



An Overview of Income Tax in India

KEYWORDS

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ABSTRACT

The present paper aims to throw light on a levy the government imposes on income. This levy is known as Income Tax. The present paper aims to give a very simplistic but a fair idea of why Income Tax is important, how it is regulated by a very fair and well framed statute and also why every individuals/organisation should of his/its own volition stand up to "CONTRIBUTE".

Introduction

The government machinery requires funds to carry out all its activities. The construction of rail and road infrastructure, payment of subsidies on implementation of pension schemes, money is required. An individual owns through his job of setting up of a business, the corporate houses make huge profits, the education institutions are paid by the students, but who pays the government? Taxes, is the answer. Taxes are of various kinds. They may be direct or indirect. One major form of taxes is Income Tax.

Income Tax is the levy (tax) that is imposed on the income of any individual/institution by the government. Income Tax is directly proportional to the amount of income. The rate of tax may also increase with the taxable income. This is known as gradual rates.

INCOME

As is discussed above, Income Tax is the levy imposed on income. Then we must know, 'income' means. 'Income' is defined under section 2 (24) of Income Tax Act, 1961. This provision of law gives an inclusive but not an exhaustive definition of income. However, it is best to think of income in its general English meaning. We may call it one's earnings it can be in cash or kind. Under the Income Tax Act, that of the income or earnings which is liable to be taxed is called taxable income. Income other than the 'taxable income' is not liable to be taxed by the government under the Income Tax Act. This may be by virtue of an exemption granted for the particular source of income, or the income not being enough to fall under the minimum slab of taxation.

The following is the definition as per the Income Tax Act 1961 as amended by Finance Act number 2 of 2009

" As Per Section 2(24) "income" includes—

(i) profits and gains;

(ii) dividend;

(iii) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes [or by an association or institution referred to in clause (21) or clause (23), or by a fund or trust or institution referred to in sub-clause (iv) or sub-clause (v)] [or by any university or other educational institution referred to in sub-

clause (iiiad) or sub-clause (vi) or by any hospital or other institution referred to in sub-clause (iiiie) or sub-clause (viia)] of clause (23-C) of section 10] [or by an electoral trust].

Explanation.—For the purposes of this sub-clause, "trust" includes any other legal obligation;

(iii) the value of any perquisite or profit in lieu of salary taxable under clauses (2) and (3) of section 17;

[(iiiia) any special allowance or benefit, other than perquisite included under sub-clause (iii), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;

(iiib) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;]

(iv) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid;

[(iva) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in clause (iii) or clause (iv) of sub-section (1) of section 160 or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being hereafter in this sub-clause referred to as the "beneficiary") and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;]

(v) any sum chargeable to income-tax under clauses (ii) and (iii) of section 28 or section 41 or section 59;

[(va) any sum chargeable to income-tax under clause (iiiia) of section 28;]

[(vb) any sum chargeable to income-tax under clause (iiib)

of section 28;]

[(vc) any sum chargeable to income-tax under clause (iiic) of section 28;]

[(vd)] the value of any benefit or perquisite taxable under clause (iv) of section 28;

[(ve) any sum chargeable to income-tax under clause (v) of section 28;]

(vi) any capital gains chargeable under section 45;

(vii) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits and gains by virtue of provisions contained in the First Schedule;

[(viii) the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;]

[* * *]

[(ix) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever;]

[Explanation.—For the purposes of this sub-clause,—

(i) "lottery" includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;

(ii) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;]

[(x) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees;]

[(xi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in the Explanation to clause (10-D) of section 10;]

[(xii) any sum referred to in [clause (va)] of section 28;]

[(xiii) any sum referred to in clause (v) of sub-section (2) of section 56;]

[(xiv) any sum referred to in clause (vi) of sub-section (2) of section 56;]

[(xv) any sum of money or value of property referred to in clause (vii) of sub-section (2) of section 56;]"

Mode of Tax Collection

The Government of India has a dedicated Department to collect Income Tax. The Income Tax Act under Chapter XIII provides for Income Tax Authorities.

Section 116 of the Tags Act provides for various statutory authorities. This section reads as under:

" Income-tax authorities.—There shall be the following classes of income-tax authorities for the purposes of this Act, namely:—

(a) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963),

(b) Directors-General of Income-tax or Chief Commissioners of Income-tax,

(c) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),]

[(cc) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals),]

[(cca) Joint Directors of Income-tax or Joint Commissioners of Income-tax,]

[(d) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals),

(e) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,

(f) Income-tax Officers,

(g) Tax Recovery Officers,

(h) Inspectors of Income-tax."

These income tax authorities, which at the top of the hierarchy even exercise quasi-judicial functions work as per their hierarchy and in conjoint mess with each other for the collection of income tax, for addressing grievances regarding income tax and also to zero in on income tax evaders and take punitive action against them. The authorities are guided by statutory procedures which find a mention in the Income Tax Act.

Concluding Observations

If we want our state to function properly and provide for us, we must contribute and not evade any kind of tax including Income Tax. The above analysis makes it clear that Income Tax is designed in a fashion that the government gets contributions as per the income levels of the individuals/organisations. Although punitive action is also provided, the same should not be a driving force to "Contribute".

REFERENCE

1. Bhargava, Sharad (2005). "Commentary on Income Tax Act". Published by Mashbara Industries Private Limited (Publication Division) New Delhi.
2. Garg, A., Garg, S., Garg, R., Garg, N., Garg, L. (2014). "Income Tax Ready Reckoner". Published by Law and Management, New Delhi.
3. The Income Tax Act 1961.
4. Website: CAclubIndia.com |