

# 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

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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**

# Brief Contents

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Preface	v
Brief Contents	vi
Salient Feature of Finance Act, 2020	xix – xxiv
1. Introduction and Basic Concepts	1.1 – 1.23
2. Residential Status	2.1 – 2.20
3. Incomes Exempt from Tax	3.1 – 3.12
4. Income from “Salaries”	4.1 – 4.79
5. Income from House Property	5.1 – 5.43
6. Profit and Gains of Business or Profession	6.1 – 6.66
7. Determination of Income on Presumptive Basis	7.1 – 7.11
8. Depreciation	8.1 – 8.21
9. Capital Gains	9.1 – 9.60
10. Income From Other Sources	10.1 – 10.39
11. Income of Other Persons, included in Assessee’s Total Income (Clubbing of Income)	11.1 – 11.15
12. Set-Off and Carry Forward of Losses	12.1 – 12.23
13. Deductions to be Made in Computing Total Income	13.1 – 13.58
14. Assessment of Agricultural Income	14.1 – 14.14
15. Computation of Total Income and Tax Liability of Individual’s	15.1 – 15.34
16. Assessment of Hindu Undivided Family	16.1 – 16.20
17. Assessment of Firm’s Including LLP	17.1 – 17.33
18. Rebate and Relief of Tax	18.1 – 18.10
19. Return of Income and E-Filing Procedure	19.1 – 19.26
20. Tax Deducted at Source and E-TDS Return	20.1 – 20.34
21. Assessment Procedure	21.1 – 21.16
22. Leading Cases of Supreme Court	22.1 – 22.4

# Contents

---

Preface	v
Brief Contents	vi
<b>Salient Feature of Finance Act, 2020</b>	<b>xix – xxiv</b>
1. Rates of Income Tax for the Assessment Year 2021-22	xix
2. Citizenship check to prevail over domicile check	xx
3. Indian Citizens/PIO	xx
4. Non-Ordinarily Resident	xxi
5. Providing an option to the assessee for not availing deduction under section 35AD	xxi
6. Abolition of Dividend Distribution Tax (DDT)	xxi
7. Withdrawal of exemption for UPSC Chairman and CEC	xxi
8. Extension of time limit for sanctioning of loan under Section 80EEA	xxi
9. Extension under section 80-IBA	xxii
10. Rationalization of taxation of start-ups	xxii
11. Expansion of e-assessment scheme	xxii
12. Increase threshold limit for Tax Audit	xxii
13. Non-residents not to File ITR in respect of income from Royalty and FTS	xxii
14. Due date for filing of return	xxii
15. FMV of property purchased before 01-4-2001 shall not exceed stamp duty value	xxii
16. Limitation on deduction of interest	xxii
17. Scope of provision to carry forward the losses and depreciation in case of amalgamations has been widened	xxiii
18. Relaxations in Section 194LC	xxiii
19. Relaxations in Section 194LD	xxiii
20. Fees for technical services shall be subject to 2% TDS under section 194J	xxiii
21. Scope of TCS widened	xxiii
22. Amendment in the definition of 'work' under Section 1940	xxiii
<b>1. Introduction and Basic Concepts</b>	<b>1.1 – 1.23</b>
Meaning of Tax	1.1
Structure of Indian Taxation System	1.1
Income Tax	1.3
Features of Income Tax	1.3
Brief History of Income Tax in India	1.4
Components of Income Tax Law	1.4
Basis and Procedure of Charging Income Tax	1.6

Procedure of Charging Income Tax	1.6
Important Definition	1.7
Income Tax Rates Applicable Assessment Year 2020-21	1.16
Tax Planning, Tax Avoidance, Tax Evasion and Tax Management	1.18
Theoretical Questions	1.21
Long Answer Type Questions	1.21
Short Answer Type Questions	1.21
Objective Type Questions	1.21
Multiple Choice Questions (MCQs)	1.21
Fill in the Blanks	1.22
True or False	1.22
Practical Questions	1.23
<b>2. Residential Status</b>	<b>2.1 – 2.20</b>
Determination of Residence	2.1
General Rules	2.1
Residential Status of Individual [Sec. 6 (1) and 6(6)]	2.1
Rules as to Residence	2.1
First Set – Basic Conditions [Sec. 6(1)]	2.2
Second Set – Additional Conditions [Sec. 6(6)]	2.2
Rules at a Glance	2.3
Important Points	2.3
Residential Status of HUF, Firm and AOP [Sec. 6(2) and 6(6)(b)]	2.5
Hindu Undivided Family (HUF) [Sec. 6(2) and (6b)]	2.5
Rules at a Glance	2.6
Firm and Other Association of Persons [Sec. 6(2)]	2.6
Residential Status of Company [Sec. 6(3)]	2.7
When a Company is Resident	2.7
Residential Status of Any Other Person [Sec. 6(4)]	2.8
When any other Person is Resident	2.8
Determination of Tax Incidence	2.8
Tax Incidence of Resident/not Ordinarily Resident/Non-resident	2.8
Rules at a Glance regarding Tax incidence of Resident/ Not Ordinarily Resident/Non-Resident	2.9
Charge on 'Deemed Receipt' Basis (Sec. 7)	2.12
Charge on 'Deemed Accrual' Basis (Sec. 9)	2.12
Theoretical Questions	2.15
Long Answer Type Questions	2.15
Short Answer Type Questions	2.15
Objective Type Questions	2.15
Multiple Choice Questions (MCQs)	2.15
Fill in the Blanks	2.16
True or False	2.16
Practical Questions	2.17
<b>3. Incomes Exempt from Tax</b>	<b>3.1 – 3.12</b>
Theoretical Questions	3.10
Long Answer Type Questions	3.10
Short Answer Type Questions	3.10

Objective Type Questions	3.11
Multiple Choice Questions (MCQs)	3.11
Fill in the Blanks	3.11
True or False	3.12
<b>4. Income from “Salaries”</b>	<b>4.1 – 4.79</b>
Income from Salaries [Section 15]	4.1
Important Points for Computing Salary Income	4.1
Meaning of Salary [Section 17 (1)]	4.3
Allowances	4.4
A. Fully Taxable Allowances	4.4
B. Partly Taxable Allowances	4.5
C. Fully Exempted Allowances	4.10
Perquisites	4.11
Taxability of Perquisites	4.11
Valuation of Perquisites	4.13
Profits in Lieu of Salary [Section 17(3)]	4.28
Retirement / Superannuation Benefits	4.30
Pension [Sec. 10 (10A)]	4.30
Gratuity [Sec. 10 (10)]	4.32
Leave Encashment [Sec. 10 (10AA)]	4.34
Retrenchment Compensation [Sec. 10 (10B)]	4.37
Voluntary Retirement [Sec. 10 (10C)]	4.37
Provident Fund	4.38
Theoretical Questions	4.61
Long Answer Type Questions	4.61
Short Answer Type Questions	4.61
Objective Type Questions	4.61
Multiple Choice Questions (MCQs)	4.61
Fill in the Blanks	4.62
True or False	4.62
Practical Questions	4.63
<b>5. Income from House Property</b>	<b>5.1 – 43</b>
Basis of Charge [Section 22]	5.1
Composite Rent	5.2
Tax Treatment of Composite Rent	5.3
Exemption Regarding Income from House Property	5.3
Deduction of Rental Income in Gross Total Income of a Cooperative Society	5.3
Determination of Annual Value [Section 23]	5.4
Definition of Annual Value	5.4
Computation of Taxable Income under the Head	
House Property for Building Let Out [Sec. 23(1)]	5.4
Computation of Gross Annual of a Let Out Property	5.5
Deductions From Income from Let Out House Property [Section 24]	5.9
Computation of Taxable Income Under the Head House	
Property for Building Self Occupied [Sec. 23(2)]	5.13
Self Occupied House or Unoccupied House [Section 23(2)]	5.14
House Property Let Out Part of the Year and Rest of the	
Year Occupied for Self Residence [Section 23(3)]	5.14

More Than Two House For Self Residence [Section 23(4)]	5.15
Deductions From Income from Self Occupied House Property [Section 24(b)]	5.16
Amounts Not Deductible From Income From House Property [Section 25]	5.17
Unrealised Rent	5.17
Property Owned by Co-Owner [Section 26]	5.19
Theoretical Questions	5.34
Long Answer Type Questions	5.34
Short Answer Type Question	5.34
Objective Type Questions	5.34
Multiple Choice Questions (MCQs)	5.34
Fill in the Blanks	5.35
True or False	5.35
Practical Questions	5.36
<b>6. Profit and Gains of Business or Profession</b>	<b>6.1 – 66</b>
Meaning of Business and Profession as per Income Tax Act	6.1
Method of Accounting [Section 145]	6.1
Incomes not Taxable under the Head ‘Profit and Gains of Business or Profession’	6.1
Basis of Charges [Section 28]	6.2
Important Rules Regarding Assessment of Business Income	6.5
Computation of Income under the Head Business or Profession (Section 29)	6.7
Allowable Deduction while Computing Income from Business or Profession	6.8
Theoretical Questions	6.53
Long Answer Type Questions	6.53
Short Answer Type Questions	6.54
Objective Type Questions	6.54
Multiple Choice Questions (MCQs)	6.54
Fill in the Blanks	6.55
True or False	6.55
Practical Questions	6.56
<b>7. Determination of Income on Presumptive Basis</b>	<b>7.1 – 7.11</b>
Introduction	7.1
Benefits of Presumptive Tax Scheme	7.1
Special Provision for Computing Profits and Gains of Business on Presumptive Basis [Section 44AD]	7.1
Deduction under Section 44AD Profits and Gains of Business on Presumptive Basis	7.2
Special Provision For Computing Profits and Gains of Profession on Presumptive Basis [Section 44ADA]	7.4
Special Provision for Computing Profits and Gains of Business of Plying, Hiring or Leasing Goods Carriages [Section 44AE]	7.5
Determination of Commission Income of Agents of Life Insurance Corporation of India, UTI, other Notified Mutual Funds etc.	7.7
Theoretical Question	7.9
Long Answer Type Questions	7.9
Short Answer Type Questions	7.9

## Contents

xi

Objective Type Questions	7.9
Multiple Choice Questions (MCQs)	7.9
Fill in the Blanks	7.9
Practical Questions	7.10
<b>8. Depreciation</b>	<b>8.1 – 8.21</b>
Introduction	8.1
Charge of Depreciation	8.1
General Instructions regarding Depreciation	8.1
Additional Depreciation on Plant and Machinery [Section 32(2) (ia)]	8.2
Additional Depreciation to Undertaking Located in Notified Backward Area [Section 32(1)(ia)(i)]	8.3
Computation of Depreciation	8.3
Block of Assets [Section 2(11)]	8.4
Written Down Value (WDV) [Section 43(6)]	8.4
Provisions relating to Depreciation on the Straight Line Method or Actual Cost Method	8.10
Special Provision for Computation of Capital Gains in Case of Depreciable Assets	8.10
Unabsorbed Depreciation [Section 32(2)]	8.11
Investment in New Plant or Machinery in Notified Backward Areas in Certain States [Section 32 AD]	8.13
Theoretical Questions	8.18
Long Answer Type Questions	8.18
Short Answer Type Questions	8.18
Objective Type Questions	8.18
Multiple Choice Questions (MCQs)	8.18
Fill in the Blanks	8.19
True or False	8.19
Practical Questions	8.19
<b>9. Capital Gains</b>	<b>9.1 – 9.60</b>
Introduction	9.1
Basis of Charge [Section 45(1)]	9.1
Essential Elements of "Capital Gains"	9.1
Capital Asset [Section 2(14)]	9.1
Types of Capital Assets	9.3
Transfer of Capital Asset [Section 2(47)]	9.4
Certain Transactions Not Regarded As Transfer [Section 47]	9.4
Computation of Capital Gain [Section 48]	9.9
Special Provision for Computation of Capital Gains in Case of Depreciable Assets [Section 50]	9.13
Cost With Reference To Certain Modes of Acquisition [Section 49]	9.15
Cost of Acquisition in Certain Cases [Section 55]	9.18
Computation of Capital Gains In Some Special Cases	9.21
Exemptions of Capital Gains	9.26
Capital Gain Account Scheme 1988	9.44
Rate of Capital Gain Tax	9.44
Short-Term Capital Gains (STCG) [Section 111A]	9.45

Tax on long-term capital gain [Section 112]	9.45
Long-term capital gains arising from sale of listed securities [Section 112A]	9.46
Long-term capital gains arising from transfer of specified asset	9.47
Adjustment of LTCG against the basic exemption limit	9.47
Reference to Valuation Officer [Section 55A]	9.47
Theoretical Questions	9.53
Long Answer Type Questions	9.53
Short Answer Type Questions	9.53
Objective Type Questions	9.53
Multiple Choice Questions (MCQs)	9.53
Fill in the Blanks	9.54
True or False	9.54
Practical Questions	9.55
<b>10. Income from other Sources</b>	<b>10.1 – 10.39</b>
Introduction	10.1
General Income [Section 56(1)]	10.1
Specified Income [Section 56(2)]	10.2
Deductions [Section 57]	10.21
Amounts Not Deductible [Section 58]	10.22
Method of Accounting [Section 145]	10.22
Theoretical Questions	10.31
Long Answer Type Questions	10.31
Short Answer Type Questions	10.31
Objectives Type Questions	10.31
Multiple Choice Questions (MCQs)	10.31
Fill in the Blanks	10.32
True or False	10.32
Practical Questions	10.32
<b>11. Income of Other Persons, included in Assessee's Total Income (Clubbing of Income)</b>	<b>11.1 – 11.15</b>
Introduction	11.1
Income of Other Persons included in an Assessee's Total Income [Section 60 to 63]	11.1
Exceptions where Revocable Transfer excluded from Clubbing Provision [Section 62]	11.1
Meaning of "Revocable Transfer" [Section 63]	11.2
Income of Other Person included in Individual's Total Income	11.2
Any salary, commission, fees or any other form of remuneration in which the spouse has substantial interest [Section 64(1)(ii)]	11.2
Transfer of assets to spouse [Section 64(1)(iv)]	11.3
Transfer of the asset to son's wife [Section 64(1)(vi)]	11.5
Transfer of asset to any other person for the benefit of spouse [Section 64(1)(vii)]	11.5
Transfer of asset to any other person for the benefit of son's wife [Section 64(1)(viii)]	11.5
Clubbing of income of minor child [Section 64(1A)]	11.6
Transfer of self-acquired property to Hindu Undivided Family of which he is a member [Section 64(2)]	11.7
Cross Transfer	11.9

Liability of person in respect of income included in the income of another person [Section 65]	11.9
Deemed Incomes	11.9
Cash Credits [Section 68]	11.10
Unexplained Investments [Section 69]	11.10
Unexplained Money, etc. [Section 69A]	11.10
Amount of Investments, etc., not fully Disclosed in Books of Account [Section 69B]	11.10
Unexplained Expenditure, etc. [Section 69C]	11.11
Unexplained Amount Borrowed or Repaid on Hundi [Section 69D]	11.11
Tax on income referred to in Section 68 or Section 69 or Section 69A or Section 69B or Section 69C or Section 69D [Section 115BBE]	11.11
Theoretical Questions	11.14
Long Answer Type Questions	11.14
Short Answer Type Questions	11.14
Objectives Type Questions	11.14
Multiple Choice Questions (MCQs)	11.14
Fill in the Blanks	11.15
True or False	11.15
Practical Questions	11.15
<b>12. Set-Off and Carry Forward of Losses</b>	<b>12.1 – 12.23</b>
Introduction	12.1
Set-off of Losses	12.1
Set-off of loss from one source against income from another source Under the same head of income, i.e., Intra source set-off [Section 70]	12.1
Set-off of loss from one head against income of another head in same assessment year, i.e., Inter head set-off [Section 71]	12.2
Carry Forward and Set-off of Loss	12.6
Provisions Relating to Carry Forward and Set-off of Accumulated Loss and Unabsorbed Depreciation Allowance in Amalgamation or Demerger, etc. [Section 72 A]	12.10
Treatment of Carry-forward of Losses of Certain Asses	12.12
Theoretical Questions	12.18
Long Answer Type Questions	12.18
Short Answer Type Questions	12.18
Objective Type Questions	12.18
Multiple Choice Questions (MCQs)	12.18
Fill in the Blanks	12.19
True or False	12.19
Practical Questions	12.19
<b>13. Deductions to be Made in Computing Total Income</b>	<b>13.1 – 13.58</b>
Introduction	13.1
General Rules of Dedctions [Section 80A]	13.1
Deductions [Section 80C to 80U]	13.1
Deductions In Respect of Certain Paymentssees	13.2
Deduction in respect of life insurance premium, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc. [Section 80C]	13.2

Deduction in respect of contribution to certain pension funds [Section 80CCC]	13.6
Deduction in respect of contribution to pension scheme of Central Government [Section 80CCD]	13.6
Limit on deductions under Sections 80C, 80CCC and 80CCD [Section 80CCE]	13.7
Deduction in respect of medical insurance premium [Section 80D]	13.8
Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability [Section 80DD]	13.10
Deduction in respect of medical treatment of specified diseases and ailment [Section 80DDB]	13.11
Deduction in respect of interest on loan taken for higher education [Section 80E]	13.12
Deduction in respect of interest on loan taken for residential house property [Section 80EE]	13.13
Deduction in respect of interest on loan taken for certain house property [Section 80EEA] (Insertion of new Section 80 EEA by the Act No. 23 of 2019, w.e.f. 1-4-2020)	13.13
Deduction in respect of purchase of electric vehicle [Section 80EEB] (Insertion of new Section 80 EEB by the Act No. 23 of 2019, w.e.f. 1-4-2020)	13.14
Deduction in respect of donations to certain funds, charitable Institutions, etc. [Section 80G]	13.15
Deduction in respect of rents paid [Section 80GG]	13.18
Deduction in respect of certain donations for Scientific Research or Rural Development [Section 80GGA]	13.19
Deduction in respect of contributions given by companies to political parties [Section 80GGB]	13.19
Deduction in respect of contributions given by any person to political parties [Section 80GGC]	13.19
Deductions in Respect of Certain Incomes Covered under Section 80IA to 80U	13.21
Deduction in respect of profits and gains from industrial undertakings or enterprise engaged in infrastructure development [Section 80-IA]	13.21
Deduction in respect of profit and gains by an undertaking or an enterprise engaged in development of Special Economic Zone [Section 80-IAB]	13.23
Special provision in respect of specified business [Section 80-IAC]	13.24
Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings [Section 80-IB]	13.24
Deductions in respect of profits and gains from housing projects [Section 80-IBA]	13.30
Special provision in respect of certain undertakings or enterprises in certain special category States [Section 80-IC]	13.32
Deduction in respect of profits and gains from business of hotels and convention centres in specified area [Section 80-ID]	13.34
Special provisions in respect of certain undertakings in North-Eastern State [Section 80-IE]	13.36
Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste [Section 80JJA]	13.37
Deduction in respect of employment of new employees [Section 80JJAA]	13.37
Deductions in respect of certain incomes of Offshore Banking Units and International Financial Services Centre [Section 80 LA]	13.38

Deduction in respect of income of co-operative societies [Section 80P]	13.39
Deduction in respect of royalty income, etc., of authors of certain books other than text-books [Section 80QQB]	13.40
Deduction in respect of royalty on patents [Section 80RRB]	13.42
Deduction in respect of interest on deposits in savings account [Section 80TTA]	13.43
Deduction in respect of interest on deposits in case of senior citizen [Section 80TTB]	13.43
Deduction in case of a person with disability [Section 80U]	13.44
Miscellaneous Illustrations	13.47
Theoretical Questions	13.51
Long Answer Type Questions	13.51
Short Answer Type Questions	13.51
Objective Type Questions	13.51
Multiple Choice Questions (MCQs)	13.51
Practical Questions	13.53
<b>14. Assessment of Agricultural Income</b>	<b>14.1 – 14.14</b>
Any Income Received as Rent or Revenue from Agricultural Land [Section 2(1A)(a)]	14.1
Income Derived from such Land by [Section 2(1A)(b)]	14.1
Income from farm House [Section 2(1A)(c)]	14.2
Examples of Agricultural Income and Non-agricultural Income	14.3
Partly Agricultural and Partly Non-agricultural Income	14.4
Partial Integration of Agricultural Income With Non-agricultural Income	14.7
Miscellaneous Illustrations	14.8
Theoretical Questions	14.9
Long Answer Type Questions	14.9
Short Answer Type Questions	14.10
Objective Type Questions	14.10
Multiple Choice Questions (MCQs)	14.10
Fill in the Blanks	14.11
True or False	14.11
Practical Questions	14.11
<b>15. Computation of Total Income and Tax Liability of Individual's</b>	<b>15.1 – 15.34</b>
Tax Treatment of Income Received from Different Institution	15.1
Computation of Total Income and Tax Liability for the Year 2020-21	15.2
Income Tax Rates Applicable Assessment Year 2020-21	15.3
Special Rates	15.4
Rebate [Section 87a] Assessment Year 2020-21	15.5
Marginal Relief	15.6
Alternate Minimum Tax (AMT)	15.6
Theoretical Questions	15.26
Long Answer Type Questions	15.26
Short Answer Type Questions	15.27
Objective Type Questions	15.27
Multiple Choice Questions (MCQs)	15.27
Fill in the Blanks	15.28

True or False	15.28
Practical Questions	15.28
<b>16. Assessment of Hindu Undivided Family</b>	<b>16.1 – 16.20</b>
Concept of Hindu Undivided Family ('HUF')	16.1
School of Hindu Law	16.1
Karta/Manager of Hindu Undivided Family	16.2
Residential Status of Hindu Undivided Family	16.3
Computation of Total Income of Hindu Undivided Family	16.4
Assessment of Hindu Undivided Family	16.5
Taxability of HUF	16.6
Income not Treated as a Family Income	16.7
Assessment After Partition of a Hindu Undivided Family [Section 171]	16.7
Theoretical Questions	16.15
Long Answer Type Questions	16.15
Short Answer Type Questions	16.15
Objective Type Questions	16.15
Fill in the Blanks	16.15
True or False	16.15
Practical Questions	16.15
<b>17. Assessment of Firm's Including LLP</b>	<b>17.1 – 17.33</b>
Introduction	17.1
Meaning of "Partnership", "Firm" and "Partner" Under Indian Partnership Act	17.1
Limited Liability Partnership [LLP]	17.1
Meaning of Partnership, Firm and Partner Under Income Tax Act	17.1
Residential Status of Firm	17.2
Who can be a Partner?	17.2
Difference between Unlimited Liability Partnership and Limited Liability Partnership	17.2
Assessment as a Firm [Section 184]	17.3
Assessment When Section 184 Not Complied With [Section 185]	17.3
Change In Constitution of a Firm [Section 187]	17.4
Succession of One Firm by Another Firm [Section 188]	17.4
Joint and Several Liability of Partners for Tax Payable by Firm [Section 188A]	17.4
Firm Dissolved or Business Discontinued [Section 189]	17.4
Computation of Income of Partnership Firm [Section 40(b)]	17.5
Computation of Firm Book Profit	17.6
Computation of Total Income of Partnership Firm	17.8
Computation of Tax Liability of Partnership Firm	17.10
Theoretical Questions	17.15
Long Answer Type Questions	17.15
Short Answer Type Questions	17.15
Objective Type Questions	17.15
Fill in the Blanks	17.15
True or False	17.15
Practical Questions	17.15
<b>18. Rebate and Relief of Tax</b>	<b>18.1 – 18.10</b>
Introduction	18.1

Share of Member of an Association of Persons or Body of Individuals in the Income of the Association or Body [Section 86]	18.1
Rebate of Income-Tax For Residential Individual [Section 87A]	18.2
Relief When Salary, Etc., is Paid in Arrears or in Advance [Section 89(1)]	18.3
Security Transaction Tax	18.6
Theoretical Questions	18.8
Long Answer Type Questions	18.8
Short Answer Type Questions	18.8
Objective Type Questions	18.8
Multiple Choice Questions (MCQs)	18.8
Fill in the Blanks	18.8
True or False	18.8
Practical Questions	18.9
<b>19. Return of Income and E-Filing Procedure</b>	<b>19.1 – 19.26</b>
Introduction	19.1
Forms – Return of Income (For Assessment Year 2020-21)	19.9
Modes of Filing the Return of Income	19.11
Manner of Furnishing the Return of Income	19.11
Precautions to be taken while Filing the Return of Income	19.12
Manual or Paper Filing of Return of Income	19.13
E-filing of Return of Income	19.13
Benefits of e-filing the Return of Income	19.13
E-filing Utility	19.13
Types of e-Verification of Returns	19.16
Option 1: e-Verification with Aadhaar OTP validation	19.17
Option 2: e-Verification using Net Banking login	19.17
Option 3: e-Verification using Pre-validate Bank Account	19.17
Option 4: e-Verification using Pre-validate Demat Account	19.18
Option 5: e-Verification using ATM	19.18
Important Documents for Income Tax Return	19.18
Pan – Legal Framework	19.20
Linking of PAN with Aadhar Number	19.23
Pan and Aadhar are interchangeable for Income-tax Purpose	19.23
Theoretical Questions	19.25
Long Type Answers Questions	19.25
Short Type Answers Questions	19.25
Objective Type Questions	19.25
Multiple Choice Questions (MCQs)	19.25
Fill in the Blanks	19.26
True or False	19.26
<b>20. Tax Deducted at Source and E-TDS Return</b>	<b>20.1 – 20.34</b>
Introduction	20.1
Deduction at Source and Advance Payment [Section 190]	20.1
Deduction of Tax at Source	20.2
Certificate for Deduction at Lower Rate [Section 197]	20.24
Tax Deducted is Income Received [Section 198]	20.25
Credit for Tax Deducted [Section 199]	20.25

Duty of Person Deducting Tax [Section 200]	20.25
Processing of Statements of Tax Deducted at Source [Section 200a]	20.26
Consequences of Failure to Deduct or Pay [Section 201]	20.26
Certificate for Tax Deducted [Section 203]	20.27
Tax Deduction and Collection Account Number [Section 203a]	20.28
Meaning of "Person Responsible for Paying" [Section 204]	20.28
Requirement to Furnish Permanent Account Number [Section 206AA]	20.29
Due Dates for Filing Quarterly TDS Returns	20.29
e-TDS	20.29
Who is Required to file e-TDS Return?	20.29
Basic Details to be Included in the of e-TDS Return	20.30
e-TDS Return Forms	20.30
e-TDS Return	20.30
Procedure to Upload TDS Statement	20.30
Upload TDS Statement Using EVC	20.31
Theoretical Questions	20.32
Long Answer Type Questions	20.32
Short Answer Type Question	20.33
Objective Type Questions	20.33
Multiple Choice Questions (MCQs)	20.33
Fill in the Blanks	20.33
True or False	20.33
<b>21. Assessment Procedure</b>	<b>21. – 21. 16</b>
Introduction	21.1
Assessment Procedure	21.2
Theoretical Questions	21.14
Long Answer Type Questions	21.14
Short Answer Type Questions	21.14
Objective Type Questions	21.14
Multiple Choice Questions (MCQs)	21.14
Fill in the Blanks	21.14
True or False	21.15
<b>22. Leading Cases of Supreme Court</b>	<b>22.1 – 22.4</b>
Justice K.S. Puttaswamy (Retd.) vs. Union of India (2018) (SC) India writ petition (civil) no 494 of 2012: SC upholds linking of Aadhaar number with PAN	22.1
I.C.D.S. Ltd (Supreme Court) 2002: Related to lessor eligible to claim depreciation on leaded vehicle as it is the owner and user	22.1
Ramnath & Company Vs. The Commissioner of Income Tax (2020) (SC) [Civil Appeal No. 2510 of 2020 @ SLP (C) No. 23699 of 2016]	22.2
Principal Commissioner of Income Tax, Mumbai vs. IVen Interactive Limited, Mumbai CIVIL APPEAL NO. 8132 OF 2019 (Arising out of SLP(C) No. 3530/2019) Related to PAN Card address change	22.3

# Salient Feature of Finance Act, 2020

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## 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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