

INCOME TAX

LAW AND PRACTICE

(Assessment Year 2020-21)

Dr. Preeti Rani Mittal • Dr. Anshika Bansal



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(Assessment Year 2020-21)

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Preface

Income Tax Law and Practices is a dynamic subject. It is a comprehensive and critical study of the law related to the income tax. Most of the people are afraid of this subject whereas all of us most welcomed this subject because it effects the people, business and our day to day life.

We have great pleasure to presenting the first edition of the book **Income Tax Law and Practice**. From time to time attempts are being made to simplify the Income Tax Act, 1961. The result of frequent amendments is such that is very difficult to know correctly the Income Tax Act and rules framed there under.

This book presents the law and practice of income tax in an analytical and lucid manner. This book is primarily intended for B.Com, B.Com (Hons.), BBA, BCA, CA (Inter), M.com students. The book has been written to cater the needs of students appearing in such examination. We trust the book would meet the requirements of both teachers as well as students.

The book contains 21 well defined chapters. The illustrations and questions have been modified in accordance with the provision applicable in the assessment year 2020-21.

We express our thanks to our parents, family members and my loving son **Dipesh Mittal**.

In this connection, **Mr. Vikas Mittal** and **Ayush Bansal** have contributed immensely in editing the contents of Income Tax Law and deserve a special mention.

We offer our gratitude to our publisher **Sultan Chand & Sons** for doing excellent job in bringing out this edition. The Professional approach and qualitative efforts of the publisher in publishing this book should enable the students to enjoying the book and comprehend the subject without much stress.

The Authors are keen to receive valuable comments, suggestions and criticisms from the readers for the improvement of content of the book.

Dr. Preeti Rani Mittal
Dr. Anshika Bansal

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Salient Feature of Finance Act, 2020

1. RATES OF INCOME TAX FOR THE ASSESSMENT YEAR 2021-22

- (a) **New tax scheme for Individual and HUF:** A new Section 115BAC has been inserted to provide an alternative to Individuals and HUFs to pay tax at lower rates. Option under this scheme can be exercised by every individual or the HUF. However, an individual and HUF having business income, the option once exercised for a previous year shall be valid for that previous year and for all subsequent years. The income under this scheme shall be computed without claiming any deduction under Chapter VI-A (except Sections 80CCD or 80JJAA) or Section 24 or exemptions. The Finance Act, 2020, has provided an option to Individuals and HUF for payment of taxes at the following reduced rates from Assessment Year 2021-22 and onwards:

Total Income (₹)	Rate
Up to 2,50,000	Nil
From 2,50,001 to 5,00,000	5%
From 5,00,001 to 7,50,000	10%
From 7,50,001 to 10,00,000	15%
From 10,00,001 to 12,50,000	20%
From 12,50,001 to 15,00,000	25%
Above 15,00,000	30%

The concessional rate shall not apply unless option is exercised by the individual or HUF in the form and manner as may be prescribed – a, where such individual or HUF has no business income, along with the return of income to be furnished under sub-section (1) of Section 139 of the Act; and in any other case, on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for any previous year relevant to the assessment year commencing on or after 1st April, 2021 and such option once exercised shall apply to sub-sequent assessment years;

The option can be withdrawn only once where it was exercised by the individual or HUF having business income for a previous year other than the year in which it was exercised and thereafter, the individual or HUF shall never be eligible to exercise option under this section, except where such individual or HUF ceases to be available.

The individual or HUF opting for taxation under the newly inserted Section 115BAC of the Act shall not be entitled to the following exemptions/ deductions:

- (i) Leave travel concession as contained in clause (5) of Section 10;
- (ii) House rent allowance as contained in clause (13A) of Section 10;
- (iii) Some of the allowance as contained in clause (14) of Section 10;

- (iv) Allowances to MPs/MLAs as contained in clause (17) of Section 10;
 - (v) Allowance for income of minor as contained in clause (32) of Section 10;
 - (vi) Exemption for SEZ unit contained in Section 10AA
 - (vii) Standard deduction, deduction for entertainment allowance and employment/professional tax as contained in Section 16;
 - (viii) Interest under Section 24 in respect of self-occupied or vacant property referred to in sub-section (2) of Section 23. (Loss under the head income from house property for rented house shall not be allowed to be set off under any other head and would be allowed to be carried forward as per extant law);
 - (ix) Additional depreciation under clause (iia) of sub-section (1) of Section 32
 - (x) Deductions under Sections 32AD, 33AB, 33ABA
 - (xi) Various deduction for donation for or expenditure on scientific research contained in sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of Section 35;
 - (xii) Deduction under Section 35AD or section 35CCC;
 - (xiii) Deduction from family pension under clause (iia) of Section 57
 - (xiv) Any deduction under chapter VIA (like Sections 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc). However, deduction under sub-section (2) of Section 80CCD (employer contribution on account of employee in notified pension scheme) and section 80JJAA (for new employment) can be claimed
- (b) **Concessional tax rates for co-operative societies:** A new Section 115BAD has been inserted to provide an option to the cooperative societies to pay tax at the rate of 22% plus 10% surcharge and 4% cess. The income of such societies shall be computed without claiming specified exemption, deduction or incentive available under the Act. Provisions of Alternate Minimum Tax (AMT) shall not apply to such co-operative societies.
- (c) **Amendment in Section 115BAA and 115BAB:** The Taxation Laws (Amendment) Act, 2019 inserted Section 115BAA and Section 115BAB to provide domestic companies with an option to pay tax at the concessional tax rates. The Finance Bill, 2020 amended that companies, opting for the concessional rates shall not be allowed a deduction under any provisions of Chapter VI-A other than Section 80JJAA or Section 80M. Further, Section 115BAB shall include within its ambit the companies engaged in the business of generation of electricity.

2. CITIZENSHIP CHECK TO PREVAIL OVER DOMICILE CHECK

With a target to cover stateless person, it has been amended that an Indian Citizen, shall be deemed to be a resident of India for tax purposes, if he is not liable to tax in any other country or territory by reason of his domicile or residence.

3. INDIAN CITIZENS/PIO

Indian Citizens/PIO stay in India restricted to 120 days instead of 182 days One of the condition, to check the residential status of an individual in India, is that his period of

stay in India should be more than 60 days. However, in case of an Indian Citizen or a person of Indian origin, the Income-tax Act provides relaxation of up to 182 days for residency check. To curb the misuse of the said relaxation, the exception provided for Indian Citizen or a person of Indian origin, in clause (b) of Explanation 1 of Section (1) is has been decreased to 120 days from existing 182 days.

4. NON-ORDINARILY RESIDENT

A person is said to be “not ordinarily resident in India in any previous year, if such person is: (a) an individual who has been a non-resident in India in 7 out of the 10 previous years preceding that year; or (b) a HUF whose manager has been a non-resident in India in 7 out of the 10 previous years preceding that year.

5. PROVIDING AN OPTION TO THE ASSESSEE FOR NOT AVAILING DEDUCTION UNDER SECTION 35AD

Section 35AD of the Act, relating to deduction in respect of expenditure on specified business, provides for 100 per cent. Deduction on capital expenditure (other than expenditure on land, goodwill and financial assets) incurred by the assessee on certain specified businesses. Under sub-section (1) of Section 35AD, the said deduction of 100 per cent of the capital expenditure is allowable during the previous year in which such expenditure has been incurred. Further, sub-section (4) provides that no deduction is allowable under any other section in respect to the expenditure referred to in sub-section (1). At present, an assessee does not have any option of not availing the incentive under said section. Due to this, a legal interpretation can be made that a domestic company opting for concessional tax rate under Section 115BAA or Section 115BAB of the Act, which does not claim deduction under Section 35AD, would also be denied normal depreciation under section 32 due to operation of sub-section (4) of Section 35AD.

This has not been the intention of the statute. Therefore, it is proposed to amend sub-section (1) of Section 35AD to make the deduction thereunder optional. It is further amended sub-section (4) of Section 35AD to provide that no deduction will be allowed in respect of expenditure incurred under sub-section (1) in any other Section in any previous year or under this section in any other previous year, if the deduction has been claimed by the assessee and allowed to him under this section. This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

6. ABOLITION OF DIVIDEND DISTRIBUTION TAX (DDT)

Dividend from the domestic company or income from units of a mutual fund shall be taxable in the hands of shareholders or unit holders at the applicable rate and the domestic company or mutual funds shall not be required to pay any distribution tax. However, taxes shall be deducted from the payment of dividend or income of units, as the case may be.

7. WITHDRAWAL OF EXEMPTION FOR UPSC CHAIRMAN AND CEC

Various exemptions are provided to Union Public Services Commission (UPSC) Chairman & members and Chief Election Commissioner (CEC) & Election Commissioners in respect of certain perquisites or allowances under Section 10(45) of

the Income-tax Act and Section 8 of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991. These exemptions have been withdrawn.

8. EXTENSION OF TIME LIMIT FOR SANCTIONING OF LOAN UNDER SECTION 80EEA

Section 80EEA was introduced vide Finance (No. 2) Act 2019 to provide a deduction for the interest on loan taken to buy an affordable residential house property. One of the conditions to claim this deduction is that loan should be sanctioned by the financial institution during the period from 01-04-2019 to 31-03-2020. The period of sanctioning of loan by the financial institution is extended to 31-03-2021.

9. EXTENSION UNDER SECTION 80-IBA

Finance Bill has been extend the time limit for approval of affordable housing project for availing deduction under section 80IBA. The period of approval of the project by the competent authority is extended to 31-03-2021. Earlier, the project was required to be approved by the competent **authority during the period from 01-06-2016 to 31-03-2020.**

10. RATIONALIZATION OF TAXATION OF START-UPS

Section 80-IAC has been amended to provide that deduction to an eligible start-up shall be available for a period of 3 consecutive assessment years out of 10 years. Earlier, this deduction was available for 3 consecutive financial years out of first 7 years. Further, the turnover limit for claiming such exemption has been raised to ` 100 crore which was earlier ` 25 crore.

11. EXPANSION OF E-ASSESSMENT SCHEME

The scope of e-Assessment is extended, so as to include the proceedings under Section 144 of the Act relating to best judgement assessment;

12. INCREASE THRESHOLD LIMIT FOR TAX AUDIT

The threshold limit for getting the accounts audited is increased from ` 1 crore to ` 5 crores provided cash receipt or payment does not exceed 5% of total receipt or payment, as the case may be.

13. NON-RESIDENTS NOT TO FILE ITR IN RESPECT OF INCOME FROM ROYALTY AND FTS

Exemption to file a return of income has been extended to the nonresidents earning income from Royalty and FTS provided taxes have been withheld from payment of such income.

14. DUE DATE FOR FILING OF RETURN

The due date for filing of return by the companies and the persons who are required to get their accounts audited has been extended from September 30 to October 31 of the Assessment Year.

**15. FMV OF PROPERTY PURCHASED BEFORE 01-4-2001
SHALL NOT EXCEED STAMP DUTY VALUE**

If the land or building is purchased before 01-4-2001, the fair market value as on that date can be taken as cost of acquisition of such property as per existing provisions of the Act. It has been amended that such fair market value can't exceed the stamp duty value of the property as on 01-04-2001.

16. LIMITATION ON DEDUCTION OF INTEREST

Section 94B provides for the restriction on deduction of interest payment made by the Indian company or a permanent establishment of the foreign company in India to its Associated Enterprise abroad. Finance bill inserted that provisions of interest limitation would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India.

**17. SCOPE OF PROVISION TO CARRY FORWARD THE LOSSES AND
DEPRECIATION IN CASE OF AMALGAMATIONS HAS BEEN WIDENED**

The scope of the provision which allows carrying forward of losses or depreciation in certain amalgamations of banks and the insurance company has been extended in order to facilitate recent government bank and insurance companies mergers/ amalgamations.

18. RELAXATIONS IN SECTION 194LC

Section 194LC of the Act provides for a concessional deduction of tax at 5% by a specified company or a business trust, on interest paid to non-residents. The period of said concession deduction has been extended to 01-07-2023 from 01-07-2020. Further, the rate of TDS been reduced to 4% on interest payment against borrowings through issues of long-term bonds and RDB which are listed only on a recognised stock exchange in any IFSC.

19. RELAXATIONS IN SECTION 194LD

Section 194LD of the Act provides for lower TDS of 5% in case of interest payments to Foreign Institutional Investors (FII) and Qualified Foreign Investors (QFIS) on their investment in Government securities and Rupee Denominated Bonds of an Indian company. It has been extended the period of concessional TDS of 5% to 01-07-2023 from existing 01-07-2020. Further, the concessional rate of TDS of 5% under the said section shall also apply on the interest payable to an FII or QFI in respect of the investment made in municipal debt security.

**20. FEES FOR TECHNICAL SERVICES SHALL BE SUBJECT TO 2% TDS
UNDER SECTION 194J**

Tax under Section 194J in case of fees for technical services (other than professional services) shall be deducted at the rate of 2% (previously it was 10%). The TDS rate in other cases including fees for professional services shall remain same.

21. SCOPE OF TCS WIDENED

The scope of TCS is extended to overseas remittance, sale of overseas tour package and sale of goods.

22. AMENDMENT IN THE DEFINITION OF 'WORK' UNDER SECTION 1940

Section 1940 provides for deduction of tax from payment to a resident person for carrying out any "work". The definition of work has been amended to provide that if any product is supplied or manufactured according to requirements of the customer, it shall fall under the category of 'work' even if raw material is supplied by the associated enterprise of such customer.

About the Book

- The Book is the Section wise study given in the beginning of each chapter to enable the students to make a systematic and user-friendly.
- The topics are explained with the help of Tabular and Graphical Presentation for better understanding.
- New amendments of Finance Act, 2020 have been incorporated at appropriate places in this book.
- In the Book all the concepts are followed by Plenty of illustrations with solutions which are further followed by multiple choice questions, practical problems and solutions, True and false statements, fill in the blanks which will be helpful for the revision of basic concept of tax laws.
- This book is useful for the students of B.Com, B.Com. (Hons), BBA, BCA of various Universities and Management institutes as well.
- This book is also useful for CA (inter) / IPCC and other specialized studies.

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