

THK JAIN COLLEGE

Taxation – I (Chapter 1) - SEM: IV

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BASIC DEFINITIONS

Assessee – Sec 2(7)

Assessee means the following persons:- a) A person by whom any tax or any other sum of money (interest or penalty) is payable under this Act.

b) A person in respect of whom any proceeding under this act has been taken.

c) A person who is deemed to be an assessee under any provision of this act (i.e. legal representative of deceased assessee.).

d) A person deemed to be an assessee in default under any provision of this Act (i.e. deductor TDS under relevant provisions of this Act).

Person – Sec 2(31)

The term 'person' includes the following:-

a) an individual

b) a Hindu Undivided Family

c) a company

d) a firm

f) an association of person (AOP) or a body of individuals (BOI), whether incorporated or not

g) a local authority

h) every artificial juridical person not falling within any preceding category.

Previous year- Sec 3

It means the year in which assessee earn income. It commence on 1st April and ends on 31st March of the next year.

Assessment Year –Sec 2(9)

It refers to that year when the income of the previous year of an assessee is assessed and assessee pay tax in that year. It commence on 1st April and ends on 31st March of the next year.

A.Y is the following year of P.Y.

Exceptions- Generally the p.y. is just preceding of a.y. but income of the p.y. may be taxed in the same p.y. under the following exceptional situations-

a) Shipping business of non-resident

b) Persons leaving India

c) AOP OR BOI formed for a particular purpose

d) Persons likely to transfer property to avoid Tax

e) Discontinued business

Heads of Income

There are five heads of income:-

A) Income from salaries (Sec 15-17)

B) Income from house property (Sec 22- 27)

- C) Profits and gains of business or profession (Sec 28- 44)
- D) Capital gains (Sec 45- 55)
- E) Income from other sources (Sec 56-59)

Gross Total Income - (Sec 80B (5))

It refers to the aggregation of the income under the five heads as stated earlier. It is computed after considering the provision of set off and carry forward losses and provision of clubbing of income.

Total Income – (Sec 2(45))

Total income refers to the difference between GTI and deduction as per Chapter VIA i.e. GTI reduced by deduction under Chapter VIA.

AGRICULTURAL INCOME - SEC 2(1A)

<a> Any rent or revenue derived from the land treated as agricultural income if:-

- i) Land is situated in India.
- ii) It is used for agricultural purpose.

 Any income derived from above mentioned land of the following nature is treated as agricultural income if:-

- i) Income is derived from such land through agricultural activity.
- ii) Any income derived by cultivator or receiver of rent in kind of any process ordinarily employed by cultivator or receiver of rent in kind to render the produced raised or received by him fit to be taken to the market.
- iii) Income by way of sale by a cultivator or receiver of rent in kind of the produced raised or receive by him , in respect of which no process has been performed other than the process of the nature as referred to (ii) above.

<c>Income from a building is treated as agricultural income if following conditions are fulfilled:-

- i) Building should be own and occupied by the receiver of the rent or revenue of any such land or occupied by the cultivator.
- ii) The building is on or in the immediate vicinity of the land in India and are used for agricultural purpose.
- iii) The cultivator or receiver of rent in kind by the reason of his connection with such land requires the building as the dwelling house or store house or other outbuilding.
- iv) The land is either assessed to the land revenue in India or is subject to a local rate. If the land is not so assessed it is situated in rural area.

<d> Any income derived sapling , seedlings ,grown in nursery is referred to as agricultural income.

Example of agricultural income

Rent received by mortgage in possession of agricultural land from sub – tenant.

Example of non agricultural income

Dividend received by a shareholder from a company carrying agricultural operation.

Agricultural Income is an exempted income u/s 10(1) .

Partly agricultural income

Particulars	Agricultural Income	Non Agricultural Income
Growing and manufacturing of rubber plantation	65%	35%
Sale of coffee grown and cured	75%	25%
Sale of tea grown and manufactured	60%	40%
Income from sale of coffee grown, cured, roasted and grounded by seller India with or without mixing of chicory or other flavouring ingredients	60%	40%

RESIDENTIAL STATUS

Sec6(1) of Income Tax Act 1961 provides that if an assessee satisfies one of the basic condition as mentioned below then he/she is treated as **resident** otherwise **non – resident**.

- i) The assessee must stay in India at least 182 days during previous year
- ii) The assessee must stay in India at least 60 days during the previous year and 365 days during immediately preceding four previous years

If an Indian citizen leaves India for employment purpose or as a crew member of Indian ship or Indian origin staying abroad comes to India for visiting purpose in that case 60 days as stated above is substituted by 182 days.

If the resident assessee satisfy both the conditions as provided in Sec 6(6) then the assessee is treated as **resident and ordinary resident** otherwise **resident and but not ordinary resident**.

- i) Assessee must stay in India at least 730 days during immediately preceding seven previous years.
- ii) Assessee must be treated as a resident (i.e. satisfies any one of the condition as mentioned in Sec. 6(1)) at least two out of ten preceding previous years.

Incidence of tax for ROR, RNOR, NR

<u>CASES</u>	<u>ROR</u>	<u>RNOR</u>	<u>NR</u>
Income received in India whether accrued in India or outside India.	Taxable	Taxable	Taxable
Income deemed to be received in India, whether accrued in India or outside India.	Taxable	Taxable	Taxable
Income accruing or arising in India, whether received in India or outside India.	Taxable	Taxable	Taxable
Income deemed to accrue or arise in India, whether received in India or outside India.	Taxable	Taxable	Taxable
Income (not being from a business or profession) received and accrued outside India(e.g. salary, interest etc)	Taxable	Not Taxable	Not Taxable
Income received or accrued outside India from a business controlled in India or a profession setup in India.	Taxable	Taxable	Not Taxable
Income received or accrued outside India from a business controlled from outside India or a profession setup outside India.	Taxable	Not Taxable	Not Taxable
Income accrued and received outside India in any preceding previous year and later on remitted to India in current previous year.	Not Taxable	Not Taxable	Not Taxable

ROR – Resident and ordinary resident

RNOR - Resident but not ordinary resident

NR - Non - resident

EXEMPTED INCOME

Few Examples

- i) Receipts of a member from the joint income of the Hindu undivided family. (Sec 10(2))
- ii) Share of profit of a partner (Sec. 10(2a)).
- iii) Sum received under a life insurance policy (Sec. 10(10D)).
- iv) Pension to gallantry award winners (Sec. 10(18)).
- v) Income from local authority (Sec. 10(20)).
- vi) Income of research association (Sec. 10(21)).
- vii) Income from news agency (Sec 10(22B)).
- viii) Certain income from professional institution (Sec. 10(23A)).
- ix) Income of approved pension fund (Sec. 10(23AAB)).
- x) Income of Mutual Fund (Sec. 10(23D)).
- xi) Income of investor's protection fund (Sec (23EA)).
- xii) Certain income of a business trust (Sec 10(23FC)).
- xiii) Dividend from domestic companies (Sec. 10(34)).
- xiv) Income from units of Mutual Fund specified undertaking or specified company (Sec. 10(35)).
- xv) Capital gain on compulsory acquisition of urban agricultural land (Sec. 10(37)).
- xvi) Long term capital gain of transfer of equity share of certain units (Sec. 10(38)).
- xvii) Specified income from international sporting event (Sec. 10(39)).