li> </ul>	Surcharge would be levied@10% on income-tax computed on total income of ₹95 lakhs.
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A and 112A) > ₹1 crore but ≤ ₹2 crore	15%	<ul style="list-style-type: none"> <li>Dividend income ₹10 lakhs;</li> <li>STCG u/s 111A ₹60 lakhs;</li> <li>LTCG u/s 112A ₹65 lakhs; and</li> <li>Other income ₹50 lakhs</li> </ul>	Surcharge would be levied@15% on income-tax computed on total income of ₹1.85 crores.
(iii)	Where total income(excluding dividend income and capital gains chargeable to tax u/s 111A and 112A) > ₹2 crore but ≤ ₹5 crore	25%	<ul style="list-style-type: none"> <li>Dividend income ₹60 lakhs;</li> <li>STCG u/s 111A ₹54 lakh;</li> <li>LTCG u/s 112A ₹55 lakh; and</li> <li>Other income ₹3 crores</li> </ul>	Surcharge@15% would be levied on income-tax on: <ul style="list-style-type: none"> <li>Dividend income of ₹60 lakhs;</li> <li>STCG of ₹54 lakhs chargeable to tax u/s 111A; and</li> </ul>
	The rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax	Not exceeding 15%		

	u/s 111A and 112A			<ul style="list-style-type: none"> <li>LTCG of ₹55 lakhs chargeable to tax u/s 112A. Surcharge@25% would be leviable on income-tax computed on other income of ₹3 crores included in total income</li> </ul>
(iv)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A And 112A) > ₹5 crore	37%	<ul style="list-style-type: none"> <li>Dividend income ₹60 lakhs;</li> <li>STCG u/s 111A ₹50 lakhs;</li> <li>LTCG u/s 112A ₹65 lakhs; and</li> <li>Other income ₹6 crore</li> </ul>	Surcharge@15% would be levied on income-tax on: <ul style="list-style-type: none"> <li>Dividend income of ₹60 lakhs;</li> <li>STCG of ₹50 lakhs chargeable to tax u/s 111A; and</li> <li>LTCG of ₹65 lakhs chargeable to tax u/s 112A. Surcharge@37% would be leviable on the income-tax computed on other income of ₹6 crores included in total income.</li> </ul>
	Rate of surcharge on the income-tax payable on the portion of Dividend income and capital gains chargeable to tax u/s 111A and 112A	Not exceeding 15%		
(v)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A and 112A) > ₹2 crore in cases not covered under (iii) and (iv) above	15%	<ul style="list-style-type: none"> <li>Dividend income ₹55 lakhs;</li> <li>STCG u/s 111A 60 lakhs;</li> <li>LTCG u/s 112A ₹55 lakhs; and</li> <li>Other income ₹1.10 crore</li> </ul>	Surcharge would be levied@15% on income-tax computed on total income of ₹2.80 crore.

### Marginal relief

The purpose of marginal relief is to ensure that the increase in amount of tax payable (including surcharge) due to increase in total income of an assessee beyond the prescribed limit should not exceed the amount of increase in total income.

Marginal relief is available in case of such persons referred to in above i.e.

	Particular	Marginal Relief	Example
(a)	Where the total income > ₹50 lakhs but ≤ ₹1 crore	<b>Steps</b> <ol style="list-style-type: none"> <li>1. Compute income-tax payable on total income; and add surcharge@10% on such income-tax <b>(A)</b></li> <li>2. Compute income-tax payable on ₹50 lakhs</li> <li>3. Total income (-) ₹ 50 lakhs</li> <li>4. Add the amount computed in Step 2 and 3 <b>(B)</b></li> </ol>	Refer illustration 2

		<p><b>5.</b> Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in <b>Step 1 (i.e., A)</b> or <b>Step 4 (i.e., B)</b>. Consequently, if <b>A &gt; B</b>, the marginal relief would be <b>A – B</b>.</p>	
(b)	Where the total income > ₹1 crore but ≤ ₹2 crores	<p><b>Steps</b></p> <ol style="list-style-type: none"> <li><b>1.</b> Compute income-tax on total income; and add surcharge@15% on income-tax (<b>C</b>)</li> <li><b>2.</b> Compute income-tax payable on total income of ₹1 crore + surcharge on such income-tax@10%</li> <li><b>3.</b> Total income (-) ₹1 crore</li> <li><b>4.</b> Add the amount computed in Step 2 and 3 (<b>D</b>)</li> <li><b>5.</b> Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in <b>Step 1 (i.e., C)</b> or <b>Step 4 (i.e., D)</b>. Consequently, if <b>C &gt; D</b>, the marginal relief would be <b>C – D</b>.</li> </ol>	Refer illustration 3
(c)	Where the total income > ₹2 crores but ≤ ₹5 crores	<p><b>Steps</b></p> <ol style="list-style-type: none"> <li><b>1.</b> Compute income-tax on total income; and add surcharge@25% on income-tax (<b>E</b>)</li> <li><b>2.</b> Compute income-tax payable on total income of ₹2 crore + surcharge on such income-tax@15%</li> <li><b>3.</b> Total income (-) ₹ 2 crore</li> <li><b>4.</b> Add the amount computed in Step 2 and 3 (<b>F</b>)</li> <li><b>5.</b> Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in <b>Step 1 (i.e., E)</b> or <b>Step 4 (i.e., F)</b>. Consequently, if <b>E &gt; F</b>, the marginal relief would be <b>E – F</b>.</li> </ol>	Refer illustration 4
(d)	Where the total income > ₹5 crores	<p><b>Steps</b></p> <ol style="list-style-type: none"> <li><b>1.</b> Compute income-tax on total income; and add surcharge@37% on income-tax (<b>G</b>)</li> <li><b>2.</b> Compute income-tax payable on total income of ₹5 crore + surcharge on such income-tax@25%</li> <li><b>3.</b> Total income (-) ₹5 crore</li> <li><b>4.</b> Add the amount computed in Step 2 and 3 (<b>H</b>)</li> <li><b>5.</b> Income-tax payable on total income (along with surcharge) would be the lower of the amount arrived at in <b>Step 1 (i.e., G)</b> or <b>Step 4 (i.e., H)</b>. Consequently, if <b>G &gt; H</b>, the marginal relief would be <b>G – H</b>.</li> </ol>	Refer illustration 5

**Note**

It is presumed that the total income referred to above does not include dividend income, long term capital gains taxable under section 112A and short term capital gains taxable under section 111A.

In case the total income includes dividend income, long term capital gains taxable under section 112A or short term capital gains taxable under section 111A, surcharge on tax payable on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) and (iv) above.

## Illustration 2

Compute the tax liability of Mr. A (aged 42), having total income of ₹51 lakhs for the Assessment Year 2021-22. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. A has not opted for the provisions of section 115BAC.

### Solution:

Computation of tax liability of Mr. A for the A.Y.2021-22

(a)	Tax payable including surcharge on total income of ₹51,00,000	
	₹2,50,000 – ₹5,00,000 @5%	12,500
	₹5,00,001 – ₹10,00,000 @20%	1,00,000
	₹10,00,001 – ₹51,00,000 @30%	12,30,000
	Total	<b>13,42,500</b>
	Add: Surcharge @ 10%	1,34,250
		<b>14,76,750</b>
(b)	Tax Payable on total income of ₹ 50 lakhs	
	12,500+1,00,000,+12,00,000	13,12,500
(c)	Total Income Less ₹50 lakhs	
	51,00,000-50,00,000	1,00,000
(d)	Tax payable on total income of ₹50 lakhs plus the excess of total income over ₹50 lakhs (B +C)	14,12,500
(e)	Tax payable: lower of (A) and (D)	14,12,500
	Add: Health and education cess @4%	56,500
	Tax liability	<b>14,69,000</b>
(f)	Marginal Relief (A – D)	64,250

### Alternative method -

(a)	Tax payable including surcharge on total income of ₹51,00,000	
	₹2,50,000 – ₹5,00,000 @5%	12,500
	₹5,00,001 – ₹10,00,000 @20%	1,00,000
	₹10,00,001 – ₹51,00,000 @30%	12,30,000
	Total	<b>13,42,500</b>
	Add: Surcharge @ 10%	1,34,250
		<b>14,76,750</b>
(b)	Tax Payable on total income of ₹ 50 lakhs	
	12,500+1,00,000,+12,00,000	13,12,500
(c)	Excess tax payable (A)-(B)	1,64,250
(d)	Marginal Relief (₹1,64,250 – ₹1,00,000, being the amount of income in excess of ₹50,00,000)	64,250
(e)	Tax payable (A)-(D)	14,12,500
	Add: Health and education cess @4%	56,500
	Tax liability	<b>14,69,000</b>

## Illustration 3

Compute the tax liability of Mr. B (aged 51), having total income of ₹1,01,00,000 for the Assessment Year 2021-22. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. B has not opted for the provisions of section 115BAC.

### Solution:

Computation of tax liability of Mr. B for the A.Y.2021-22

(a)	Tax payable including surcharge on total income ₹101,00,000	
	₹2,50,000 – ₹5,00,000 @5%	12,500
	₹5,00,001 – ₹10,00,000 @20%	1,00,000
	₹10,00,001 – ₹101,00,000 @30%	27,30,000

	Total	<b>28,42,500</b>
	Add: Surcharge @ 15%	4,26,375
	Tax liability without marginal relief	<b>32,68,875</b>
(b)	Tax Payable on total income of ₹ 1 crore	
	12,500+1,00,000,+27,00,000	28,12,500
	Add: Surcharge@10%	2,81,250
		30,93,750
(c)	Total Income Less ₹1 crore	
	101,00,000-100,00,000	1,00,000
(d)	Tax payable on total income of ₹1 crore plus the excess of total income over ₹50 lakhs (B +C)	<b>31,93,750</b>
(e)	Tax payable: lower of (A) and (D)	31,93,750
	Add: Health and education cess @4%	1,27,750
	Tax liability	<b>33,21,500</b>
(f)	Marginal Relief (A – D)	75,125

#### Alternative method -

(a)	Tax payable including surcharge on total income ₹101,00,000	
	₹2,50,000 – ₹5,00,000 @5%	12,500
	₹5,00,001 – ₹10,00,000 @20%	1,00,000
	₹10,00,001 – ₹101,00,000 @30%	27,30,000
	Total	<b>28,42,500</b>
	Add: Surcharge @ 15%	4,26,375
		<b>32,68,875</b>
(b)	Tax Payable on total income of ₹ 1 crore	
	12,500+1,00,000,+27,00,000	28,12,500
	Add: Surcharge@10%	2,81,250
		30,93,750
(c)	Excess tax payable (A)-(B)	1,75,125
(d)	Marginal Relief (₹1,75,125 – ₹1,00,000, being the amount of income in excess of ₹100,00,000)	75,125
(e)	Tax payable (A)-(D)	31,93,750
	Add: Health and education cess @4%	1,27,750
	Tax liability	<b>33,21,500</b>

#### Illustration 4

Compute the tax liability of Mr. C (aged 58), having total income of ₹2,01,00,000 for the Assessment Year 2021-22. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. C has not opted for the provisions of section 115BAC.

#### Solution:

Computation of tax liability of Mr. C for the A.Y.2021-22

(a)	Tax payable including surcharge on total income ₹201,00,000	
	₹2,50,000 – ₹5,00,000 @5%	12,500
	₹5,00,001 – ₹10,00,000 @20%	1,00,000
	₹10,00,001 – ₹201,00,000 @30%	57,30,000
	Total	<b>58,42,500</b>
	Add: Surcharge @ 25%	14,60,625
	Tax liability without marginal relief	<b>73,03,125</b>
(b)	Tax Payable on total income of ₹ 2 crore	
	12,500+1,00,000,+57,00,000	58,12,500
	Add: Surcharge@15%	8,71,875
		66,84,375

(c)	Total Income Less ₹2 crore	
	201,00,000-200,00,000	1,00,000
(d)	Tax payable on total income of ₹1 crore plus the excess of total income over ₹50 lakhs (B +C)	<b>67,84,375</b>
(e)	Tax payable: lower of (A) and (D)	67,84,375
	Add: Health and education cess @4%	2,71,375
	Tax liability	<b>70,55,750</b>
(f)	Marginal Relief (A – D)	5,18,750

#### Alternative method -

(a)	Tax payable including surcharge on total income ₹201,00,000	
	₹2,50,000 – ₹5,00,000 @5%	12,500
	₹5,00,001 – ₹10,00,000 @20%	1,00,000
	₹10,00,001 – ₹201,00,000 @30%	57,30,000
	Total	<b>58,42,500</b>
	Add: Surcharge @ 25%	14,60,625
		<b>73,03,125</b>
(b)	Tax Payable on total income of ₹ 2 crore	
	12,500+1,00,000,+57,00,000	58,12,500
	Add: Surcharge@15%	8,71,875
		66,84,375
(c)	Excess tax payable (A)-(B)	6,18,750
(d)	Marginal Relief (₹1,75,125 – ₹1,00,000, being the amount of income in excess of ₹100,00,000)	5,18,750
(e)	Tax payable (A)-(D)	67,84,375
	Add: Health and education cess @4%	2,71,375
	Tax liability	<b>70,55,750</b>

#### Illustration 5

Compute the tax liability of Mr. D (aged 37), having total income of ₹5,01,00,000 for the Assessment Year 2021-22. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. D has not opted for the provisions of section 115BAC.

#### Solutions:

Computation of tax liability of Mr. D for the A.Y.2021-22

(a)	Tax payable including surcharge on total income ₹5,01,00,000	
	₹2,50,000 – ₹5,00,000 @5%	12,500
	₹5,00,001 – ₹10,00,000 @20%	1,00,000
	₹10,00,001 – ₹5,01,00,000 @30%	1,47,30,000
	Total	<b>1,48,42,500</b>
	Add: Surcharge @ 37%	54,91,725
	Tax liability without marginal relief	<b>2,03,34,225</b>
(b)	Tax Payable on total income of ₹ 5 crore	
	12,500+1,00,000,+1,47,00,000	1,48,12,500
	Add: Surcharge@25%	37,03,125
		1,85,15,625
(c)	Total Income Less ₹5 crore	
	501,00,000-500,00,000	1,00,000
(d)	Tax payable on total income of ₹1 crore plus the excess of total income over ₹50 lakhs (B +C)	<b>1,86,15,625</b>
(e)	Tax payable: lower of (A) and (D)	1,86,15,625
	Add: Health and education cess @4%	7,44,625
	Tax liability	<b>1,93,60,250</b>
(f)	Marginal Relief (A – D)	17,18,600

**Alternative method -**

(a)	Tax payable including surcharge on total income ₹501,00,000	
	₹2,50,000 – ₹5,00,000 @5%	12,500
	₹5,00,001 – ₹10,00,000 @20%	1,00,000
	₹10,00,001 – ₹501,00,000 @30%	1,47,30,000
	Total	<b>1,48,42,500</b>
	Add: Surcharge @ 37%	54,91,725
		<b>2,03,34,225</b>
(b)	Tax Payable on total income of ₹ 5 crore	
	12,500+1,00,000,+1,47,00,000	1,48,12,500
	Add: Surcharge@25%	37,03,125
		1,85,15,625
(c)	Excess tax payable (A)-(B)	18,18,600
(d)	Marginal Relief (₹18,18,600 – ₹1,00,000, being the amount of income in excess of ₹500,00,000)	17,18,600
(e)	Tax payable (A)-(D)	1,86,15,625
	Add: Health and education cess @4%	7,44,625
	Tax liability	<b>1,93,60,250</b>

❖ **Firm**❖ **Limited Liability Partnership**❖ **Local Authority**❖ **Co-operative society**

Where the total income exceeds ₹1 crore, surcharge is payable at the rate of 12% of income-tax computed in accordance with the provisions and section 111A or section 112 or section 112A

**Marginal Relief**

Marginal relief is available in case of such persons having a total income exceeding ₹ 1 crore i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax payable on total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

❖ **Domestic company**

- (a) In case of a domestic company (other than a domestic company opting for section 115BAA or section 115BAB), whose total income ₹1 crore but is ≤ ₹10 crore

Where the total income exceeds ₹1 crore but does not exceed ₹10 crore, surcharge is payable at the rate of 7% of income-tax computed in accordance with the provisions and section 111A or section 112 or section 112A.

**Marginal Relief**

Marginal relief is available in case of such companies i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax payable on total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

- (b) In case of a domestic company (other than a domestic company opting for section 115BAA or section 115BAB), whose total income is > ₹10 crore

Where the total income exceeds ₹10 crore, surcharge is payable at the rate of 12% of income-tax computed in accordance with the provisions and section 111A or section 112 or section 112A.

**Marginal Relief**

Marginal relief is available in case of such companies i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax and surcharge payable on total income of ₹10 crore by more than the amount of income that exceeds ₹10 crore.

(c) In case of a domestic company opting for section 115BAA or section 115BAB) Surcharge @10% of income-tax computed under section 115BAA or section 115BAB would be leviable. There is no threshold limit for applicability of surcharge and consequently, there is no marginal relief.

❖ **Foreign company**

(a) In case of a foreign company, whose total income > ₹1 crore but is ≤ ₹10 crore  
Where the total income exceeds ₹1 crore but does not exceed ₹10 crore, surcharge is payable at the rate of 2% of income-tax computed in accordance with the provisions and section 111A or section 112 or section 112A.

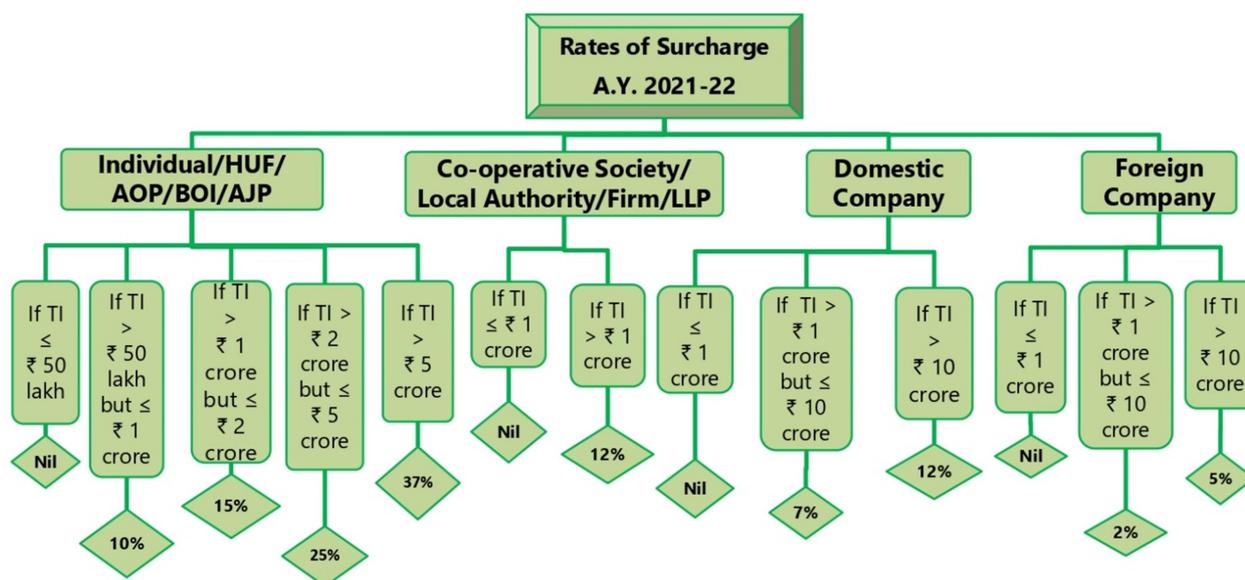
**Marginal Relief**

Marginal relief is available in case of such companies i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax payable on total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

(b) In case of a foreign company, whose total income is > ₹10 crore  
Where the total income exceeds ₹10 crore, surcharge is payable at the rate of 5% of income-tax computed in accordance with the provisions and section 111A or section 112 or section 112A.

**Marginal Relief**

Marginal relief is available in case of such companies i.e., the total amount of income-tax payable (together with surcharge) on such income should not exceed the amount of income-tax and surcharge payable on total income of ₹10 crore by more than the amount of income that exceeds ₹10 crore.



### **Rebate [Section 87A]**

Rebate of up to ₹12,500 for resident individuals having total income of up to ₹5 lakh

In order to provide tax relief to the individual tax payers who are in the 5% tax slab, section 87A provides a rebate from the tax payable by an assessee, being an individual resident in India, whose total income does not exceed ₹5,00,000.

- (i) The rebate shall be equal to the amount of income-tax payable on the total income for any assessment year or an amount of ₹12,500, whichever is less. (Rebate under section 87A is allowed from tax payable before adding Health and education cess on income-tax).
- (ii) Further, the aggregate amount of rebate under section 87A shall not exceed the amount of income-tax (as computed before allowing such rebate) on the total income of the assessee with which he is chargeable for any assessment year.

Note: Rebate under section 87A is, however, not available in respect of tax payable @10% on long-term capital gains taxable under section 112A.

### **Health and Education cess on Income-tax**

The amount of income-tax as increased by the union surcharge, if applicable, should be further increased by an additional surcharge called the “Health and Education cess on income-tax”, calculated at the rate of 4% of such income-tax and surcharge, if applicable. Health and education cess is leviable in the case of all assessees i.e. individuals, HUF, AOP/BOI, firms, local authorities, co-operative societies and companies.

It is leviable to fulfill the commitment of the Government to provide and finance quality health services and universalised quality basic education and secondary and higher education.

### **Illustration 6**

Mr. Raghav aged 26 years and a resident in India, has a total income of ₹4,40,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y.2021-22.

### **Solution:**

Computation of tax liability of Mr. Raghav for A.Y. 2021-22

Tax on total income of ₹4,40,000	
Tax @ 5% of ₹1,90,000 (₹4,40,000 – ₹2,50,000)	9,500
Less: Rebate u/s 87A (Lower of tax payable or ₹12,500)	9,500
<b>Tax Liability</b>	<b>NIL</b>

## Unsolved Illustration

### Illustration 7

Tax liability: Compute the tax liability in the following cases if the assessee has not opted for the provisions of Section 115BAC –

	<b>Assessee</b>	<b>Status</b>	<b>Total Income</b>
(a)	Mr. Mohan	Resident Individual of 40 years	4,90,000
(b)	Mrs. Swati	Non-resident Individual of 65 years	2,75,000
(c)	Mr. Bansal	Resident Individual of 25 years	5,50,000
(d)	Mrs. Priyanka	Resident Individual of 21 years	15,10,000
(e)	Mrs. Resham	Resident Individual of 60 years	12,00,000
(f)	Mrs. Radhika	Resident Individual of 80 years	18,00,000
(g)	Mr. Ganshyam	Resident Individual of 40 years	50,00,000
(h)	Ms. Madhuri	Resident Individual of 21 years	2,50,000

### Illustration 8

Compute the tax liability in the following cases if the assessee has not opted for the provisions of Section 115BAC –

	<b>Assessee</b>	<b>Status</b>	<b>Total Income</b>
(a)	Mr. X	Resident Individual of 40 years	1,01,00,000
(b)	Mr. Y	Resident Individual of 50 years	1,10,00,000
(c)	Mr. Z	Resident Individual of 55 years	1,00,00,000
(d)	Mr. A	Resident Individual of 55 years	51,00,000
(e)	Mr. B	Resident Individual of 55 years	2,00,00,000
(f)	Mr. C	Resident Individual of 25 years	2,01,00,000
(g)	Mr. D	Resident Individual of 30 years	5,00,00,000
(h)	Mr. E	Resident Individual of 40 years	5,01,00,000