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ਪੰਜਾਬ ਸਟੇਟ ਓਪਨ ਯੂਨੀਵਰਸਿਟੀ
ਪਟਿਆਲਾ

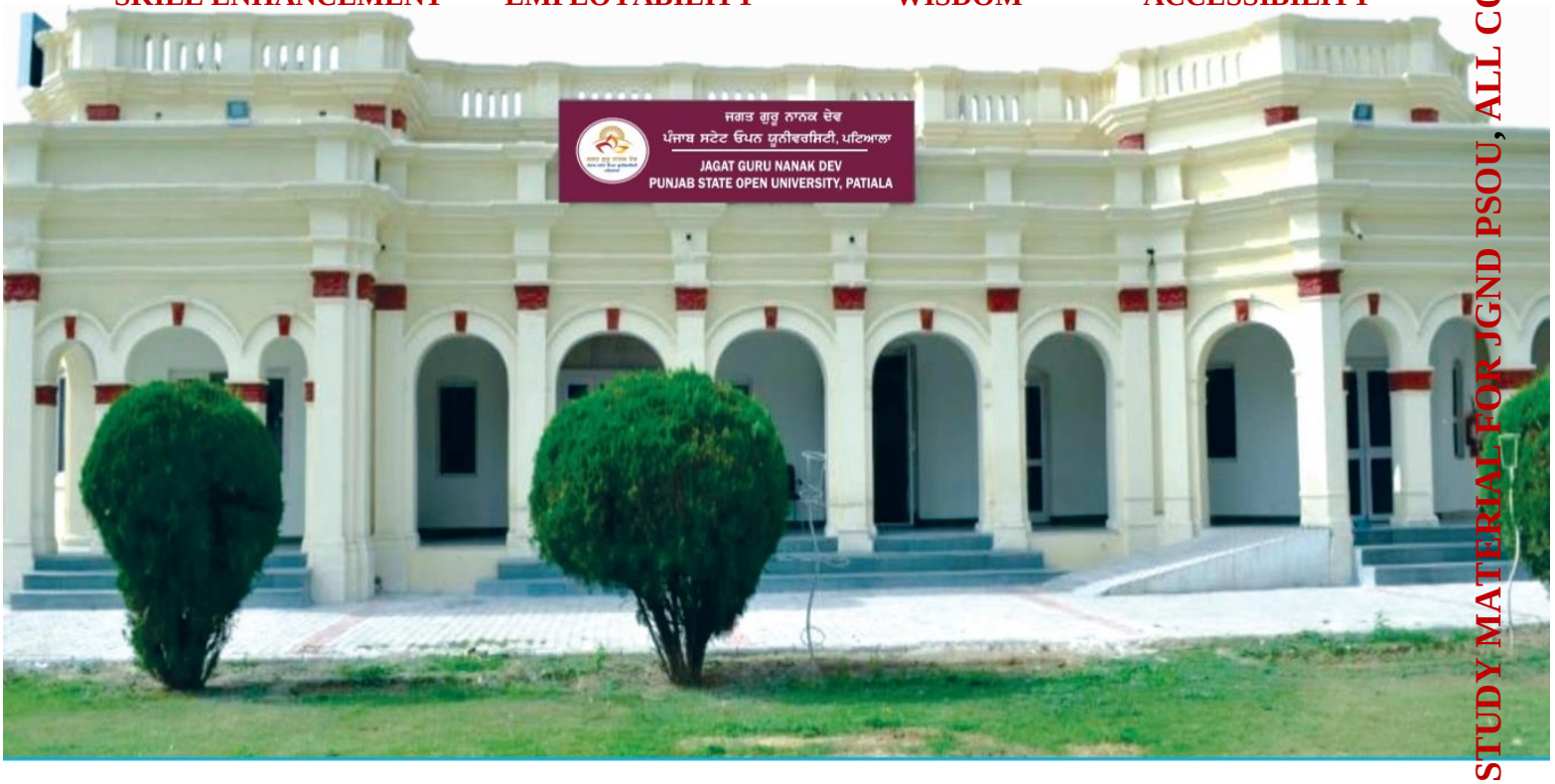
JAGAT GURU NANAK DEV
PUNJAB STATE OPEN UNIVERSITY, PATIALA

(Established by Act No. 19 of 2019 of the Legislature of State of Punjab)

The Motto of the University

(SEWA)

SKILL ENHANCEMENT EMPLOYABILITY WISDOM ACCESSIBILITY



CERTIFICATE/DIPLOMA COURSE IN ACCOUNTING AND TAXATION

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PREFACE

Jagat Guru Nanak Dev Punjab State Open University, Patiala, established in December 2019 by Act 19 of the Legislature of State of Punjab, is the first and only Open University of the State, entrusted with the responsibility of making higher education accessible to all especially to those sections of society who do not have the means, time or opportunity to pursue regular education.

In keeping with the nature of an Open University, this University provides a flexible education system to suit every need. The time given to complete a programme is double the duration of a regular mode programme. Well-designed study material has been prepared in consultation with experts in their respective fields.

The University offers programmes which have been designed to provide relevant, skill-based and employability-enhancing education. The study material provided in this booklet is self-instructional, with self-assessment exercises, and recommendations for further readings. The syllabus has been divided in sections, and provided as units for simplification.

The Learner Support Centres/Study Centres are located in the Government and Government aided colleges of Punjab, to enable students to make use of reading facilities, and for curriculum-based counselling and practicals. We, at the University, welcome you to be a part of this institution of knowledge.

Prof. G. S. Batra,
Dean Academic Affairs

DIPLOMA COURSE IN

ACCOUNTING AND TAXATION

INCOME TAX AND E-FILING

COURSE VI - INCOME TAX AND E- FILING

Learning Objectives: The course aims to achieve following objectives-

1. To attain knowledge about the Income Tax Act.
2. Understand the definitions related to Income tax
3. Determine the residential status of any person
4. Computation of Gross Total Income
5. Well versed with powers and Authorities of Income Tax officials.

Course Content:

Unit I Set off , Carry forward off losses and Deductions Set off and Carry forward off losses, Aggregation of Income. Deductions from gross total income: Deductions in respect of certain payments: Deduction under sections 80C, 80CCC, 80CCD, 80CCE, 80D, 80DD, 80DDB, 80E, 80EE, 80EEB, 80G & 80GG. Specific deductions in respect of certain income: 80QQB, 80TTA, 80TTB & 80U.
Unit 2 Computation of Total Income- Computation of total income and tax liability of individuals. Detail knowledge of e-portal for filing income tax return---E-filing to E-verify
Unit III: Conceptual knowledge of documents related to filing of returns:- Knowledge of Form no16, 16A, 15G, 15H, 26AS, and Annual Information System (AIS)
Unit IV: Awareness regarding provisions for deposit of Advance tax, tax deduction atsource and introduction to tax collection at source. Deposit of income tax challan for self- assessment tax, advance tax and TDS.

Unit V: Income Tax Authorities and their powers:

Search & Seizure, Assessment of Individuals, HUFs, Firms and Companies, Collection ofTax: Tax deducted at source – Advance payment of tax – Refund of tax. Appeals and Revisions, Penalties and Prosecutions.

SUGGESTED READINGS

1) Gupta R.R., Gupta R.S., " Income Tax Law and Practice, Agra Book Store, Agra
2) Bhagawati Prasad, Law and Practice of Income Tax In India, Navman Prakashnan,
3) Aligarh.
4) Sukumar Bhatt, Indian Income Tax Law and Practice, Wadhwa & Co., Agra.
5) Vinod.K. Singh, Direct Taxes Law & Practice, Taxmann Publications (P) Ltd., Delhi.
6) Ambujam Venkataraman, Income Tax Digest of Surpreme Court Cases, A.N. Aiyar's Company Law, Institute of India (P) Ltd., Madras.
7) Bhatnagar K, Digest of Income Tax Cases (Vol.1 to 4), Central Law Agency, Allahabad.

UNIT - 1 SET OFF , CARRY FORWARD OFF LOSSES AND DEDUCTIONS

STRUCTURE

1.0 OBJECTIVES

After studying this unit, you will be able to:

- Describe concept of Income Tax
- Identify types of Assessee
- State the need and importance agricultural Assessment
- Tax Evasion and Tax Avoidance
- Set off, Carry forward off losses and Deductions
- Exemptions from Income Tax

1.1 INTRODUCTION

In India, taxes are imposed by the central and state governments and are empowered to do so by the Indian Constitution. Local governments, like municipalities, also impose certain modest taxes. The ability to collect taxes stems from the Indian Constitution, which divides powers to collect different taxes between the federal and state governments. Article 265 of

the Constitution severely limits this possibility, stating that "taxes shall not be collected or levied except by lawful authority." Therefore, any tax levied or levied must be accompanied by a law made by either the legislature or the state legislature. Nevertheless, tax evasion is a major problem in India and has many negative effects on the country. The CBDT has announced that direct tax revenue for 2019-20 is approximately INR 12.33 trillion.

Over time, India abolished and imposed some levies. Examples include inheritance tax, interest tax, gift tax and wealth tax.

The Wealth Tax Act of 1957 was repealed in 2015. Direct taxes in India were regulated by two important laws, the Income Tax Act, 1961 and the Property Tax Act, 1957. These two laws have been replaced by a new law called the Direct Tax Code (DTC). Individuals and corporations (taxpayers) pay different income taxes depending on their income and profits (taxable income). In most cases, income tax is calculated as the product of tax rate and taxable income. Individuals, on the other hand, pay taxes at a fixed rate.

The government introduced a new tax system with the Finance Act 2020, giving people the opportunity to choose between the new system and the old system. The Income Tax Service collects taxes on behalf of the federal government. Farmers, who make up 70% of employment in India, are generally exempt from income tax in the country. Income tax filing deadline in India is 31st July, 30th September or 30th November depending on the taxpayer category. Income tax applies to everyone who earns or receives money in India. Income was divided into five categories by the IT department. salary, other sources of income, housing income, investment income, business and professional income.

Conclusion: The taxpayer should take care of the above provisions while transferring his assets so that clubbing provisions will not get attracted. It is always advisable that one should transfer his asset for ade

1.2 SET OFF, CARRY FORWARD OFF LOSSES AND EXEMPTIONS

NTRODUCTION This Article Covers Income Tax Act Provisions that are related to carry forward and set off of losses. All Losses arising from exempted sources of income cannot be adjusted against taxable income. If an income source is exempt, then the loss cannot be set off against any income that is taxable. Let’s look at an example: Agricultural income is exempted from tax. This means that if the taxpayer suffers loss due to agricultural activity, such loss cannot be applied against any other taxable income. The Income-tax law of India

provides some benefits to taxpayers for sustaining losses. This article explains in detail the provisions in the law regarding set-off and carrying forward losses.

Definition of Set Off Losses The adjustment of losses against income or profit in a particular year is called set off. Losses not set off against income can be carried forward to subsequent years and used against income. You can set off against income in either an intra-head or inter-head way.

Losses Can Be Set Off

How losses can be set off Intra-head Set off Inter-head Set off SIGNIFICANCE OF INTRA Head Adjustment Any year in which the taxpayer has suffered loss from any source, under any head Income, then he can adjust such loss against income coming from any other source. The same head. Intra-head adjustment is the process of adjusting loss from one source against income from another source under the same heading. Adjustment of profit from business A to loss from business B. When making intra-head adjustments to loss, there are some restrictions.

Inter Head Adjustment:

What Does It Mean? The next step after making any intra-head adjustments is to make an inter-head adjustment. If the taxpayer suffers loss under any one of the income heads and has income under another head of income in any given year, he can adjust that loss to the other head. Before making any inter-head adjustment, it is important to remember the following restrictions. Before the taxpayer can make inter-head adjustments, he or she must first make intra-head adjustment. You cannot set off income from speculative businesses with losses. Non-speculative loss in business can be offset against income from speculative businesses. Income from other income heads cannot be used to set off losses under the heading “Capital gains”. Income from winnings from lottery, crossword puzzles and race (including horse race), as well as any other games or gambling of any kind or nature, cannot be set off by losses. You cannot set off losses from owning or maintaining race horses with any other income. The loss from a business as defined under section 35AD cannot be offset against other income. Section 35AD applies to certain businesses such as setting up a cold-chain facility, operating warehousing facilities for agricultural produce storage, and developing and building housing projects. Income subject to tax under the heading “Salaries” cannot be used against losses from businesses and professions. Beginning with the 2018-19 assessment year, losses under the heading “house property” will be allowed to be offset against any other income source only up to Rs. 2,00,000. Unabsorbed loss may be carried forward to be set-off

in the following years according to section 71B. (Provisions regarding the carry forward of loss from property are discussed later.

Before Making Any Intra Head Adjustment, It Is Important to Remember the Restrictions

Loss:

1. Any income from speculative businesses cannot be set off by losses. Income from speculative businesses. Non-speculative business losses can also be possible Set off income from speculative businesses.

2) No income other than long-term capital loss can be offset by long-term capital losses from long-term capital gains. Short-term capital loss is possible, however. Against capital gains, long-term and short-term.

3) Losses from crosswords or lotteries cannot be set off by income. Puzzles, races, including horse race, card games, and any other type of game Avoid gambling of any kind or nature.

4) The business of racing horses can't be lost Any income other than the income from the business of owning or maintaining race horses. 5) The loss from business as specified in section 35AD can't be setoff against any other Other income, except income from a specified business (section 35AD) is applicable Certain businesses, such as those that set up cold chains facilities, may be eligible for special treatment. Setting up and managing a warehouse facility for the storage of agricultural produce.

Notice

Income Tax Act Department is responsible for determining the income of an assessee in order to collect Taxes. The provisions under each head are used to determine whether the loss (losses other that dead losses) can be set off or carried forward. The Income Tax Act has five types of income, namely Income below the Head Salary Profits or losses from business or profession Income below the head Capital Gains House Property Income Income under the heading Other Sources Note: Under the Head Salary, there can never be any loss. Therefore, carry forward or set off of the same is not allowed.

Carry Forward of Losses

Unadjusted loss can still occur after making the necessary and permissible inter-head and intra-head adjustments. This unadjusted loss can be carried forward into future years to adjust for income. Different income sources have different rules regarding carry forward.

Losses On House Property

You can carry the loss forward for up to 8 years after the year of the assessment. Only income from house property can be adjusted. Losses in Non-Speculative Businesses (Regular Business)

Loss You can carry the loss forward for up to 8 years after the assessment year it was made Only applicable to income from a business or profession It is not necessary to continue the business in the future. If the return is not received by the due date, it cannot be carried forward.

Speculative Business Loss

You can carry the loss forward for up to 4 years after the assessment year it was made Only applicable to income from speculative businesses If the return is not received by the due date, it cannot be carried forward. It is not necessary to continue the business in the future.

Specified Business Losses Under 35ad

There is no Limit to carry forward losses from the business in question under 35AD It is not necessary to continue the business in the future. If the return is not received by the due date, it cannot be carried forward. Only applicable to income from a specified business below 35AD

Capital Losses

You can carry the loss forward for up to 8 years after the assessment year it was made

Only long-term capital gains can be used to offset capital losses. You can offset short-term capital losses against long-term capital gain.

Case Laws On Set Off and Carry Forward of Losses

1. Jamna Dass Rameshwar Das v. CIT [1952]21ITR 109 (Punjab) – Assessee did business of speculation in silver, gold and linseed – During relevant assessment year, he showed a gross loss in speculative transactions – ITO however, rejected assessee's claim on ground that assessee had not maintained contemporaneous record of speculative transactions since assessee failed to do so, revenue authorities were justified in rejecting assessee's claim.

2.CIT v. Ashok Mittal [2013]357ITR 245(Delhi)- In this Case it was held that assessee can set off brought forward speculative business loss against the speculative profit even before setting off the non- speculative business loss of the year.

3. CIT v. S.C. Kothari [1971] 82 ITR794(SC) – it was held that the loss of an illegal speculative transaction cannot be set off against the profit of another lawful speculative transaction. If however the business was the same, then the loss would be liable to be taken into account while computing the profit u/s 28(i)

4. CIT v. Mahalakshmi Sugar Mills Co. Ltd. [1986]160 ITR920(SC) – In this case it was held that it is the duty of the assessing officer to apply the relevant provision of the Act for the purpose of determining the true figure of the assessee's taxable income and the consequential tax liability. Only because the assessee fails to claim the benefit of set off, it cannot relieve the Income Tax officer of his duty to apply section 72 in an appropriate case.

CONCLUSION The concept of set-off and carry-forward helps us understand that the tax system is flexible. There is sufficient scope of adjustment of losses under this system. As we have seen different heads of income and their provision related to set off and carry forward, we can say that loss should be set off on intra head Basis in the same Assessment Year and if still there is a loss then only inter head set off is allowed. After completing first two steps only if any loss remains then it will be Carry forward and will set off in next Assessment Year under the same head of income and not different head. But there still exception to it for example Losses in Speculation Business can only be set off against the same head for that particular Assessment Year. The rule of set-off and carry-forward must be followed in strict accordance with the exemptions and restrictions mentioned in the Income Tax Act, 1961.

1.3 AGGREGATION OF INCOME

Aggregated income of the assessee includes the following incomes:

- Income of the assessee (this has already been discussed in the previous units)
- Deemed Incomes
- Clubbing of Incomes (Income of other persons includible in the income of the assessee)
- Share of a member in the income of (a) Association of persons (AOP) or (b) Body of individuals (BOI) A detailed discussion of Aggregation of Income is made in the ensuing pages of this unit.

Inclusion of other's Incomes in the income of the assessee is called Clubbing of Income and the income which is so included is called Deemed Income.

Clubbing of income means Income of other person included in assessees total income, for example: Income of husband which is shown to be the income of his wife is clubbed in the income of Husband and is taxable in the hands of the husband. Under the Income Tax Act a person has to pay taxes on his income.

It is as per the provisions contained in Sections 60 to 64 of the Income Tax Act.

1. Transfer of Income Without Transfer of Asset (Section. 60)

When a person retaining the ownership of an asset but transfers the income from the asset to any of his relatives by an agreement or any other way. – As per Section 60 of Income Tax Act, such income will be taxable in the hands of the transferor.

This section is applicable if-

1. Taxpayer owns an asset;
2. He transfers the income earned from this asset to another person;
3. But he keeps the ownership of that asset with himself;

Assume that person "A" owns 10000, 50% debentures of XYZ private limited of Rs. 500 each. But he is transferring the interest income to his family member "B" without transferring the ownership of Debentures. In this case, although interest will be received by a family member, it is taxable in the hands of "A".

Eg. Mr. Ajay is having an FD with a bank. He transfers interest earned on FD Rs. 1,60,000/- to his friend Mr. Boman. However, Mr. Ajay kept the ownership of FDs with him. In this case, interest earned of Rs. 1,60,000/- shall be treated as income of Mr. Ajay only and not of Mr. Boman.

2. Revocable transfer of asset (SECTION 61)

'Revocable transfer' means the transferor of asset assumes a right to re-acquire asset or income from such an asset, either whole or in parts at any time in future, during the lifetime of transferee.

Revocable/Cancellable transfer: A taxpayer transfers his asset to another person on the

condition that such transfer can be cancelled by him at any time, then this transfer shall be treated as Cancellable transfer.

If an asset is transferred under a revocable transfer, income from such asset is taxable in the hands of the transferor

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2. He transfers the ownership of this asset to another person;
3. But the transfer is revocable* or cancellable;

For example,

a. if a person "M" transfers his house to one of his friend N. And, M has right to revoke the transfer during the lifetime of N, then the income arising from the house property will be taxable in the hands of M.

b. Mr. Pranav transfer his land to Mr. Shaan under an agreement where the agreement states that Mr. Pranav can re-transfer the land in his name at anytime. Then income earned from the land is added in the income of Mr. Pranav.

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3. Income Of Spouse

A) Remuneration From A Concern In Which Spouse Has Substantial Interest [Section 64 (1) (Ii)]

This section is applicable if-

1. Taxpayer is an individual;
2. He/she has a substantial interest* in any organisation;
3. Spouse of the taxpayer is working in that organisation;
4. Spouse is not having any technical or professional knowledge or experience.

Then the salary paid to spouse is clubbed in the income of the taxpayer.

*Substantial interest- Owning at-least 20% of shares or profits of the organisation is known as having substantial interest in the organisation.

Eg. Mr. Suyog is holding 30% shares of AB Ltd. Mrs. Nisha, his wife, is working as HR manager in AB Ltd with the salary of Rs. 50,000/-pm. But she is not qualified for that post also she has no experience in HR. Then, salary paid to Mrs. Nisha is clubbed in income of Mr. Suyog.

For example, if Mithun has a substantial interest in a Company and his wife Anila is working in the company and she is not in any technical or professional qualification. – In this case, the salary income of Anila will be taxable in the hands of her husband Mithun.

The key criteria is the technical or professional qualification of the spouse. Hence, clubbing of income would not be applicable, if the spouse possesses technical or professional qualification and income of the spouse is related with such technical or professional knowledge.

(B)Income From Assets Transferred To Spouse [Section 64(1) (Iv)]

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(B)Income from Assets Transferred To Spouse [Section 64(1) (Iv)]

e/she owns an asset;

3. He/she transferred this asset to his/her spouse;

4. Asset is transferred for lower amount than its fair market value;

Then the income earned from this asset is clubbed in the income of the taxpayer.

However, the transfer must not be in connection with an agreement of divorce settlement or with adequate consideration.

For example, if a flat is transferred by Arun to his wife Divya. Rental income on the flat will be considered as income of Arun. However, clubbing of income provisions will not be applicable if the transfer of the asset is made through an agreement of divorce or settlement or to live apart.

X transfers 500 debentures of IFCI to his wife without adequate consideration. Interest income on these debentures will be included in the income of X.

Mrs. Poonam transfers her Land of Rs. 50,00,000/- to her husband only for Rs. 10,00,000/-. Then income earned on Land is clubbed in the income of Mrs. Poonam.

Mr. Deepak transfers his Fixed Deposit of Rs. 2,00,000/- to his wife without any consideration. Then the interest income earned by his spouse on FD is clubbed in the income of Mr. Deepak.

As per the divorce agreement between Mr. Satish and his wife, Mr. Satish transfers a

land of Rs. 10,00,000/- to her wife without any consideration. In this case, income earned from land is not clubbed in the income of Mr. Satish. Here, the income is taxed in the hands of his wife only.

4. Income from Assets Transferred To Son's Wife [Sec. 64 (1) (Vi)]

Clubbing of income is applicable if a person transferred an asset without adequate consideration to son's wife or daughter-in-law. Any income from such an asset would be considered as income of the transferor.

This section is applicable if-

1. Taxpayer is an individual;
2. He/she owns an asset;
3. He/she transferred this asset to his/her son's wife;
4. Asset is transferred for lower amount than its fair market value;

Then the income earned from this asset is clubbed in the income of the taxpayer

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This section is applicable if-

1. Taxpayer is an individual;
2. He/she owns an asset;
3. He/she transferred this asset to his/her son's wife;
4. Asset is transferred for lower amount than its fair market value;

Then the income earned from this asset is clubbed in the income of the taxpayer

Eg. Mr. Ganesh transfers his shares of Rs. 50,000/- to his son's wife only for Rs. 10,000/-. Then any income earned from these shares is clubbed in the income of Mr. Ganesh.

5. Income From Assets Transferred To A Person For The Benefit Of Spouse [Sec. 64 (1) Vii)]

This section is applicable if-

1. Taxpayer is an individual;
2. He/she owns an asset;
3. He/she transferred this asset to any other person or persons;
4. Asset is transferred for the benefits of the spouse of the taxpayer;
5. Asset is transferred for lower amount than its fair market value.

Then the income earned from this asset is clubbed in the income of the taxpayer.

Eg. Mr. Sharma transfers his shares of Rs. 1,20,000/- to his friend Mr. Verma for Rs. 30,000/- under an agreement which states that income earned on shares should be used only for the benefits of his spouse, Mrs. Sharma. Then such income on shares is clubbed in the income of Mr. Sharma.

6. Income From Assets Transferred To A Person For The Benefit Of Son's Wife [Sec. 64 (1) (Viii)]

This section is applicable if-

1. Taxpayer is an individual;
2. He/she owns an asset;
3. He/she transferred this asset to any other person or persons;

4. Asset is transferred for the benefits of son's wife of the taxpayer;

5. Asset is transferred for lower amount than its fair market value.

Then the income earned from this asset is clubbed in the income of the taxpayer.

Eg. Mrs. Priya transfers her bonds of Rs. 3,00,000/- to a trust for Rs. 50,000/- under the agreement which states that income earned on bonds should be used only for the benefits of her son's wife. Then such income on shares is clubbed in the income of Mrs. Priya.

7. Income of Minor Child (Sec. 64 (1a)

Any income of the minor child is to clubbed with the parent whose income is higher.

The parent with whom the income is clubbed will be allowed an exemption of Rs.1500 per minor child.

Situations when income of minor is not clubbed:

Eg. Mr. Ganesh transfers his shares of Rs. 50,000/- to his son's wife only for Rs. 10,000/-. Then any income earned from these shares is clubbed in the income of Mr. Ganesh.

5. Income From Assets Transferred To A Person For The Benefit Of Spouse [Sec. 64 (1) Vii)]

This section is applicable if-

1. Taxpayer is an individual;

2. He/she owns an asset;

3. He/she transferred this asset to any other person or persons;

4. Asset is transferred for the benefits of the spouse of the taxpayer;

5. Asset is transferred for lower amount than its fair market value.

Then the income earned from this asset is clubbed in the income of the taxpayer.

Eg. Mr. Sharma transfers his shares of Rs. 1,20,000/- to his friend Mr. Verma for Rs. 30,000/- under an agreement which states that income earned on shares should be used only for the benefits of his spouse, Mrs. Sharma. Then such income on shares is clubbed in the income of Mr. Sharma.

6. Income From Assets Transferred To A Person For The Benefit Of Son's Wife [Sec. 64 (1) (Viii)]

This section is applicable if-

1. Taxpayer is an individual;

2. He/she owns an asset;

3. He/she transferred this asset to any other person or persons;

4. Asset is transferred for the benefits of son's wife of the taxpayer;

5. Asset is transferred for lower amount than its fair market value.

Then the income earned from this asset is clubbed in the income of the taxpayer.

Eg. Mrs. Priya transfers her bonds of Rs. 3,00,000/- to a trust for Rs. 50,000/- under the agreement which states that income earned on bonds should be used only for the benefits of her son's wife. Then such income on shares is clubbed in the income of Mrs. Priya.

7. Income Of Minor Child (Sec. 64 (1a)

Any income of the minor child is to clubbed with the parent whose income is higher.

The parent with whom the income is clubbed will be allowed an exemption of Rs.1500 per minor child.

Situations when income of minor is not clubbed:

If a minor is suffering from a disability covered U/s. 80U of the Income Tax Act, 1961 (i.e. Blindness, low vision, mental retardation, mental illness, locomotor disability, autism etc.), then income of such minor is not clubbed in the income of parent;

2. If minor has earned the income using his own endeavour;

3. If minor has earned the income using his skills, talent or experience.

Eg. 1) Kapil, a minor, received Rs. 1,50,000/- during a year as gifts from his relatives on the occasion of his birthday. For that year, Gross Total Income (before clubbing under this section) of his father is Rs. 5,00,000 whereas that of his mother is Rs. 4,20,000/-. Hence, the income of minor shall be clubbed in the income of his father since his Gross Total Income is more than mother.

Also, father can claim the exemption of Rs. 1,500/- from clubbed income of Rs. 1,50,000/-.

Eg. 2) Anurag, a minor child suffering from autism, received Rs. 50,000/- as interest on bonds. Here, since a minor is suffering from a disability covered U/s.80U of the Income Tax Act, 1961; his income shall not clubbed in the income of any of his parents.

Eg. 3) Madhuri, a minor, won Rs. 5,00,000/- by participating in a game show. Here, since a minor has earned this income using her own talent, her income shall not be clubbed in the income of her parents.

8. Clubbing in case of partition of HUF [Section 64(2)]-

If-

1. Taxpayer is an individual who is a member of HUF;

2. He/she owns an asset;

3. He/she transferred this asset to the HUF;

4. Asset is transferred for lower amount than its fair market value.

Then the income received by the HUF from such transferred asset is clubbed in the income of the taxpayer (till the complete partition of HUF).

Afterwards when the HUF is completely partitioned then share of income from such asset received by the spouse of taxpayer shall be clubbed in the hands of the taxpayer.

Eg. Mr. Harshal owns some bonds valued Rs. 5,00,000/-. He transferred these bonds to his HUF for Rs. 2,00,000/- on July, 2017. The interest income earned by HUF (till complete partition) will be taxable in the hands of Mr. Harshal.

If during March 2018, HUF is completely partitioned and all the properties of HUF are divided among all its members. Wife of Mr. Harshal received interest on these bonds of Rs. 20,000/-. Here, the interest received shall be clubbed in the income of Mr. Harshal.

OTHER RELATED POINTS

Can negative income be clubbed?

If clubbing provisions are applicable and income from such a source is negative it will still be clubbed in the income of assessee.

clusion: The taxpayer should take care of the above provisions while transferring his assets so that clubbing provisions will not get attracted. It is always advisable that one should transfer his asset for adeuate c

1.4 DEDUCTIONS FROM GROSS TOTAL INCOME

What are Income Tax Deductions?

Income tax deductions help people bring down their tax liability in a financial year. In other words, investments done in a financial year that are offset against gross annual income while filing your ITR are known as IT deductions. The provision of tax deductions was done to inculcate a habit of saving in people and assist them in constructing a stable monetary future. Some popular examples of income tax deductions are Public Provident Fund (PPF), National Pension Scheme (NPS), investments made under Section 80 of the IT Act, 1961, in ELSS funds, principal repayment of home loan, etc.

What are Income Tax Exemptions/Allowances?

Income tax exemptions/allowances are components of your gross income that, as the name suggests, are exempted from being calculated as part of your total taxable income. These exemptions allow individuals to preserve a significant amount of their income. The Income Tax Act, 1961 mandates income tax exemptions/allowances so that people can save more.

Some well-known examples of income tax exemptions are children's education allowance, house rent allowance (HRA), leave travel allowance (LTA), and also the exemptions available under Section 24, etc.

Income Tax Deductions Vs Income Tax Exemptions/Allowance

People often get confused between income tax deductions and income tax exemptions/allowances when filing their ITR. The table below gives a brief overview of the difference between the two.

Income Tax Deductions	Income Tax Exemptions/Allowances
Investments into certain instruments (as prescribed under the Income Tax Act) that are offset from an individual's total tax liability are known as income tax deductions	A particular income that is exempt from tax and, thus, not included in one's total tax liability is called an income tax exemption
Income tax deductions are mostly covered under the scope of Section 80 of the Income Tax Act	Income tax exemptions are covered under Sections 10, 11, 12, 13, and 24 of the Income Tax Act
Individuals have to meet certain predetermined criteria to be eligible for income tax deductions	All taxpayers in the country qualify for income tax exemptions
Some examples of income tax deductions are investments made in the Equity-Linked Savings Scheme (ELSS), tax-saving Fixed Deposits (FD), Public Provident Fund (PPF), and National Pension Scheme (NPS), among others	Some examples of income tax exemptions are HRA, LTA, entertainment allowance, long-term capital gains on equity funds (upto ₹1 lakh).

1.3.3 Exemption of Allowances

There are various allowances given to the taxpayers in India. Let's have a look at them:

1.House Rent Allowance

If you are a salaried individual and live in rented accommodation, you can get House Rent Allowance or HRA. If you are not living in the rented accommodation but still receive the HRA, it will be liable to tax. To claim this allowance, make sure you keep the rent receipts and any evidence of payment done towards rent handy. You can claim the lowest amount of the following as your HRA exemption:

Total HRA received from employer

The salary's 40% (Basic salary+DA) for non-metros and 50% for metros

Rent paid less than 10% of basic salary + DA

2.Standard Deduction

Standard deduction is the portion of your income that is not subject to tax and it can be used to reduce your income tax liability. The standard deduction limit is ₹50,000. This amount is deducted from your gross salary which further brings the overall taxable income amount down.

3.Leave Travel Allowance

If you are a salaried employee, you also get a Leave Travel Allowance. This allowance is restricted to the travel expense incurred during your leaves. You should note that this allowance does not cover any other expenses of the trip like shopping, accommodation, food expenses, leisure activities, etc. The LTA can be claimed twice in a block of four years. If you do not use this LTA within a block, you can still carry the same in the next block. LTA only covers domestic travel and not international travel. Also, you should have travelled either by railway, air travel, or public transport to claim this allowance.

3.Mobile Reimbursement

This reimbursement is for the expenses incurred on mobile and telephone usage at home. You can claim a tax-free reimbursement of the same. This reimbursement amount can be lower than the actual bill amount or the amount provided in your salary.

4.Books and Periodicals

The income tax law allows employees to claim a tax-free reimbursement on the expenses incurred on books, periodicals, newspapers, journals, etc. You can get the lower amount between the actual bill amount or the amount provided in the salary as the reimbursement.

5.Food Coupons

You might be aware of the food coupons that employers provide to employees. Such food coupons are taxable as a prerequisite at the hands of the employee. However, these coupons are tax-free up to ₹50 per meal. As per the monthly calculation of 22 working days with 2 meals per day, it gives a monthly benefit of ₹2,200 that accounts for ₹26,400 as a yearly exemption.

6.Relocation Allowance

These days, businesses operate in multiple locations. It is possible that you might be asked to move to a different city for business reasons. This relocation can cause shifting expenses like moving furniture, car transportation cost, car registration charges, etc. Such expenses are to be borne by the employer. These payments are sometimes done directly by the employer. The employer may reimburse expenses incurred towards car transportation, registration, packaging charges, accommodation for initial 15 days, etc. The travelling expenses for the employee and family from their current place to the new location are also exempt from tax.

7.Children Allowance

The employer might also give you children allowance as part of your salary. This allowance received towards children's education is tax-exempt. An employee can claim a maximum of ₹100 every month as an exemption, which is ₹1,200 per year. This exemption is allowed for a maximum of 2 children.

1.3.4 Taxable and Non-Taxable Components of Your Salary

Any earning individual’s income/salary structure has several components that help them save on tax with the available income tax deductions and exemptions/allowances. Some of these components can be fully or partially taxable, while some are fully tax-exempt. The following infographic will walk you through the different taxable and non-taxable components in the salary structure as well as the concept of TDS (tax deducted at source).

Now, let us understand income tax deductions and exemptions in detail.

1.5 DEDUCTION UNDER SECTIONS 80C, 80CCC, 80CCD, 80CCE, 80D, 80DD, 80DDB, 80E, 80EE, 80EEB, 80G & 80GG

Taxpayers can claim several income tax deductions under subsections of Section 80 of the Income Tax Act. The following table will help you understand the tax deduction limits and your eligibility to claim them.

Income Tax Act Section	Income Tax Deduction Limit	Who Can Claim?
Section 80C	Maximum of upto ₹1.5 lakh (aggregate of 80C, 80CCC, and 80CCD)	Individuals, HUFs
Section 80CCC	Maximum of up to ₹1.5 lakh (aggregate of 80C, 80CCC, and 80CCD)	Individuals
Section 80CCD	• **Employee Contribution under Section 80CCD(1):** Maximum of upto 10% of salary (for employees) or 20% of gross total income (for self-employed individuals). The limit is capped at ₹1.5 lakh (aggregate of 80C, 80CCC, and 80CCD) • **Self Contribution under Section 80CCD(1B):** Individuals can claim an additional deduction of ₹50,000 (available to both salaried and self-employed individuals) for contributions towards NPS. With this, the maximum deduction available under Section 80C increases to ₹2 lakh. • **Employer's Contribution under Section 80CCD(2):** Additional deduction up to 10% of an employee's salary for employer's contributions	Individuals

Income Tax Act Section	Income Tax Deduction Limit	Who Can Claim?
	towards NPS.	
Section 80CCG	Deductions under this section were specific to the Rajiv Gandhi Equity Savings Scheme (RGESS). The deduction allowed under RGESS is 50% of the total amount invested and is capped at ₹50,000. ***Note:*** *Deduction under section 80CCG has been discontinued starting from April 1, 2017.*	Was available to Individuals with income less than ₹12 lakh
Section 80D	Deduction for health insurance premium and medical expenses for senior citizens is allowed under this section. Individuals below 60 years can claim up to ₹25,000; whereas senior citizens can claim up to ₹50,000.	Individuals, HUFs
Section 80DD	₹75,000 for those with 40%-80% disability; ₹1.25 lakh for severe disability (80% or more)	Individuals and HUFs with a handicapped dependent
Section 80DDB	Deduction can be claimed for medical treatment of a dependent who is suffering from a specific illness (explained in the article	Individuals and HUFs

Income Tax Act Section	Income Tax Deduction Limit	Who Can Claim?
	below). The amount allowed as deduction is as follows: • A maximum of ₹40,000 or amount paid, whichever is less (for individuals under 60 years) • A maximum of ₹1 lakh or amount paid, whichever is less (for senior citizens and super senior citizens)	
Section 80E	Deduction is provided only on the interest part of the education loan. It is available only for eight years, starting from the year your loan repayment begins or until the interest is fully repaid, whichever is earlier.	Individuals
Section 80EE	Deduction is provided on the interest part of the residential house property loan availed from a financial institution. A maximum of ₹50,000 can be claimed under this section.	Individuals
Section 80EEA	This section allows a deduction up to ₹1.5 lakh for interest paid by first-time homebuyers for a loan sanctioned from a	Individuals

Income Tax Act Section	Income Tax Deduction Limit	Who Can Claim?
	financial institution.	
Section 80G	Deduction is provided on donations made towards charity. Donations of up to 100% or 50% can be claimed as a tax deduction under this section.	Individuals, HUF's, Companies, Firms
Section 80GGB	Indian companies or enterprises can claim tax deductions under this section for contributions made to a political party or an electoral trust registered in India. They can claim up to 100% tax deduction against the amount donated.	Indian companies
Section 80GGC	Individuals can claim deductions under this section for contributions made to political parties. The tax deduction claimed can range from 50-100% of the amount contributed.	Individuals

Income Tax Act Section	Income Tax Deduction Limit	Who Can Claim?
Section 80GG	Those paying rent for residency can claim a tax deduction of: • ₹5,000 per month • 25% of total income • Rent minus 10% of adjusted gross total income, whichever is less.	Individuals not receiving HRA
Section 80RRB	Income of up to ₹3 lakh received from royalties is eligible for tax deduction under this section.	Resident Indian
Section 80TTA	Income of up to ₹10,000 earned from interest on savings accounts can be claimed as a tax deduction under this section.	Individuals and HUFs
Section 80TTB	This section allows senior citizens (aged 60 years and above) to claim up to ₹50,000 as a tax deduction from their gross total income.	Senior Citizens (above 60 years)
Section 80U	Deduction of up to ₹75,000 can be claimed for people suffering from a disability and up to ₹1.25 lakh for people with severe disability.	Individuals with disabilities

Features of Income Tax Deductions Under Section 80

Let's take a detailed look at the features of each section we discussed in the table above.

1. Section 80C

Income tax deductions under Section 80C are quite popular among investors. The section allows for a maximum deduction of up to ₹1.5 lakh every year from the taxpayer's total income. The benefit of this section can be availed by individuals and HUFs. However, companies, partnership firms, and limited liability partnerships (LLP) cannot avail said benefit.

The investments available for tax deductions under this section are as follows:

Public Provident Fund (PPF)	Equity-Linked Saving Scheme (ELSS)	Sukanya Samriddhi Yojana (SSY)	Unit Linked Insurance Plan (ULIP)
Employees' Provident Fund (EPF)	Principal amount payment towards home loan	National Saving Certificate (NSC)	5-year, tax-saving FD
LIC premium	Stamp duty and registration charges for purchase of property	Senior Citizen Savings Scheme (SCSS)	Infr

Additionally, please note that people choosing to file their ITR using the new income tax regime will not be able to avail deductions under this section. We have discussed the income tax deductions and exemptions/allowances eliminated from the new regime in detail going ahead.

2. Section 80CCC

This section provides a tax deduction for an amount paid by taxpayers who have subscribed to an annuity plan offered by an approved insurance company. Also, the payment has to be to a fund mentioned in Section 10(23AAB). Please note that HUF is not eligible for availing tax deductions under Section 80CCC. This facility is available to both residents as well as non-residents.

Additionally, any bonuses received or interest accrued through the annuity plan is not eligible for tax deduction under Section 80CCC. Proceeds from the policy in the form of pension from annuity or surrender of annuity are taxed.

Section 80CCE of Income Tax Act "Limit on deductions under sections 80C, 80CCC and 80CCD"

80CCE. The aggregate amount of deductions under section 80C, section 80CCC and sub-section (1) of section 80CCD shall not, in any case, exceed one hundred and fifty thousand rupees.

3. Section 80CCD

Tax deductions under Section 80CCD are categorised in three subsections:

1.Employee Contribution Under Section 80CCD(1): A maximum of upto 10% of salary (for employees) or 20% of gross total income (for self-employed individuals). The limit is capped at ₹1.5 lakh (aggregate of 80C, 80CCC, and 80CCD).

2.Self Contribution Under Section 80CCD(1B): Individuals can claim an additional tax deduction of ₹50,000 (available to both salaried and self-employed individuals) for contribution towards NPS. With this, the maximum tax deduction available under Section 80CCD increases to ₹2 lakh.

3.Employer's Contribution Under Section 80CCD(2): Additional tax deduction up to 10% of an employee's salary for contribution towards NPS.

Please note that the money received from NPS on a monthly basis or due to surrender of accounts is taxable. However, if this amount is reinvested in the annuity plan, then it is entirely exempt from tax.

a) **Section 80D**

Health insurance is one of the most powerful tax-planning tools. With the announcement of Budget 2021, you can avail several tax benefits along with other financial/medical benefits. Here's a quick walkthrough of the same.

Health Insurance Premium Paid for		
	Self, Spouse, and dependent children	**Parents**

Health Insurance Premium Paid for		
	Self, Spouse, and dependent children	**Parents**
No one is above age 60 years	Up to ₹25,000	Up to ₹25,000
If you are a senior citizen	Up to ₹50,000	Up to ₹50,000
Note: The tax deduction for parents is over and above the maximum deduction allowed for an individual and his/her family. **Additional Deductions:** You can claim an annual tax deduction of up to ₹5,000 on expenses incurred for health check-ups. This includes the check-up expenses of all family members, including self, spouse, children, and parents.		

1. Section 80DD

The tax deduction under Section 80DD is available to individuals or HUFs for a dependent who is disabled and wholly dependent on the individual (or HUF) for support and maintenance. They can claim up to ₹75,000 for those with 40%-80% disability and ₹1.25 lakh for severe disability (80% or more). Please note that individuals or HUFs can claim tax deduction for a dependent only and not themselves.

2. Section 80DDB

Under Section 80DDB, taxpayers can claim a tax deduction for medical treatment of a dependent who is suffering from a specific illness. The amount allowed as deduction is as follows:

- A maximum of ₹40,000 or amount paid, whichever is less (for individuals under 60 years)
- A maximum of ₹1 lakh or amount paid, whichever is less (for senior citizens and super senior citizens)

The list of diseases for which one can claim tax deductions under this section is as follows:

a. Neurological diseases where the disability level has been certified to be of 40% and above:

1. Dementia

2. Dystonia Musculorum Deformans

3. Motor Neuron Disease

4. Ataxia

5. Chorea

6. Hemiballismus

7. Aphasia

8. Parkinson's Disease

b.Malignant cancers

c.Full-blown Acquired Immuno-Deficiency Syndrome (AIDS)

d. Chronic renal failure

Hematological disorders

1. Hemophilia

2. Thalassaemia

Please note that before making claims under Section 80DDB, you need to get a certificate from the concerned specialist. Patients who are seeking treatment at a private hospital do not need to submit any certificate. However, those receiving treatment at government hospitals have to take the certificate from any specialist working full-time at that hospital.

6. Section 80E

Education loan taken for higher studies also helps you save on tax. Those who have taken an education loan or are repaying it, the interest paid on that loan can be claimed as tax deduction under Section 80E.

However, please note that tax deduction is provided only on the interest component of the education loan. It is available only for eight years, starting from the year your loan repayment begins or until the interest is fully repaid, whichever is earlier.

1. Section 80EE

Tax deduction under Section 80EE is available to individuals only. It can be claimed on the interest part of the residential house property loan availed from a financial institution. A maximum of ₹50,000 can be claimed under this section. Additionally, to claim under Section 80EE, the value of the house should be ₹50 lakh or less and the loan taken for the house must be ₹35 lakh or less.

2. Section 80EEA

Section 80EEA allows first-time homebuyers to claim a tax deduction of up to ₹1.5 lakh for interest paid on the loan sanctioned from a financial institution. Please note that this deduction is over and above the ₹2 lakh deduction for interest payments available under Section 24 of the Income Tax Act. Hence, taxpayers can claim a total tax deduction of ₹3.5 lakh for interest on home loan, especially if they meet the conditions under Section 80EEA.

Additionally, to successfully claim a tax deduction under this section, note that the stamp duty value of the house property should be ₹45 lakh or less, and the individual taxpayer should not be eligible to claim a tax deduction under Section 80EE.

3. **80EEB** Deduction in respect of purchase of electric vehicle. 80EEB.

(1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of purchase of an electric vehicle.

(2) The deduction under sub-section (1) shall not exceed one lakh and fifty thousand rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2020 and subsequent assessment years.

(3) The deduction under sub-section (1) shall be subject to the condition that the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2019 and ending on the 31st day of March, 2023.

(4) Where a deduction under this section is allowed for any interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.

(5) For the purposes of this section,—

(a) "electric vehicle" means a vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy;

(b) "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies, or any bank or banking institution referred to in section 51 of that Act and includes any deposit taking non-banking financial company or a systemically important non-deposit taking non-banking financial company as defined in clauses (e) and (g) of Explanation 4 to section 43B.]

7. Section 80G

Those making contributions to relief funds and charitable institutes can claim tax deductions under Section 80G. However, only the donations made to prescribed funds can be claimed

under this section. Note that any donation made in cash (exceeding ₹2,000) cannot be claimed and taxpayers should use another mode of payment for the same.

1. Section 80GGB

Under Section 80GGB, only companies or enterprises can claim the contributions made towards any political party or electoral trusts registered in India as tax deductions equal to the amount donated. The political party that receives the donation must be registered under Section 29A of the Representation of the People Act, 1951.

An electoral trust is a non-profit organisation created under Section 8 of the Companies Act, 2013, to enhance transparency in the donation process and reallocate donations to the registered political parties. Tax deduction of 100% can be claimed against donations made to a registered political party as per Section 80GGB. No cash donations or contributions are allowed under Section 80GGB.

2. Section 80GGC

Under Section 80GGC, individuals can avail tax deductions on any contributions made to an electoral trust or a political party registered under Section 29A of the Representation of the People Act, 1951. Individuals can claim tax deductions in the range of 50%-100% of the donation made towards an electoral trust or a political party.

Note that companies cannot avail tax deductions under Section 80GGC, only individuals can. No cash donations or contributions are allowed under Section 80GGC.

3. Section 80GG

Under Section 80GG, self-employed and salaried individuals can claim tax deductions towards rent for any furnished or unfurnished residence. It should be noted that only individuals who do not receive HRA from their employer are eligible for a tax deduction under 80GG. The lowest amount from the following will be considered as the eligible amount of deduction.

- **25% of the total income**
- **₹5,000 per month**
- **Rent less than 10% of income**

1.6 SPECIFIC DEDUCTIONS IN RESPECT OF CERTAIN INCOME: 80QQB, 80TTA, 80TTB & 80U.

Section 80QQB – Royalty Income – Deductions under 80QQB

Deduction for Royalty Income of Authors

Authors write books and give it to publishers.Publishers publish them and earn profit on selling those.They pay an agreed percentage of profit or sales made to the authors as a reward or compensation for writing books.This reward or compensation is called Royalty.

While the Income tax department charges tax on this income under "Profit and Gains of Business or Profession" or "Other Sources" head of Income ,it also provides a deduction on the same that can be claimed by the authors to save tax. This deduction is covered under 80QQB of the Income Tax Act,1961.

Amounts Included in Royalty Income

Any Income earned by an author for practicing his profession

Any Income earned as a lump sum payment for assignment (or grant) of any of his interests in the copyright of any book based on literary, artistic or scientific in nature or of royalty or copyright fees for author's book

Any Income received as advance payment of royalties/ copyright fees (amount which is non-refundable)

Amount of Deduction

Deduction available will be lower of the following:

Rs 3 lakhs or

The amount of royalty income received

Conditions to avail the benefit of Sec 80QQB

a. Following are certain conditions to be satisfied for income earned in India and outside India

i) Individual claiming the deduction must be a resident in India or resident but not ordinarily resident in India.

ii) Individual must have authored or co-authored a book that falls under the category of literary, artistic or scientific work.

iii) Individual must file his income tax return to claim the deduction.

iv) If an Individual has not received a lump sum amount , 15% of the value of the books sold during the year (before allowing any expenses) should be ignored.

v) Individual must obtain FORM 10CCD from the person responsible for making the payment.

Note: Books here doesn't include Journals, guides, newspapers, textbooks for school students, pamphlets, dairies and other publications of similar nature.

b. Additional requirement for Income Earned outside India

Individual is allowed deduction on income earned outside India when the income is brought to India in convertible foreign exchange within 6 months from the end of the year or within the period allotted by RBI or other competent authority for this purpose. Individual must obtain a certificate in FORM 10H.

9. Section 80RRB

Under Section 80RRB, individuals who receive royalty payments can avail a tax deduction of up to ₹3,00,000. If royalty payments received are less than ₹3,00,000, then only that amount will be considered for tax deduction. Only Indian residents who hold the original patent registered under the Patent Act, 1970, can claim tax deduction under Section 80RRB.

10. Section 80TTA

Under Section 80TTA, individuals and HUFs can claim a tax deduction on income earned as interest. A maximum of ₹10,000 can be availed as a tax deduction under this section.

1.Types of interest income allowed as tax deduction under Section 80TTA:

- **Savings account with a bank**
- **Savings account with a cooperative society that functions as a bank**
- **Savings account with a post office**

2.Types of interest income not allowed as tax deduction under Section 80TTA:

- **Interest earned on fixed deposits**
- **Interest earned on recurring deposits**
- **Interest earned on any time deposits**

11. Section 80TTB

Under Section 80TTB, senior citizens can claim a tax deduction of up to ₹50,000 from their gross total income in a given financial year. Senior citizens eligible for Section 80TTB cannot avail a tax deduction under 80TTA. Exemptions to Section 80TTB include deposits held by or on behalf of a partnership firm, an association of persons (AOP), or a body of individuals (BOI).

12. Section 80U

Section 80U offers a tax deduction to individuals suffering from a disability. Any individual who has been certified by a medical authority of being at least 40% disabled can claim a tax deduction under Section 80U. A tax deduction of up to ₹75,000 is applicable for individuals with disabilities, and a tax deduction of up to ₹1,25,000 is applicable for individuals with severe disabilities.

Tax Exemptions/Allowances

One good way to reduce your tax liability is by being aware of tax exemptions/allowances that are available under the Income Tax Act. Under Section 10 of the IT Act, you can avail tax exemptions on HRA, standard deduction, contributions towards EPF and pension, etc. Here is a list of the major tax exemptions applicable to salaried individuals:

1.House Rent Allowance: Exemption will be the minimum of:

i) Total HRA received;

ii) 50% of the income (basic + DA) for individuals living in metro cities, or 40% for those living in non-metro cities;

iii) Rent paid less than 10% of basic salary + DA

2.**Standard Deduction**: All salaried individuals can claim a flat deduction of ₹50,000 as Standard Deduction. This was increased from ₹40,000 per year to ₹50,000 during the Union Budget 2019.

3.Child Education Allowance: Tax exemption/allowance of maximum ₹100 per month for up to two children only can be availed by employees.

4.Hostel Subsidy: Subsidies on hostel expenditure are also tax-exempt up to ₹300 per month for a maximum of 2 children.

5.Interest Paid on Housing Loans: One can avail income tax exemption of ₹2 lakh on interest paid on home loans, provided the house is currently occupied by the owner or is set to finish construction within 3 years.

6.Leave Travel Allowance: The Income Tax Act also allows for a tax exemption to salaried employees on travel expenses. However, LTA does not cover all expenses such as food, shopping, and entertainment. LTA exemption can be used twice in a period of four years and only covers domestic travel by railway, air travel, or public transport.

New Regime for Income Tax

Under the new income tax regime announced with Union Budget 2020, around 70 tax deductions and exemptions, including standard deduction, HRA, housing loan interest payments, education loan interest, expenses incurred on disability of self or dependent, cost of medical treatment of self or dependent, LTA, investments under Section 80C, savings bank

interest under Section 80TTA, interest income for senior citizens under Section 80TTB, and donations under Section 80G have been removed.

The new regime, however, has not removed around 50 tax exemptions and deductions.

Note that the new tax regime is optional, and you can continue with the old tax slabs and rates if it is more beneficial to you. Some of the tax exemptions and deductions that can be claimed under the new tax regime are:

1.Employer's contribution to the National Pension Scheme (NPS)

2.Standard deduction on rent up to a maximum of 30%

3.Income from life insurance provided the insurance coverage is 10x the annual premium

4.Agricultural income with zero specified limit

5.Retrenchment compensation up to a maximum of ₹5 lakh

6.Proceeds from Voluntary Retirement for Service (VRS) up to a limit of ₹5 lakh

7.Leave encashment on retirement: No limit for government employees; capped at ₹3 lakh for private employees

1.7 UNIT END QUESTIONS

A. Descriptive Questions

Short Questions

1. What is the Difference Between Direct and Indirect Taxes?
2. What additional taxes are included in the Direct Tax category?
3. What are different Other Countries' Income Tax Situation?
4. What you Income and explain its concept ?
5. What are the Types of Assessee ?
6. Explain the Roles and Responsibilities and Duties of an Assessee ?
7. Explain the policy implemented by default in assessee?

Long Questions

1. What Is Gross Earnings? What is the formula for calculating my gross income?
2. What's the difference between gross and net income? What is the formula for calculating gross business income?
3. How do you figure out how much money you have?
4. Explain the Exemptions from Income Tax and rules?
5. Explain the income Tax rules and regulation?

6. Explain the Agricultural Income and its assessment?

7. Explain the Agricultural Income Types?

B. Multiple Choice Questions

1. What is the full form of GST?

   a. Goods and Supply Tax
   b. Goods and Services Tax
   c. General Sales Tax
   d. Government Sales Tax

2. GST was implemented in India from

   a. 1st January 2017
   b. 1st April 2017
   c. 1st March 2017
   d. 1st July 2017

3. In India, the GST is based on the dual model GST adopted in:

   a. UK
   b. Canada
   c. USA
   d. Japan

4. GST is a consumption of goods and service tax based on

   a. Development
   b. Dividend
   c. Destiny
   d. Destination

5. The number of structures in India's GST model is?

   a. 6
   b. 4
   c. 3
   d. 5

Answers: 1-b, 2-d, 3-b. 4-d, 5-b

1.8 REFERENCES

References Book:

- HM Revenue & Customs. (2010). "A tax to beat Napoleon". Archived from the original on July 24, 2010. Retrieved January 24, 2007.
- Adams, C. (1998). *Those Dirty Rotten TAXES*. The Free Press.
- Thomas, R., & Williamson, S. H. (2018). United Kingdom Gross Domestic Product deflator figures follow the Measuring Worth "consistent series". In *What Was the U.K. GDP Then?* Measuring Worth. Retrieved February 2, 2020.
- Bank, S. A. (2011). *Anglo-American Corporate Taxation: Tracing the Common Roots of Divergent Approaches*. Cambridge University Press.
- Revenue Act of 1861, sec. 49, Ch. 45, 12 Stat. 292, 309 (Aug. 5, 1861)

Websites:

- https://www.policybazaar.com/income-tax/#:~:text=Any%20Indian%20citizen%20aged%20below,to%20the%20Government%20of%20India.
- https://www.nerdwallet.com/article/taxes/tax-evasion-vs-tax-avoidance#:~:text=decisions%20with%20confidence.-,Tax%20Evasion%20vs.,legally%20reducing%20your%20taxable%20income.
- https://en.wikipedia.org/wiki/Income_tax.

UNIT - 2 COMPUTATION OF TOTAL INCOME

STRUCTURE

2.0 OBJECTIVES

After studying this unit, you will be able to:

- Describe nature of Residential Status
- Identify scope of Total Income
- State the need and importance of Residential Status
- Computation of Total income
- Detail knowledge of e-portal for filing income tax return

2.1 INTRODUCTION

The term "income tax" means a tax levied on an individual's income. The Constitution of India makes income tax a central issue. An important direct tax is the income tax. It is one of the most important and important sources of income for the government. Governments need resources to maintain domestic law and order, safeguard national security from foreign forces, and promote the welfare of their people. Implementing welfare and development programs that bridge the gap between the rich and the poor is the government's primary responsibility. To achieve this goal, we need to mobilize funds from various sources. You can use direct or indirect sources. One of the most important strategies for achieving balanced socioeconomic progress is income tax. Taxes are the state's most important source of revenue. Taxation is the act of collecting taxes. A tax is a levy or fee that a government

imposes on an individual or business. Taxable persons must pay taxes whether or not the government makes a proportionate profit on goods and services. Individuals or businesses may be taxed at different rates on their income and assets.

2.2 COMPUTATION OF TOTAL INCOME & TAX LIABILITY OF AN INDIVIDUAL

[Assessment of Individual]

Step 1: Compute the income of an individual under 5 heads of income on the basis of his residential status.

Step 2: Income of any other person, if includible u/ss 60 to 64, will be included under respective heads.

Step 3: Set off of the losses if permissible, while aggregating the income under 5 heads of income.

Step 4: Carry forward and set off of the losses of past years, if permissible, from such income.

Step 5: The income computed under Steps 1 to 4 is known as Gross Total Income from which deductions under sections 80C to 80U (Chapter VIA) will be allowed. However, no deduction under these sections will be allowed from short-term capital gain covered under section 111A, any long-term capital gain and winning of lotteries etc., though these incomes are part of gross total income.

Step 6: The balance income after allowing the deductions is known as total income which will be rounded off to the nearest Rs. 10.

Step 7: Compute tax on such Total Income at the prescribed rates of tax.

Step 8: Allow rebate of maximum Rs. 2,500 under section 87A in case of resident individual having total income upto Rs. 3,50,000. For details see below.

Step 9: Add surcharge @ 10% on total income exceeding Rs. 50,00,000 and upto Rs. 1 crore and 15% of such income tax in case of an individual having a total income exceeding Rs. 1 crore.

Step 10: Add education cess @ 2% and SHEC @ 1% on the tax (including surcharge if applicable).

Step 11: Allow relief under section 89, if any.

Step 12: Deduct the TDS, advance tax paid for the relevant assessment year and double taxation relief under section 90, 90A or 91. The balance is the net tax payable which will be rounded of nearest ten rupees and must be paid as self-assessment tax before submitting the return of income.

Rebate of maximum Rs. 2,500 for resident individuals having total income up to Rs. 3,50,000 [Section 87A]

With a view to provide tax relief to the individual tax payers who are in lower income bracket, the Act has provided rebate from the tax payable by an assessee, if the following condition and satisfied:

The assessee is an individual

He is resident in India,

His total income does not exceed Rs. 3,50,000.

Quantum of Rebate:

The rebate shall be equal to:

the amount of income-tax payable on the total income for any assessment year,

or

Rs. 2,500 whichever is less.

2.3 INCOME TAX PORTAL – INTRO & KEY FEATURES OF NEW INCOME TAX E-FILING PORTAL:

The Central Board of Direct Taxes (CBDT) has launched the new income tax e-filing portal on 7th June 2021. The new portal 'www.incometax.gov.in' has replaced the existing e-filing portal 'www.incometaxindiaefiling.gov.in'. The taxpayers will now have to file their income tax returns (ITRs) and do all other tax-related tasks through the new portal. The portal is being redesigned for the convenience of the taxpayers that will provide the facility of income tax return filing and other tax-related services in a modern and seamless manner.

Features of the New Income Tax e-Filing Portal

ITR Processing: The new user-friendly portal will immediately process the income tax return filed by a taxpayer. The fast processing of the income tax returns will enable quick refunds to the taxpayers.

Free ITR Preparation Software: The taxpayers will benefit from the free ITR preparation software. Currently, ITR-1 and ITR-4 software are available online and offline, and ITR-2 is

available online. Other ITR preparation software for ITR-3, ITR-5, ITR-6, ITR-7 will be available soon. The interactive questions available in the software will make the e-filing process simpler.

Call Centre Services: The new web portal is integrated with a 'new call centre' for immediate response to queries. Additionally, detailed faqs, tutorials, videos and chatbot/live agents address the taxpayers' issues.

Single Dashboard Interaction: A taxpayer can see all the interactions, uploads, and pending actions in a single dashboard along with the follow-up action.

Multiple Payment Options: The new portal will come with multiple payment options for a taxpayer. These options include RTGS/ NEFT, credit card, UPI and net banking via any account of a taxpayer in any bank. It will enable easy payment of taxes. The income tax department will enable such facility after 18th June 2021 to avoid any difficulty to the taxpayers to pay 1st instalment of advance tax.

Mobile Application: A mobile application with all the essential functions of the new portal will be launched subsequently. The taxpayer can access the app via a mobile network at any point in time.

Pre-filled ITRs: The new portal allows pre-filling of some details related to certain incomes. It can be related to Salary, house property, business/profession, etc. In addition to that, it enables the detailed pre-filling of details of Salary income, interest, dividend and capital gains. The pre-filling will happen when the concerned entities upload the TDS and SFT statements.

Existing Features of the Income Tax e-Filing Portal

The income tax e filing portal, www.incometaxidiaefiling.gov.in, was created by the department to provide e-filing related services to the taxpayers. The users use the existing income tax e-filing portal to file their income tax returns and other forms. In addition to income tax return filing, they can do the following tasks on the portal:

- E-verify income tax returns.
- View and respond to an outstanding income tax demand.
- File audit reports and certificates.
- View tax credit statement (Form 26AS).
- View tax credit mismatch.
- Request for refund re-issue.
- Request for intimations.

- Request for change of ITR particulars.
- Link Aadhaar with PAN.
- Lodge grievance online.
- Respond to e-proceedings.

The income tax department uses the portal to access the uploaded income tax returns and other forms for further processing, issue notices, receive a response from the taxpayers and communicate the final orders such as assessment, appeals, exemption and penalties.

2.4 E FILLING AND E VERIFY

E- filling:

Income Tax e-Filing

Filing your income tax returns is now easier than ever with the convenience of e-filing, which is done completely online. Apart from being safe, filing the returns online is easier and quicker than visiting the Income Tax Office. It is mandatory to file your income tax returns(ITR) as a dutiful citizen of India and e-filing can make doing this possible right from the comfort of your own home.

Note: You can now file your taxes through the New income tax portal. The new portal comes with a plethora of features and is designed to ease the tax filing process.

Registration of Tax Payer on e-filing Website

In order to register as an individual tax payer on the e-filing website, you need to follow the steps mentioned below:

Step 1: Visit the official website for income tax e-filing

https://www.incometax.gov.in/iec/foportal

Step 2: Click on 'Register Yourself' button

Step 3: Select 'Individual' as the user type

Step 4: Provide all the required details such as PAN number, residential status, etc.

Step 5: Click on 'Continue'

Step 6: Enter all the mandatory details like contact number, current address, etc.

Step 7: Click 'Submit'

Step 8: Enter the OTP received on registered mobile number

Procedure to Follow for e Filing ITR Online 2022

There are a few things that you will have to take care of before you start filing your ITR. Follow the steps mentioned below to e-file your ITR on the updated portal:

Step 1: Calculate your income tax liability on the basis of the provisions prescribed by the Income Tax rules.

Step 2: Refer to your Form 26AS to get a summary of your TDS payment for the different quarters of the assessment year.

Step 3: Determine the category that you will fall under on the basis of the eligibility criteria provided by the Income Tax Department (ITD).

Step 4: Visit the e-filing portal of the income tax department at e-Filing Home Page, Income Tax Department, Government of India
https://eportal.incometax.gov.in/iec/foservices/#/login).

Step 5: If you are a new user, you can register using the 'Register' button.

Step 6: If you have already registered yourself, click on the 'Login' button.

Step 7: Choose the category that you fall under from - individual, Hindu Undivided Family (HUF), and so on.

Step 8: Choose the suitable ITR Form that is applicable to you.

Step 9: Enter the details of your bank account or pre-validate the same if you have already provided the same earlier.

Step 10: You will be redirected to a new web page wherein you will be able to check the pre-filled details of your ITR. Check the details and make changes if required.

Step 11: Once you are sure that all the details provided in the form are correct, confirm the same and validate it.

Step 12: Now, verify the returns and send a hard copy of the same to the ITD.

Eligibility for Income Tax e-Filing

Under the conditions given below, it is mandatory for individuals to file ITR:

Any firm or company must file ITR even if they make a profit or undergo a loss.

Who should file ITRs?

According to the provisions of the Income Tax law, an individual whose annual income exceeds the limit of Rs.2,50,000/300000/500000 is mandated to file tax returns as a way of informing the government to run the financial sectors of the country smoothly.

There are exceptions where an individual's income does not meet the taxable limit but is still mandated to file tax returns. The conditions for the same include:

If the deposited amount in one or more current accounts crosses the threshold of Rs. 1 crore.

If the travelling expenditure for moving into another country exceeds the limit of Rs. 2 lakh.

If the total bill amount towards the consumption of electricity exceeds Rs. 1 lakh.

Any individual with an annual income below the taxable limit but possesses a bank account, a beneficiary interest in an entity outside India holds a capital asset, or has signing authority in any account.

In addition, New IT Rule 12AB now requires Compulsory Return Filing in all circumstances (even when the income is below 2.5 Lakhs) where limitations in the previous financial year were exceeded for the following entities:

- Business Turnover of Rs. 60 lacs,
- Professional Receipts of Rs. 10 lacs,
- TDS & TCS of Rs. 25,000, or
- Deposit in Saving Bank Accounts is equal to or more than 50 lacs

What are the benefits of filing ITRs?

The key benefits of filing your Income Tax Return regularly are as follows:

To claim tax refund- Instances where the total taxable income is less than the threshold of exemption limit. Especially individuals earning an income through deposit interests or through dividends that normally undergo tax withholding.

Hassle-free and quick Visa processing- Timely filed ITR documents for the last two years are made mandatory to produce at the embassies or consulates.

To avoid penalties- If you fail to file your ITRs periodically and systematically, the tax office has the right to charge you with a fine of rupees 5,000 as per the Income Tax Act, 1961.

For carry forward of losses

b) To take insurance policies with high cover.

ITR

ITR that stands for Income Tax Return is a form that an assessee is supposed to submit to the Income Tax Department of India. This form holds all the information about the taxpayer's annual income and the total amount of tax to be paid and refund to be credited for that particular year. There exist seven different forms of ITRs and these are taken into consideration only when the individuals are filing returns as per the Central Board of Direct Taxes (CBDT) of India. following are the types of ITR Forms

ITR-1: Another name for this form is Sahaj and it should be filed solely by resident individual (other than not ordinarily residents) taxpayers under a few conditions.

c) When an individual receives the income in the form of salary or pension.

d) When an individual earn income from single house property.
e) When an individual is not earning any income from other countries and having no property in other countries.
f) When the individual has no income from businesses or capital gains.
g) If the income obtained through agriculture is below rupees 5000.
h) If the source of income (except winning from lottery, income from horse races) for the individual is from multiple sources like investments, fixed deposits, and schemes.
i) When an individual's total income does not exceed Rs. 50 lakhs.
j) If an individual plans to acquire their spouse's or underage child's income as their own after fulfilling some specified criteria.

ITR-2: The newly introduced form can be used by a Hindu Undivided Family (HUF) or an individual taxpayer. It applies to the following people:

Applicability for ITR-2 is almost the same as it is for ITR-1. Although, there are some differences such as: when the income received through agriculture is above rupees 5000, when income is received through capital gain and when the individual obtains income through activities such as lotteries, betting et cetera.

ITR-3: This form applies to both HUF and an individual of who have their income comes from profits from business or a profession. It is applicable when the income for the individual is through interest, remuneration, commission, or bonus.

ITR-4: This form applies to individual ,HUFs and partnership firms(Other than LLP) when the income is computed on presumptive basis under the following sections

Business earnings as per the provisions of Section 44AD and 44AE.

Professional Income under the special provisions of Section 44ADA.

ITR-5: This form is used only by a handful of firms that can claim tax exemption as per Section 11 of the Income Tax Act. They are Limited Liability Partnerships (LLP's), co-operative societies, artificial judiciaries, Body of Individuals (BOIs), Association of Persons (AOPs), Estate of insolvent, Business trusts , investment fund and local authorities.

ITR-6: This form is applicable for any company except to firms or organizations that claim tax exemption as per Section 11 of the Income Tax Act. Organizations that claim the tax exemption u/s 11 are those which received income from property and used it for religious and charitable purpose.

ITR-6: ITR-7: It applies when the income obtained is concerning a few Sections

Section 139(4A - People earning through religious funds or charitable trust.
Section 139(4B) - Political parties whose income surpasses non-taxable limits.
Section 139(4C)- Any institution under Section 10(23A) and institutions like new agencies, medical institutions, research associations, or educational entities that come under Section 10(23B).
Section 139(4D) - Universities or colleges whose earnings or losses are not under the provision of this Section.
Section 139(4E) - Business firms that are not required to provide a return of income or loss as per other provisions of this Section.
Section 139(4F) - As per Section 115UB, investment funds are supposed to file returns under this Section.

In case individuals wish to file ITR online, the below-mentioned documents will be required:

- The Permanent Account Number (PAN) of the individual.
- The Aadhaar number of the individual. The Aadhaar number must be linked with the PAN.
- The bank account details (bank account number, IFSC code, and bank branch) of the individual.

In case individuals file their ITR based on their salary, the below-mentioned documents are needed:

- Form 16
- In case House Rent Allowance (HRA) is being claimed, the rent slips must be given.
- Salary Slips

In case individuals wish to claim deductions, the below-mentioned documents are required:

- Proof of income such as capital gains income and house property income.
- Any details about investments that are liable for deductions.
- Details of home loans and insurance
- Deposit account and savings account interest certificates.

E- verification:

1. E-Verify Process

You need to verify your Income Tax Returns to complete the return filing process. Without verification within the stipulated time, an ITR is treated as invalid. e-Verification is the most convenient and instant way to verify your ITR.

You can also e-Verify other requests / responses / services to complete the respective processes successfully, including verification of:

Income Tax Forms (through online portal / offline utility)

e-Proceedings

Refund Reissue Requests

Rectification Requests

Condonation of Delay in filing ITR after due Date

Service Requests (submitted by ERIs)

Uploading ITR in bulk (by ERIs)

2.The different ways of e-verification

e-Verify returns online using:

OTP on mobile number registered with Aadhaar, or

EVC generated through your pre-validated bank account, or

EVC generated through your pre-validated demat account, or

EVC through ATM (offline method), or

Net Banking, or

Digital Signature Certificate (DSC).

3. One has filed his return more than 120 days ago.

. He needs to submit request for condonation of delay (refer to the Service Request user manual) by providing an appropriate reason for the delay. But the return will be taken as verified only after approval of the condonation request by the Income Tax Department.

4. Can an Authorized Signatory / Representative Assessee e-Verify the return on my behalf?

The Authorized Signatory / Representative Assessee can e-Verify the return on behalf of the assessee using any of the following methods:

Aadhaar OTP: OTP will be sent to the Authorized Signatory's / Representative Assessee's mobile number registered with Aadhaar.

Net Banking: EVC generated through net banking will be sent to the Authorized Signatory's / Representative Assessee's mobile number and email ID registered with the e-Filing portal.

Bank Account / Demat Account EVC: EVC generated through the pre-validated and EVC-enabled bank account / demat account will be sent to the Authorized Signatory's / Representative Assessee's mobile number and email ID registered with the e-Filing portal.

5. E-Verification complete status

In case of e-Verifying the return:

A success message will be displayed along with a Transaction ID

An email will be sent to your email ID registered with the e-Filing portal

In case of Authorized Signatory / Representative Assessee:

A success message will be displayed along with a Transaction ID

After successful verification, an email confirmation will be sent to the primary email ID of both Authorized Signatory's / Representative Assessee's and your email ID registered with e-Filing portal

6. Application for condonation of delay

It is suggested to file a condonation request as soon as you notice that you have not verified your return even after 120 / 30 days of filing.

7. Notification No. 5/2022 dated 29.07.2022, for e-verification or submission of ITR-V shall be 30 days from the date of filing the return of income.

8. Delay in e-Verification attract any penalty

in case of delay the return is treated as not filed and it will attract all the consequences of not filing ITR under the Income Tax Act, 1961. However, a request condonation of delay in verification by giving appropriate reason. Only after submission of such a request, will be able to e-Verify return. However, the return will be treated valid only once the condonation request has been approved by the competent Income Tax Authority.

9.EVC

An Electronic Verification Code (EVC) is a 10-digit alpha-numeric code which is sent to your mobile number and email ID registered with the e-Filing portal / bank account / demat account (as the case may be) during the process of e-Verification. It has a 72-hour validity from the time of its generation.

10. What to do in case ITR-V is rejected?the reason for rejection on e-Filing Dashboard. another ITR-V or choose to e-Verify the ITR online.

11. the benefits of e-Verification, no need to send a physical copy of your ITR-V to CPC, Bangalore.

Verification of your ITR happens instantly, which saves from the delay in transit of ITR-V.

E-Verify using any of the various methods - Aadhaar OTP / EVC (using pre-validated bank / demat account) / Net Banking / Digital Signature Certificate (DSC).

12. Is it mandatory to e-Verify return, E-Verification is just one method of verifying your filed ITR. One can choose either of the two methods to verify your filed ITR:

1. E-Verify returns online, or
2. Send a physical copy of your duly signed ITR-V to CPC, Bangalore.

13. the difference between pre-login e-Verification and post-login e-Verification, to E-Verify filed ITR before or after logging in to e-Filing portal. The only difference is that while using the pre-login service, candidate will be required to provide the details of your filed ITR (PAN, Assessment Year and Acknowledgment Number) before e-Verifying the ITR. If he choose to use the post-login service, you will be able to choose the respective record of ITR filed rather than provide any such details before e-Verifying the ITR.

14. E-Verify of ITR using Digital Signature Certificate, DSC is one of the ways to e-Verify. However, candidate will be able to e-Verify using Digital Signature Certificate (DSC) immediately after filing your ITR.

2.5 UNIT END QUESTIONS

A. Descriptive Questions

Short Questions:

1. 'Explain the H.U.F.', 'FIRM', and 'A.O.P.' have different residential statuses.
2. Explain the A 'COMPANY's' Residential Status?
3. Explain the Scope of Total Income?
4. Explain the Importance of Your Residence Status?
5. Explain the Types of Taxpayer?
6. What is my residential status if I live in India?

Long Questions:

1. Who is a non-resident Indian?
2. What are the types of residential status?
3. Is residential status relevant for determining the tax liability of the taxpayer?

4. Will a person holding citizenship of India be automatically treated as a resident of India for the purpose of taxation?

5. Explain the Condition Applicable to an Individual Assesse ?

6. Explain the basic rules for determining the Assessee residential Status

B. Multiple Choice Questions

1. Income Tax is imposed by .

a. State Government
b. Central Government
c. Both of the above
d. Constitution of India

2. Parliament has the power to levy tax on incomes other than .

a. Exempt Incomes
b. Income of poor people
c. Agricultural Income
d. All incomes are taxable

3. Which Entry of Union List gives the power to Parliament to levy tax on incomes?

a. Entry 81 of List I to Seventh schedule
b. Entry 81 of List II to Seventh schedule
c. Entry 82 of List I to Seventh schedule
d. Entry 82 of List II to Seventh schedule

4. Highest Administrative Authority for Income Tax in India is.

a. Finance Minister
b. CBDT
c. President of India
d. Director of Income Tax

5. Income-tax Act, 1961 applies to.

a. Whole of India
b. Whole of India excluding J&K

c. Maharashtra

d. All of the these

Answers

1-d, 2-c, 3-c, 4-b, 5-a

2.6 REFERENCES

References Book:

- Besley, T. J., & Persson, T. (2013). Taxation and development. In Handbook of Economic Development.
- Chetty, R., Mobarak M., & Singhal, M. (2014). Increasing Tax Compliance through Social Recognition. IGC Policy Brief.
- Diamond, P. A., & Mirrlees, J. A. (1971). Optimal taxation and public production II: Tax rules. *The American Economic Review, 61*(2), 261–278.
- Gordon, R., & Li, W. (2009). Tax structures in developing countries: Many puzzles and a possible explanation. *Journal of Public Economics, 93*(7), 855–866.
- Jensen, A. (2016). Employment Structure and the Rise of the Modern Tax system. Job market paper.

Website

k) https://incometaxmanagement.com/Pages/Taxation-System/Basis-of-Charge-Residential-Status.html#4

l) https://taxguru.in/income-tax/residential-status-scope-total-income.html#Scope_of_Total_Income_Incidence_of_Tax_Sec_5

m) https://scripbox.com/tax/residential-status/

UNIT – 3 CONCEPTUAL KNOWLEDGE OF DOCUMENTS RELATED TO FILING OF RETURNS

STRUCTURE

3.0 OBJECTIVES

After studying this unit, you will be able to:

- Knowledge of form 16, 16A, 15G, 15H
- Identify scope of allowance
- Concept of Annual Information System
- Difference between form 16 and AIS

3.1 INTRODUCTION

Form 16

Form 16 contains the information needed to prepare and file your income tax return. It shows the breakup of salary income and the TDS amount deducted by the employer. It has two components – Part A and Part B (discussed in detail below).

Employers must issue it every year on or before 15th June of the following year, immediately after the financial year in which the tax is deducted. If you lose your Form 16, you can request a duplicate from your employer.

It is a certificate under section 203 of the Income-Tax Act, 1961, which gives information on the tax deducted at source (TDS) from income chargeable under the head “salaries”. It gives

details of the tax deducted by your employer. In layman terms, Form 16 is the 'Salary / Income Certificate' that is issued by your employer.

Part A of Form 16

Part A of Form 16 provides details of TDS deducted and deposited quarterly details of PAN and TAN of the employer and other information.

An employer can generate and download this part of Form 16 through the TRACES (https://www.tdscpc.gov.in/app/login.xhtml) portal. Before issuing the certificate, the employer should authenticate its contents.

It is important to note that if you change your job in one financial year, each employer will issue a separate Part A of Form 16 for the period of employment. Some of the components of Part A are:

n) Name and address of the employer
o) TAN and PAN of employer
p) PAN of the employee
q) Summary of tax deducted and deposited quarterly, which is certified by the employer

Part B of Form 16

Part B of Form 16 is an Annexure to Part A. Part B is to be prepared by the employer for its employees and contains details of the breakup of salary and deductions approved under Chapter VI-A.

If you change your job in one financial year, you should take Form 16 from both employers. Some of the components of Part B notified newly are:

r) Detailed breakup of salary
s) Detailed breakup of exempted allowances under Section 10
t) Deductions allowed under the Income Tax Act (under chapter VIA):

The list of deductions mentioned are as below:

u) Deduction for life insurance premium paid, contribution to PPF etc., under Section 80C
v) Deduction for contribution to pension funds under Section 80CCC
w) Deduction for employee's contribution to a pension scheme under Section 80CCD(1)

x) Deduction for taxpayer's self contribution to a notified pension scheme under Section 80CCD(1B)

y) Deduction for employer's contribution to a pension scheme under Section 80CCD(2)

z) Deduction for health insurance premium paid under Section 80D

aa) Deduction for interest paid on loan taken for higher education under Section 80E

bb) Deduction for donations made under Section 80G

cc) Deduction for interest income on savings account under Section 80TTA

Details required from Form 16 while filing your return

dd) Allowances exempt under Section 10

ee) Break up of deductions under Section 16

ff) Taxable salary

gg) Income (or admissible loss) from house property reported by an employee and offered for TDS

hh) Income under the head 'Other Sources' offered for TDS

ii) Break up of Section 80C deductions

jj) The aggregate of Section 80C deductions (gross and deductible amount)

kk) Tax payable or refund due

The eligibility criteria for Form 16

ll) According to the regulations issued by the Finance Ministry of the Indian Government, every salaried individual whose income falls under the taxable bracket is eligible for Form 16.

mm) If an employee's income does not fall within the tax brackets set, they will not need to have Tax Deducted at Source (TDS). Hence, in these cases, the company is not obligated to provide Form 16 to the employee.

nn) However, these days, as a good work practice, many organisations issue this certificate to the employee as it contains a consolidated picture of the individual's earnings and has other additional uses.

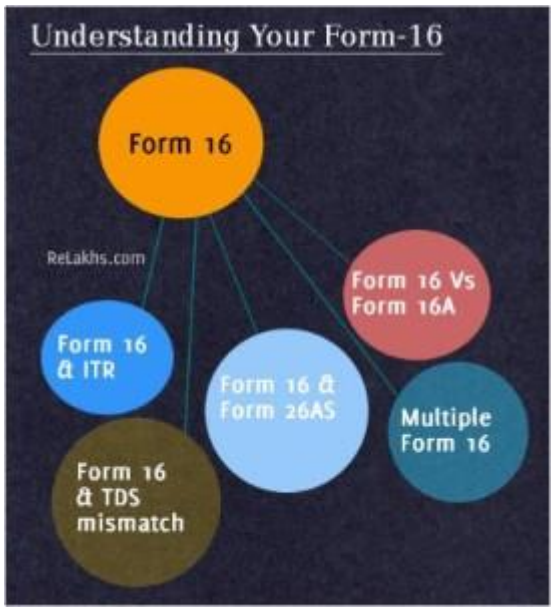
Points to be noted while checking Form 16

oo) Once an individual receives Form 16 from the employer, it is their responsibility to ensure that all the details are correct.

pp) One should verify the details mentioned in Form 16, for example, details of the amount of income, TDS deducted, etc.

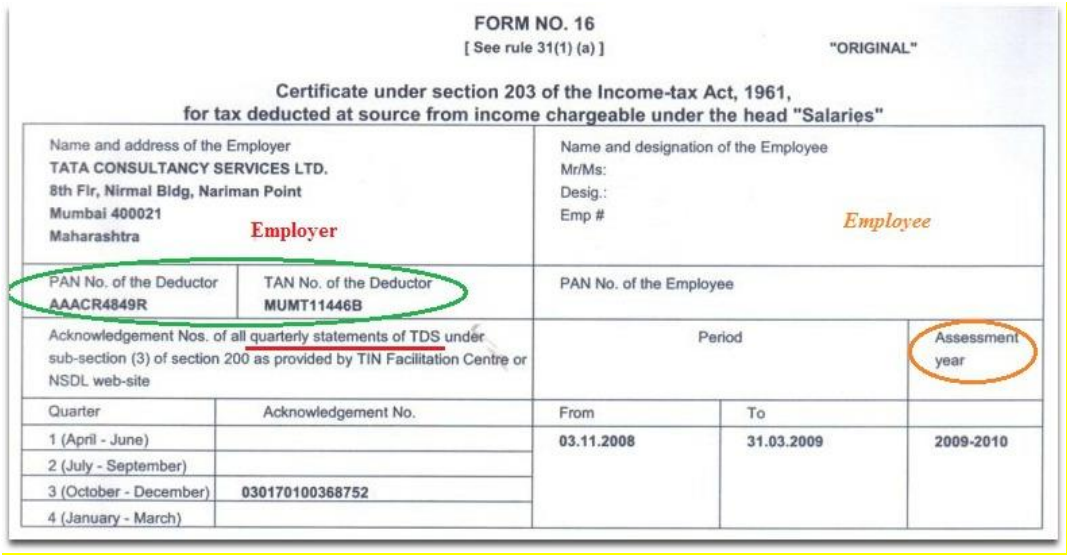
qq) If any of the detail is mentioned incorrectly, one should immediately reach out to the organisation's HR/Payroll/Finance department and get the same corrected.

rr) The employer would then correct their end by filing a revised TDS return to credit the TDS amount against the correct PAN. Once the revised TDS return is processed, the employer will issue an updated Form 16 to their employee.



3.2 FORM 16 – DETAILS & SECTIONS

Part A of form 16 has details like –



FORM NO. 16

[See rule 31(1) (a)] "ORIGINAL"

Certificate under section 203 of the Income-tax Act, 1961,
for tax deducted at source from income chargeable under the head "Salaries"

Name and address of the Employer TATA CONSULTANCY SERVICES LTD. 8th Flr, Nirmal Bldg, Nariman Point Mumbai 400021 Maharashtra Employer		Name and designation of the Employee Mr/Ms: Desig.: Emp # *Employee*		
PAN No. of the Deductor AAACR4849R	TAN No. of the Deductor MUMT11446B	PAN No. of the Employee		
Acknowledgement Nos. of all quarterly statements of TDS under sub-section (3) of section 200 as provided by TIN Facilitation Centre or NSDL web-site		Period		Assessment year
Quarter	Acknowledgement No.	From	To	
1 (April - June)		03.11.2008	31.03.2009	2009-2010
2 (July - September)				
3 (October - December)	030170100368752			
4 (January - March)				

- Employee's name & address
- Employer's name & address
- PAN no and TAN no (Tax deduction account number) of your employer (the Deductor)
- PAN details of employee

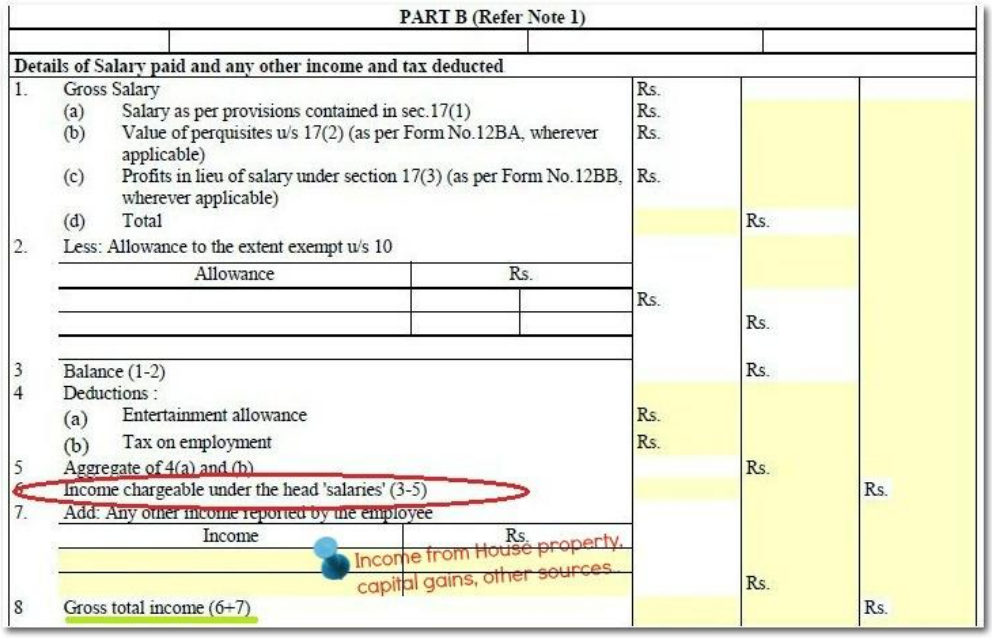
Assessment Year (the year in which your tax liability is calculated for the income earned in the previous year. If financial Year or previous year is 2014-15, assessment year would be 2015-16)

Part A provides the summary of TDS deductions. (This summary can be quarterly / monthly basis or on the periodicity of how your employer deducts TDS and credits the tax to the IT department)

This section also gives you details about the 'period of employment'. (If you have worked for two or more companies in a financial year, you will have multiple form 16s)

Part B of Form no 16 has below details;

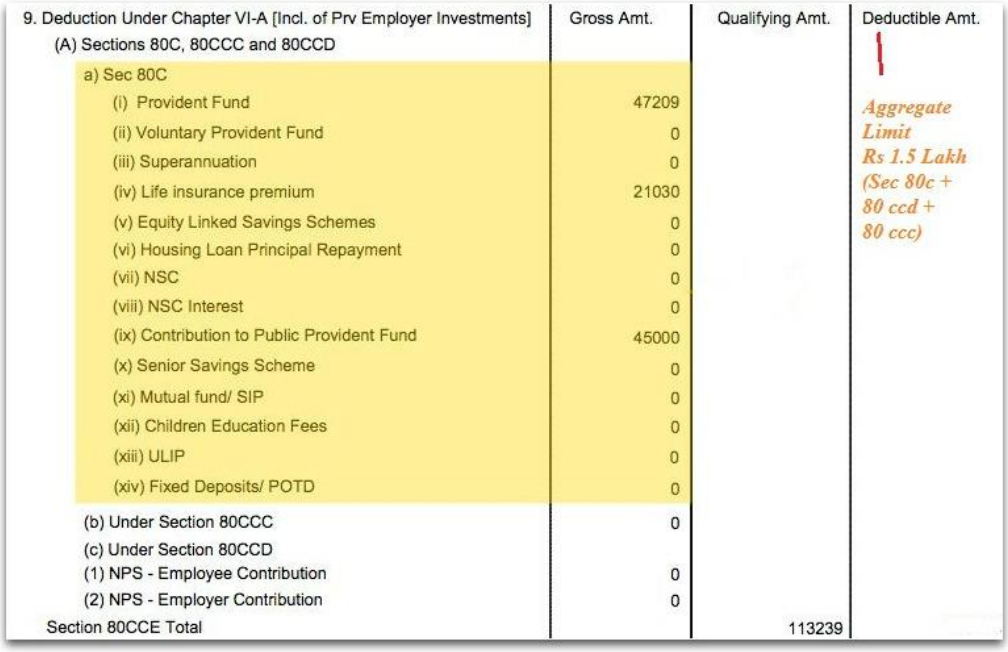
Income Chargeable under the head of 'Salary' . (Includes salary – Allowances and deductions (like LTA /HRA / Professional tax etc)



PART B (Refer Note 1)				
Details of Salary paid and any other income and tax deducted				
1.	Gross Salary	Rs.		
	(a) Salary as per provisions contained in sec.17(1)	Rs.		
	(b) Value of perquisites u/s 17(2) (as per Form No.12BA, wherever applicable)	Rs.		
	(c) Profits in lieu of salary under section 17(3) (as per Form No.12BB, wherever applicable)	Rs.		
	(d) Total		Rs.	
2.	Less: Allowance to the extent exempt u/s 10			
	Allowance / Rs.	Rs.		
		Rs.		
3	Balance (1-2)		Rs.	
4	Deductions :			
	(a) Entertainment allowance	Rs.		
	(b) Tax on employment	Rs.		
5	Aggregate of 4(a) and (b)		Rs.	
6	Income chargeable under the head 'salaries' (3-5)			Rs.
7.	Add: Any other income reported by the employee			
	Income / Rs.		Rs.	
8	Gross total income (6+7)			Rs.

Income from House property, capital gains, other sources..

- Gross Income is Salary income + any other income reported by you. (Other income can be negative income ie loss from your house property or capital gains etc.,)
- Next, deductions Under Sections 80c / 80 ccc / 80 ccd are provided. (The maximum limit is Rs 1.5 Lakh)



9. Deduction Under Chapter VI-A [Incl. of Prv Employer Investments]	Gross Amt.	Qualifying Amt.	Deductible Amt.
(A) Sections 80C, 80CCC and 80CCD			
a) Sec 80C			
(i) Provident Fund	47209		
(ii) Voluntary Provident Fund	0		
(iii) Superannuation	0		
(iv) Life insurance premium	21030		
(v) Equity Linked Savings Schemes	0		
(vi) Housing Loan Principal Repayment	0		
(vii) NSC	0		
(viii) NSC Interest	0		
(ix) Contribution to Public Provident Fund	45000		
(x) Senior Savings Scheme	0		
(xi) Mutual fund/ SIP	0		
(xii) Children Education Fees	0		
(xiii) ULIP	0		
(xiv) Fixed Deposits/ POTD	0		
(b) Under Section 80CCC	0		
(c) Under Section 80CCD			
(1) NPS - Employee Contribution	0		
(2) NPS - Employer Contribution	0		
Section 80CCE Total		113239	

Aggregate Limit Rs 1.5 Lakh (Sec 80c + 80 ccd + 80 ccc)

Then the deductions under other sections such as 80D (health insurance premium), 80E (interest on education loan), 80G (donations), and others are provided. (You would have submitted investment proofs for claiming tax deductions to your employer, these tax deductions are listed here)

(B) Other sections under Chapter VI A	Gross Amt.	Qualifying Amt.	Deductible Amt.
(a) Under Section 80CCG - RGESS	0	0	
(b) Under Section 80D - Mediclaim Insurance Premium	0	0	
(c) Under Section 80DD - Maintenance of Handicapped Dependent	0	0	
(d) Under Section 80E - Education Loan Interest Repayment	0	0	
(e) Under Section 80EE - Interest of Housing Loan	0	0	
(f) Under Section 80U - Deduction in respect of Person with disability	0	0	

The totals of qualifying deductions (Aggregate of deductible amounts under Chapter VI A : Point no 10) are reduced from your Gross Income (Point no 8) to arrive at the 'Taxable Income' (point no 11). Tax is calculated (Point no 12) on this amount based on your tax slab.

10. Aggregate of deductible amount under Chapter VI-A			95050.46
11. Total income (8-10)			0.00
12. Tax on total income			0.00
13. Surcharge (on tax computed at S.No.12)			0.00
14. Education cess (on tax at S.No.12 and surcharge at S.No.13)			0.00
15. Tax payable (12+13+14)			0.00
16. Relief under section 89 (attach details)			0.00
17. Tax payable (15-16)			0.00
18. Less: a) Tax deducted at source u/s 192(1)		0.00	
b) Tax paid by the employer on behalf of the employee u/s 192(1A) on perquisites u/s 17(2)		0.00	0.00
19. Tax payable / refundable (17-18)			0.00

- If TDS is deducted by your employer, this amount is subtracted from your total tax liability. The net tax amount can be nil (or) some tax amount payable (or) refund. *(The balance, if negative,* is your *refund* amount)

If your income from Salary is more than the basic exemption limit *(Rs 2.5 Lakh for FY 2014-15)*, your employer is required to deduct TDS from your Salary and deposit it with the Government.

If you have also disclosed your income from other heads to your employer, they will consider your total income for TDS deduction. If your income is below the minimum exemption limit your employer will not deduct any TDS and may not issue you this form. If you have worked with more than one employer during the year, you will have more than one Form 16.

3.3 FORM 16 VS FORM 16A

Form 16 is your Salary Certificate or TDS certificate issued by your employer. Form 16 A is also a TDS certificate which is generally issued on quarterly basis. While Form 16 is for only salary income, Form 16A is applicable for TDS on Income Other than Salary. (Form 16A is a statement containing all details of TDS Deducted on all Payments except Salary)

Form-16A also has details of name & address of deductor/deductee, PAN/TAN details, challan details of TDS deposited. It also has details of income that you have earned and the TDS deducted and deposited on such income.

Example – Form 16A is issued by banks when they deduct TDS on interest income earned on your Fixed Deposits / Recurring Deposits.

Let me provide you with a sample Form 16A. I have received the below Form 16 A from Standard Chartered Bank. On one of my FDs, I got a credit Rs 1,188 as interest income and on it Rs 118.80 has been deducted as TDS (@10%). (Remember, if you are in a different income tax slab rate say @ 20%, you need to include this interest income and pay the balance taxes accordingly)

FORM NO.16A

[See rule 31(1)(b)]

Certificate under section 203 of the Income-tax Act, 1961 for Tax deducted at source

Name and address of the Deductor	Name and address of the Deductee
STANDARD CHARTERED BANK 25 --, M.G. ROAD --, MUMBAI MAHARASHTRA 400023	REDDY NANDIPATI SREEKANTH Note : Name and address is as present in Income Tax PAN database. Apply for PAN change request to update details.

PAN of the Deductor	TAN of the Deductor	PAN of the Deductee
AABCS4681D	MUMS25234G	

CIT (TDS)	Assessment Year	Period	
		From	To
The Commissioner of Income Tax (TDS) Room No. 900A 9th Floor K.G. Mittal Ayurvedic Hospital Building Charni Road Mumbai 400002	2012-13	01/01/2012	31/03/2012

Summary of Payment

Amount paid/credited (₹)	Nature of payment	Date of payment/credit (dd/mm/yyyy)	Status of Booking
1,188.00	194A - Interest other than Interest on Securities	13/01/2012	MATCHED
2,375.00	194A - Interest other than Interest on Securities	14/01/2012	MATCHED

Tax Information Network of Income Tax Department — Certificate No.: RBYXSF

TAN of the Deductor MUMS25234G PAN of the Deductee — Assessment Year 2012-13 Quarter Q4 Last Updated 17/05/2012

II. DETAILS OF TAX DEDUCTED AND DEPOSITED IN THE CENTRAL GOVERNMENT ACCOUNT THROUGH CHALLAN (The deductor to provide payment wise details of tax deducted and deposited with respect to the deductee

S. No.	Tax Deposited in respect of the deductee (₹)	Challan Identification Number (CIN)			
		BSR Code of the Bank Branch	Date on which tax deposited (dd/mm/yyyy)	Challan Serial Number	Status of Booking
1	118.80	6910333	07/02/2012	60133	MATCHED
2	237.50	6910333	07/02/2012	60133	MATCHED
3	118.80	6910333	07/02/2012	60133	MATCHED

Form 26AS

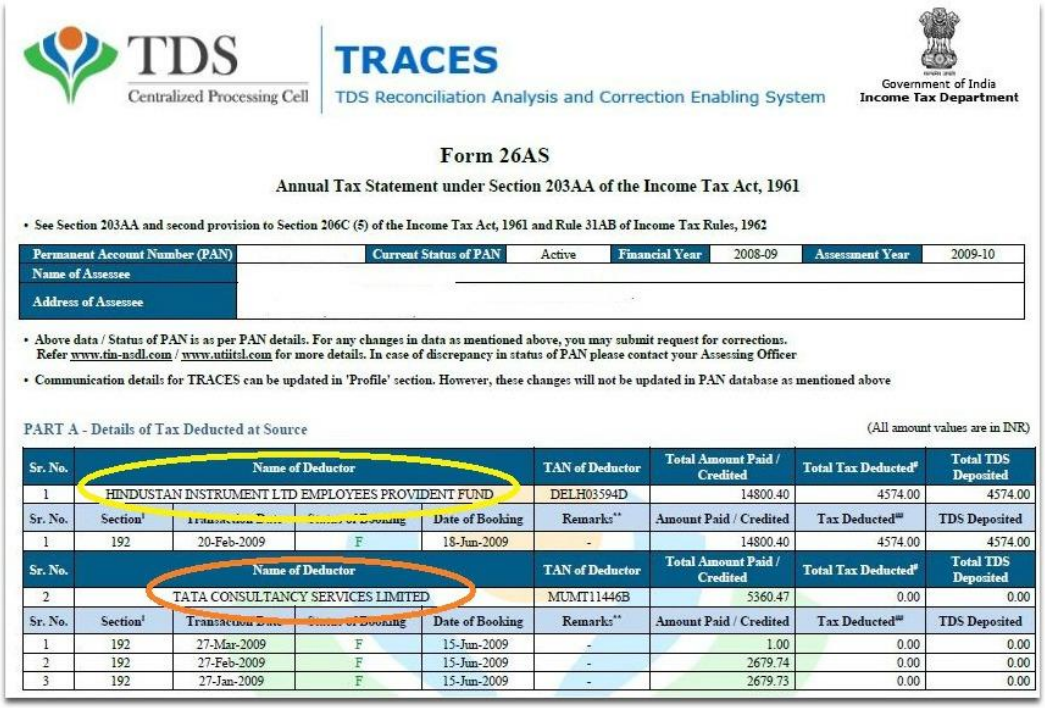
Form-26AS gives you all the details of Tax credits. **It is a form which indicates that the tax that has been deducted has also been deposited with the Govt**.

The Form 26AS contains details of tax deducted on behalf of the taxpayer *(you)* by deductors (employer, bank etc.). So, TDS deductions that are given in Form 16 / Form 16 A can be cross checked using Form 26AS. The TDS amounts reflected in Form 26AS and Form 16/16A should always be the same.

(If there are discrepancies, the IT dept will consider the TDS figures as per Form 26AS only. You need to contact the TDS deductor to rectify any errors. For example– If your employer has updated your PAN wrongly, TDS deduction will not get reflected in your From 26AS. In this case, you need to get this error rectified by your employer.)

To access your Form 26 AS, you need to visit Income Tax website and . You need to provide your login credentials to access this form. You can then download relevant financial year's form-26AS statement. (Form 26AS is provided by TRACES – TDS Reconciliation Analysis and Correction Enabling System)

Below is a sample Form-26AS. In the below image you can view *TDS on EPF withdrawal* and TDS details from the employer *(Tata Consultancy Services Ltd)*.



TDS Centralized Processing Cell | TRACES TDS Reconciliation Analysis and Correction Enabling System

Government of India
Income Tax Department

Form 26AS

Annual Tax Statement under Section 203AA of the Income Tax Act, 1961

- See Section 203AA and second provision to Section 206C (5) of the Income Tax Act, 1961 and Rule 31AB of Income Tax Rules, 1962

Permanent Account Number (PAN)		Current Status of PAN	Active	Financial Year	2008-09	Assessment Year	2009-10
Name of Assessee							
Address of Assessee							

- Above data / Status of PAN is as per PAN details. For any changes in data as mentioned above, you may submit request for corrections. Refer www.tin-nsdl.com / www.utiitsl.com for more details. In case of discrepancy in status of PAN please contact your Assessing Officer
- Communication details for TRACES can be updated in 'Profile' section. However, these changes will not be updated in PAN database as mentioned above

PART A - Details of Tax Deducted at Source (All amount values are in INR)

Sr. No.	Name of Deductor				TAN of Deductor	Total Amount Paid / Credited	Total Tax Deducted	Total TDS Deposited
1	HINDUSTAN INSTRUMENT LTD EMPLOYEES PROVIDENT FUND				DELH03594D	14800.40	4574.00	4574.00
Sr. No.	Section	Transaction Date	Status of Booking	Date of Booking	Remarks	Amount Paid / Credited	Tax Deducted	TDS Deposited
1	192	20-Feb-2009	F	18-Jun-2009	-	14800.40	4574.00	4574.00
Sr. No.	Name of Deductor				TAN of Deductor	Total Amount Paid / Credited	Total Tax Deducted	Total TDS Deposited
2	TATA CONSULTANCY SERVICES LIMITED				MUMT11446B	5360.47	0.00	0.00
Sr. No.	Section	Transaction Date	Status of Booking	Date of Booking	Remarks	Amount Paid / Credited	Tax Deducted	TDS Deposited
1	192	27-Mar-2009	F	15-Jun-2009	-	1.00	0.00	0.00
2	192	27-Feb-2009	F	15-Jun-2009	-	2679.74	0.00	0.00
3	192	27-Jan-2009	F	15-Jun-2009	-	2679.73	0.00	0.00

You can also find details of your tax payments *(self assessment tax/ regular assessment tax/ advance tax)* in Form 26 AS. Details of tax refund received during the financial year are also available in this form.

3.3.1 Form-16 & ITR (Income Tax Returns)

Form16, Form 16A (if you have income from other sources) and Form 26AS documents will come handy while filing your ITR. As discussed above, you have most of the details in your form 16 with which you can easily file your Tax Returns. Cross check your Form 16/16A TDS amounts with Form 26AS and then key in TDS details in ITR accordingly.

Based on Form 16, you can fill 'Income' and 'TDS' details. Based on Form 16 A, you can fill 'income from other sources' and 'TDS' details in ITR sheet.

Based on Form26 AS, you can cross check the above TDS payments and also fill in details of 'Advance or self assessment tax' payments (if any) in your ITR sheet.

Multiple Form 16s

If Candidate have changed the jobs during the financial year, it is advisable to submit income from previous employment to new employer. In addition to this, submit all investments, house rent etc., details to current employer.

If candidate do so, the form 16 which is released by new employer can have all the required details and TDS will be deducted accordingly. Do note that candidate need to enter the TDS deducted by your current as well as previous employer in ITR, and pay taxes (if any) accordingly.

In case if candidate have not shared the details, candidate can file your Tax returns online based on multiple Form 16s. candidate need to consider both the incomes together and pay taxes accordingly. (Remember, do not consider tax exemptions twice while calculating the tax liability)

(It is advisable to save a copy of all your form-16s. As soon as candidate receive form-16 from employer, email and save it in personal mailbox. These forms are useful not only for filing Tax Returns but also for applying for home loans / term insurance etc.,)

3.3.3.1 Form 15G, Form 15H to Save TDS on Interest Income:

Forms 15G & 15H: What can you do to make sure the bank does not deduct TDS on interest if your total income is not taxable?

Banks have to deduct TDS when your interest income is more than Rs.40,000 in a year for individuals other than senior citizens (for senior citizens, the limit is Rs.50,000) under section 194A of the Income Tax Act. The bank aggregates the interest on deposits held in all its branches to calculate this limit.

However, if your total income is below the taxable limit, you can submit Form 15G and 15H to the bank and request them not to deduct any TDS.

Form 15G and Form 15H are self declaration forms that an individual submits to the bank requesting not to deduct TDS on interest income as their income is below the basic exemption limit.

For this, providing PAN is compulsory. Some banks allow you to submit these forms online through the bank's website.

FORM 15G	FORM 15H
Resident Individual or HUF or trust or any other assessee but not a company or a firm with age less than 60 years	Resident Individual with an age 60 years or more i.e Senior citizen.
Tax calculated on your total income is Nil	Tax calculated on your Total Income is Nil
The total interest income subject for the year is less than the basic exemption limit of that year, which is Rs.2.5 lakh for financial year 2020-21 (AY 2021-22)	
Please note that benefits of Form 15G and 15H cannot be claimed by Non-residents.	

3.4 NEW FORM 26AS | ANNUAL INFORMATION STATEMENT(AIS)

Form 26AS or Annual Information Statement is a consolidated statement that contains details of your income – salary, business income, interest on your bank deposits, etc., as well as the total tax deducted *(if any)* on such incomes and deposited in your name with the Income Tax Department.

TDS deductions that are given in your Form 16 / Form 16A can be cross checked using Form 26AS. The TDS amounts reflected in Form 26AS and Form 16/16A should always match.

The high value financial transactions are also listed in Form 26AS under AIR section of the report. *(AIR – Annual Information Return)*

Hence, Form 26AS is an important income tax document for every tax payer. candidate should check it before filing your Income Tax Return.

New Form 26AS | New Format w.e.f 1st June 2020

The Central Govt has recently notified the changes to Form 26AS. Your tax passbook, i.e., Form 26AS, will now come with a new format, effective from 1st June, 2020 (FY 2020-21).
Form 26AS will now contain information regarding Tax refunds and demands *(if any)* against candidate name. The new format will show Aadhaar number, date of birth, mobile number, email ID and address.
Form 26AS will also have information about '**Specified Financial Transactions**' such as Stocks candidate have bought or sold, real estate transactions, payment details of credit card bills etc.
candidate can view / download the new Form 26AS format by clicking on the below image.

[1][FORM 26AS	Annual Information Statement [See rule 114-I]	Financial Year: XXXX-XX
		Assessment Year: XXXX-XX

Part-A

Permanent Account Number		**Aadhaar Number**	
Name:			
Date of Birth/Incorporation:			
Mobile No:			
Email Address:			
Address:			

Part B

Sl. No.	Nature of Information
1.	Information relating to tax deducted or collected at source
2.	Information relating to specified financial transaction
3.	Information relating to payment of taxes
4.	Information relating to demand and refund
5.	Information relating to pending proceedings
6.	Information relating to completed proceedings
7.	Any other information in relation to sub-rule (2) of rule 114-I]

Along with your TDS details, candidate can now find below details in the new Form 26AS statement;

Information related to Specified Financial Transactions

The revised Form 26AS will show the specified financial transactions which have been done from June 1, 2020. However, these transactions will be shown only if they cross the specified threshold limit in a financial year.

For example : If your investments in Mutual Funds exceeds Rs 10 lakh in a financial year then such transactions will be shown in Form26AS.

List of Third parties who report High value Financial Transactions

- Banks – They report High Value transactions related to deposits credit card payments.
- Mutual Fund Companies
- Companies issuing bonds or debentures
- Companies issuing shares
- Sub-Registrar offices on real-estate deals.

Cash Transactions listed under Specified Financial Transactions

- Purchase of bank drafts or pay orders in cash – amount aggregating to **Rs 10 lakh or more** in a financial year.
- **Cash deposit** in current account, Rs 50 lakh or more in a financial year.
- **Cash Withdrawals** in current account, **Rs 50 lakh or more** in a financial year.
- Purchase of pre-paid instruments in cash – amount aggregating to Rs 10 lakh or more in a financial year.
- Cash deposit in account other than current account aggregating to Rs 10 lakh or more in a financial year
- Cash payment for goods and services – Receipt of cash payment exceeding Rs 2 lakh for sale.

Credit Card Transactions

Your credit card payments of;

- One lakh rupees or more in cash; or
- Ten lakh rupees or more by any other mode

Investments listed under Specified Financial Transactions

- **Time deposit** aggregating to Rs 10 lakh *(other than a time deposit made through renewal of another time deposit)*.
- Purchase of **debentures** aggregating to Rs 10 lakh or more in a financial year.
- Purchase of **shares** amount aggregating to Rs 10 lakh or more in a financial year.

- Buy back of shares amount or value aggregating to Rs 10 lakh or more in a financial year.
- Purchase of **mutual fund units** – amount aggregating to Rs 10 lakh or more in a financial year.
- Purchase of **foreign currency** – amount aggregating to Rs 10 lakh or more during a financial year.
- Sale or Purchase of **immovable property** – an amount of Rs 30 lakh or more or valued by the stamp valuation authority.

Newly Proposed Transactions under SFT & Form 26AS

The below newly proposed transactions *(on 13-Aug-2020)* would now be reflected in an individual's tax account statement;

- The payments made to the government such as **property tax** and electricity bills would be reported if they exceed Rs 20,000 and Rs 1 lakh, respectively.
- Business-class airline travel, whether domestic or foreign, would be reported.
- Deposit / credits in current account above Rs 50 lakh.
- Deposit / credits in non-current account above Rs 25 lakh.
- Information on Share transactions, your D-Mat accounts and bank lockers.
- Payments for school fee / donation above Rs 1 lakh would be reported.
- If you pay a hotel bill or medical insurance premium of more than Rs 20,000, incur an expenditure exceeding Rs 50,000 on life insurance or over Rs 1 lakh for school fee, purchase white goods, jewellery, marble or paintings, do note that the entity you have made the payment to will be informing the government of your transaction.

Information related to Income Tax Payments

Your new Form 26AS will now give you the details of 'outstanding tax demand' or 'income tax refund' *(if any)*.

You can also check the status of any income tax proceedings. The revised Form 26 AS will show if there are any 'pending proceedings' that are on-going with the income tax department or if the proceedings are completed.

Process to download new Form 26AS

To access your Form 26 AS, you need to visit Income Tax website and *click on View Form 26AS*. You need to provide your login credentials to access this form. You can then download relevant financial year's statement.

3.4.1 AIS (Annual Information Statement)

The Annual Information Statement (AIS) is a tool that informs taxpayers of the information the tax department has on them. The AIS is a detailed statement that lists all of your financial transactions for a given financial year (FY), and it includes the information required by the Income-tax Act of 1961.

The AIS includes information on interest, dividends, stock trades, mutual fund activities, international remittance details, etc. The taxpayer will be able to obtain AIS data in the in the formats of PDF, JSON, and CSV.

Annual Information Statement (AIS)

Annual Information Statement (AIS) is comprehensive view of information for a taxpayer displayed in Form 26AS. Taxpayer can provide feedback on information displayed in AIS. AIS shows both reported value and modified value (i.e. value after considering taxpayer feedback) under each section (i.e. TDS, SFT, Other information).

The objectives of AIS are:

• Display complete information to the taxpayer with a facility to capture online feedback

• Promote voluntary compliance and enable seamless prefilling of return

• Deter non-compliance ("For more info. navigate to AIS under Services Menu after login").

Components of Annual Information Statement (AIS)?

The information shown on AIS is divided in two parts: PART A- General Information

Part-A

It displays general information pertaining to you, including PAN, Masked Aadhar Number, Name of the Taxpayer, Date of Birth/ Incorporation/ Formation, mobile number, e-mail address and address of Taxpayer.

PART- B

• **TDS/TCS Information**: - Information related to tax deducted/collected at source is displayed here. The Information code of the TDS/TCS, Information description and Information value is shown.

• **SFT Information**: - Under this head, information received from reporting entities under Statement of Financial transaction (SFT) is displayed. The SFT code, Information description and Information value is made available.

• **Payment of Taxes**: - In .. TDS/TCS Information: - Information related to tax deducted/collected at source is displayed here. The Information code of the TDS/TCS, Information description and Information value is shown.

- Demand and Refund: -You will be able to view the details of the demand raised and refund initiated (AY and amount) during a financial year. (Details related to Demand will be released soon)

3.5 UNIT END QUESTIONS

Short Answer Questions:

1. What is Form 16 used for?
2. What are the key sections included in Form 16?
3. How does Form 16 differ from Form 16A?
4. What is the purpose of the New Form 26AS?
5. Name one important information included in the Annual Information Statement.

Long Answer Questions:

1. Explain the significance of Form 16 in income tax filing and its role in the employer-employee relationship.
2. Compare and contrast the contents of Form 16 and Form 16A, highlighting their respective uses and when they are issued.
3. Discuss the key changes introduced in the New Form 26AS (Annual Information Statement) and how it aids in tax compliance and transparency.
4. Elaborate on the different sections present in Form 16, detailing their contents and the information they provide to taxpayers.
5. How does the availability of Form 16 and the New Form 26AS impact the process of tax return filing for individuals and businesses?

Multiple Choice Questions (MCQs):

1. What is the main purpose of Form 16?
    a) Claiming tax deductions
    b) Reporting annual income
    c) Applying for tax refunds
    d) Registering for PAN

2. Form 16A is primarily issued for:
    a) Salaried employees
    b) Non-resident taxpayers

c) Self-employed individuals

d) Individuals earning interest income

3. The New Form 26AS (Annual Information Statement) includes information about:

    a) Tax return filing deadlines

    b) Foreign exchange rates

    c) Tax deducted at source (TDS) details

    d) Mutual fund investment options

4. Which section of Form 16 provides details about exemptions and deductions claimed by the employee?

    a) Part A

    b) Part B

    c) Part C

    d) Part D

5. What role does the New Form 26AS play in income tax compliance?

    a) It replaces the need for tax return filing

    b) It consolidates income from all sources automatically

    c) It provides a comprehensive view of financial transactions relevant to tax

    d) It allows for direct tax payments to be made to the employer

Answers: 1 - b, 2 - d, 3 - c, 4 - a, 5 - c

3.6 REFERENCES

References Book:

- Tomislav Kuzmić. "EUdict". Archived from the original on March 6, 2016. Retrieved March 5, 2016.
- Wolferen, K.G. van. (Japan). (ISBN 90-6766-100-7)
- Card, D., & Krueger, A. B. (1995). Myth and measurement: The new economics of the minimum wage. Princeton University Press.
- Stereotype threat in salary negotiations is mediated by reservation salary (PDF). Archived from the original on June 8, 2013. Retrieved October 1, 2012.

Website

- https://www.legalraasta.com/itr/income-from-salary/
- https://incometaxmanagement.com/Pages/Tax-Ready-Reckoner/GTI/Salary/Receipts-treated-as-Profit-in-Lieu-of-Salary-Section-17-3.html
- https://scripbox.com/tax/section-16/#:~:text=Section%2016%20of%20Income%20Tax%20Act%2C%201961%20provides%20deduction%20from,salary%20income%20chargeable%20to%20tax.

UNIT- 4 AWARENESS

STRUCTURE

4.0 OBJECTIVES

After studying this unit, student will be able to:

1. Understand the importance of advance tax payment and its role in effective tax planning.
2. Comprehend the concept of Tax Deduction at Source (TDS) and its significance in streamlining revenue collection.
3. Gain insight into the process and implications of Tax Collection at Source (TCS) for specific transactions.
4. Recognize the role of compliance and awareness in maintaining accurate and transparent tax records.
5. Develop a comprehensive understanding of various tax payment mechanisms to ensure adherence to legal tax obligations.

4.1 INTRODUCTION

In the realm of taxation, a comprehensive understanding of various mechanisms is essential for both taxpayers and tax authorities. Three integral aspects of the taxation process are "Awareness of Advance Payment of Tax," "Tax Deduction at Source (TDS)," and "Tax Collection at Source (TCS)." These topics form the backbone of a well-functioning tax system, enabling efficient revenue collection while ensuring compliance and transparency.

Awareness of Advance Payment of Tax revolves around the crucial concept of paying taxes in advance rather than waiting until the end of the financial year. This proactive approach not only aids in better financial planning but also contributes to the smooth operation of government finances. Understanding the nuances of advance tax payment is pivotal for individuals and businesses alike, as it allows them to fulfill their tax obligations promptly.

Tax Deduction at Source (TDS) is a mechanism designed to ensure that tax is collected at the source of income itself. This means that the payer deducts a certain percentage of the payment as tax before releasing the funds to the payee. TDS serves multiple purposes, including preventing tax evasion, enhancing the efficiency of tax collection, and enabling accurate monitoring of financial transactions.

Tax Collection at Source (TCS) is an extension of the TDS mechanism, albeit in a slightly different context. TCS involves the collection of tax at the time of sale of certain specified goods or services. This system places the onus of tax collection on the seller, thereby aiding the government in tracking transactions and preventing tax leakages in sectors susceptible to underreporting.

In conclusion, gaining insights into these topics goes beyond mere procedural knowledge; it empowers taxpayers and stakeholders to navigate the complex landscape of taxation with confidence. These mechanisms collectively contribute to the integrity and effectiveness of the taxation process, ensuring that revenues are generated efficiently while minimizing opportunities for tax evasion and malpractices.

4.2 AWARENESS FOR ADVANCE TAX

Advance tax is the income tax paid in advance for the income earned in a particular financial year. Usually, the tax is to be paid when the income is earned. Still, under the tax provisions of advance tax, the payer has to estimate the income for the entire year. And based on this estimate the tax is paid at specific time intervals. Here it is important that the tax payer estimates the income and then calculates the estimated tax on it to check whether he or she needs to pay the advance tax and how much.

As per section 208 of the Income Tax Act 1961, every person whose estimated tax liability for the year is more than or equal to `10,000 is liable to pay advance tax.
Those who are excluded from paying advance tax are senior citizens who are above the age of 60, not having any income from business or profession.

4.2 forms required in advance tax

Challan No. ITNS 280 is the form that needs to be duly filed on the prescribed due dates. Pre-requisites of Challan No. ITNS 280 are:

- PAN Details: Carefully publish correct PAN details, or else your tax will be deposited in someone else's name
- Assessment Year: Select the correct assessment year for which the tax is to be paid as it is going out in advance for the upcoming financial year
- Selecting the type of payment: The taxpayer has to select the type of payment in the form. If the tax is being paid for the same financial year based on the estimated income- it would be advance tax. If the tax is being paid after the end of the financial year – it would be self-assessment tax.

After the payment is made, a Challan Identification Number (CIN) will be provided. You are required to keep a note of the same and use this CIN while filing for income tax return. Also, verify once whether the IT department has received the online payment made through ITNS 280.

ADVANCE PAYMENT OF TAX [SECTIONS 207TO 219]

4.1.1 Liability for Payment of Advance Tax

(1) Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219, in respect of an assessee's current income i.e. the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year [Section 207].

(2) Under section 208, obligation to pay advance tax arises in every case where the advance tax payable is Rs. 10,000 or more.

Note - An assessee who is liable to pay advance tax of less than Rs. 10,000 will not be saddled with interest under sections 234B and 234C for defaults in payment of advance tax. However, the consequences under section 234A regarding interest for belated filing of return would be attracted.

(3) In case of senior citizens who have passive source of income like interest, rent, etc., the requirement of payment of advance tax causes genuine compliance hardship. Therefore, in order to reduce the compliance burdenon such senior citizens, exemption from payment of advance tax has been provided to a resident individual-

(i) not having any income chargeable under the head "Profits and gainsof business or profession"; and

(ii) of the age of 60 years or more.

Such senior citizens need not pay advance tax and are allowed to dischargetheir tax liability (other than TDS) by payment of self-assessment tax.

4.1.2 Computation of Advance Tax

(1) An assessee has to estimate his current income and pay advance tax thereon. He need not submit any estimate or statement of income to the Assessing Officer, except where he has been served with notice by the Assessing Officer.

(2) Where an obligation to pay advance tax has arisen, the assessee shall himself compute the advance tax payable on his current income at the ratesin force in the financial year and deposit the same, whether or not he has been earlier assessed to tax.

(3) In the case of a person who has been already assessed by way of a regular assessment in respect of the total income of any previous year, the Assessing Officer, if he is of the opinion that such person is liable to pay advance tax, may serve an order under section 210(3) requiring the assessee to pay advance tax.

(4) For this purpose, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income for any subsequent previous year, whichever is higher, shall be taken as the basis for computation of advance tax payable.

(5) The above order can be served by the Assessing Officer at any time during the financial year but not later than the last date of February.

(6) If, after sending the above notice, but before 1st March of the financial year, the assessee furnishes a return relating to any later previous year or an assessment is completed in respect of a later return of income, the Assessing Officer may

amend the order for payment of advance tax on the basis of the computation of the income so returned or assessed.

(7) If the assessee feels that his own estimate of advance tax payable would beless than the one sent by the Assessing Officer, he can file estimate of his current income and advance tax payable thereon.

(8) Where the advance tax payable on assessee's estimation is higher than thetax computed by the Assessing Officer, then, the advance tax shall be paid based upon such higher amount.

(9) In all cases, the tax calculated shall be reduced by the amount of tax deductible at source.

No reduction of tax deductible but not deducted while computing advance tax liability

(i) As per the provisions of section 209, the amount of advance tax payable by a person is computed by reducing the amount of income-tax which would be deductible at source during the financial year from any income which has been taken into account in computing the total income.

(ii) Some courts have opined that in case where the payer pays any amount (on which tax is deductible at source) without deduction oftax at source, the payee shall not be liable to pay advance tax to the extent tax is deductible from such amount.

(iii) With a view to make such a person (payee) liable to pay advance tax, the proviso to section 209(1)(d) provides that the amount of tax deductible at source but not so deducted by the payer shall not be reduced from the income tax liability of the payee for determining his liability to pay advance tax.

(iv) In effect, only if tax has actually been deducted at source, the samecan be reduced for computing advance tax liability of the payee. Tax deductible but not so deducted cannot be reduced for computing advance tax liability of the payee.

(10) The amount of advance tax payable by an assessee in the financial year calculated by -

(i) the assessee himself based on his estimation of current income; or

(ii) the Assessing Officer as a result of an order under section 210(3) or amended order under section 210(4)

is subject to the provisions of section 209(2), as per which the net agricultural

income has to be considered for the purpose of computing advance tax.

4.1.3 Instalments of advance tax and due dates

Common advance tax payment schedule for both corporates and non-corporates [other than assessees computing profits on presumptive basis under section 44AD(1) or section 44ADA(1)]:

Due date of instalment	Amount payable
On or before 15th June	Not less than 15% of advance tax liability
On or before 15th September	Not less than 45% of advance tax liability, as reduced by the amount, if any, paid in the earlier instalment.
On or before 15th December	Not less than 75% of advance tax liability, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before 15th March	The whole amount of advance tax liability as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

Note - Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

Advance tax payment by assessees computing profits on presumptive basis under section 44AD(1)or section 44ADA(1)

An eligible assessee, opting for computation of profits or gains of businesson presumptive basis in respect of eligible business referred to in section 44AD(1) or for computation of profits or gains of profession on presumptive basis in respect of eligible profession referred to in section 44ADA(1), shall be required to pay advance tax of the whole amount in one instalment onor before 15th March of the financial year.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

(1) If the last day for payment of any instalment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the interest leviable under sections 234B and 234C would not be charged.

(2) Where advance tax is payable by virtue of the notice of demand issued[11] bythe Assessing Officer, the whole or the appropriate part of the advance tax specified in such notice shall be payable on or before each of such due dates as fall after the date of service of notice of demand.

(3) Where the assessee does not pay any instalment by the due date, he shallbe deemed to be an assessee in default in respect of such instalment.

4.1.4 Credit for advance tax [Section 219]

Any sum, other than interest or penalty, paid by or recovered from an assessee as advance tax, is treated as a payment of tax in respect of the income of the previous year and credit thereof shall be given in the regular assessment.

4.1.5 Interest for non-payment or short-payment of advancetax [Section 234B]

(1) Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of assessed tax.

(2) The interest liability would be 1% per month or part of the month from1st April following the financial year upto the date of determination of income under section 143(1) and where a regular assessment is made, upto the date of such regular assessment.

(3) Such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.

(4) Assessed tax is the tax calculated on total income determined under section 143(1) and where a regular assessment is made, the tax on the total income determined under such regular assessment less

- tax deducted or collected at source.
- any relief of tax allowed under section 89
- any tax credit allowed to be set off in accordance with the provisions of section 115JD

Tax on the total income determined under section 143(1) would not include the additional income-tax, if any, payable under section 140B or section 143.

Tax on the total income determined under such regular assessment would not include the additional income-tax, if any, payable under section 140B.

(5) However, where self-assessment tax is paid by the assessee under section 140A or otherwise, interest shall be calculated upto the date of paymentof such tax and reduced by the interest, if any, paid under section 140Atowards the interest chargeable under this section. Thereafter, interest shall be calculated at 1% on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

4.1.6 Interest payable for deferment of advance tax [Section 234C]

Manner of computation of interest under section 234C for defermentof advance tax by corporate and non-corporate assessees:

In case an assessee, other than **an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1)**, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by such assessee on its current incomeon or before the dates specified in column (1) is less than the specified percentage [given in column (2)] of tax due on returned income, then simple interest@1% per month for the period specified in column (4) on the amount of shortfall, as per column (3) is leviable under section 234C.

Specified date	**Specified %**	**Shortfall in advance tax**	**Period**
(1)	**(2)**	**(3)**	**(4)**
15th June	15%	15% of tax due on returned income (-) advance tax paid up to 15th June	3 months
15th September	45%	45% of tax due on returned income (-) advance tax paid up to 15th September	3 months
15th December	75%	75% of tax due on returned income (-) advance tax paid up to 15th December	3 months
15th March	100%	100% of tax due on returned income (-) advance tax paid up to	1 month

		15th March	

Note – However, if the advance tax paid by the assessee on the currentincome, on or before 15th June or 15th September, is not less than 12% or36% of the tax due on the returned income, respectively, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.

Computation of interest under section 234C in case of an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1):

In case an assessee who declares profits and gains in accordance with the section 44AD(1) or section 44ADA(1), as the case may be, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before 15th March isless than the tax due on the returned income, then, the assessee shall beliable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.

Non-applicability of interest under section 234C in certain cases:

Interest under section 234C shall not be leviable in respect of any shortfallin payment of tax due on returned income, where such shortfall is on account of under-estimation of or failure to estimate –

i. the amount of capital gains;
ii. income of nature referred to in section 2(24)(ix) i.e., winnings from lotteries, crossword puzzles etc.;
iii. income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the firsttime.
iv. the amount of dividend income u/s 2(22)(a)/(b)/(c)/(d)

However, the assessee should have paid the whole of the amount of taxpayable in respect of such income referred to in (i), (ii), (iii) or (iv), as the case may be, had such income been a part of the total income, as part ofthe remaining instalments of advance tax which are due or where no such instalments are due, by 31st March of the financial year.

Meaning of tax due on returned income

Tax due on returned income means the tax calculated on total income declared in the return furnished by the assesse *less*

- tax deducted or collected at source
- any relief of tax allowed under section 89
- any tax credit allowed to be set off in accordance with theprovisions of section 115JD.

4.3 DEDUCTION OF TAX AT SOURCE

TDS - Tax Deducted at Source

TDS is the amount of tax which is deducted by the employer or deductor from the taxpayer and is deposited to the Income Tax Department on behalf of him/her. The TDS rates are set on the basis of the age bracket and income of different individuals.

What is TDS in Income Tax?

Tax Deducted at Source (TDS) is a specific amount that is deducted when a certain payment like salary, commission, rent, interest, professional fees, etc. is made. The person who makes the payment deducts tax at the source, while the person who receives a payment/income has the liability to pay tax. It lowers tax evasion because the tax will be collected at the time of making a payment.

Dividend payments to REITs and InvITs will be exempt from TDS

In the Union Budget for FY22, Finance Minister Nirmala Sitharaman announced that dividend payments to REITs (Real Estate Investment Trusts) and InvITs (Infrastructure Investment Trusts) will be made exempt from Tax Deduction at Source (TDS). This aims to increase compliance with tax laws. A proposal was also made to take advance tax liability on dividend income after the payment or declaration of a dividend has been made.

4.2.1 Salary [Section 192]

1. Applicability of TDS under section 192

This section casts an obligation on every person responsible for paying any income chargeable to tax under the head Salaries to deduct income-tax on the amount payable.

2. Manner of deduction of tax

i. Such income-tax has to be calculated at the average rate of income- tax computed on the basis of the rates in force for the relevant financial year in which the payment is made, on the estimated total income of the assessee. Therefore, the liability to deduct tax at sourcein the case of salaries arises only at the time of payment.

ii. However, in case an employee intends to opt for concessional rate oftax under section 115BAC and he intimates to the deductor, being his employer, of such intention, then, the employer shall compute his total income, and deduct tax thereon in accordance with the provisions of section 115BAC. If such intimation is not made by theemployee, the employer shall deduct tax at source without

considering the provision of section 115BAC of the Act. For detailed discussion, refer page 8.18 in Chapter 8 "Computation of total incomeand tax payable".

ss) 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.

iii. The concept of payment of tax on non-monetary perquisites has been provided in sections 192(1A) and (1B). These sections provide that the employer may pay this tax, at his option, in lieu of deduction of tax at source from salary payable to the employee. Such tax will have to be worked out at the average rate applicable to aggregate salary incomeof the employee and payment of tax will have to be made every month along with tax deducted at source on monetary payment of salary, allowances etc.

iv. An employer, being an eligible start up, responsible for paying anyincome to the assessee by way of perquisite being any specified security or sweat equity shares allotted or transferred free of cost or at concessional rate to the assessee, has to deduct or pay, as the case may be, tax on the value of such perquisite provided to its employee within 14 days from the earliest of the following dates -

- after the expiry of 48 months from the end of the relevant assessment year; or
- from the date of the sale of such specified security or sweat equity share by the assessee; or
- from the date of the assessee ceasing to be the employee of the employer who allotted such shares

Such tax has to deducted or paid on the basis of rates in force for the financial year in which said specified security or sweat equity share is allotted or transferred.

(i) In cases where an assessee is simultaneously employed under morethan one employer or the assessee takes up a job with another employer during the financial year after his resignation or retirementfrom the services of the former employer, he may furnish the details of the income under the head "Salaries" due or received by him from the other employer, the tax deducted therefrom and such other particularsto his current employer. Thereupon, the subsequent employer should take such information into

consideration and then deduct the tax remaining payable in respect of the employeeRs. s remuneration from both the employers put together for the relevant financial year.

(ii) In respect of salary payments to employees of Government or to employees of companies, co-operative societies, local authorities, universities, institutions, associations or bodies, deduction of tax at source should be made after allowing relief under section 89(1), where eligible.

(iii) A tax payer having salary income in addition to other income chargeable to tax for that financial year, may send to the employer, the following particulars of:

a. such other income and of any tax deducted under any otherprovision;

b. loss, if any, under the head Rs. Income from house property.

The employer shall take the above particulars into account while calculating tax deductible at source.

(iv) It is also provided that except in cases where loss from house property has been adjusted against salary income, the tax deductible from salary should not be reduced as a consequence of making the above adjustments.

1.Furnishing of statement of particulars of perquisites or profits in lieuof salary by employer to employee

Sub-section (2C) provides that the employer shall furnish to the employee, a statement in Form No. 12BA giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof. The statement shall be in the prescribed form and manner. This requirement is applicable only where the salary paid/payable to an employee exceeds Rs.1,50,000. For other employees, the particulars of perquisites/profits in lieuof salary shall be given in Form 16 itself.

2. Circular issued by CBDT

Every year, the CBDT issues a circular giving details and direction to all employers for the purpose of deduction of tax from salaries payable to the employees during the relevant financial year. These instructions should befollowed.

3. Requirement to obtain evidence/ proof/ particulars of claims from the employee by the employer

Sub-section (2D) casts responsibility on the person responsible for paying any income chargeable under the head "Salaries" to obtain from the assessee, the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in the prescribed form and manner, for the purposes of –

1. estimating income of the assessee; or
2. computing tax deductible under section 192(1).

Rule 26C requires furnishing of evidence of the following claims by an employee to the person responsible for making payment under section 192(1) in Form No.12BB for the purpose of estimating his income or computing the tax deduction of tax at source:

S. No.	Nature of Claim	Evidence or particulars
1.	House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the previous yearexceeds Rs. 1 lakh.
2	Leave Travel Concession or Assistance	Evidence of expenditure
3	Deduction of interest under the head "Income from house property"	Name, address and PAN of thelender
4	Deduction under ChapterVI-A	Evidence of investment or expenditure.

4.2.2 Premature withdrawal from employees provident fund [Section 192A]

1. Compliance with Rule 9 of Part A of the Fourth Schedule: Certain Concerns

(i) Under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (EPF & MP Act, 1952), certain specified employers are required to comply with the Employees Provident Fund Scheme, 1952 (EPFS). However,

these employers are also permitted to establish and manage their own private provident fund (PF) scheme subject to fulfillment of certain conditions.

(ii) The provident funds established under a scheme framed under EPF &MP Act, 1952 or Provident Fund exempted under section 17 of thesaid Act and recognised under the Income-tax Act, 1961 are termed as Recognised Provident fund (RPF) under the Act.

(iii) Part A of the Fourth Schedule to the Income-tax Act, 1961 contains the provisions relating to RPFs. Under the existing provisions of Rule 8of Part A of the Fourth Schedule, the withdrawal of accumulated balance by an employee from the RPF is exempt from taxation.

(iv) For the purpose of discouraging pre-mature withdrawal andpromoting long term savings, if the employee makes withdrawal before continuous service of five years (other than the cases of termination due to ill health, contraction or discontinuance of business, cessation of employment etc.) and does not opt for transferof accumulated balance to the new employer, the withdrawal wouldbe subject to tax.

(v) Rule 9 of Part A of the Fourth Schedule provides the manner of computing the tax liability of the employee in respect of such pre-mature withdrawal. In order to ensure collection of tax in respect of such pre-mature withdrawals, Rule 10 of Part A of the Fourth Schedule casts responsibility on the trustees of the RPF to deduct tax as computed in Rule 9 at the time of payment.

(vi) Rule 9 provides that the tax on withdrawn amount is required to be calculated by re-computing the tax liability of the years for which the contribution to RPF has been made by treating the same as contribution to unrecognized provident fund. The trustees of privateprovident fund schemes, are generally a part of the employer group and hence, have access to or can easily obtain the information regarding taxability of the employee making pre-mature withdrawal for the purposes of computation of the amount of tax liability underRule 9. However, it may not always be possible for the trustees of EPFSto get the information regarding taxability of the employee such asyear-wise amount of taxable income and tax payable for the purposesof computation of the amount of tax liability under Rule 9.

1. Applicability and Rate of TDS

Section 192A provides for deduction of taxon premature taxable @10 withdrawal from employees provident fund scheme. Accordingly, in a case where the accumulated balance due to an employee participating in a recognized provident fund is includible in his total income owing to the provisions of Rule 8 of Part A of the Fourth Schedule not being applicable, the trustees of the Employees Provident Fund Scheme, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees are required to deduct income-tax@**10%**.

2. Time of tax deduction at source

Tax should be deducted due at the time of payment to the employee.

Non-applicability of TDS under section 192A

No tax deduction is to be made under this section, if the amount of such payment or aggregate amount of such payment to the payee is less than **Rs. 50,000** of accumulated balance.

Deduction at maximum marginal rate in case of non-submission of PAN

Any person entitled to receive any amount on which tax is deductible under this section has to furnish his PAN to the person responsible for deducting such tax. In case he fails to do so, tax would be deductible at the maximum marginal rate.

Interest on securities [Section 193]

Person responsible for deduction of tax at source

This section casts responsibility on every person responsible for paying to a resident any income by way of interest on securities.

Rate of TDS

Such person is vested with the responsibility to deduct income-tax at the rates in force from the amount of interest payable.

The rate at which tax is deductible under section 193 is **10%**, both in the case of domestic companies and non-corporate resident assessees.

Time of tax deduction at source

Tax should be deducted at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

Where any income by way of interest on securities is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and tax has to be deducted at source. The

account to which such interest is credited may be called "Interest Payable account" or "Suspense account" or by any other name.

Non-applicability of TDS under section 193

No tax deduction is to be made from any interest payable:

(i) on National Development Bonds;

(ii) on 7-year National Savings Certificates (IV Issue);

(iii) on debentures issued by any institution or authority or any publicsector company or any co-operative society (including a co-operative land

Accordingly, the Central Government has, vide Notification No. 27 & 28/2018, dated 18-06-2018, notified-

(i)"Power Finance Corporation Limited 54EC Capital Gains Bond" issued by Power Finance Corporation Limited {PFCL} and

(ii)"Indian Railway Finance Corporation Limited 54EC Capital Gains Bond" issued by Indian Railway Finance Corporation Limited

{IRFCL}

Thus, no tax is required to be deducted at source on interest payable on "Power Finance Corporation Limited 54EC Capital Gains Bond" and "Indian Railway Finance Corporation Limited 54EC Capital Gains Bond". The benefit of this exemption would, however, be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs PFCL/IRFCL by registered post within a period of sixty days of such transfer.

(iv) mortgage bank or a co-operative land development bank), asnotified by the Central Government;

(v) on any security of the Central Government or a State Government

Note – It may be noted that tax has to be deducted at source in respect of interest payable on 8% Savings (Taxable) Bonds, 2003, or 7.75% Savings (Taxable) Bonds, 2018, only if such interest payable exceeds Rs. 10,000 during the financial year.

(vi) on any debentures (whether listed or not listed on a recognized stock exchange) issued by the company in which the public are substantially interested to a resident individual or HUF. However,

(a) the interest should be paid by the company by an account payee cheque;

(b) the amount of such interest or the aggregate thereof paid or likely to be paid during the financial year by the company tosuch resident individual or HUF should not exceed Rs. 5,000.

(vii) on securities to LIC, GIC, subsidiaries of GIC or any other insurer, provided –

(a) the securities are owned by them or

(b) they have full beneficial interest in such securities.

(viii) on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange inIndia in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder.

Dividends [Section 194]

Applicability of TDS under section 194

The principal officer of a domestic company is required to deduct tax on dividend distributed or paid by it to its resident shareholders.

The provision of tax deduction at source under section 194, therefore, applies only to dividend distributed or paid to resident shareholders.

Rate of TDS

The rate of deduction of tax in respect of such dividend is **10%**.

Time of tax deduction at source

The deduction of tax has to be made before making any payment by any mode in respect of any dividend or before making any distribution or payment to a resident shareholder of any amount deemed as dividend under section 2(22)(a)/(b)/(c)/(d)/(e).

Non-applicability of TDS under section 194

i. No tax is to deducted in case of a shareholder, being an individual, where -

a. the dividend is paid by any mode other than cash; and

b. the amount of such dividend or aggregate of dividend distributed or paid or likely to be distributed or paid during the financial year by the company to such shareholder does not exceed **Rs. 5,000**.

ii. The TDS provisions will **not** apply to such dividend credited or paid to -

a. LIC, GIC, subsidiaries of GIC or any other insurer provided theshares are owned by them, or they have full beneficial interest in such shares

b. any other person as may be notified by the Central Government.

Interest other than interest on securities [Section 194A]

This section deals with the scheme of deduction of tax at source from interest other than interest on securities. The main provisions are the following:

Applicability of TDS under section 194A

This section applies only to interest, other than "interest on securities", credited or paid by assessees other than individuals or Hindu undivided family. However, an individual or Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceed Rs. 1 crore in case of business and Rs. 50 lakhs in case of profession during the immediately preceding financial year is liable to deduct tax at source under this section.

These provisions apply only to interest paid or credited to residents.

1. Time of tax deduction at source

The deduction of tax must be made at the time of crediting such interest to the account of the payee or at the time of its payment in cash or by any other mode, whichever is earlier.

Where any such interest is credited to any account in the books of accountof the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and the tax has to be deducted at source. The account to which such interest is credited may be called "Interest Payable account" or "Suspense account" or by any other name.

The CBDT has, vide *Circular No.3/2010 dated 2.3.2010*, given a clarification regarding deduction of tax at source on payment of interest on time deposits under section 194A by banks following Core-branch Banking Solutions (CBS) software. It has been clarified that *Explanation* to section 194A is not meant to apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software. It has been further clarified that since no constructive credit to the depositor's/payee's account takes place while calculating interest on time deposits on daily or monthly basis in the CBS software used by banks, tax need not be deducted at source on such provisioning of interest by banks for the purposes of macro monitoring only. In such cases, tax shall be deducted at source on accrual of interest at the end of financial year or at periodic intervals as per practice of the bank or as per the depositor's/

paye's requirement or on maturity or on encashment of time deposits, whichever event takes place earlier, whenever the aggregate of amounts of interest income credited or paid or likely to be credited or paid during the financial year by the banks exceeds the limits specified in section 194A.

Note **-** The time for making the payment of tax deducted at source would reckon from the date of credit of interest made constructively to the account of the payee.

2. Rate of TDS

The rate at which the deduction is to be made is given in Part II of the First Schedule to the Annual Finance Act. The rate at which tax is to be deducted 10% is both in the case of non-corporate resident assesses and domestic companies.

3. Non-applicability of TDS under section 194A

No deduction of tax shall be made in the following cases:

a. If the aggregate amount of interest paid or credited during thefinancial year does not exceed **Rs. 5,000**.

This limit is Rs. 40,000 where the payer is a –

i. banking company;
ii. a co-operative society engaged in banking business; and
iii. post office and interest is credited or paid in respect of anydeposit under notified schemes.

In respect of (i), (ii) and (iii) above, the limit is Rs. 50,000, in case of payee, being a senior citizen.

The limit will be calculated with respect to income credited or paid bya branch of a banking company or a co-operative society or a public company in case of:

i. time deposits with a banking company
ii. time deposits with a co-operative society carrying on thebusiness of banking; and
iii. deposits with housing finance companies, provided:

- they are public companies formed and registered in India
- their main object is to carry on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

The threshold limit will be reckoned with reference to the total interest credited or paid by the banking company or the co-operative societyor the public company, as the case may

be, (and not with reference to each branch), where such banking company or co-operative society or public company has adopted core banking solutions.

a. Interest paid or credited by a firm to any of its partners;
b. Interest paid or credited in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf;
c. Interest income credited or paid in respect of deposits (other than time deposits made on or after 1.7.1995) with a bank to which theBanking Regulation Act, 1949 applies;
d. Income paid or credited by a co-operative society (other than a co- operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society;
e. Interest income credited or paid in respect of -

i. deposits with primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co- operative land development bank;
ii. deposit (other than time deposits made on or after 1.7.1995) with a co-operative society [other than cooperative society or bank referred to in (i)] engaged in carrying on the business of banking.

From a combined reading of (e) and (f), it can be inferred that a co- operative bank other than mentioned in (i) above is required to deduct tax at source on payment of interest on time deposit. However, it is not required to deduct tax from the payment of interest on time deposit, to a depositor, being a co-operative society. However, a cooperative society referred to in (e) or (f) is liable to deduct tax if –

i. the total sales, gross receipts or turnover of the co-operative society exceeds Rs. 50 crore during the financial year immediately preceding the financial year in which interest is credited or paid; and
ii. the amount of interest or the aggregate amount of interest credited or paid, or is likely to be credited or paid, during the financial year is more than Rs. 50,000 in case of payee being a senior citizen and Rs. 40,000, in any other case.

Thus, such co-operative society is required to deduct tax under section 194A on interest credited or paid by it –

a. to its member or to any other co-operative society; or

b. in respect of deposits with a primary agricultural credit societyor a primary credit society or a co-operative land mortgage bankor a co-operative land development bank or

c. in respect of deposits with a co-operative bank other than a co- operative society or bank engaged in carrying on the business of banking

a. Interest income credited or paid by the Central Government under any provision of the Income-tax Act, 1961.

b. Interest paid or credited to the following entities:

c. banking companies, or co-operative societies engaged in the business of banking, including co-operative land mortgage Rs. banks;

i. financial corporations established under any Central, State or Provincial Act. tt) the Life Insurance Corporation of India.

ii. companies and co-operative societies carrying on the business of insurance. uu) the Unit Trust of India; and

iii. notified institution, association, body or class of institutions, associations or bodies (National Skill Development Fund and Housing and Urban Development Corporation Ltd. (HUDCO), New Delhi have been notified by the Central Government for this purpose).

iv. income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;

v. income paid by way of interest on the compensation amount awardedby the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed Rs. 50,000.

vi. income paid or payable by an infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank in relation to a zero coupon bond issued on or after 1.6.2005.

Notes

(1) The expression “time deposits” [for the purpose of (4)(a), (d) and (f) above] means the deposits, including recurring deposits, repayable on the expiry of fixed periods.

(2) Senior citizen means an individual resident in India who is of the ageof 60 years or more at any time during the relevant previous year.

1. Power to the Central Government to issue notification

The Central Government is empowered to issue notification for non- deduction of tax at source or deduction of tax at a lower rate, from such payment to such person or class of persons, specified in that notification.

4.2.6 Winnings from lotteries, crossword puzzles and horse races [Sections 194B and 194BB]

1. Rate of tax on casual income

Any income of a casual and non-recurring nature of the type of winnings from lottery, crossword puzzle, card game and other game of any sort, races including horse races, etc. will be charged to income-tax at a flat rate of **30%**. [Section 115BB].

2. TDS on winning from lotteries, crossword puzzles etc.

According to the provisions of section 194B, every person responsible for paying to any person, whether resident or non-resident, any income by way of winnings from lottery or crossword puzzle or card game and other game of any sort, is required to deduct income-tax therefrom at the rate of **30%** if the amount of payment exceeds **Rs.10,000**. Winnings by way of jackpot would also fall within the scope of section 194B.

3. Cases where winnings are partly in kind and partly in cash

In a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.

4. Person responsible for deduction of tax under section 194BB

Section 194BB casts responsibility on the following persons to deduct tax at source -

i. a bookmaker; or

ii. a person to whom a license has been granted by the Government under any law for the time being in force -

(a) for horse racing in any race course; or

(b) for arranging for wagering or betting in any race course.

vv)

2. Threshold limit and rate of TDS under section 194BB

The obligation to deduct tax at source under section 194BB arises when the abovementioned persons make payment to any person of any income by way of winnings from any horse race

in excess of Rs. 10,000. The rate applicable for deduction of tax at source is 30%. Tax will have to be deducted at source from winnings from horse races even though the winnings may be paid to the person concerned in instalments of less than Rs. 10,000. Similarly, in cases where the book-maker or other person responsible for paying the winnings, credits such winnings and debits the losses to the individual account of the punter, tax has to be deducted 30% on winnings before set-off of losses. Thereafter, the net amount, after deduction of tax and losses, has to be paid to the winner.

3. Meaning of the expression "horse race"

In the context of the provisions of section 194BB, the expression Rs. any horse races. used therein must be taken to include, wherever the circumstances so necessitate, more than one horse race.

4.2.7vPayments to contractors and sub-contractors[Section 194C]

1. Applicability of TDS under section 194C

Section 194C provides for deduction of tax at source from the payment made to resident contractors and sub-contractors.

Tax has to be deducted at source under section 194C by any person responsible for paying any sum to a resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance ofa contract between the contractor and the –

i. the Central Government or any State Government; or
ii. any local authority; or
iii. any statutory corporation; or
iv. any company; or
v. any co-operative society; or
vi. any statutory authority dealing with housing accommodation; or
vii. any society registered under the Societies Registration Act, 1860; or
viii. any trust; or
ix. any university established under a Central, State or Provincial Act and an institution declared to be a university under the UGC Act, 1956; or
x. any firm; or
xi. any Government of a foreign State or foreign enterprise or any association or body established outside India; or
xii. any person, being an individual, HUF, AOP or BOI, who has total sales, gross receipts or turnover from the business or profession carried on by him exceeding

Rs. 1 crore in case of business and Rs. 50 lakhs in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor.

2. Time of deduction

Tax has to be deducted at the time of payment of such sum or at the time of credit of such sum to the account of the contractor, whichever is earlier.

Where any such sum is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and the tax has to be deducted at source. The account to which such sum is credited may be called "Suspense account" or by any other name.

However, no tax has to be deducted at source in respect of payments made by individuals/HUF to a contractor exclusively for personal purposes.

3. Rate of TDS

The rate of TDS under section 194C on payments to contractors would be **1%**, where the payee is an individual or HUF and 2% in respect of other payees. The same rates of TDS would apply for both contractors and sub-contractors.

The applicable rates of TDS under section 194C are as follows –

Payee	TDS rate
Individual HUF contractor/sub-contractor	1%
Other than individual/HUF contractor/ sub-contractor	2%
Contractor in transport business (if PAN is furnished)	Nil
Sub-contractor in transport business (if PAN is furnished)	Nil

4. Threshold limit for deduction of tax at source under section 194C

No deduction will be required to be made if the consideration for the contract does not exceed **Rs. 30,000**. However, to prevent the practice of composite contracts being split up into contracts valued at less **Rs.30,000** than to avoid tax deduction, it has been provided that tax will be required to be deducted at source where the amount credited or paid or likely to be credited or paid to a contractor or sub-contractor exceeds **Rs. 30,000** in a single payment or **Rs.1,00,000** in the aggregate during a financial year. Therefore, even if a single payment to a contractor does not exceed **Rs.30,000**, TDS provisions under section 194C would be attracted where the aggregate of the amounts of such

sums credited or paid or likely to be credited or paid to the contractor during the financial year exceeds Rs. **1,00,000**.

5. Definition of work

Work includes –

a. advertising;
b. broadcasting and telecasting including production of programmesfor such broadcasting or telecasting;
c. carriage of goods or passengers by any mode of transport otherthan by railways;
d. catering;
e. manufacturing or supplying a product according to the requirementor specification of a customer by using material purchased from such customer or its associate, being a person related to the customer in such manner as defined u/s 40A(2)(b), (i.e., the customer would be in the place of assessee; and the associate would be the related person(s) mentioned in that section).

However, "work" shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person, other than such customer or associate of such customer, as such a contract is a contract for sale. However, this will not be applicable to a contract which does not entail manufacture or supplyof an article or thing (e.g. a construction contract).

It may be noted that the term "work" would include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate. In such a case, tax shall be deducted on the invoice value excluding the value of material purchased from such customer or its associate, if such value is mentioned separately in the invoice. Where the material component has not been separately mentioned in the invoice, tax shall be deducted on the whole of the invoice value.

6. Non-applicability of TDS under section 194C

No deduction is required to be made from the sum credited or paid or likelyto be credited or paid during the previous year to the account of a contractor, during the course of the business of plying, hiring or leasing goods carriages, if he furnishes his PAN to the deductor.

In order to convey the true intent of law, it has been clarified that this relaxation from the requirement to deduct tax at source shall only be applicable to the payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to a contractor, who fulfills the following three conditions cumulatively - Goods carriage means -

i. any motor vehicle constructed or adapted for use solely for the carriage of goods; or
ii. any motor vehicle not so constructed or adapted, when used for the carriage of goods.

The term "motor vehicle" does not include vehicles having less than fourwheels and with engine capacity not exceeding 25cc as well as vehicles running on rails or vehicles adapted for use in a factory or in enclosed premises.

7. Important points

(i) The deduction of income-tax will be made from sums paid for carrying out any work or for supplying labour for carrying out any work. In other words, the section will apply only in relation to Rs. works contracts. and labour contracts and will not cover contracts for sale of goods.

(ii) Contracts for rendering professional services by lawyers, physicians, surgeons, engineers, accountants, architects, consultants etc., cannot be regarded as contracts for carrying out any "work" and, accordingly, no deduction of income-tax is to be made from payments relating to such contracts under this section. Separate provisions for fees for professional services have been made under section 194J.

(iii) The deduction of income-tax must be made at the time of credit of the sum to the account of the contractor, or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

8. Deduction of tax at source on payment of gas transportation charges by the purchaser of natural gas to the seller of gas [Circular No. 9/2012 dated 17.10.2012]

In case the Owner/Seller of the natural gas sells as well as transports the gas to the purchaser till the point of delivery, where the ownership of gas to the purchaser is simultaneously transferred, the manner of raising the sale bill (whether the transportation charges are embedded in the cost of gas or shown separately) does not alter the basic nature of such contract which remains essentially a Rs. contract for sale. and not a Rs. works contract as envisaged in section 194C. Therefore, in such circumstances, the provisions of Chapter XVIIB are not applicable on the component of Gas Transportation Charges paid by the purchaser to the Owner/Seller of the gas. Further, the use of different modes of transportation of gas by Owner/Seller will not alter the position.

However, transportation charges paid to a third party transporter of gas, either by the Owner/Seller of the gas or purchaser of the gas or any other person, shall continue to be governed by the appropriate provisions of the Act and tax shall be deductible at source on such payment to the third partyat the applicable rates.

9. Applicability of TDS provisions on payments by broadcasters or Television Channels to production houses for production of content or programme for telecasting [Circular No. 04/2016, dated 29-2-2016]

The issue under consideration is whether payments made by the broadcaster/telecaster to production houses for production of content/programme are payments under a work contract. liable for tax deduction at source under section 194C or a contract for Rs. professional or technical services liable for tax deduction at source under section 194J.

In this regard, the CBDT has clarified that while applying the relevant provisions of TDS on a contract for content production, a distinction is required to be made between:

i. a payment for production of content/programme as per the specifications of the broadcaster/telecaster; and
ii. a payment for acquisition of broadcasting/ telecasting rights of the content already produced by the production house.

In the first situation where the content is produced as per the specifications provided by the broadcaster/ telecaster and the copyright of the content/programme also gets transferred to the telecaster/ broadcaster, such contract is covered by the definition of the term work. in section 194Cand, therefore, subject to TDS under that section.

However, in a case where the telecaster/broadcaster acquires only the telecasting/ broadcasting rights of the content already produced by the production house, there is no contract for Rs. Rs. carrying out any work", as required in section 194C(1). Therefore, such payments are not liable for TDS under section 194C. However, payments of this nature may be liable for TDS under other sections of Chapter XVII-B of the Act.

4.2.8 Insurance Commission [Section 194D]

1. Applicability of TDS under section 194D

Section 194D casts responsibility on any person responsible for paying to a resident any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including the business relating to the continuance, renewal or revival of policies of insurance) to deduct tax at source.

2. Rate of TDS

Such person is required to deduct income-tax at the rate of **5%**.

3. Time of deduction

The deduction is to be made at the time of the credit of the income to the account of the payee or at the time of making the payment (by whatever mode) to the payee, whichever is earlier.

4. Threshold limit

The tax under this section has to be deducted at source only if the amount of such income or the aggregate of the amounts of such income credited or paid during the financial year to the account of the payee exceeds **Rs. 15,000**.

4.2.9 Payment in respect of life insurance policy[Section 194-DA]

1. Taxability of sum received under a life insurance policy

Under section 10(10D), any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy is exempt subject to fulfillment of conditions specified under the said section.

Consequently, the sum received under a life insurance policy which does not fulfill the conditions specified under section 10(10D) is taxable.

2. Rate of TDS

For ensuring a proper mechanism for reporting of transactions and collection of tax in respect of sum paid under life insurance policies which are not exempt under section 10(10D), section 194DA provides for deduction of tax at the rate of 5% on the amount of income comprised therein i.e., after deducting the amount of insurance premium paid by the resident assessee from the total sum received.

3. Threshold limit

Tax deduction is required only if the payment or aggregate payment of under a life insurance policy, including the sum allocated by way of bonus ina financial year to an assessee is **Rs. 1,00,000 or more**. This is for alleviating the compliance burden on the small tax payers.

4.2.10 Payments to non-resident sportsmen or sports associations [Section 194E]

1. Applicability

This section provides for deduction of tax at source in respect of any income referred to in section 115BBA payable to a non-resident sportsman (including an athlete) or an entertainer who is not a citizen of India or a non-resident sports association or institution.

2. Rate of TDS

Deduction of tax at@20% source (plus surcharge, if applicable, and health and education cess@4%) should be made by the person responsible for making the payment. Surcharge, if applicable, and health and education cess @4% would be added to TDS rate of 20%, since payment is made to a non-resident.

1. Time of deduction of tax

Such tax deduction should be at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issueof a cheque or draft or by any other mode, whichever is earlier.

2. Income referred to in section 115BBA

i. income received or receivable by a non-resident sportsman who is not a citizen of India (including an athlete) by way of-

a. participation in any game or sport in India (However, games like crossword puzzles, horse races etc. taxable under section 115BBare not included herein); or
b. advertisement; or
c. contribution of articles relating to any game or sport in India in newspapers, magazines or journals.

i. Guarantee amount paid or payable to a non-resident sports association or institution in relation to any game or sport played in India. However, games like crossword puzzles, horse races etc. taxable under section 115BB are not included herein.

ii. income received or receivable by a non-resident entertainer (who isnot a citizen of India) from his performance in India.

4.2.11 Payments in respect of deposits under National Savings Scheme etc. [Section 194EE]

1. Rate of TDS

The person responsible for paying to any person any amount from National Savings Scheme Account shall deduct income-tax thereon at the rate of 10% at the time of payment.

2. Threshold limit

No such deduction shall be made where the amount of payment or theaggregate amount of payments in a financial year is less than **Rs. 2,500**.

3. Non-applicability of TDS under section 194EE

The provisions of this section shall not apply to the payments made to theheirs of the assessee.

4.2.12 Repurchase of units by Mutual Fund or Unit Trust of India[Section 194F]

A person responsible for paying to any person any amount on account ofrepurchase of units covered under section 80CCB(2) shall deduct tax at source at the rate of 20%at the time of payment of such amount.

4.2.13 Commission etc. on the sale of lottery tickets[Section 194G]

1. Applicability and Rate of TDS

Under section 194G, the person responsible for paying to any person anyincome by way of commission, remuneration or prize (by whatever name called) on lottery tickets in an amount exceedingRs. **15,000** shall deduct income-tax thereon at the rate of **5%**.

2. Time of deduction of tax

Such deduction should be made at the time of credit of such income to the account of the payee or at the time of payment of such income by cash, cheque, draft or any other mode, whichever is earlier.

Where any such income is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

4.2.14 Commission or brokerage [Section 194H]

1. Applicability and Rate of TDS

Any person other than an individual or HUF, who is responsible for paying any income by way of commission (other than insurance commission) or brokerage to a resident shall deduct income tax at the rate of **5%**.

However, an individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed Rs. 1 crore in case of business and Rs. 50 lakhs in case of profession during the financial year immediately preceding financial year in which such commission or brokerage is credited or paid, is liable to deduct tax at source.

2. Time of deduction

The deduction shall be made at the time such income is credited to the account of the payee or at the time of payment in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

Even where income is credited to some other account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit to the account of the payee for the purposes of this section.

3. Threshold limit

No deduction is required if the amount of such income or the aggregate of such amount does not exceed Rs. **15,000** during the financial year.

4. Meaning of "Commission or brokerage"

"Commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered, or for any services in the course of buying or selling of goods, or in relation to any transaction relating to any asset, valuable article or thing, other than securities.

5. Non-applicability of TDS under section 194H

i. This section is not applicable to professional services. “Professional Services” means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or theprofession of accountancy or technical consultancy or interior decoration or such other profession as notified by the CBDT for the purpose of compulsory maintenance of books of account under section 44AA.

ii. Further, there would be no requirement to deduct tax at source oncommission or brokerage payments by BSNL or MTNL to their publiccall office (PCO) franchisees.

6. Applicability of TDS provisions on payments by television channels and publishing houses to advertisement companies for procuring or canvassing for advertisements [Circular No. 05/2016, dated 29-2-2016]

There are two types of payments involved in the advertising business:

(i) Payment by client to the advertising agency, and

(ii) Payment by advertising agency to the television channel/newspaper company

The applicability of TDS on these payments has already been dealt with in Circular No. 715 dated 8-8-1995, where it has been clarified in Question Nos. 1 & 2 that while TDS under section 194C (as work contract) will be applicable on the first type of payment, there will be no TDS under section194C on the second type of payment e.g. payment by advertising agency tothe media company.

However, another issue has been raised in various cases as to whether the fees/charges taken or retained by advertising companies from media companies for canvasing/booking advertisements (typically 15% of thebilling) is commission or discount for attracting the provisions of section 194H.

The CBDT has clarified that no TDS is attracted on payments made by television channels/newspaper companies to the advertising agency for booking or procuring of or

canvassing for advertisements. It is also further clarified that commission referred to in Question No.27 of the CBDTRs. s Circular No. 715 dated 8-8-1995 does not refer to payments by media companies to advertising companies for booking of advertisements but to payments for engagement of models, artists, photographers, sportspersons, etc. and, therefore, is not relevant to the issue of TDS referred to in this Circular.

4.2.15 Rent [Section 194-I]

1. Applicability and Rate of TDS

Any person other than individual or HUF, who is responsible for paying to aresident any income by way of rent, shall deduct income tax at the rate of:

(i) 2% in respect of rent for plant, machinery or equipment;

(ii) 10 % in respect of other rental payments (i.e., rent for use of any landor building, including factory building, or land appurtenant to a building, including factory building, or furniture or fittings).

However, an individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed Rs. 1 crore in case of business and Rs. 50 lakhs in case of profession during the financial year immediately preceding financial year in which such rent was credited or paid,is liable to deduct tax at source.

2. Time of deduction

This deduction is to be made at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issueof cheque or draft or by any other mode, whichever is earlier.

Where any such income is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section will apply accordingly.

3. Threshold limit

No deduction need be made where the amount of such income or the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of the payee does not exceed **Rs. 2,40,000**.

4. Meaning of Rent

"Rent" means any payment, by whatever name called, under any lease, sub- lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any –

(a) land; or
(b) building (including factory building); or
(c) land appurtenant to a building (including factory building); or
(d) machinery; or
(e) plant; or
(f) equipment; or
(g) furniture; or
(h) fittings,

whether or not any or all of the above are owned by the payee.

5. Applicability of TDS provisions under section 194-I to payments made by the customers on account of cooling charges to the cold storage owners

CBDT Circular No.1/2008 dated 10.1.2008 provides clarification regarding applicability of provisions of section 194-I to payments made by the customers on account of cooling charges to the cold storage owners.

The main function of the cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidentalin nature. The customer is also not given any right to use any demarcated space/place or the machinery of the cold store and thus does not become a tenant. Therefore, the provisions of 194-I are not applicable to the cooling charges paid by the customers of the cold storage.

However, since the arrangement between the customers and cold storage owners are basically contractual in nature, the provision of section 194-C will be applicable to the amounts paid as cooling charges by the customersof the cold storage.

6. No requirement to deduct tax at source under section 194-I on remittance of Passenger Service Fees (PSF) by an Airline to an Airport Operator [Circular No. 21/2017, dated 12.06.2017]

Section 194-I requires deduction of tax at source at specified percentage on any income payable to a resident by way of rent. Explanation to this section defines the term "rent" as any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any (a) land; or (b) building; or (c) land appurtenant to a building; or

(d) machinery; (e) plant; (f) equipment (g) furniture; or (h) fitting, whether ornot any or all of them are owned by the payee.

The primary requirement of any payment to qualify as rent is that the payment must be for the use of land and building and mere incidental/minor/ insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 194-I.

Accordingly, the CBDT has, vide this circular, clarified that the provisions of section 194-I shall **not** be applicable on payment of PSF by an airline toAirport Operator.

7. Applicability of TDS provisions under section 194-I to service tax component of rental income

CBDT Circular No.4/2008 dated 28.4.2008 provides clarification on deduction of tax at source (TDS) on service tax component of rental income under section 194-I.

As per the provisions of 194-I, tax is deductible at source on **income** by way of rent paid to any resident. Further, rent has been defined in 194-I to mean any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any,-

a. land; or
b. building (including factory building); or
c. land appurtenant to a building (including factory building); or
d. machinery; or

e. plant; or
f. equipment; or
g. furniture; or
h. fittings,

whether or not any or all of the above are owned by the payee.

Service tax paid by the tenant doesn't partake the nature of income of the landlord. The landlord only acts as a collecting agency for Government for collection of service tax. Therefore, tax deduction at source under section194-I would be required to be made on the amount of rent paid/payable without including the service tax.

8. Clarification on applicability of TDS provisions of section 194-I on lump sum lease premium paid for acquisition of long term lease [Circular No.35/2016, dated 13-10-2016]

The issue of whether or not TDS under section 194-I is applicable on Rs. lump sum lease premium or one-time upfront lease charges" paid by an assessee for acquiring long-term leasehold rights for land or any other property has been examined by the CBDT.

Accordingly, the CBDT has, vide this Circular, clarified that lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property are not payments in the nature of rent within the meaning of section 194-I. Therefore, such payments are not liable for TDS under section 194-I.

4.2.16 Payment on transfer of certain immovable property other than agricultural land [Section 194-IA]

1. Applicability and Rate

Every transferee responsible for paying any sum as consideration for transfer of immovable property (land, other than agricultural land, or building or part of building) to a resident transfer shall deduct tax, at the rate of 1% of such sum **or the stamp duty value of such property, whichever is higher.**

"Agricultural land", for the purpose of this section, means rural agricultural land. In other words, transfer of urban agricultural land, will attract the provision of section 194-IA, if the consideration **or the stamp duty value of such land,** is Rs. 50 lakhs or more.

2. Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to a resident transferor, whichever is earlier.

3. Threshold limit

Tax is not required to be deducted at source where the total amount ofconsideration for the transfer of immovable property **and the stamp duty value of such property, are both,** less than **Rs. 50 lakhs**.

4. Non-applicability of TDS under section 194-IA

Since tax deduction at source for compulsory acquisition of immovable property is covered under section 194LA, the provisions of section 194-IAdo not get attracted in the hands of the transferee in such cases.

5. No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining Tax deduction account number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194-IA.

6. Meaning of consideration for transfer of immovable property

Consideration for transfer of immovable property include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.

4.2.17 Payment of rent by certain individuals or Hinduundivided family [Section194-IB]

1. Applicability and Rate of TDS

Section 194-IB requires any person, being individual or HUF, other than those individual or HUF whose total sales, gross receipts or turnover from the business or profession **exceeds Rs. 1 crore in case of business and Rs. 50 lakhs in case of profession i**n the financial year immediately preceding the financial year in which such rent was credited or paid, responsible for paying to a resident any income by way of rent, to deduct income tax @ **5%**.

2. Threshold limit

Under this section, tax has to be deducted at source only if the amount of such rent exceeds Rs. 50,000 for a month or part of a month during theprevious year.

3. Time of deduction

This deduction is to be made at the time of credit of such rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee orat the time of payment thereof in cash or by issue of cheque or draft or byany other mode, whichever is earlier.

4. No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining Tax deduction account number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194-IB.

5. Meaning of "Rent"

"Rent" means any payment, by whatever name called, under any lease, sub- lease, tenancy or any other agreement or arrangement for the use of any land or building or both.

6. Deduction not to exceed rent for last month

Where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for thelast month of the previous year or the last month of the tenancy, as the case may be [Section 206AA providing for deduction of tax at source at a higher rate is discussed at length later on in this chapter]

4.2.18 Payment under specified agreement [Section 194-IC]

1. Applicability and Rate

This section casts responsibility on any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under a specified agreement under section 45(5A), to deduct income-tax at the rate of **10%**.

2. Time of deduction

This deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issueof cheque or draft or by any other mode, whichever is earlier.

3. Non-applicability of section 194-IA

Since tax deduction at source for specified agreement under section 45(5A)is covered under section 194-IC, the provisions of section 194-IA do not get attracted in the hands of the transferee in such cases.

4. Meaning of specified agreement

Specified agreement under section 45(5A):

It means a registered agreement in which a person owning land orbuilding or both, agrees to allow another person to develop a real estate project on such land or building or both. The consideration, in this case, is a share, being land or building orboth in such project; Part of the consideration may also be in cash.

4.2.19 Fees for professional or technical services[Section 194J]

1. Applicability and Rate of TDS

Every person other than an individual or a HUF, who is responsible for paying to a resident any sum by way of –

i. fees for professional services; or
ii. fees for technical services; or
iii. any remuneration or fees or commission, by whatever name called, other than those on which tax is deductible under section 192, to a director of a company; or
iv. royalty, or
v. non-compete fees referred to in section 28(va) shall deduct tax at source at the rate of –

a. 2% in case of fees for technical services (not being professional services) or royalty in the nature of consideration for sale, distributionor exhibition of cinematographic films; and
b. 10% in other cases.

However, in case of a payee, engaged only in the business of operation of call centre, the tax shall be deducted at source 2%

1.Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issueof a cheque or draft or by any other mode, whichever is earlier.

Where such sum is credited to any account, whether called suspense account or by any other name, in the books of accounts of the person liableto pay such sum, such crediting shall be deemed to be credit of such sum tothe account of the payee and tax has to be deducted accordingly.

2. Threshold limit

No tax deduction is required if the amount of fees or the aggregate of the amounts of fees credited or paid or likely to be credited or paid during a financial year does not exceed Rs. 30,000 in the case of fees for professional services, Rs. 30,000/- case of royalty and Rs. 30,000/- in the case of fees for technical services, in the case of non-compete fees.The limit of Rs. 30,000 under section 194J is applicable separately for fees for professional services, fees for technical services, royalty and non-compete fees referred to in section 28(va). It implies that if the payment to a person towards each of the above is less than Rs. 30,000, no tax is required to be deducted at source, even though the aggregate payment or credit exceeds Rs. 30,000. However, there is no such exemption limit for deduction of tax on any remuneration or fees or commission payable to director of a company.

Summary of rates and threshold limit under section 194J fordeduction of tax at source

Nature of payment	TDS rate	Separate Limit
Fees for technical services (not being professional services)	2%	Rs. 30,000
Fees for professional services	10%	Rs. 30,000
Royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films	2%	Rs. 30,000
Other royalty	10%	
Any remuneration or fees or commission, by whatever name called, other than those on which tax is deductible under section 192, to a director of a company	10%	Nil
Non-compete fees	10%	Rs. 30,000

In case of a payee, engaged only in the business of operation of call centre, the tax shall be deducted at source 2%

1. Non-applicability of TDS under section 194J

(i) An individual or a Hindu undivided family is not liable to deduct tax at source.

However, an individual or HUF, whose total sales, gross receipts or turnover from business or profession carried by him exceeds Rs. 1 crorein case of business or Rs. 50 lakhs in case of profession in the financial year immediately preceding the financial year in which the **fees for professional services or fees for technical services** is credited or paid is required to deduct tax on such fees.

(ii) Further, an individual or Hindu Undivided Family, shall not be liable to deduct income-tax on the sum payable by way of fees for professional services, in case such sum is credited or paid exclusively for personal purposes.

2. Meaning of "Professional services"

"Professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the CBDT for the purposes of section 44AA or of this section.

Other professions notified for the purposes of section 44AA are as follows:

(a) Profession of "authorised representatives";
(b) Profession of "film artist";
(c) Profession of "company secretary";
(d) Profession of "information technology".

The CBDT has notified the services rendered by following persons in relation to the sports activities as Professional Services for the purpose of the section 194J:

(a) Sports Persons,
(b) Umpires and Referees,
(c) Coaches and Trainers,
(d) Team Physicians and Physiotherapists,
(e) Event Managers,
(f) Commentators,
(g) Anchors and
(h) Sports Columnists.

Accordingly, the requirement of TDS as per section 194J would apply to all the aforesaid professions. The term "profession", as such, is of a very wide import. However, the term has been defined in this section exhaustively. For the purposes of TDS, therefore, all other professions would be outside the scope of section 194J. For example, this section will not apply to professions of teaching, sculpture, painting etc. unless they are notified.

3. Meaning of "Fees for technical services"

The term Rs. fees for technical servicesRs. means any consideration (including any lump sum consideration) for rendering of any of the following services:

(iii) Managerial services;

(iv) Technical services;

(v) Consultancy services;

(vi) Provision of services of technical or other personnel.

It is expressly provided that the term fees for technical services will not include following types of consideration:

(i) Consideration for any construction, assembly, mining or like project, or

(ii) Consideration which is chargeable under the head Salaries

4. TPAs liable to deduct tax under section 194J on payment to hospitalson behalf of insurance companies

The CBDT has, through *Circular No.8/2009 dated 24.11.2009,* clarified thatTPAs (Third Party Administrator's) who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including cashless schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc. This is because the services rendered by hospitals to various patients are primarily medical services and, therefore, the provisions of section 194J are applicable to payments made by TPAs to hospitals etc.

5. Consideration for use or right to use of computer software is royaltywithin the meaning of section 9(1)(vi)

As per section 9(1)(vi), any income payable by way of royalty in respect of any right, property or information is deemed to accrue or arise in India. The term "royalty" means consideration for transfer of all or any right in respect of certain rights, property or information.

As per *Explanation 4* to section 9(1)(vi), the consideration for use or right to use of computer software would be royalty. This *Explanation* clarifies that transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred. Consequently, the provisions of tax deduction at source under section 194J would be attracted in respect of consideration for use or right to use computer software since the same falls within the definition of royalty as per the provisions of the Income-tax Act, 1961.

4.2.20 Income in respect of units [Section 194K]

1. Applicability and rate of tax

Section 194K provides for deduction of tax at source @10% by any person responsible for paying to a resident any income in respect of –

(i) units of a Mutual fund

(ii) units from Administrator of the specified undertaking

(iii) units from the specified company

2. Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment by any mode, whichever is earlier.

Where any income in respect of units of a mutual fund, Administrator of the specified undertaking or the specified company is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and tax has to be deducted at source. The account

to which such income is credited may be called "Suspense account" or by any other name.

3. Non-applicability of section 194K

No tax is required to be deducted if -

(i) the amount of such income or the aggregate of the amounts of such income credited or paid or likely to be credited or paid during a financial year does not exceed Rs. 5,000; or

(ii) the income is of the nature of capital gains.

Payment of compensation on acquisition of certain immovable property [Section 194LA]

1. Applicability

Section 194LA provides for deduction of tax at source by a person responsible for paying to a resident any sum in the nature of –

(i) compensation or the enhanced compensation or

(ii) the consideration or the enhanced consideration

on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land).

Immovable property means any land (other than agricultural land) or any building or part of a building.

"Agricultural land" for the purpose of this section means any land situated in India including urban agricultural land.

2. Rate of TDS

The amount of tax to be deducted is 10% of such sum mentioned in (1) above.

Time of deduction

The tax should be deducted at the time of payment of such sum in cash orby issue of a cheque or draft or by any other mode, whichever is earlier.

3.Threshold limit

No tax is required to be deducted where the amount of such payment or, asthe case may be, the aggregate amount of such payments to a resident during the financial year does not exceed Rs. 2,50,000.

4.2.21 Payment made by an individual or a HUF for contract work or by way of commission or brokerage or fees for professional services [Section 194M]

1.Applicability and rate of TDS

Section 194M provides for deduction of tax at source @5% by an individual or a HUF responsible for paying any sum during the financial year to anyresident –

(i) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or

(ii) by way of commission (not being insurance commission referred to in section 194D) or brokerage; or

(iii) by way of fees for professional services.

It may be noted that only individuals and HUFs (other than those who are required to deduct income-tax as per the provisions of section 194C or 194H or 194J) are required to deduct tax in respect of the above sums payable during the financial year to a resident.

2. Time of deduction

The tax should be deducted at the time of credit of such sum or at the timeof payment of such sum, whichever is earlier.

3. Threshold limit

No tax is required to be deducted where such sum or, as the case may be, aggregate amount of such sums credited or paid to a resident during the financial year does not exceed Rs. **50,00,000**

4. Non-applicability of TDS under section 194M

An individual or a Hindu undivided family is not liable to deduct tax at source u/s 194M if –

i. they are required to deduct tax at source u/s 194C for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds Rs. 1 crore in case of business and Rs. 50 lakhs in case of profession during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.

ii. they are required to deduct tax at source u/s 194H on commission(not being insurance commission referred to in section 194D) or brokerage i.e., an individual or a HUF whose total sales, gross receiptsor turnover from the business or profession carried on by him exceeds

iii. Rs. 1 crore in case of business and Rs. 50 lakhs in case of profession during the immediately preceding financial year.

iv. they are required to deduct tax at source u/s 194J on fees for professional services i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds Rs. 1 crore in case of business and Rs. 50 lakhs in case of profession during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes ofsuch individual or HUF.

5. No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining Tax deduction account number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194M.

6. Time and mode of payment of tax deducted at source under section 194-IA, 194-IB and 194M to the credit of Central Government, furnishing challan-cum-statement and TDS Certificate [Rules 30, 31A & 31]

i. Such sum deducted u/s 194-IA, 194-IB and 194M shall be paid to the credit of the Central Government within a period of 30 days from theend of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No.26QB, 26QC and 26QD, respectively [Rule 30].

ii. The amount so deducted has to be deposited to the credit of the Central Government by electronic remittance within the above mentioned time limit, into RBI, SBI or any authorized bank [Rule 30].

iii. Every person responsible for deduction of tax u/s 194-IA, 194-IB and 194M shall also furnish to the PDGIT (Systems) (in case of section 194-IB and 194M), DGIT (Systems) or any person authorized by them, achallan-cum-statement in Form No.26QB, 26QC and 26QD, respectively, electronically within 30 days from the end of the monthin which the deduction is made [Rule 31A].

iv. Every person responsible for deduction of tax u/s 194-IA, 194-IB and 194M shall furnish the TDS certificate in Form No.16B, 16C and 16D, respectively, to the payee within 15 days from the due date for furnishing the challan-cum-statement in Form No.26QB, 26QC and 26QD, respectively, under Rule 31A, after generating and downloading the same from the web portal specified by the PDGIT (Systems) (incase of section 194-IB and 194M) or DGIT (Systems) or the person authorized by him [Rule 31]

4.2.22 TDS on cash withdrawal [Section 194N]

Applicability and rate of TDS

Section 194N provides that every person, being

ww) a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred under section 51 of that Act)

xx) a co-operative society engaged in carrying on the business of banking or

yy) a post office

who is responsible for paying **any sum,** being the amount or aggregate of amounts, as the case may be, **in cash exceeding Rs. 1 crore during the previous year**, to any person from one or more accounts maintained by such recipient-person with it, shall deduct tax at source @2% of such sum.

2. Time of deduction

This deduction is to be made at the time of payment of such sum.

3. Modification in rate of TDS and threshold limit of withdrawal for recipient who has not furnished return of income for last 3 years

If the recipient has not furnished the returns of income for all the three assessment years relevant to the three previous years, for which the time limit of file return of income under section 139(1) has expired, immediately preceding the previous year in which the payment of the sum is made, **the sum shall mean the amount or the aggregate of amounts, as the case may be, in cash > Rs. 20 lakhs during the previous year**, and the tax shallbe deducted at the rate of -

2% of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash > Rs. 20 lakhs but ≤ Rs. 1 crore

5% of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash > Rs. 1 crore.

However, the Central Government is empowered to specify, with the consultation of RBI, by notification, the recipient in whose case this provision shall not apply or apply at reduced rate, subject to the satisfactionof the conditions specified in such notification.

4. Non-applicability of TDS under section 194N

Liability to deduct tax at source under section 194N shall not be applicable to any payment made to –

i. the Government
ii. any banking company or co-operative society engaged in carrying onthe business of banking or a post-office
iii. any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the RBI guidelines
iv. any white label ATM operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the RBI under the Payment and Settlement Systems Act, 2007

The Central Government may specify, with the consultation of RBI, by notification, the recipient in whose case section 194N shall not apply or apply at reduced rate, subject to the satisfaction of the conditions specified in such notification. Accordingly, the Central Government has, after consultation with the Reserve Bank of India (RBI), specified –

I. Cash Replenishment Agencies (CRARs. s) and franchise agents of White Label Automated Teller Machine Operators (WLATMORs. s) maintaining a separate bank account from which withdrawal is madeonly for the purposes of replenishing cash in the Automated Teller Machines (ATM) operated by such WLATMO and the WLATMO have furnished a certificate every month to the bank certifying that the bank account of the CRAR and the franchise agents of the WLATMO have been examined and the amounts being withdrawn from their bank accounts has been reconciled with the amount of cash deposited in the ATM of the WLATMO.

II. Commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any Law relatingto Agriculture Produce Market of the concerned State, who has intimated to the banking company or co-operative society or post office his account number through which he wishes to withdraw cash in excess of Rs. 1 crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year and has certified to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of Rs. 1crore during the previous year is for the purpose of making paymentsto the farmers on account of purchase of agriculture produce and the banking company or co-operative society or post office has ensuredthat the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose necessary evidenceshave been collected and placed on record.

zz) (a) the authorised dealer and its franchise agent and sub-agent; and

(b) Full-Fledged Money Changer (FFMC) licensed by the RBI and its franchise agent;

Such persons should maintain a separate bank account from which withdrawal is made only for the purposes of -

(i) purchase of foreign currency from foreign tourists or non- residents visiting India or from resident Indians on their returnto India, in cash as per the directions or guidelines issued by RBI;or

(ii) disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the RBI;

The exemption from the requirement to deduct tax u/s 194N would be available only if a certificate is furnished by the authorised

dealers and their franchise agent and sub-agent, and the Full-Fledged Money Changers (FFMC) and their franchise agent to the bank that withdrawal is only for the purposes specified above and the directions or guidelines issued by the RBI have been adhered to.

4.2.23 TDS on certain payment by e-commerce operator to e-commerce participant [Section 194-O]

1. Applicability and rate of TDS

Section 194-O provides that where sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform, such e-commerce

operator is liable to deduct tax at source of the gross amount of such sales or services or both [Section 194-O(1)].

2. Time of deduction

The deduction is to be made at the time of credit of amount of such sale or services or both to the account an e-commerce participant or at the time of payment thereof to such e-commerce participant by any mode, whichever is earlier.

3. Deemed credit

Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of servicesor both, facilitated by an e-commerce operator, would be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant. Accordingly, such payment would be included in the gross amount of such sales or services for the purpose of deduction of income-tax under this section [Explanation to section 194-O(1)].

4. Non-applicability of TDS under section 194-O

No tax is required to be deducted under section 194-O in case of any sum credited or paid to an e-commerce participant, being an individual or HUF, where the gross amount of such sale or services or both during the previous year does not exceed Rs. 5 lakh and such e-

commerce participant has furnished his PAN/ Aadhaar number to e-commerce operator [Section 194-O(2)].

5. Non-applicability of TDS under any other section

A transaction in respect of which tax has been deducted by the e-commerce operator under this section or which is not liable to tax deduction under this section on account of the exemption discussed in point (4) above, would not be liable to tax deduction at source under any other provision of this Chapter.

However, this exemption from TDS under this Chapter would not apply to any amount or aggregate of amounts received or receivable by an e- commerce operator for hosting advertisements or providing any other services which are not in connection with the sale of goods or services referred to in point (1) above [Section 194-O(3)].

6. Power of CBDT to issue guidelines

In case any difficulty arises in giving effect to the provisions of this section,the CBDT may issue guidelines for the purpose of removing the difficulty with the approval of the Central Government.

Every guideline issued by the CBDT shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the e-commerce operator [Section 194-O(4) and (5)].

Applicability on payment gateway:

In exercise of the power to issue guidelines, CBDT has, with the approval of Central Government, vide **Circular no. 17/2020 dated 29.9.2020,** issued the guideline for removing certain difficulties. One such difficulty is the applicability of section 194-O twice, in cases where in e-commerce transactions, the payments are generally facilitated by payment gateways. Consequently, it is possible that there may be applicability of section 194-O twice i.e., once on the main e-commerce operator who is facilitating saleof goods or provision of services or both and once on payment gatewaywho also happen to qualify as e-commerce operator for facilitating service. To illustrate, a buyer buys goods worth Rs. 1 lakh on e-commerce website "XYZ". He makes payment

of Rs. 1 lakh through digital platform of "ABC". On these facts, liability to deduct tax under section 194-O may fall on both "XYZ" and "ABC".

In order to remove this difficulty, it is provided that the payment gatewaywill not be required to deduct tax under section 194-O on a transaction, if the tax has been deducted by the e- commerce operator under section 194- O, on the same transaction. Hence, in the above example, if "XYZ" has deducted tax under section 194-O on Rs. 1 lakh, "ABC" will not be required to deduct tax under section 194-O on the same transaction. To facilitate proper implementation, "ABC" may take an undertaking from XYZ" regarding deduction of tax.

7. Person responsible for paying

For the purpose of this section, e-commerce operator shall be deemed tobe the person responsible for paying to e-commerce participant [Section 194-O(6)].

8. Meaning of certain terms

S. No.	Term	Meaning
(i)	Electronic commerce	The supply of goods or service or both, including digital products, over digital or electronic network.
(ii)	E-commerce operator	A person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
(iii)	E-commerce participant	A person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce.
(iv)	Services	It includes fees for technical services and fees for professional services as defined in section 194J.

4.2.24 Deduction of tax by a specified bank in case of specified senior citizen [Section 194P]

1. Applicability and rate of TDS

Section 194P requires deduction of tax at source on the basis of **rates in force by a specified bank**, being a banking company as notified by theCentral Government, on **the total income of specified senior citizen** for the relevant assessment year, computed **after giving effect to -**

- deduction allowable under Chapter VI-A; and
- rebate allowable under section 87A

Accordingly, the CBDT has, vide Notification No. 98/2021 dated 2.9.2021, notified specified bank to mean a banking company which is a scheduled bank and has been appointed as agents of RBI under section 45 of the RBI Act, 1934.

2. Exemption from filing return of income

The specified senior citizen is exempted from filing his return of income for the assessment year relevant to the previous year in which the tax has been deducted under this section.

3. Meaning of certain terms

S. No.	Term	Meaning
(i)	Specified bank	A banking company as notified by the CentralGovernment
(ii)	Specified senior citizen	• An individual, being a resident in India, who • is of the age of 75 years or more at any timeduring the previous year;

		• is having pension income [Also, he should have no other income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income]; and • has furnished a declaration to the specified bank containing such particulars, in the prescribed form and verified in the prescribed manner.

The CBDT has, vide Notification No. 99/2021 dated 2.9.2021, provided that on furnishing of such declaration in the prescribed form by the specified senior citizen, the specified bank has to compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section87A. The effect to the deduction allowable under Chapter VI-A has to be given based on the evidence furnished by the specified senior citizen duringthe previous year.

4.2.25 Deduction of tax at source on purchase of goods[Section 194Q]

1. Applicability and rate of TDS

Section 194Q requires any person, being a **buyer who is responsible for paying any sum to any resident-seller for purchase of goods** of the value or aggregate of such value exceeding Rs. 50 lakhs in a previous year, to deduct tax at source **@0.1% of such sum exceeding Rs. 50 lakhs** [194Q(1)].

2. Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the resident-seller or at the time of payment thereof by any mode, whichever is earlier.

Where such sum is credited to any account in the books of account of the person liable to pay such income, such credit of income is deemed to be credit of such income to the account of the payee and tax has to be deducted at source. The account to which such sum is credited may be called "Suspense account" or by any other name.

3. Power of the CBDT to issue guidelines

In case of any difficulty arises in giving effect to the provisions of this section, the CBDT is empowered to issue guidelines, with the approval of the Central Government, for the purpose of removing the difficulty.

Every guideline issued by the CBDT shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person liable to deduct tax. [Section 194Q(3) and (4)].

4. Non-applicability of TDS under section 194Q

Tax is **not** required to be deducted under this section in respect of atransaction on which -

(a) tax is deductible under any of the provisions of this Act; and

(b) tax is collectible under the provisions of section 206C, other thansection 206C(1H) [Section 194Q(5)].

In case of a transaction to which both section 206C(1H) and section 194Q applies, tax is required to be deducted under section 194Q.

5. Meaning of buyer

Buyer means a person whose total sales, gross receipts or turnover from the business carried on by him exceed Rs. 10 crores during the financial year immediately preceding the financial year in which the purchase of goods is carried out.

However, buyer does not include a person as notified by the Central Government for this purpose, subject to fulfillment of the stipulated conditions.

4.2.26 Deduction of tax at source on benefit or perquisite in respect of business or profession [Section 194R] [w.e.f. 1.7.2022]

1. Applicability and rate of TDS

Section 194R requires any person who is responsible for providing, to a resident, any benefit or perquisite whether convertible into money or not, arising from business or the exercise of a profession, by such resident, to ensure before providing such benefit or perquisite, as the case may be, to such resident, that tax has been deducted in respect of such benefit or perquisite **@10% of the value or aggregate of value of such benefit**.

2. Cases where benefit or perquisite is wholly in kind or partly in kindand partly in cash

In a case where the benefit or perquisite, as the case may be, is wholly in kindor partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax required to be deducted has been paid in respect of the benefit or perquisite.

3. Non-applicability of TDS under section 194R

No tax is required to be deducted under section 194R in the following cases-

aaa) In case of a resident where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed Rs. 20,000; or

- In case of an individual or HUF, whose total sales, gross receipts or turnover from business or profession does not exceed Rs. 1 crore in caseof business or Rs. 50 lakhs in case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person.

4. Power of CBDT to issue guidelines

In case any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty withthe previous approval of the Central Government.

Every guideline issued by the CBDT shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person providing any such benefit or perquisite.

5. Meaning of "Person responsible for providing"

Person responsible for providing means the person providing such benefit or perquisite. In case of a company, it means the company itself including the principal officer thereof.

4.2.27 Income payable "net of tax" [Section 195A]

1. Where, under an agreement or other arrangement, the tax chargeable onany income referred to in the foregoing provisions of this Chapter is to be borne by the person by whom the income is payable, then, for the purposesof deduction of tax under those provisions such income shall be increasedto such amount as would, after deduction of tax thereon, be equal to thenet amount payable under such agreement or arrangement.
2. However, no grossing up is required in the case of tax paid under section 192(1A) by an employer on the non-monetary perquisites provided to the employee.

4.2.28 Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations [Section 196]

(1) No deduction of tax shall be made by any person from any sums payableto-
   (i) the Government; or
   (ii) the Reserve Bank of India; or
   (iii) a corporation established by or under a Central Act, which is, under any law for the time being in force, exempt from income-tax on its income; or
   (iv) a Mutual Fund.

(2) This provision for non-deduction is applicable when such sum is payable tothe above entities by way of -
   (i) interest or dividend in respect of securities or shares -
      (a) owned by the above entities; or

(b) in which they have full beneficial interest or

(ii) any income accruing or arising to them.

4.2.29 Certificate for Deduction of Tax at a Lower Rate [Section 197]

(1) This section applies where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or payment, as the case may be, at the rates in force as per the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA, 194M and 194-O.

(2) In such cases, the assessee can make an application to the Assessing Officerfor deduction of tax at a lower rate or for non-deduction of tax.

(3) If the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at lower rates or no deduction of income-tax, as the case may be, he may give to the assessee such certificate, as may be appropriate.

(4) Where the Assessing Officer issues such a certificate, then the person responsible for paying the income shall deduct income-tax at such lower rates specified in the certificate or deduct no tax, as the case may be, untilsuch certificate is cancelled by the Assessing Officer.

(5) Enabling powers have been conferred upon the CBDT to make rules for prescribing the procedure in this regard.

4.2.30 No Deduction In Certain Cases[Section 197a]

Enabling provision for filing of declaration for receipt of NSS payment and dividend without deduction of tax [Sub-section (1)]

bbb) This section enables an individual, who is resident in India and whose estimated total income of the previous year is less than the basic exemption limit, to receive dividend or any sum out of National

Savings Scheme Account, without deduction of tax at source under section 194 or 194EE, respectively, on furnishing a declaration in duplicate in the prescribed form and verified in the prescribed manner.

ccc) The declaration in the above form is to be furnished in writing in duplicate by the declarant to the person responsible for paying any income of the nature referred to in section 194 or 194EE. The declaration will have to be to the effect that the tax on theestimated total income of the declarant of the previous year in which such income is to be included in computing his total income will be Nil.

1. Enabling provision for filing of declaration for non-deduction of tax under section 192A or 193 or 194A or 194D or 194DA or 194-I or 194K by persons, other than companies and firms [Sub-section (1A)]

No deduction of tax shall be made under the above provisions of the Act, where a person, who is not a company or a firm, furnishes to the person responsible for paying any income of the nature referred to in these sections, a declaration in writing in duplicate in the prescribed form to the effect that the tax on his estimated total income of the previous year inwhich such income is to be included in computing his total income will be **Nil.**

2. Filing declaration not permissible if income/aggregate of incomes exceed basic exemption limit [Sub-section (1B)]

Declaration cannot be furnished as per the above provisions, where -

i. payments of dividend; or

ii. payments in respect of deposits under National Savings Schemes, etc.; or

iii. payment of premature withdrawal from Employee Provident Fund; or

iv. income from interest on securities or

v. interest other than “interest on securities” or units; or

vi. insurance commission; or

vii. payment in respect of life insurance policy; or

viii. rent; or

ix. income from units; or

x. the aggregate of the amounts of such incomes in (i) to (ix) above

credited or paid or likely to be credited or paid during the previous year inwhich such income is to be included exceeds the basic exemption limit.

3. Enabling provision for filing of declaration by resident senior citizens for non-deduction of tax at source [Sub-section (1C)]

For a resident individual, who is of the age of 60 years or more at any time during the previous year, no deduction of tax shall be made under section192A or section 193 or section 194 or section 194A or section 194D or section 194DA or section 194EE or section 194-I or section 194K, if such individual furnishes a declaration in writing in duplicate to the payer, thattax on his estimated total income of the previous year in which such incomeis to be included in computing his total income is **Nil**. The restriction contained in sub-section (1B) will not apply to resident senior citizens.

4. Non-deduction of tax in certain cases

ddd) Interest payments by an Offshore Banking Unit to a non-resident/not ordinarily resident in India [Sub-section (1D)]

No deduction of tax shall be made by an Offshore Banking Unit fromthe interest paid on-

eee) deposit made by a non-resident/not-ordinarily resident on or after 1.4.2005; or

fff) borrowing from a non-resident/not-ordinarily resident on or after 1.4.2005.

ggg) Payment to any person for, or on behalf of, the NPS Trust [Sub-

section (1E)]

No deduction of tax at source shall be made from any payment to any person for, or on behalf of, the New Pension System Trust[6].

hhh) Payments to notified person or class of persons including institutions/class of institutions etc. [Sub-section (1F)]

No deduction of tax shall be made or deduction of tax shall be madeat such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions or associations or bodies as may be notified by the Central Government in the Official Gazette in this behalf. Therefore, in respect of such payments made to notified person or class of persons, no taxis to be deducted at source or tax is to be deducted at lower rate.

5. Time limit for delivery of one copy of declaration [Sub-section (2)]

On receipt of the declaration referred to in sub-sections (1), (1A) or (1C), the person responsible for making the payment will be required to deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, one copy of the declaration.

4.2.31 Tax Deducted is Income Received [Section 198]

(1) All sums deducted in accordance with the foregoing provisions shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(2) However, the following tax paid or deducted would not be deemed to be income received by the assessee for the purpose of computing the total income –

(i) the tax paid by an employer under section 192(1A) on non-monetary perquisites provided to the employees

(ii) tax deducted under section 194N

4.2.32 Credit for Tax Deducted at Source [Section 199]

(1) Tax deducted at source in accordance with the above provisions and paid to the credit of the Central Government shall be treated as payment of tax on behalf of the-

(i) person from whose income the deduction was made; or

(ii) owner of the security; or

(iii) depositor; or

(iv) owner of property; or

(v) unit-holder; or

(vi) shareholder.

(2) Any sum referred to in section 192(1A) and paid to the Central Government, shall be treated as the tax paid on behalf of the person in respect of whose income, such payment of tax has been made.

(3) The CBDT is empowered to frame rules for the purpose of giving credit in respect of tax deducted or tax paid under Chapter XVII. The CBDT also has the power to make rules for giving credit to a person other than the persons mentioned in (1) and (2) above. Further, the CBDT can specify the assessment year for which such credit may be given.

4. Rule 37BA – Credit for tax deducted at source for the purposes of section 199

Rule 37BA(1) provides that credit for tax deducted at source and paid to the Central Government would be given to the person to whom the payment has been made or credit has been given (i.e., the deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorized by such authority.

Rule 37BA(2)(i) provides that where under any provisions of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee.

However, the deductee should file a declaration with the deductor and the deductor should report the tax deduction in the name of the other personin the information relating to deduction of tax referred to in Rule 37BA(1).

Rule 37BA(3), provides that credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable. Where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax.

Rule 37BA(3A), provides that, for the purposes of section 194N, credit for tax deducted at source shall be given to the person from whose account taxis deducted and paid to the Central Government account for the assessment year relevant to the previous year in which such tax deduction is made.

4.2.33 Duty of person deducting tax [Section 200]

(1) The persons responsible for deducting the tax at source should deposit thesum so deducted to the credit of the Central Government or as the Board directs, within the prescribed time.

(2) Further, an employer paying tax on non-monetary perquisites provided to employees in accordance with section 192(1A), should deposit within the prescribed time, the tax to the credit of the Central Government or as the Board directs.

Rule 30 – Prescribed time and mode of payment to Government account of TDS or tax paid under section 192(1A)

(a) All sums deducted in accordance with Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government on

- the same day where the tax is paid without production of anincome-tax challan and
- on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A), where tax is paid accompanied by an income-tax challan.

(b) All sums deducted in accordance with Chapter XVII-B by deductors other than a Government office shall be paid to the credit of the Central Government

- on or before 30th April, where the income or amount is creditedor paid in the month of March.
- In any other case, the tax deducted should be paid on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A).

In special cases, the Assessing Officer may, with the prior approval of the Joint Commissioner, permit quarterly payment of the tax deducted under section 192/194A/194D or 194H on or before 7th of the month following the quarter, in respect of first three quarters in the financial year and 30th April in respect of the quarter ending on 31st March. The dates for quarterly payment would, therefore, be 7th July, 7th October, 7th January and 30th April, for the quarters ended 30th June, 30th September, 31st December and 31st March, respectively.

(d) Tax deducted under sections 194-IA, 194-IB and 194M have to be remitted within 30 days from the end of the month of deduction. A challan-cum-statement in Form 26QB/26QC/26QD has to be furnished within 30 days from the end of the month of deduction.

(3) For the purpose of improving the reporting of payment of TDS made through book entry and to make existing mechanism enforceable, it is provided that where the tax deducted or tax referred to in section 192(1A) has been paid without the production of a challan, the PAO/TO/CDDO or any other person,by whatever name called, who is responsible for crediting such sum to the credit of the Central Government, shall deliver or cause to be delivered within the prescribed time a statement in the prescribed form, verified in the prescribed manner and setting forth prescribed particulars to the prescribed income-tax authority or the person authorized by such authority.

(4) The following persons are responsible for preparing such statements for such periods as may be prescribed, after paying the tax deducted to thecredit of the Central Government within the prescribed time –

(i) any person deducting any sum on or after 1st April, 2005 in accordance with the foregoing provisions of this chapter; or,

(ii) any person being an employer referred to in section 192(1A).

(5) Such statements have to be delivered or caused to be delivered to theprescribed income-tax authority or the person authorized by such authority.

(6) Such statements should be in the prescribed form and verified in theprescribed manner.

(7) It should set forth such particulars and should be delivered within such timeas may be prescribed.

(8) The deductor may also deliver to the prescribed authority, a correctionstatement –

(a) for rectification of any mistake; or

(b) to add, delete or update the information furnished in the statement delivered under section 200(3).

4.2.35 Rule 31A – Submission of quarterly statements

Every person responsible for deduction of tax under Chapter XVII-B shall deliver,or cause to be delivered, the following quarterly statements to the DGIT (Systems) or any person authorized by him, in accordance with section 200(3):

(i) Statement of TDS under section 192 in Form No.24Q;

(ii) Statement of TDS under other sections from section 193 to section 196D in Form No.26Q in respect of all deductees other than a deductee being a non-corporate non-resident or a foreign company or resident but not ordinarily resident in which case the relevant form would be Form No.27Q.

Such statements have to be furnished within the due date for each quarter

specified in Rule 31A(2). Accordingly, quarterly statements of TDS have to be furnished by the due dates specified in column (3) against the corresponding quarter-

Sl. No.	**Date of ending of the quarter of thefinancial year**	**Due date**
1.	30th June	31st July of the financial year
2.	30th September	31st October of the financial year
3.	31st December	31st January of the financial year
4.	31st March	31st May of the financial year immediately following the financial year in which the deduction is made.

However, every person responsible for deduction of tax under section 194-IA, 194-IB or 194M have to furnish to the Principal Director General of Income-tax (Systems) (in case of sections 194-IB and 194M) or Director General of Income- tax (System) or the person authorised by them, a challan-cum-statement in Form No.26QB, 26QC or 26QD respectively, within thirty days from the end ofthe month of deduction of tax.

4.2.36 Correction of arithmetic mistakes and adjustment of incorrect claim during computerized processing of TDS statements [Section 200A]

(1) At present, all statements of tax deducted at source are filed in an electronic mode, thereby facilitating computerised processing of these statements. Therefore, in order to process TDS statements on computer, electronic processing on the same lines as processing of income-tax returns has been provided in section 200A.

(2) The following adjustments can be made during the computerized processing of statement of tax deducted at source or a correction statement –

(i) any arithmetical error in the statement; or

(ii) an incorrect claim, if such incorrect claim is apparent from any informationin the statement.

(3) The term "an incorrect claim apparent from any information in the statement" shall mean such claim on the basis of an entry, in the statement,–

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of the Act.

(4) The interest, if any, has to be computed on the basis of the sums deductible as computed in the statement;

(5) The fee, if any, has to be computed in accordance with the provision of section 234E. A fee of Rs. 200 for every day would be levied under section 234E for late furnishing of TDS statement from the due date of furnishing of TDS statement tothe date of furnishing of TDS/ statement. However, the total amount of fee shallnot exceed the total amount of tax deductible/collectible and such fee has to bepaid before delivering the TDS statement.

(6) The sum payable by, or the amount of refund due to, the deductor has to be determined after adjustment of interest and fee against the amount paid undersection

200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee.

(7) An intimation will be prepared and generated and sent to the deductor, specifying his tax liability or the refund due, within one year from the end of thefinancial year in which the statement is filed. The refund due shall be granted tothe deductor.

(8) For this purpose, the CBDT is empowered to make a scheme for centralized processing of statements of TDS to determine the tax payable by, or refund dueto, the deductor.

4.2.37 Consequences of failure to deduct or pay [Section 201]

Deemed assessee-in-default

Any person including the principal officer of a company -

(i) who is required to deduct any sum in accordance with the provisionsof the Act; or

(ii) an employer paying tax on non-monetary perquisites under section 192(1A).

shall be deemed to be an assessee-in-default, if he does not deduct, or does not pay or after deducting, fails to pay, the whole or any part of thetax, as required by or under the provisions of the Income-tax Act, 1961.

Non-applicability of deeming provision

Any person (including the principal officer of the company) who fails to deduct the whole or any part of the tax on the amount credited or paid to a payee shall not be deemed to be an assessee-in-default in respect of suchtax if such payee –

(iii) has furnished his return of income under section 139;

(iv) has taken into account such sum for computing income in such return of income; and

(v) has paid the tax due on the income declared by him in such return of income,

and the payer furnishes a certificate to this effect from an accountant insuch form as may be prescribed.

Interest Liability

(vi) A person deemed to be an assessee-in-default under section 201(1),for failure to deduct tax or to pay the tax after deduction, is liable to pay simple interest @1% for every month or part on amount of such tax from the date on which tax was deductible to the date on which such tax was actually deducted and simple interest @1.5%for every month or part of month from the date on which tax was deducted to the date on which such tax is actually paid [Section 201(1A)].

(vii) Such interest should be paid before furnishing the statements in accordance with section 200(3).

(viii) Where the payer fails to deduct the whole or any part of the tax on the amount credited or payment made to a payee and is not deemedto be an assessee-in-default under section 201(1) on account of payment of taxes by such payee, interest under section 201(1A)(i) i.e.,@1% p.m. or part of month, shall be payable by the payer from the date on which such tax was deductible to the date of furnishing of return of income by such payee. The date of deduction and payment of taxes by the payer shall be deemed to be the date on which returnof income has been furnished by the payee.

However, where an order is made by the Assessing Officer for assessee-in-default, the interest shall be paid by the person in accordance with such order.

(ix) Where the tax has not been paid after it is deducted, the amount of the tax together with the amount of simple interest thereon shall be a chargeupon all the assets of the person or the company, as the case may be.

Time limit for deeming a person to be an assessee-in-default for failure to deduct tax at source

No order under section 201(1), deeming a person to be an assessee-in- default for failure to deduct the whole or any part of the tax from a person resident in India, shall be passed at any time after the expiry of

- seven years from the end of the financial year in which the paymentis made or credit is given; or
- two years from the end of the financial year in which the correctionstatement is delivered under the proviso to section 200(3)

whichever is later

Non-specification of time limit where tax has been deducted but not paid

Section 201(1) deems a person to be an assessee-in-default if he –

(x) does not deduct tax; or

(xi) does not pay; or

(xii) after so deducting fails to pay

the whole or any part of the tax, as required by or under this Act.

Thus, section 201(1) contemplates three types of defaults. The default contemplated in (ii) is covered by the default contemplated in (iii). However, the time limit has been specified only for passing of orders relating to default contemplated in (i) above. There is no time limit specified in respectof the other defaults.

Therefore, no time-limits have been prescribed for the order under section 201(1) where –

(i) the deductor has deducted but not deposited the tax deducted at source, as this would be a case of defalcation of government dues,

(ii) the employer has failed to pay the tax wholly or partly, under section 192(1A), as the employee would not have paid tax on such perquisites,

(iii) the deductee is a non-resident as it may not be administrativelypossible to recover the tax from the non-resident.

Deduction only one mode of recovery [Section 202]

(1) Recovery of tax through deduction at source is only one method of recovery.

(2) The Assessing Officer can use any other prescribed methods of recovery in addition to tax deducted at source.

Certificate for tax deducted [Section 203]

(1) Every person deducting tax at source have to issue a certificate to the effect thattax has been deducted and specify the amount so deducted, the rate at which taxhas been deducted and such other particulars as may be prescribed.

(2) Every person, being an employer, referred to in section 192(1A) shall, within such period, as may be prescribed, furnish to the person in respect of whose incomesuch payment of tax has been made, a certificate to the effect that tax has beenpaid to the Central Government, and specify the amount so paid, the rate at whichthe tax has been paid and such other particulars as may be prescribed.

Certificate of TDS to be furnished under section 203 [Rule 31]

The certificate of deduction of tax at source to be furnished under section 203 shall be in Form No.16 in respect of tax deducted or paid under section 192 and inany other case, Form No.16A. Form No.16 shall be issued to the employee annually by 15th June of the financial year immediately following the financial year in which the income was paid and tax deducted. Form No.16A shall be issued quarterly within 15 days from the due datefor furnishing the statement of TDS under Rule 31A.

Form No. 16B, 16C or 16D shall be issued by the every person responsible for deduction of tax under section 194-IA, 194-IB or 194M to the payee within fifteendays from the due date for furnishing the challan-cum-statement in Form No. 26QB, 26QC or 26QD, respectively, under rule 31A.

4.2.38 Person responsible for paying taxes deducted at source[Section 204]

For purposes of deduction of tax at source the expression "person responsible forpaying" means:

	Nature of income/payment	**Person responsible for paying tax**
(1)	Salary (other than payment of salaries by the Central or State Government)	(i) the employer himself; or (ii) if the employer is a company, the company itself, including the principal officer thereof.
(2)	Interest on securities (other than payments by or on behalf of the Central or State Government)	the local authority, corporation or company, including the principal officer thereof.
(3)	Any sum payable to a non-resident Indian, representing consideration for the transfer by him of any foreign exchange asset, which is not a short term capital asset	the "Authorised Person" responsible for remitting such sum to the non-resident Indian or for crediting such sum to his Non-resident (External) Account maintained in accordance with the Foreign Exchange Management Act, 1999 and any rules made thereunder.

(4)	furnishing of information relating to payment to a non-corporate non-resident, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act	(i) the payer himself; or (ii) if the payer is a company, the company itself including the principal officer thereof.
(5)	Credit/payment of any other sum chargeable under the provisions of the Act	(i) the payer himself; or (ii) if the payer is a company, the company itself including the principal officer thereof.
(6)	Credit/payment of any sum chargeable under the provisions of the Act made by or on behalf of the Central Government or the Government of a State.	(i) the drawing and disbursing officer; or (ii) any other person, by whatever name called, responsible for crediting, or as the case maybe, paying such sum.
(7)	In case of a person not resident in India (irrespective of the nature of payment or income)	(i) the person himself; or (ii) any person authorized by such person; or (iii) the agent of such person inIndia including any person treated as an agent under section 163.

Bar against direct demand on assessee [Section 205]

Where tax is deductible at source under any of the aforesaid sections, the assessee shall not be called upon to pay the tax himself to the extent to which taxhas been deducted from that income.

Furnishing of statements in respect of payment of any income to residents without deduction of tax [Section 206A]

(1) This section casts responsibility on every banking company or co- operative society or public company referred to in the proviso to section 194A(3)(i) [i.e., a

public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of residential houses in India and which is eligible for deduction under section 36(1)(viii)] to prepare such statement, for such period as may be prescribed –

- if they are responsible for paying to a resident,
- the payment should be of any income not exceeding Rs. 40,000, where the payer is a banking company or a co-operative society, and Rs. 5,000in any other case.
- such income should be by way of interest (other than interest on securities)

(2) The statements have to be delivered or caused to be delivered to the prescribed income-tax authority or the person authorised by such authority.

(3) The statements have to be in the prescribed form, containing such particulars verified in the prescribed manner. The statement has to be filed within the prescribed time.

(4) The CBDT may cast responsibility on any person other than a person mentioned in (1) above, who is responsible for paying to a resident any income liable for deduction of tax at source.

(5) Such persons may be required to prepare statement for such period as may be prescribed in the prescribed form and deliver or cause to be delivered such statement within the prescribed time to the prescribed income-tax authority or the person authorized by such authority.

(6) Such statements should be in the prescribed form, containing such particulars and verified in the prescribed manner.

(7) Such person referred to in (1) and (4) above may also deliver to the prescribed authority, a correction statement -

(a) for rectification of any mistake; or

(b) to add, delete or update the information furnished in the statement delivered referred in (2) & (5) above.

Mandatory requirement of furnishing PAN in all TDS statements, bills, vouchers and correspondence between deductor and deductee [Section 206AA]

(1) The non-furnishing of PAN by deductees in many cases have led to delay in issue of refund on account of problems in the processing of returns of income and in granting credit for tax deducted at source.

(2) With a view to strengthening the PAN mechanism, section 206AA providesthat any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the followingrates –

(i) the rate prescribed in the Act;

(ii) at the rate in force i.e., the rate mentioned in the Finance Act; or

(iii) at the rate of 20% [5% in case tax is required to be deducted at source u/s 194-O and 194Q]

For instance, in case of rental payment for plant and machinery, where the payee does not furnish his PAN to the payer, tax would be deductible @20% instead of @2% prescribed under section 194-I. However, non-furnishing of PAN by the deductee in case of income by way of winnings from lotteries, card games etc., would result in tax being deducted at the existing rate of 30% under section 194B. Therefore, wherever tax is deductible at a rate higher than 20%, this provision would not have any impact.

(3) Tax would be deductible at the rates mentioned above also in cases where the taxpayer files a declaration in Form 15G or 15H (under section 197A) but does not provide his PAN.

(4) Further, no certificate under section 197 will be granted by the Assessing Officer unless the application contains the PAN of the applicant.

(5) Both the deductor and the deductee have to compulsorily quote the PAN of the deductee in all correspondence, bills, vouchers and other documents exchanged between them.

(6) If the PAN provided to the deductor is invalid or it does not belong to the deductee, it shall be deemed that the deductee has not furnished his PAN to thedeductor. Accordingly, tax would be deductible at the rate specified in (2) above.

Higher rate of TDS for non-filers of income-tax return[Section 206AB]

(1) Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited,by a person to a specified person, at higher of the following rates –

(i) at twice the rate prescribed in the relevant provisions of the Act;

(ii) at twice the rate or rates in force i.e., the rate mentioned in theFinance Act; or

(iii) at 5%

However, section 206AB is **not** applicable in case of tax deductible at sourceunder sections 192, 192A, 194B, 194BB, ***194-IA, 194-IB, 194M*** or 194N.

(2) In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.

(3) Meaning of "specified person" – A person who has not furnished the returnof income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for whichthe time limit for furnishing the return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is Rs. 50,000 or more in the said previous year.

However, the specified person does not include a non-resident who does not have a permanent establishment in India.

4.4 TAX COLLECTION AT SOURCE - BASIC CONCEPT

4.4.1 Applicability and Rates

i. Sale of certain goods

Under section 206C(1), sellers of certain goods are required to collect tax from the buyers at the specified rates. The specified percentage forcollection of tax at source is as follows:

	Nature of Goods		Percentage
(a)	Alcoholic liquor for human consumption		1%
(b)	Tendu leaves		5%

(c)	Timber obtained under a forest lease		2.5%
(d)	Timber obtained by any mode other than (c)		2.5%
(e)	Any other forest produce not being timbertendu leaves	or	2.5%
(f)	Scrap		1%
(g)	Minerals, being coal or lignite or iron ore		1%

Lease or a licence of parking lot, toll plaza or mine or a quarry

Section 206C(1C) provides for collection of tax by every person who grants a lease or a licence or enters into a contract or otherwise transfers any rightor interest in any

- parking lot or
- toll plaza or
- a mine or a quarry

to another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purposes of business. The tax shall be collected as provided, from the licensee or lessee of any such licence, contract or lease of the specified nature, at the rate of 2%.

Sale of motor vehicle of value exceeding Rs. 10 lakhs

Section 206C(1F) provides that every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding Rs. 10 lakhs, shall collect tax from the buyer@1% of the sale consideration.

Overseas remittance or an overseas tour package

Section 206C(1G) provides for collection of tax by every person,

being an authorized dealer, who receives amount, under the Liberalised Remittance Scheme of the RBI, for overseas remittance from a buyer, being a person remitting such amount out of India;

being a seller of an overseas tour programme package who receives any amount from the buyer who purchases the package

at the rate of 5% of such amount.

Tax has to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier.

Rate of TCS in case of collection by an authorized dealer

S. No.	Amount and purpose of remittance	Rate of TCS
(i)	(a) Where the amount is remitted for a purpose other than purchase of overseas tour programme package; and (b) the amount or aggregate of the amounts being remitted by a buyer is less than Rs. 7 lakhs in a financial year	Nil (No tax To be collected at source)
(ii)	(a) where the amount is remitted for a purpose other than purchase of overseas tour programme package; and (b) the amount or aggregate of the amounts in excess of Rs. 7 lakhs is remitted by the buyer in afinancial year	5% of the amt or agg. of amts in excess of Rs. 7lakh
(iii)	(a) where the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education; and (b) the amount or aggregate of the amounts in excess of Rs. 7 lakhs is remitted by the buyer in afinancial year	0.5% of the amt or agg. of amts in excess of Rs. 7lakh

Cases where no tax is to be collected

(i)	No TCS by the authorized dealer on an amount in respect of which the sum has been collected by the seller
(ii)	No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such tax
(iii)	No TCS, if the buyer is the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority[12] or any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder. Accordingly, the CBDT has, vide notification no. 20/200 dated

	30.3.2022, notified that the provisions of section 206C(1G) would not apply to an individual who is not resident in India as per section 6(1) and 6(1A), and who is visiting India.

Sale of goods of value exceeding Rs. 50 lakh

(a) As per section 206C(1H), tax is also required to be collected by a seller, who receives any amount as consideration for sale of goods ofthe value or aggregate of such value exceeding Rs. 50 lakhs in a previous year [other than exported goods or goods covered undersub-sections (1)/(1F)/(1G)].

(b) Tax is to be collected at source @0.1% u/s 206C(1H) of the sale consideration exceeding Rs. 50 lakhs, at the time of receipt of consideration.

(c) Tax is, however, not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax.

Power of the CBDT to issue guidelines

In case of any difficulty arises in giving effect to the provisions of section 206C(1G)/(1H), the CBDT is empowered to issue guidelines, with theapproval of the Central Government, for the purpose of removing the difficulty.

Every guideline issued by the CBDT shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person liable to collect tax.

Meaning of certain terms

	Term	Meaning
(i)	**Overseas tour program package**	**<u>For section 206C(1G)</u>** Any tour package which offers visit to a country/(ies) or territory/(ies) outside India. It includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto. [Clause (ii) of *Explanation* to section 206C(1G)]

i)	**Buyer**	**<u>For section 206C(1H)</u>:** A person who purchases any goods but does **<u>not</u>** include – (A) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State, or (B) a local authority[7]; or (C) a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to stipulated conditions. **<u>For section 206C(1)</u>:** A person who obtains in any sale, by way of auction, tender, or any other mode, goods of the nature specified in the Table in point (1) or the right to receive any such goods but does not include – (A) a public sector company, the Central Government, a State Government, and an embassy, a high

		commission, legation, commission, consulate and the trade representation, of a foreign State and a club, or (B) a buyer in the retail sale of such goods purchased by him for personal consumption [*Explanation* to section 206C] **<u>For section 206C(1F)</u>:** A person who obtains in any sale, goods of the nature specified therein, but does not include – (A) the Central Government, a State Government andan embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or (B) a local authority; or (C) a public sector company which is engaged in the business of carrying passengers. [*Explanation* to section 206C]
(ii)	**Seller**	**<u>For section 206C(1H)</u>:** A person whose total sales, gross receipts or turnover from the business carried on by him exceed Rs. 10 crores during the financial year immediately preceding the financial year in which sale of goods is carried out. However, seller does not include a person as notified by the Central Government for this purpose, subject to fulfillment of the stipulated conditions [*Clause (b) of Explanation* to section 206C(1H)] **<u>For section 206C(1) and section 206C(1F)</u>:** (i) The Central Government, (ii) a State Government or (iii) any local authority or (iv) corporation or (v) authority established by or under a Central, State

		or Provincial Act, or (vi) any company or

		(vii) firm or (viii) co-operative society Seller also includes an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed Rs. 1 crore in case of business and Rs. 50 lakhs in case of profession during the financial year immediately preceding the financial year in which the goods of the nature specified in the Table in point (1) are sold. [*Explanation* to section 206C]
(iii)	**Scrap**	Waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons. [*Explanation* to section 206C]

4.4.3 Higher rate of TCS for non-furnishers of PAN [Section 206CC]

i. The provisions of section 206CC require tax collection at the higher of the following two rates, in case of failure by the person paying any sum or amount on which tax is collectible at source (collectee) to furnish PAN [PAN or Aadhar number in case of section 206C(1H)]to the person responsible for collecting tax at source (collector) –

   a. at twice the rate specified in the relevant provision of the Act
   b. at 5% [1%, in case tax is required to be collected at source u/s 206C(1H)]

ii. Tax would be collectible at the rates mentioned above also in case where the person furnishes a declaration under section 206C(1A) butdoes not provide his PAN.

iii. Both the collectee and the collector have to compulsorily quote the PAN of the collectee in all correspondence, bills, vouchers and other documents exchanged between them.

iv. If the PAN provided to the collector is invalid or it does not belong to the collectee, it shall be deemed that the collectee has not furnished his PAN to the collector. Accordingly, tax would be collectible at the rate specified in (i) above.

v. The provisions of section 206CC does not apply to a non-resident who does not have a permanent establishment in India.

4.3.4 Higher rate of TCS for non-filers of income-tax return [Section 206CCA]

i. Section 206CCA requires tax to be collected at source under the provisions of this Chapter on any sum or amount received by a person from a specified person, at higher of the following rates –

(a) at twice the rate specified in the relevant provision of the Act;

(b) at 5%

ii. In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.

iii. Meaning of "specified person" – A person who has not furnished the return of income for assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing the return of income under section 139(1) has expired, and the aggregateof tax deducted at source and tax collected at source in his case is

Rs. 50,000 or more in the said previous year.

However, the specified person does **not** include a non-resident who does not have a permanent establishment in India.

In exercise of the power to issue guidelines, the CBDT has, with the approval of Central Government, vide **Circular no. 17/2020 dated 29.9.2020,** issued the following guidelines for removing certain difficulties-

1. Applicability on sale of Motor vehicle:

The provisions of section 206C(1F) apply to sale of motor vehicle of the value exceeding Rs. 10 lakhs. Section 206C(1H) excludes from its applicability goods covered under section 206C(1F). It may be noted that the scope of sections 206C(1H) and (1F) are different. While section 206C(1F) is based on single sale of motor vehicle, section 206C(1H) is for receipt above Rs. 50 lakhs. Hence, in order to remove difficulty that whether all motor vehicles are excluded from the applicability of section 206C(1H), it is clarified that,-

Receipt of sale consideration from a dealer would be subjected to TCS under section 206C(1H), if such sales are not subjected to TCS under section 206C(1F)

In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value of Rs. 10 lakhs or less to a buyer would be subjected to TCS under section 206C(1H), if the receipt of sale consideration for such vehicles during the previous year exceeds Rs. 50 lakhs during the previous year.

In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value exceeding Rs. 10 lakhs would not be subjected to TCS under section 206C(1H) if such sales are subjected to TCS under section 206C(1F).

2. Adjustment for sale return, discount or indirect taxes:

It is been clarified that no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax under section 206C(1H) since the collection is made with reference to receipt of amount of sale consideration.

Time of Collection of tax

The tax should be collected at the time of debiting of the amount payable by the buyer or licensee or lessee, as the case may be, to his account or at the time of receipt of such amount from the buyer or licensee or lessee, as the case may be, by any mode, whichever is earlier.

In case of sale of a motor vehicle of the value exceeding Rs. 10 lakhs or sale of goods exceeding Rs. 50 lakhs [other than exported goods and goods mentioned in section 206C(1)], tax shall be collected at the time of receipt of such amount under section 206C(1F) and 206C(1H), respectively.

Non-applicability of TCS [Section 206C(1A)]

No collection of tax shall be made under section 206C(1), in the case of a resident buyer, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that goods referred to in section 206C(1) above are to be utilised for the purpose of manufacturing,

processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

Furnishing of copy of declaration within specified time [Section 206C(1B)]

The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Chief Commissioner or Commissioner one copyof the declaration referred to in sub-section (1A) on or before 7th of themonth next following the month in which the declaration is furnished to him.

TCS to be paid within prescribed time [Section 206C(3)]

Any amount collected under this section shall be paid within the prescribed time to the credit of the Central Government or as the Board directs.

Time limit for paying tax collected to the credit of the Central Government [Rule 37CA]

	Person collecting sums in accordance with section 206C	**Circumstance**		**Period within which such sum should be paid to the credit of the Central Government**
(1)	An office of the Government	(i)	where the tax is paid without production of an income-tax challan	on the same day
		(ii)	where tax is paid accompanied by an income-tax challan	on or before 7 days from the end of the month in which the collection is made
(2)	Collectors other than an office of the Government			within one week from the last day of the month in which the

			collection is made

iii)

Main differences between TDS and TCS

	TDS	**TCS**
(1)	TDS is tax deduction at source	TCS is tax collection at source.
(2)	Person responsible for paying is required to deduct tax at source at the prescribed rate.	(i) Seller of certain goods is responsible for collecting tax at source at the prescribed rate from the buyer. (ii) Person who grants licence or lease (in respect of any parking lot, toll plaza, mine or quarry) is responsible for collecting tax at source at the prescribed rate from the licensee or lessee, as the case may be. (iii) Authorised dealer receiving amount for remittance out of India under the LRS of the RBI or seller of an overseas tour program package is responsible for collecting tax at source atthe prescribed rate from the buyer.
(3)	Generally, tax is required to be deducted at thetime of credit to the account of the payee or at the time of payment, whichever is earlier.	Generally, tax is required to be collected at source at the time of debiting of the amount payable bythe buyer of certain goods to the account of the buyer or at the time of receipt of such amount from the saidbuyer, whichever is

	However, in case of payment of salary, payment in respect of life insurance policy etc. tax is required to be deducted at the time of payment.	earlier. However, in case of sale of motor vehicle of the value exceeding Rs. 10 lakhs and sale of goods exceeding Rs. 50 lakhs other than exported goods and goods mentioned in section 206C(1), tax collection at source is required at thetime of receipt of sale consideration.

Common number for TDS and TCS [Section 203A]

i. Persons responsible for deducting tax or collecting tax at source should apply to the Assessing Officer for the allotment of a "tax-deduction and collection-account number".

ii. Section 203A(2) enlists the documents/certificates/returns/challans in which the "tax deduction account number" or "tax collection account number" or "tax deduction and collection account number" has to be compulsorily quoted. They are -

   (a) challans for payment of any sum in accordance with the provisions of section 200 or section 206C(3);

   (b) certificates furnished under section 203 or section 206C(5);

   (c) statements prepared and delivered or caused to be delivered inaccordance with the provisions of section 200(3) or section 206C(3).

   (d) returns delivered in accordance with the provisions of section 206 or section 206C(5B); and

   (e) in all other documents pertaining to such transactions as may beprescribed in the interests of revenue.

iii. The requirement of obtaining and quoting of TAN under section 203A shall not apply to such person, as may be notified by the CentralGovernment in this behalf.

4.3 Deposit of income tax challan for self-assessment tax

Challan 280 Income Tax Payment Online

Challan 280 is a form available on the official website of Income Tax India. This challan can be used to make online payment of income tax. The challan can be filed online or can be submitted offline as well to pay the tax.

What is the Challan 280 and How to Use to pay Income Tax?

Using challan 280 you can now pay your income tax online on the income tax website. You don't need to rely on your Chartered Accountant or any other sources to pay your income tax for you. Many employers pay the income tax on behalf of their employees since most of the salaried class may not have to pay additional taxes. You will be required to fill in the details in the form. The duly filled up form can be used either online or offline at a bank to pay your income tax.

Steps to Pay Income Tax Online with Challan 280

- **Step 1:** Visit the official website of NSDL at https://www.tin-nsdl.com/
- **Step 2:** On the main page, click on the 'Services' tab to get the drop-down list.
- **Step 3:** Select the 'e-payment: Pay Taxes Online' option from the drop-down menu.
- **Step 4:** You will be directed to the 'e-Payment of Taxes' page. Alternately, you can go to the 'Pay Taxes Online' box present on the right side of the main page of the website and choose 'Click to pay tax online' to directly access the 'e-Payment of Taxes' page.
- **Step 5:** Choose 'Challan No./ITNS 280' from the options and click on the 'Proceed' button.
- **Step 6:** In the next page, you can view the challan which is required to be filled up with details such as applicable tax, the Permanent Account Number (PAN), the assessment year, and so on.
- **Step 7:** Select '(0021) Income Tax (Other than Companies)' option for paying income tax. The other option '(0020) Corporation Tax (Companies)' will be applicable to companies for paying corporation tax.
- **Step 8:** Next, select the correct 'Type of Payment' from the given options including - (100) Advance Tax, (102) Surtax, (106) Tax on Distributed Profit, (107) Tax on Distributed Income., (300) Self-Assessment Tax, and (400) Tax on Regular Assessment.
- **Step 9:** Then, choose the mode of payment. The payment can either be made using 'Net Banking' or through 'Debit Card'. Once you select the convenient option, click the bank name from the drop-down menu next to the selected option.
- **Step 10:** Next, enter your PAN details and the relevant Assessment Year from the drop-down box. Note that the relevant assessment year for the period of 1 April 2018 - 31 March 2019 is 2019-20.
- **Step 11:** In the next step, you will be required to fill up the details related to your address, district, state, pin code, e-mail ID, and mobile phone number.
- **Step 12:** Then enter the 'Captcha Code' appearing on the screen in the field provided.

- **Step 13:** Click on the 'Proceed' option and this will lead you to the 'e-Payment page' where you can make the payment of the income tax that you are liable to.

Download Challan 280 (Offline)

The Challan 280 can be downloaded from the internet by following the steps which are mentioned below:

- **Step - 1:** Visit the official website of Income Tax India at www.incometaxindia.gov.in
- **Step - 2:** On the home page, click on the 'Forms/Downloads' option from the top menu.
- **Step - 3:** Click on the 'Challans' option under the 'Forms/Downloads' menu.
- **Step - 4:** You will be redirected to a new webpage with a list of all the downloadable Challans.
- **Step - 5:** From this list click on the 'ITNS-280' which is located at the top of the list.
- **Step - 6:** The Challan 280 and all other Challans are available in 2 different formats - a PDF format and a Fillable Form. Click on the feasible option and download the form.

Proof of Payment of Tax

After the remittance of the tax amount, a counterfoil of the challan is generated. This counterfoil contains certain details such as the Challan Identification Number or CIN, the date of payment of tax, the amount of tax paid, and so on. The CIN is generated in the form of an acknowledgment for the tax amount that has been paid. The CIN should be saved for future references, especially when filing Income Tax Returns (ITR). An individual can also get in touch with his/her bank in case he/she wants to get the challan counterfoil regenerated. The following information is furnished on the CIN:

1. Serial number of the Challan
2. 7-digit BSR code of the branch of the bank where the tax has been deposited
3. Date on which the remittance is made

Verification of Challan Tax Payment

The Income Tax Department (ITD) offers the facility of verifying the status of the challans that are generated for an assessee. Verifying the challan also confirms the status of the same. An assessee can also log in to the NSDL website and verify the status of the payment that he/she has made. The status of the challan can be verified in one of the two manners mentioned below:

- **CIN based view:** An assessee can provide the details like Challan Identification Number (CIN), Challan tender date, the BSR code of the branch of the bank where the payment has been made, and the serial number of the challan to track the status of the challans. The assessee can also check whether the amount of tax paid is correct by specifying the actual amount which they have paid.
- **TAN-based view :** An assessee can provide the details about the Tax Deduction and Collection Number or TAN and the challan tender date to view the details of his/her Challan Identification Number (CIN). In addition to this, the assessee can also specify the amount against a particular CIN which will validate the amount uploaded by the bank.

Correction of details in Challans

An assessee can make a request to make changes in the challan payment information in case he/she feels the need to rectify some information which is wrong. While correcting, the following fields can be changed:

1. Assessment Year
2. Tax Deduction and Collection Number (TAN) or Permanent Account Number (PAN)
3. Nature of the payment
4. Major Head Code and Minor Head Code
5. The total amount

These changes can be made by the concerned banks. The banks get 7 days from the day of deposit of the challan to make the changes related to the TAN and PAN, the assessment year, and the total amount. On the other hand, they get 3 months to make changes in the other fields such as the challan deposit date, the Major Head Code, the Minor Head Code, and the nature of the payment.

4.5 UNIT END QUESTIONS

Short Answer Questions:

1. What does the term "Income Tax" refer to?
2. What is the purpose of Advance Payment of Tax?
3. Define Tax Deduction at Source (TDS).
4. What is the key objective of Tax Collection at Source (TCS)?
5. Why is awareness about tax-related concepts important for taxpayers?

Long Answer Questions:

1. Explain the concept of income tax and its significance in a country's financial system.
2. How does Advance Payment of Tax contribute to effective tax collection and financial planning for taxpayers?
3. Elaborate on the process of Tax Deduction at Source (TDS) and its significance in preventing tax evasion.
4. Discuss the rationale behind Tax Collection at Source (TCS) and provide examples of transactions covered under this mechanism.
5. How does understanding taxation concepts, such as Advance Payment of Tax, TDS, and TCS, empower individuals and businesses to make informed financial decisions?

Multiple Choice Questions:

1. What does "Income Tax" primarily refer to?
    a) Tax on imported goods
    b) Tax on corporate profits
    c) Tax on personal income
    d) Tax on property transactions
2. What is the main objective of Advance Payment of Tax?
    a) To encourage spending
    b) To discourage savings
    c) To promote tax evasion
    d) To ensure regular tax payments
3. What does TDS stand for?
    a) Tax Duty System
    b) Tax Deduction at Source
    c) Total Deduction Statement
    d) Tax Deferral Scheme
4. What is the primary purpose of Tax Collection at Source (TCS)?
    a) Encouraging cash transactions
    b) Monitoring online purchases
    c) Preventing tax evasion in specific transactions
    d) Reducing overall tax rates
5. Why is awareness about concepts like Advance Payment of Tax important?
    a) It helps avoid all taxes

b) It simplifies complex tax calculations

c) It enhances financial planning and compliance

d) It guarantees automatic tax refunds

Answers: 1 - c, 2 - d, 3 - b, 4 - c, 5 - c

4.6 REFERENCES

Reference Books:

1. Dr. Girish Ahuja & Dr. Ravi Gupta. (2021). *Direct Taxes - Law and Practice.* Bharat Law House.
2. Vinod K. Singhania & Kapil Singhania. (2021). *Students Guide to Income Tax Including GST.* Taxmann Publications.
3. Dr. Vinod K. Singhania & Dr. Kapil Singhania. (2021). *Students Guide to Income Tax.* Taxmann Publications.
4. Ahuja, Girish. (2020). *Systematic Approach to Income Tax.* Bharat Law House.
5. T.N. Manoharan & G.R. Hari. (2020). *Income Tax (Vol. 1 & 2).* Wolters Kluwer.

Websites:

1. Income Tax India. (2022). Advance Tax - Payment of Income Tax Liability. https://www.incometaxindia.gov.in/Pages/taxmann/advance-tax.aspx
2. TaxGuru. (2022). Advance Tax: Understanding and Calculation. https://taxguru.in/income-tax/advance-tax-understanding-calculation.html
3. ClearTax. (2022). Tax Deduction at Source (TDS): Meaning, Rates, Rules, and Benefits. https://cleartax.in/s/tax-deduction-at-source
4. IndiaFilings. (2022). Tax Collection at Source (TCS) - Meaning and Applicability. https://www.indiafilings.com/learn/tax-collection-at-source-tcs/
5. LegalRaasta. (2022). TDS Rates Chart for Financial Year 2022-23 (AY 2023-24). https://www.legalraasta.com/tds-rates-chart/

UNIT- 5 INCOME TAX AUTHORITIES AND THEIR POWERS

STRUCTURE

5.0 OBJECTIVES

After studying this unit, student will be able to:

1. Gain a clear understanding of the structure and hierarchy of Income-Tax Authorities.
2. Comprehend the process and criteria involved in the appointment of Income-Tax Authorities.
3. Explore the diverse powers vested in Income Tax Authorities for effective administration and enforcement.
4. Understand the legal provisions and procedures related to search and seizure in the context of tax enforcement.
5. Develop insights into the functioning of Income-Tax Authorities and their role in maintaining tax compliance and revenue collection.

5.1 INTRODUCTION

In any modern society, the functioning of a government relies heavily on the collection of revenue to fund various essential services and infrastructure. Income tax, a significant component of government revenue, is a direct tax imposed on individuals and entities based on their income levels and financial transactions. To effectively administer and enforce income tax laws, a well-defined structure of **Income-Tax Authorities** is established. This structure comprises individuals and bodies empowered to regulate, assess, collect, and oversee income tax-related matters. Understanding the roles, appointments, powers, and procedures associated with these authorities is pivotal for maintaining the integrity and fairness of the taxation system.

Income-Tax Authorities:

The backbone of income tax administration, **Income-Tax Authorities**, are vested with the responsibility of ensuring compliance with income tax laws, preventing tax evasion, and facilitating a smooth flow of revenue to the government. These authorities operate at various levels, ranging from the central level to regional and local levels, to ensure effective implementation of tax policies and regulations.

Income-Tax Authorities - Appointment:

The appointment of Income-Tax Authorities is a process of critical importance, as it determines the individuals entrusted with the responsibility of enforcing tax laws and regulations. These appointments are made through a structured and transparent process, often involving recruitment through competitive examinations, promotions within the department, and appointments at different hierarchical levels. The authority and credibility of the appointed officials directly impact the efficiency and effectiveness of the taxation system.

Powers of Income Tax Authorities:

The efficient enforcement of income tax laws demands that **Income Tax Authorities** possess a range of powers and prerogatives. These powers include the authority to conduct assessments, demand information, scrutinize financial transactions, impose penalties, and, if necessary, initiate legal proceedings against tax evaders. These powers are crucial to maintaining a level playing field and ensuring that individuals and entities fulfill their tax obligations responsibly.

Search and Seizure:

A potent tool in the hands of **Income-Tax Authorities**, the process of **search and seizure** enables them to unearth concealed income, assets, and transactions that may have evaded

taxation. This process is carried out under specific circumstances and legal procedures, ensuring that individuals' rights are protected while preventing misuse of authority. Search and seizure operations are pivotal in curbing black money, enhancing tax compliance, and maintaining the credibility of the taxation system.

In essence, comprehending the structure, functions, and powers of **Income-Tax Authorities** is vital for individuals, businesses, and the government to collaboratively ensure a transparent, efficient, and just income tax system. It establishes a balance between taxpayers' rights and obligations, facilitating the collection of revenue essential for the nation's progress and development.

5.2 INCOME-TAX AUTHORITIES.

There shall be the following classes of income-tax authorities for thepurposes of this Act, namely:—

a. the Central Board of Direct Taxes constituted under the CentralBoards of Revenue Act, 1963 (54 of 1963),
b. Directors-General of Income-tax or Chief Commissioners ofIncome-tax,
c. Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),

Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax

Joint Directors of Income-tax or Joint Commissioners of Income-tax,

a. Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals),
b. Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,
c. Income-tax Officers,
d. Tax Recovery Officers,
e. Inspectors of Income-tax.

5.3 INCOME-TAX AUTHORITIES - APPOINTMENT

5.3.1 Appointment of income-tax authorities.

(1) The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

2. Without prejudice to the provisions of sub-section (1), and subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, the Central Government may authorise the Board, or a Director-General, a Chief Commissioner or a Director or a Commissioner to appoint income-tax authorities below the rank of an Assistant Commissioner [or Deputy Commissioner].

3. Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority authorised in this behalf by the Board may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.]

5.3.2 Control of income-tax authorities.

The Board may, by notification in the Official Gazette, direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities as may bespecified in such notification.

5.3.3 Instructions to subordinate authorities.

(1) The Board may, from time to time, issue such orders, instructions and directions to other income-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board :

Provided that no such orders, instructions or directions shall be issued—

a. so as to require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or
b. so as to interfere with the discretion of the [Commissioner (Appeals)] in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power,—

(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections [115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK,] [139,] 143, 144, 147, 148, 154, 155 [, 158BF A], [sub-section (1A) of section 201, sections 210, 211, 234A, 234B, 234C], 271 and 273 or otherwise), general or special orders in respect of any class of incomes [or fringe benefits] or class of cases, setting forth

directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(b) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise[any income-tax authority, not being a Commissioner (Appeals)] to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law;

(c) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order for reasons to be specified therein, relax any requirement contained in any of the provisions of Chapter IV or Chapter VI-A, where the assessee has failed to comply with any requirement specified in such provision for claiming deduction thereunder, subject to the following conditions, namely:—

(i) the default in complying with such requirement was due to circumstances beyond the control of the assessee; and

(ii) the assessee has complied with such requirement before the completion of assessment in relation to the previous year in which such deduction is claimed :

Provided that the Central Government shall cause every order issued under this clause to be laid before each House of Parliament.]

5.3.4 Jurisdiction of income-tax authorities.

(1) Income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or, as the case may be, assigned to such authorities by or under this Act in accordance with such directions as the Board may issue for the exercise of the powers and perfor- mance of the functions by all or any of those authorities.

Explanation.— For the removal of doubts, it is hereby declared that any income-tax authority, being an authority higher in rank, may, if so directed by the Board, exercise the powers and perform the functions of the income-tax authority lower in rank and any

such direction issued by the Board shall be deemed to be a direction issued under sub-section (

2. The directions of the Board under sub-section (1) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

3. In issuing the directions or orders referred to in sub-sections (1) and (2), the Board or other income-tax authority authorised by it may have regard to any one or more of the following criteria, namely :—

(a) territorial area;

(b) persons or classes of persons;

(c) incomes or classes of income; and

(d) cases or classes of cases.

4. Without prejudice to the provisions of sub-sections (1) and (2), the Board may, by general or special order, and subject to such conditions, restrictions or limitations as may be specified therein,—

a. authorise any Director General or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;
b. empower the Director General or Chief Commissioner or Commis- sioner to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by [an Additional Commis- sioner or] [an Additional Director or] a [Joint] Commissioner [or a [Joint] Director], and, where any order is made under this clause, references in any other provision of this Act, or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such [Additional Commissioner or] [Additional Director or] [Joint] Commissioner [or [Joint] Director] by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the [Joint] Commissioner shall not apply.

5. The directions and orders referred to in sub-sections (1) and (2) may, wherever considered necessary or appropriate for the proper management of the work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform,

concurrently, the powers and functions in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases; and, where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct, and, further, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

6. Notwithstanding anything contained in any direction or order issued under this section, or in section 124, the Board may, by notification in the Official Gazette, direct that for the purpose of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons, the income-tax authority exercising and performing the powers and functions in relation to the said person or class of persons shall be such authority as may be specified in the notification.

5.3.5 Jurisdiction of Assessing Officers.

(1) Where by virtue of any direction or order issued under sub-section (1) or sub-section (2) of section 120, the Assessing Officer has been vested with jurisdiction over any area, within the limits of such area, he shall have jurisdiction—

(a) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and

(b) in respect of any other person residing within the area.

Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the Director General or the Chief Commissioner or the Commissioner; or where the question is one relating to areas within the jurisdiction of different Directors General or Chief Commissioners or Commissioners, by the Directors General or Chief Commissioners or Commissioners concerned or, if they are not in agree- ment, by the Board or by such Director General or Chief Commissioner or Commissioner as the Board may, by notification in the Official Gazette, specify.

2. No person shall be entitled to call in question the jurisdiction of an Assessing Officer—

jjj) where he has made a return [under sub-section (1) of section 115WD or] under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 142 or [sub-section (2) of section 115WE or] sub-section (2) of section 143 or after the completion of the assessment, whichever is earlier;

2. where he has made no such return, after the expiry of the time allowed by the notice under [sub-section (2) of section 115WD or sub-section (1) of section 142 or under sub-section (1) of section 115WH or under section 148 for the making of the return or by the notice under the first proviso to section 115WF or under the first proviso to section 144] to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier.

kkk) Subject to the provisions of sub-section (3), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (2) before the assessment is made.

lll) Notwithstanding anything contained in this section or in any direction or order issued under section 120, every Assessing Officer shall have all the powers conferred by or under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under sub- section (1) or sub-section (2) of section 120.

5.4 POWERS OF INCOME TAX AUTHORITIES

5.4.1 Powers of Commissioner respecting specified areas, cases, persons, etc.

(1) The Director General or Chief Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

2. Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Director General or Chief Commissioner or Commissioner,—

(a) where the Directors General or Chief Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Director General or Chief Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and afterrecording his reasons for doing so, pass the order;

(b) where the Directors General or Chief Commissioners or Commissioners aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Director Generalor Chief Commissioner or Commissioner as the Board may, bynotification in the Official Gazette, authorise in this behalf.

3. Nothing in sub-section (1) or sub-section (2) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

4. The transfer of a case under sub-section (1) or sub-section (2) may be made at any stage 90-91 of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

Explanation. —In section 120 and this section, the word "case", in relation to anyperson whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may bepending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

5.4.2 Change of incumbent of an office.

Whenever in respect of any proceeding under this Act an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard.

5.4.3 Power regarding discovery, production of evidence, etc.

1) The [Assessing] Officer, [Deputy Commissioner (Appeals)], [Joint Commissioner] [, Commissioner (Appeals)] and [Chief Com-missioner or Commissioner] shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely :—

(a) discovery and inspection;

(b) enforcing the attendance of any person, including any officer of abanking company and examining him on oath;

(c) compelling the production of books of account and other documents;and

(d) issuing commissions.

(1A) [If the Director General or Director or [Joint] Director or Assistant Director [or Deputy Director], or the authorised officer referred to in sub- section (1) of section 132 before he takes action under clauses (i) to (v) of that sub-section] has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then, for the purposes of making any enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other income-taxauthority.]

mmm) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

nnn) Subject to any rules made in this behalf, any authority referred to in sub- section (1) [or sub-section (1A)] may impound and retain in its

custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act :

Provided that an [Assessing] Officer [or an [Assistant Director [or Deputy Director]]] shall not—

ooo) impound any books of account or other documents without recording his reasons for so doing, or

ppp) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the [Chief Commissioner or Director General orCommissioner or Director therefor, as the case may be.

5.5 SEARCH AND SEIZURE

(1) Where the [Director General or Director] or the [Chief Com- missioner or Commissioner] [or any such [Joint Director] or [Joint Commissioner] as may be empowered in this behalf by the Board], in consequence of information in his possession, has reason to believe that—

a. any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) ofsection 22 of the Indian Income-tax Act, 1922, or under sub-section (1)of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or

b. any person to whom a summons or notice as aforesaid has been ormight be issued will not, or would not, produce or cause to beproduced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or (2) Substituted by the Income-tax (Amendment) Act, 1965, w.e.f. 12-3-1965. Earlier, section 132 was substituted by the Finance Act, 1964, w.e.f. 1-4-1964. Section 6 of the Amendment Act, 1965 has made the following independent provision :

"*Validation of certain searches made.* —Any search of a building or place by an Inspecting Assistant Commissioner or Income-tax Officer purported to have been made in pursuance of sub-section (1) of section 132 of the principal Act before the commencement of this Act shall be deemed to have been made in accordance with the provisions of that sub-section as amended by this Act as if those provisions were in force on the day the search was made and shall not be called in question before any court of law or any other authority merely on the ground—

i. that the Inspecting Assistant Commissioner or the Income-tax Officer made such search with the assistance of any other person; or

ii. that no proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or the principal Act was pending against the person concerned when the search was authorised under the said sub-section."

c. any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property [which has not been, or would not be, disclosed] for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property), [then,—

the [Director General or Director] or the [Chief Commissioner or Commissioner], as the case may be, may authorise any [Joint Director], [Joint Commissioner], [Assistant Director [or Deputy Director]], [Assistant Commissioner [or Deputy Commissioner] or Income-tax Officer], or

such [Joint Director], or [Joint Commissioner], as the case may be, may authorise any [Assistant Director [or Deputy Director]], [Assistant Commissioner [or Deputy Commissioner] or Income-tax Officer],

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—]

enter and search any [building, place, vessel, vehicle or aircraft] where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;

break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*i*) where the keys thereof are not available;

(*iia*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such

person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;

(*iib*) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (*t*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;

seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of suchsearch:

[**Provided** that bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such searchshall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;]

) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

make a note or an inventory of any such money, bullion, jewelleryor other valuable article or thing :

[**Provided** that where any building, place, vessel, vehicle or aircraft referred to in clause (*i*) is within the area of jurisdiction of any [Chief Commissioner or Commissioner], but such [Chief Commissioner or Commissioner] has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*), then, notwithstanding anything contained in section [120], it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the [Chief Commissioner or Commissioner] having jurisdiction over such person may be prejudicial to the interests of the revenue :]

[**Provided further** that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (*iii*) :]

[**Provided also** that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business.]

[(1A) Where any [Chief Commissioner or Commissioner], in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the [Director General or Director] or any other [Chief Commissioner or Commissioner] or any such [Joint Director] or [Joint Commissioner] as may be empowered in this behalf by the Board to take action under clauses (*i*) to (*v*) of sub-section (1) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such [Chief Commissioner or Commissioner] may, notwithstanding anything contained in section [120], authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.]

2. The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) [or sub-section (1A)] and it shall be the duty of every such officer to comply with such requisition.

3. The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing, [for reasons other than those mentioned in the second proviso to sub-section (1),] serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

[*Explanation.* —For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (*iii*) of sub-section (1).]

4. The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

[*Explanation.* —For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other

documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.]

[(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

i. that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person ;

ii. that the contents of such books of account and other documents are true ; and

iii. that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.]

(5) Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) is seized under sub-section (1) or sub-section (1A), as a result of a search initiated or requisition made before the 1st day of July, 1995, the Income-tax Officer, after affording a reasonable opportunity to the person concerned of being heard and making such enquiry as may be prescribed†, shall, within one hundred and twenty days of the seizure, make an order, with the previous approval of the Joint Commissioner,—

i. estimating the undisclosed income (including the income from the undisclosed property) in a summary manner to the best of his judgment on the basis of such materials as are available with him ;

ii. calculating the amount of tax on the income so estimated in accordance with the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act

iii. (*iia*) determining the amount of interest payable and the amount of penalty imposable in accordance with the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act, as if the order had been the order of regular assessment

iv. specifying the amount that will be required to satisfy any existing liability under this Act and any one or more of the Acts specified in clause (*a*) of sub-section

(1) of section 230A in respect of which such person is in default or is deemed to be in default, and retain in his custody such assets/ or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts referred to in clauses (*ii*), (*iia*) and (*iii*) and forthwith release the remaining portion, if any, of the assets to the person from whose custody they were seized :

Provided that if, after taking into account the materials available with him, the Income-tax Officer is of the view that it is not possible to ascertain to which particular previous year or years such income or any part thereof relates, he may calculate the tax on such income or part, as the case may be, as if such income or part were the total income chargeable to tax at the rates in force in the financial year in which the assets were seized and may also determine the interest or penalty, if any, payable or imposable accordingly:

Provided further that where a person has paid or made satisfactory arrangements for payment of all the amounts referred to in clauses (*ii*), (*iia*) and (*iii*) or any part thereof, the Income-tax Officer may, with the previous approval of the Chief Commissioner or Commissioner, release the assets or such part thereof as he may deem fit in the the books of account or other documents seized under sub-section (1) [or sub-section (1A)] shall not be retained by the authorised officer for a period exceeding [thirty days from the date of the order of assessment under [section 153A o r] clause (*c*) of section 158BC] unless the reasons for retaining the same are recorded by him in writing and the approval of the [Chief Commissioner, Commissioner, Director General or Director] for such retention is obtained :

Provided that the [Chief Commissioner, Commissioner, Director General or Director] shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed.

[(8A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order.]

The person from whose custody any books of account or other documents are seized under sub-section (1) [or sub-section (1A)] may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf. [(9A)

Where the authorised officer has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (1), the books of account

Provided that the Director or, as the case may be, Commissioner shall not approve the extension of the period for any period beyond the expiry of thirty days after the completion of all the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant."

or other documents, or any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) seized under that sub-section shall be handed over by the authorised officer to the Assessing Officer having jurisdiction over such person within a period of sixty days from the date on which the last of the authorisations for search was executed and thereupon the powers exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer.]

If a person legally entitled to the books of account or other documents seized under sub-section (1) [or sub-section (1A)] objects for any reason to the approval given by the [Chief Commissioner, Commissioner, Director General or Director] under sub-section (8), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents [and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit].

to the Chief Commissioner or Commissioner, and the Chief Commissioner or Commissioner may proceed with such application from the stage at which it was on that day :

Provided that the applicant may demand that before proceeding further with the application, he be reheard."[(13) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (1) or sub-section (1A).]

(14) The Board may make rules in relation to any search or seizure under this section ; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

i. for obtaining ingress into [any building, place, vessel, vehicle or aircraft] to be searched where free ingress thereto is not available ;

ii. for ensuring safe custody of any books of account or other docu-ments or assets seized.

[*Explanation 1.*— For the purposes of sub-section (9A), "execution of an authorisation for search" shall have the same meaning as assigned to it in *Explanation 2* to section 158BE.]

Explanation 2.— In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.]

5.5.1 Powers to requisition books of account, etc.

(1) Where the [Director General or Director] or the [Chief Com- missioner or Commissioner], in consequence of information in his possession, has reason to believe that—

(a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1)of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) ofsection 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time beingin force, or

(b) any books of account or other documents will be useful for, orrelevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act and any person to whom a summons ornotice as aforesaid has been or might be issued will not, or would not,produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

(c) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force, then, the [Director General or Director] or the [Chief Commissioner or Commissioner] may authorise any [Joint Director], [Joint Commissioner], [Assistant Director [or Deputy Director], [Assistant Commissioner or Deputy Commissioner] or Income-tax Officer] (hereafter in this section and in sub-section (2) of section 278D referred to as the requisitioning officer) to require the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

qqq) On a requisition being made under sub-section (1), the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of that sub- section shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

rrr) Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (4A) to (14) (both inclusive) of section 132 and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of sub- section (1) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections (4A) to (14), the words "the requisitioning officer" were substituted.]

5.5.2 Application of seized or requisitioned assets .

(1) The assets seized under section 132 or requisitioned under section 132A may be dealt with in the following manner, namely:—

"132B. *Application of retained assets.*— (1) The assets retained under sub-section (5) of section 132 may be dealt with in the following manner, namely :—

i. The amount of the existing liability referred to in clause (*iii*) of the said sub-section and the amount of the liability determined on completion of the regular assessment or reassessment for all the assessment years relevant to the previous years to which the income referred to in clause (*i*) of that sub-section relates (including any penalty levied or interest payable in connection with such assessment or reassessment) and in respect of which he is in default or is deemed to be in default may be recovered out of such assets.

2. If the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (*i*) and the assessee shall be discharged of such liability to the extent of the money so applied. The assets other than money may also be applied for the discharge of any such liability referred to in clause (*i*) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer or, as the case may be, Tax Recovery Officer under authorisation from the Chief Commissioner or Commissioner under sub-section (5) of section 226 and the Assessing Officer or, as the case may be, Tax Recovery Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule. Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act. Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized. (a) The Central Government shall pay simple interest at the rate of fifteen per cent per annum on the amount by which the aggregate of money retained under section 132 and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (*iii*) of sub-section (5) of that section exceeds the aggregate of the amounts required to meet the liabilities referred to in clause (*i*) of sub-section (1) of this section.

the amount of any existing liability under this Act, the Wealth-tax Act, 1957 (27 of 1957), the Expenditure-tax Act, 1987 (35 of 1987), the Gift- tax Act, 1958 (18 of 1958) and the Interest-tax Act, 1974 (45 of 1974), and the amount of the liability determined on completion of the assessment [94][under section 153A and the assessment of the year relevant to the previous year in which search is initiated or requisition is made, or the

amount of liability determined on completion of the assessment under Chapter XIV-B for the block period, as the case may be] (including any penalty levied or interest payable in connec- tion with such assessment) and in respect of which such person is in default or is deemed to be in default, may be recovered out of such assets:

[**Provided** that where the person concerned makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized, for release of asset and the nature and source of acquisition of any such asset is explained] to the satisfaction of the Assessing Officer, the amount of any existing liability referred to in this clause may be recovered out of such asset and the remaining portion, if any, of the asset may be released, with the prior approval of the Chief Commissioner or Commissioner, to the person from whose custody the assets were seized:

Provided further that such asset or any portion thereof as is referred to in the first proviso shall be released within a period of one hundred and twenty days from the date on which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed;

if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (*i*) and the assessee shall be discharged of such liability to the extent of the money so applied;

i. the assets other than money may also be applied for the discharge of any such liability referred to in clause (*i*) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer or, as the case may be, the Tax Recovery Officer under authorisation from the Chief Commissioner or Commissioner under sub-section (5) of section 226 and the Assessing Officer or, as the case may be, the Tax Recovery Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule.

2. Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.

3. Any assets or proceeds thereof which remain after the liabilities referred to in clause (*i*) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

4. (*a*) The Central Government shall pay simple interest at the rate of [*one-half per cent for every month or part of a month*] on the amount by which the aggregate amount of

money seized under section 132 or requisitioned under section 132A, as reduced by the amount of money, if any, released under the first proviso to clause (*i*) of sub-section (1), and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (*i*) of sub- section (1), exceeds the aggregate of the amount required to meet the liabilities referred to in clause (*i*) of sub-section (1) of this section.

b. Such interest shall run from the date immediately following the expiry of the period of one hundred and twenty days from the date on which the last of the authorisations for search under section 132 or requisition under section 132A was executed to the date of completion of the assessment [under section 153A or] under Chapter XIV-B.

Explanation. — In this section, —

(i) "block period" shall have the meaning assigned to it in clause (*a*) of section 158B;

(ii) "execution of an authorisation for search or requisition" shall have the same meaning as assigned to it in *Explanation 2* to section 158BE.]

5.5.3 Power to call for information.

The [Assessing] Officer, the [1][Deputy Commissioner (Appeals),] [the Joint Commissioner] or the Commissioner (Appeals)] may, for the purposes of this Act,—

1. require any firm to furnish him with a return of the names andaddresses of the partners of the firm and their respective shares ;
2. require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family ;
3. require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses ;
4. require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head "Salaries" amounting to more than [one thousand rupees, or such higher amount as may be prescribed], together with particulars of all such payments made ;
5. require any dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a state- ment of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalfor from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts ;
6. require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the [Assessing] Officer, the [Deputy Commis-sioner (Appeals)] [, the Joint Commissioner] or the Commissioner (Appeals)], giving information in relation to such points or matters as, in the opinion of the [Assessing] Officer, the [Deputy Commissioner (Appeals)] [, the [Joint Commissioner] or the Commissioner (Appeals)], will be useful for, or relevant to, any [enquiry or] proceeding under this Act :

   [**Provided** that the powers referred to in clause (*6*), may also be exercised by the Director-General, the Chief Commissioner, the Director and the Commissioner :]

[**Provided further** that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income- tax authority below the rank of Director or Commissioner without the prior approval of the Director or, as the case may be, the Commissioner.]

5.5.4 Power of survey.

(1) Notwithstanding anything contained in any other provision of this Act, an income-tax authority may enter—

(a) any place within the limits of the area assigned to him, or

(b) any place occupied by any person in respect of whom he exercises jurisdiction, [or]

(c) any place in respect of which he is authorised for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place,]

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession—

i. to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,

ii. to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and

iii. to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

Explanation. —For the purposes of this sub-section, a place where a business or profession is carried on shall also include any other place, whether any business or profession is carried on therein or not, in which the person carrying on the business or profession states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession are or is kept.

2. An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.

3. An income-tax authority acting under this section may,—

sss) if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom, (*ia*) impound and retain in his custody for such period as he thinks fit any books of account or other documents inspected by him:

Provided that such income-tax authority shall not—

a. impound any books of account or other documents except after recording his reasons for so doing; or

(b) retain in his custody any such books of account or other documents for a period exceeding ten days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be, make an inventory of any cash, stock or other valuable article or thing checked or verified by him, record the statement of any person which may be useful for, orrelevant to, any proceeding under this Act.

1. An income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, anycash, stock or other valuable article or thing.
2. Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the income- tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.
3. If a person under this section is required to afford facility to the income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the income- tax authority

shall have all the powers under [sub-section (1) of section 131] for enforcing compliance with the requirement made :

[**Provided** that no action under sub-section (1) shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.]

Explanation. —In this section,—

(a) "income-tax authority" means a Commissioner, a Joint Commissioner, a Director, a Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer, and for the purposes of clause (i) of sub-section (1), clause (i) of sub-section (3) and sub-section (5), includes an Inspector of Income-tax;]

(b) "proceeding" means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.]

5.5.5 Power to collect certain information.

(1) Notwithstanding anything contained in any other provision of this Act, an income-tax authority may, for the purpose of collecting any information which may be useful for, or relevant to, the purposes of this Act,

enter—

a. any building or place within the limits of the area assigned to such authority ; or
b. any building or place occupied by any person in respect of whom he exercises jurisdiction, at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession to furnish such information as may be prescribed .

2. An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession.

3. For the removal of doubts, it is hereby declared that an income-tax authority acting under this section shall, on no account, remove or cause to be removed from the building or place

wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.

Explanation. —In this section, "income-tax authority" means a [Joint Commissioner], an [Assistant Director] [or Deputy Director] or an [Assessing] Officer, and includes an Inspector of Income-tax who has been authorised by the [Assessing] Officer to exercise the powers conferred under this section in relation to the area in respect of which the [Assessing] Officer exercises jurisdiction or part thereof.

5.5.6 Power to inspect registers of companies.

The [Assessing] Officer, the [Deputy Commissioner (Appeals)], the [Joint Commissioner] or the Commissioner (Appeals)], or any person subordinate to him authorised in writing in this behalf by the [Assessing] Officer, the Deputy Commissioner (Appeals)], [the Joint Commissioner] or the Commissioner (Appeals)], may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

5.5.7 Power of [Director General or Director], [Chief Commissioner or Commissioner] and [Joint Commissioner].

The [Director General or Director], the [Chief Commissioner or Com- missioner] and the [Joint Commissioner] shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that an [Assessing] Officer has under this Act in relation to the making of enquiries.

5.5.8 Proceedings before income-tax authorities to be judicial proceedings.

Any proceeding under this Act before an income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860) [and every income-tax authority shall be deemed to be a Civil Court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)].

—Disclosure of information

Disclosure of information respecting assesses.

(1)(*a*) The Board or any other income-tax authority specified by it by a general or special order in this behalf may furnish or cause to be

furnished to—

(i) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or to dealings in foreign exchange as defined in section 2(*d*) of the ForeignExchange Regulation Act, 1947 (7 of 1947) ; or

(ii) such officer, authority or body performing functions under any otherlaw as the Central Government may, if in its opinion it is necessary so to do in the public interest, specify by notification in the OfficialGazette in this behalf, any such information [received or obtained by any income-tax authority in theperformance of his functions under this Act], as may, in the opinion of the Board or other income-tax authority, be necessary for the purpose of enabling the officer, authority or body to perform his or its functions under that law.

(b) Where a person makes an application to the [Chief Commissioner or Commissioner] in the prescribed form for any information relating to any assessee [received or obtained by any income-tax authority in the performance of his functions under this Act], the [Chief Commissioner or Commissioner] may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked forand his decision in this behalf shallbe final and shall not be called in question in any court of law.] Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, the Central Government may, having regard to the practices and usages customary or any other relevant factors, by order notified in the Official Gazette, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assessees or except to such authorities as may be specified in the order.

However, no authorization shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner, unless he has been empowered by the Board to do so.

The Officer so authorised is referred as Authorised Officer. The authorisation is done by issuing a search warrant in Form 45.

(B) Basis for Search and Seizure [Section 132(1)(a), (b) and (c)]:

Authorisation for search and seizure can take place if the above authority, in consequence of

information in his possession, has **Reason to Believe** that:

1. any person to whom: (i) summons under section 131(1) or (ii) notice under section 142(1), was issued to produce or cause to be produced any books of account, or other documents has willfully omitted or failed to produce or caused to produce such books of account or other documents as required by such summons or notice;
2. any person to whom summons or notice, as aforesaid, has been or might be issued, will not or would not produce any books of account or other documents which will be useful or relevant to any proceeding undertaken under the Income-tax Act;
3. any person is in possession of any money, bullion or jewellery, or other valuable article or things and these assets represent either wholly or partly the income or property which has not been or would not be disclosed by the person concerned for the purposes of this Act.

(3) Power to requisition service of a Police Officer or Officer of the Central Government [Section 132(2)]:

The authorised officer may requisition the services of any Police Officer or any of the officer of the Central Government or of both to assist him for all or any of purposes specified above and it will be duty of every such officer to comply with such requisition.

(4) Examination of any person on oath [Section 132(4) with Explanation]:

The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Income-tax Act, 1961. The statement can be recorded during the course of search and seizure or when it is over. Further, an explanation has been added to provide that the examination of any person may be not merely be in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Income-tax Act, 1961.

The authorised officer may record statement wherein he may question on all matters which he may deem to be relevant for the purpose of the assessment, unearthing of concealed assets, source of income, investments made during different years, source of investments, marriages performed, expenses incurred on marriages and other ceremonial occasions, sources of expenditure incurred, household expenses and similar other aspects.

(5) Search party has no power to interrogate and record the statement by depriving the assessee of sleep:

Where the assessee filed a complaint before the Bihar Human Rights Commission stating that interrogation and recording of statement under section 132(4) was conducted for more than 30 hours and till the odd hours of the night without any break or interval and thus violated his human rights, the Commission upheld the plea and directed the concerned officials to show-cause why the assessee should not be compensated from their salary. The Department filed a Writ Petition to challenge the order held by the Court.

(6) Presumption of ownership of books of account and asset and its truthfulness [Section 132(4A)]:

Where any books of account, other documents, money, bullion, jewellery and other valuable article

is found in possession or control of any person in the course of search, it may be presumed—

1. the books of account or other documents and assets found in the possession of any person in the course of a search belong to such person;
2. the contents of such books of account and other documents are true; and
3. the signature and every other part of such books of account and other documents which purports to be in the handwriting of any particular person are in hand-writing of that person or which may reasonably be assumed to have signed or written the books of account or other documents are in that person's handwriting. In case of documents stamped, executed or attested that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

What section 132(4A) contemplates is the presumption regarding ownership. If control or possession has been established, the Assessing Officer can proceed to presume its ownership. The fact that an article or a document is found at a particular place is taken as proof of control or possession and consequently the ownership.

(7) Retention of books of account and other documents [Section 132(8)]:

The book of account or other documents seized under this section shall not be retained by the authorised officer (if he is himself a Assessing Officer) for a period exceeding 30 days from the date of the order of assessment under section 153A or under section 158BC(c) (relating to assessment of search cases/block assessment) unless the reasons for retaining the same are recorded by him in writing and the approval of the Chief Commissioner, Commissioner, Director General or Director for such retention is obtained.

However, that the Chief Commissioner, Commissioner, Director General or Director shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Income-tax Act, in respect of the years for which the books of account or other documents are relevant are completed.

If a person, legally entitled to the books of account or other documents seized, objects for any reason to the approval of extension given by Chief Commissioner, etc. as above, he may make an application to the Board for return of such books of account and documents and the Board may, after giving the applicant an opportunity of being heard, pass such order as it thinks fit. [Section 132(10)]

(8) Copies of extract of books of account and documents [Section 132(9)]:

The person from whose custody any books of account or documents are seized under this section

may make copies thereof, or take extracts there from, in the presence of the authorised officer or any person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.

(9) Handing over of seized books and assets to Assessing Officer [Section 132(9A)]:

The Authorised Officer, if he is not the Assessing Officer, is required to hand over the books of account or other documents or any money, etc., seized by him to the Assessing Officer having jurisdiction over the person searched within a period of 60 days from the date on which the last of the authorisation for search was executed; and thereafter, the powers and functions of the Authorised Officer under section 132(8) and (9) would be exercised by the Assessing Officer.

(10) Power of provisional attachment by authorised officer [Section 132(9B) and (9C) inserted] [W.r.e.f. A.Y. 2017-18]

In order to protect the interest of revenue and safeguard recovery in search cases, the Act has inserted the following sub-sections (9B) and (9C) in section 132:

"(9B) Where, during the course of the search or seizure or within a period of 60 days from the date on which the last of the authorisations for search was executed, the authorised officer, for the reasons to be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purpose the provisions of the Second Schedule shall, mutatis mutandis, apply. (9C) Every provisional attachment made under section 132(9B) shall cease to have effect after the expiry of a period of 6 months from the date of the order referred to in section 132(9B)."

(11) Power to make reference to Valuation Officer by the authorized officer [Section 132(9D) inserted] [W.r.e.f. A.Y. 2017-18]

In order to enable correct estimation and quantification of undisclosed income held in the form of investment or property by the assessee by the investigation wing of the Department, the Act has inserted the following sub-section (9D) under section 132:

"(9D) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, make a reference to a Valuation Officer referred to in section 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate

to the said officer ***within a period of sixty days from the date of receipt of such reference."***

1. The Principal Chief Commissioner/ Chief Commissioner or Principal Commissioner/ Commissioner of Income-tax has the power to authorise a search of any building, place, vessel, vehicle or aircraft of a person which is under his jurisdiction and also in cases where such building, place, vessel, vehicle or aircraft is in his area of jurisdiction but he has no jurisdiction over the persons concerned, if he has reason to believe that any delay in obtaining authorisation from the Principal CCIT/CCIT or Principal Commissioner/ Commissioner having jurisdiction over the person would be prejudicial to the interests of revenue. Such authorization shall be given in Form 45A. [First proviso to section 132(1)]
2. Where a search for any books of account or other documents or assets has been authorised by any authority who is competent to do so, and some other Chief Commissioner/Commissioner in consequence of information in his possession has reason to suspect that such books of account or other documents and asset, etc. of the assessee are kept in any building, place, vessel, vehicle or aircraft not specified in the search warrant issued by such authority, he may authorise the Authorised Officer to search such other building, place, vessel, vehicle or aircraft. [Section 132(1A)] Such authorization shall be given in Form 45B.

(D) Power of Officer to whom authority is given for Search and Seizure:

The Officer authorised i.e. the Authorised Officer for search and seizure, shall have the powers to:—

enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;

break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) above where the keys thereof are not available;

search any person who (a) has got out of, or (b) is about to get into, or (c) is in the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;

require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic records, to afford the necessary facility to the authorised officer to inspect all such books of account or other documents;

seize any such books of account, other documents, money, bullion, jewellery or other valuable

article or thing found as a result of such search. However, the authorised officer shall have no power to seize any bullion, jewellery or other valuable article or thing being stock-in-trade of the business found as a result of search. He shall make a note or inventory of such stock-in-trade of the business.

place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing.

APPEALS AND REVISIONS UNDER INCOME TAX ACT:

The Constitution of India gurantees the citizens of the country certain fundamental rights. Therefore , under any system of rule of law, the right to appeal for redressal of one's grievances is generally in built. Under the Income Tax Act, 1961 following two alternatives are available to the assessee if he is not satisfied with the order passed by the Assessing Officer;

1) APPEAL : First appeal against the order of the Assessing Officer shall, except in certain cases(Refusing to grant registration u/s 12AA and approval u/s 80G), lie with the commissioner (Appeals) u/s 246A.

2) REVISION : Alternativly, if the appeal is not preferred, or if could not be filed within the time limit allowed, the assesse can apply u/s 264 to the Commissioner of Income Tax for revision of the order of the Assessing Officer. This is known as revision in favour of the assessee. The Commissioner of Income Tax can also take up suo moto the case foe revsion u/s 264. In some cases, the Commissioner of Income Tax can also take up the case for revision u/s 263. This is known as revision of the order of the Assessing Officer which is erroneous and prejudicial to the interest of revenue. The assessee is given a right of appeal by the Income tax Act where he feels aggrieved by the order of the assessing authority. However, the assessee has no inherent right of appeal unless the statute specifically provides that a particular order is appealable. There are four stages of appeal under the Income-tax Act, 1961 as shown hereunder –

Assessment Order (passed u/s 143(3), 144, 153A, 147 etc)

↓

First Appeal Commissioner (Filed u/s 246A electronically in form 35 within 30 days of order passed)

↓

Second Appeal Appellate Tribunal (Filed u/s 253 in form 36 within 60 days of order passed by

CIT (appeals)

↓

Third Appeal High Court u/s 260A

↓

Final Appeal Supreme Court u/s 261

REVISIONS u/s 263 and 264:

Section 263:

The Principal Commissioner or Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may after giving an opportunity of being heard pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment . However, Assessee has an option to file an appeal in INCOME TAX APPELLATE TRIBUNAL against the revision order passed by CIT u/s 263.

Section 264:

The Principal Commissioner or Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and subject to the provisions of this act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit. However, In this case income tax act does not provide any remedy for filling appeal to higher income tax authority. But , assessee has an option , he can take the benefit of Constitution of India. Article 226 provides every citizen of india remedy to file WRIT petition in High Court against the order passed by income tax department.

APPEALS

As already discussed in above mentioned intro, the first appeal against the order of Assessing Officer shall lie to the Commissioner (Appeals) and it can only be filed by assesse only.

An assesse or any deductor or any collector who has been aggrieved by the orders (like order passed under section 147, 144, 143(3) etc) passed by the certain income tax authorities can file its first appeal to commissioner appeals u/s 246A of the income tax, act 1961.

Form of Appeal and limitation (section 249 and Rules 45 & 46)

1. Form : An appeal to the commissioner (appeals) shall be made in Form 35.

2. Manner of furnishing the appeal: a. By furnishing the form electronically under digital signature, if the return of income is furnished under digital signature. b. By furnishing the form electronically through electronic verification code in a case not covered under sub clause (a) c. In case where the assessee has the option to furnish the return of income in paper form, he can exercise both options of filing form in paper form or electronically.

Time limit for filing the form [section 249(2)]

The appeal should be filed within a period of 30 days of date of service of notice of demand or order passed by the authority. Further Commissioner may admit an appeal after the expiration of the prescribed period of 30 days, if he is satisfied that the appellant had sufficient cause for not presenting it within the prescribed period.

Penalties and Prosecutions :

Default in complying with provisions of or with conditions prescribed under the Income-tax Act would attract certain penalty and in critical cases prosecutions as well. The document will provide you information about the punishable offences, prosecutions and the quantum of penalties that can be imposed under the law. There are three modes built in the fiscal legislation for encouraging tax compliance: (a) Charge of Interest, (b) imposition of penalty (c) launching of prosecution against tax delinquents. While charging of interest is compensatory on character, the imposition of penalty and institution of prosecution proceedings act as strong deterrents against potential tax delinquents.

What are the defaults which may invite levy of penalty?

Chapters XVII and XXI of Income-tax Act, 1961, contain various provisions empowering an Income-tax Authority to levy penalty in case of certain defaults. The following defaults may invite levy of penalty:

When the assessee is in default or is deemed to be in default in making payment of tax, including the tax deducted at source, advance tax and the self assessment tax. [Section 221 read with Sec.201(1)]

(ii) Failure to pay the advance tax as directed by the Assessing Officer or as estimated by the assessee. [Section 273(1)]

(iii) Failure to comply with a notice issued under section 142(1) or 143(2) or failure to comply with the direction issued under section 142(2A) to get the accounts audited. [Section 271(1)(b)]

(iv) Concealment of particulars of income or furnishing of inaccurate particulars of income. [Section 271(1)(c)]

(v) Failure to maintain books of accounts and documents by persons carrying on profession or

business as prescribed under section 44AA. [Section 271A]

(vi) Failure to get the accounts audited in prescribed circumstances or failure to obtain the prescribed audit report within prescribed time period of failure to furnish the audit report along with the return, as required under section 44AB. [Section 271B]

(vii) Failure to subscribe to the eligible issue of capital [Section 271BB]

(viia) Penalty for failure to deduct tax at source. [Section 271C] (viii) Accepting of any loan or deposit or repayment of deposit of Rs.20,000 or more otherwise than by account payee cheque or account payee draft, in contravention of the provisions of Section 269SS. [Section 271D]

(viiia) Repayment of loan in contravention of the conditions imposed in section 269T. [Section 271E]

(viiib) A. Failure of file the return of income as required under Section 239 (1), shall entail imposition of penalty. [Section 271F] B. Failure to file the return as required under the proviso to Section 139(1), in the event of assessee fulfilling the prescribed conditions, i.e., certain persons in occupation of immovable property or owner of motor vehicle or subscriber to telephone, one who incurred expenditure on foreign travel, the holder of the credit card or a member of a club, subject to specific conditions, are required to file the return as per proviso to Section 139(1), failing which penalty may be imposed. (Proviso to Section 271F)

(ix) Refusal to answer in contravention of legal obligation. [Section 272A(1)(a)]

(x) Refusal to sign any statement made in the course of income-tax proceedings. [Section 272A(1)(b)]

(xi) Failure to attend or give evidence or produce books of accounts and documents in compliance with the requirements of summons under section 131(1). [Section 272A(1)(c)]

(xii) Failure to comply with the provisions of section 139A dealing with the application for and allotment of Permanent Account Number or General Index Register Number. [Section 272A(1)(d)]

(xiii) Failure to furnish information regarding securities. [Section 272A(2)(a)]

(xiv) Failure to give notice of discontinuance of business or profession. [Section 272A(2)(b)]

(xv) Failure to furnish in due time information sought under section 133 of Income-tax Act. [Section 272A(2)(c)]

(xvi) Failure to furnish in due time prescribed returns/statements. [Section 272A(2)(c)]

(xvii) Failure to allow inspection or take copies of registers of registers of companies. [Section 272A(2)(d)]

(xviii) Failure to furnish in due time the return of income by charitable or religious institutions. [Section 272A(2)(e)]

(xix) Failure to deliver in due time a copy of declaration of non-deduction of tax at source u/s.197A. [Section 272A(2)(f)]

(xx) Failure to furnish a certificate of tax deducted at source to the person on whose behalf tax has been deducted or collected as required by Section 203 or Section 206C. [Section 272A(2)(g)]

(xxi) Failure to deduct and pay tax from salary payable to an employee as directed by the Assessing Officer or the Tax Recovery Officer as required by Section 226(2). [Section 272A(2)(h)]

(xxii) Failure to allow an Income-tax Authority to collect any information useful or relevant to the purposes of Income-tax Act u/s.133B. [Section 272AA)]

(xxiii) Failure to comply with the provisions of section 203a dealing with tax Deduction Account Number [Section 272BB]

No penalty under the Income-tax Act is imposed unless the person concerned has been given reasonable opportunity of being heard.

The minimum and maximum penalty leviable?

The quantum of penalty leviable depends upon the nature of default. The relevant section of Income-tax Act prescribe the minimum and maximum penalties which can be levied.

The Commissioner of Income-tax may reduce or waive the amount of any penalty imposed or imposable, if prescribed conditions are satisfied. The assessee should voluntarily and in good faith make full and true disclosure of income prior to the detection of concealment by the Assessing Officer. In certain cases of genuine hardship, the penalty levied can be reduced/waived if the assessee has co-operated in any enquiry relating to the assessment and recovery of taxes. The waiver/reduction of penalties is discretionary and dependent upon satisfaction or prescribed conditions. No assessee can, a matter of right, claim waiver or reduction of penalty imposed or imposable upon him. [Section 273A]

In the fight against tax evasion, the imposition of monetary penalty alone is not sufficient. A calculating tax evader finds it profitable to evade tax for years, if he knows that he may get away with it by paying penalty in the year in which he is caught. However, the prospect of landing in jail is a far more dreaded consequence and works as a deterrent. Further, for more serious defaults, sometimes launching of prosecution is prescribed without prescribing monetary penalties. The Parliament has, therefore, been enacting deterrent laws for effective implementation of tax laws. The Income-tax Act contains a separate chapter XXII wherein offences have been defined and punishment provided.

The following offences committed by a person are punishable:

Removal, parting with or otherwise dealing with books of accounts, documents, money, bullion,

jewellery or other valuable article or thing put under restraint during the search. [Section 275A]

(ii) Fraudulent removal, concealment, transfer or delivery of any property or any interest in the property with the intention to thwart recovery of tax. [Section 276]

(iii) Failure on the part of a liquidator or receiver of a company to give notice of his appointment to the Assessing Officer or failure to set apart amount notified by the Assessing Officer, or parting away of company's properties in contravention of income-tax provision. [Section 276A]

(iv) Failure to enter into written agreement or failure to furnish the statement of immovable property intended to be transferred u/s.269UC, or failure to surrender or deliver the property u/s.269UE, purchased by the Appropriate Authority or doing or omitting to do anything u/s.269UL, which will have the effect of transfer of property without the permission of the Appropriate Authority (under the provisions of Chapter XX-C) [Section 276AB]

(v) Failure to pay to the credit of the Central Government the tax deducted at source. [Section 276B] (va) Failure to pay the tax collected at source. [Section 276BB]

(vi) Willful attempt to evade any tax, penalty or interest [Section 276C(1)]

(vii) Willful attempt to evade the payment of any tax, penalty or interest levied under Income Tax Act. [Section 276C(2)]

(viii) Willful failure to furnish in due time return of income. [Section 276CC)] (viiia) Failure to furnish return of income in Search Cases as required under section 158BC [Section 276CCC]

(ix) Willful failure to produce accounts and documents as directed by issue of notice under section 142(1) [Section 276D]

(x) Willful failure to get the accounts audited as directed by the Assessing Officer under section 142(2A). [Section 276D]

(xi) Making of a statement in verification or delivery of an account or statement which is false and which the concerned person knows or believes to be false or does not believe to be true. [Section 277]

(xii) Abetting or inducing another person to make and deliver an account or statement or declaration relating to any taxable income which is false and which he either knows or believes to be false. [Section 278]

(xiii) Punishment for 2nd & subsequent offences in cases of certain defaults. [Section 278A]

(xiv) No person shall be punished for any failure if he proves that there is reasonable cause failure. [Section 278AA].

Any person, committing the offence is liable to be prosecuted. In this connection it is not necessary that the person should be an assessee under the Income-tax Act. In the case of an offence

committed by a Company, Firm, Association of Persons or Body of Individuals, every person in charge of or responsible for the conduct of the business of the concern as well as the concern are deemed to be guilty. Similarly, in the case of an offence by a Hindu Undivided Family, the karta thereof is deemed to be guilty of the offence.

In case of willful act of omission or commission, the court shall presume the existence of culpable mental state. However, the accused can rebut this presumption by producing necessary evidence before the court. (Section 278E).

5.6 UNIT END QUESTIONS

Short Answer Questions:

1. What is the role of Income-Tax Authorities?
2. How are Income-Tax Authorities appointed?
3. What powers do Income-Tax Authorities possess?
4. Define "search and seizure" in the context of income tax enforcement.
5. Why is understanding the structure of Income-Tax Authorities crucial for taxpayers?

Long Answer Questions:

1. Describe the hierarchy and levels of Income-Tax Authorities and their respective functions in the administration of income tax.
2. Explain the process of appointment of Income-Tax Authorities, highlighting the significance of a transparent and merit-based selection process.
3. Discuss the various powers vested in Income-Tax Authorities, their implications, and how these powers contribute to effective tax enforcement.
4. Delve into the legal framework surrounding "search and seizure" operations conducted by Income-Tax Authorities, addressing the balance between enforcement and safeguarding individuals' rights.

5. How do Income-Tax Authorities contribute to maintaining tax compliance and combating tax evasion? Provide examples of their roles in different scenarios.

Multiple Choice Questions (MCQs) with Answers:

1. What is the main role of Income-Tax Authorities?
    a) Implementing foreign trade policies
    b) Enforcing traffic regulations
    c) Collecting customs duties
    d) Administering and enforcing income tax laws
2. How are Income-Tax Authorities typically appointed?
    a) Through political nominations
    b) Based on family connections
    c) Via competitive examinations and promotions
    d) Random selection
3. What is the significance of "search and seizure" operations by Income-Tax Authorities?
    a) To confiscate personal belongings
    b) To enforce traffic laws
    c) To uncover concealed income and assets
    d) To sell confiscated properties
4. What do the powers of Income-Tax Authorities include?
    a) The ability to predict future income trends
    b) Authority to demand information and impose penalties
    c) Ability to forecast stock market movements
    d) Authority to issue passports
5. Why is an understanding of Income-Tax Authorities' structure important for taxpayers?
    a) To receive free legal advice
    b) To know about local events
    c) To ensure accurate bookkeeping
    d) To navigate tax obligations and procedures effectively

    Answer: 1 - d, 2 - c, 3 - c, 4 - b, 5 - d

5.7 REFERENCES

Reference Books:

- Singhania, V. K., & Singhania, Monica. (2021). *Students Guide to Income Tax Including GST.* Taxmann Publications.
- Ahuja, Girish. (2020). *Systematic Approach to Income Tax.* Bharat Law House.
- T.N. Manoharan & G.R. Hari. (2020). *Income Tax (Vol. 1 & 2).* Wolters Kluwer.
- Dr. Vinod K. Singhania & Dr. Kapil Singhania. (2021). *Students Guide to Income Tax.* Taxmann Publications.
- Dr. Girish Ahuja & Dr. Ravi Gupta. (2021). *Direct Taxes - Law and Practice.* Bharat Law House.

Websites:

- Income Tax India. (2022). Introduction to Income Tax Authorities. https://www.incometaxindia.gov.in/Pages/taxmann/income-tax-authorities.aspx
- ClearTax. (2022). Powers and Functions of Income Tax Authorities. https://cleartax.in/s/income-tax-authorities-functions
- TaxGuru. (2022). Search and Seizure Under Income Tax Act. https://taxguru.in/income-tax/search-seizure-income-tax-act.html
- IndiaFilings. (2022). Appointment and Powers of Income Tax Authorities. https://www.indiafilings.com/learn/appointment-powers-income-tax-authorities/
- CA Club India. (2022). Search and Seizure under Income Tax Act, 1961. https://www.caclubindia.com/articles/search-and-seizure-under-income-tax-act-1961-30723.asp