DIRECT AND INDIRECT TAXES

What is 'Income' under the Income-tax Act

The definition of the term "income" under the Income-tax Act is laid down in Section 2(24). It is inclusive and not exhaustive. Therefore, the term "income" does not mean those earnings only which are included in Section 2(24) but includes such things which the term signified according to its general and natural meaning. As per definition of Section 2(24), the term "income" includes:

a. Profits and gains,
b. dividend,
c. voluntary contribution received by a trust for charitable or religious purposes,
d. the value of perquisites or profits in lieu of salary,
e. any special allowances or benefits granted to the employee,
f. any allowance to meet increased cost of living,
g. the value of benefit or perquisite, arising from business or the exercise of profession, whether convertible into cash or not,
h. any capital gain,
i. winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort,
j. any sum received from letting out house property,
k. any sum received from the employer in consideration rendering service by an employee.

The aforesaid definition does not define fully the term "income" but merely signifies various receipts as income.

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As per Section 2(31) "Person" refers to:-

a. an individual,
b. a Hindu undivided family,
c. a company,
d. a firm,
e. an association of persons or body of individuals, whether incorporated or not,
f. a local authority,
g. every artificial juridical person not falling within any of the preceding categorys.

So these are the seven categories of persons chargeable to tax under this Act.

Who is Assessee u/s 2(7)

"Assessee" refers to a person who is liable to pay income-tax or any other sum of money under this Act. It refers to any person as per sec. 2(31) in respect of whom any proceeding under this Act has been taken for assessment of his/her income or loss or the amount of refund due to the person.

It includes a person also who is assessable for the income or loss of another person or who is deemed to be an assessee, or an assessee in default under any provision of the Act.

What is Assessment year u/s 2(9)

"Assessment year" refers to the financial year starting from 1st April and ending on 31 st of March of the next year. It is that financial year which is just following of the previous year. In an assessment year the tax liability of an assessee is assessed / determined by the I.T.O. So it is just next financial year of the income year. As for example: Financial year 2009-2010 is the assessment year of the financial year 2008-2009.

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What is Previous year u/s 3

"Previous year" is the financial year in which an assessee earns income. So it is the income year. In a different way it can be defined that it is that financial year which is just preceding of the assessment year. As for example financial year 2008-2009 is the previous year of the assessment year 2009-2010.

Residential status and its impact on tax incidence

Tax implication on an assesse depends on his/her residential status. Residential status are of three types such as:— (a) resident and ordinarily resident, (b) resident but not ordinarily resident and (c) non resident. The concept of resident and ordinarily resident in India and resident but not ordinarily resident in India is applicable to only an individual and Hindu Undivided family.

All other types of assesses (viz, a firm, an association of persons, a joint stock company, a local authority, every artificial juridical person would be either:—

(a) resident in India, or

(b) non resident in India.

Residential status of an assessee must be determined for each of the previous year as it may vary from year to year depending on the number of days the assessee was present in India.

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Heads of income

section 14 classifies all incomes chargeable to tax under five heads which are as follows:

a) income from Salary.
b) Income from House Property.
c) Profits and gains of business or Profession.
d) capital gains
e) Income from other Sources.

All kinds of income which are legally chargeable to tax are to be assessed under the specific heads of income as provided in the Act.

Source of income

The income tax Act does not provide any list of source of income as it is noticed in case of heads of income. Any head of income may comprise of a number of sources falling under this category.

Source of income is the origin of income falling under an head of income.

Example:
Basic pay + sources like commission, allowance, perquisite, profit in lieu of salary - are falling under the head salary.

Income from other sources comprises of the following sources ~~:~~

a) interest
b) dividend
c) winning from lottery
d) gifts

Gross total income

Gross total income is the aggregate of all five heads of income as specified in section 14 of the Act.

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Gross total income can be computed as follows:

"Gross total income" = Income from salary + Profits and gains of business or profession + Income from house property + capital gains + Income from other sources (as computed as per provision of this Act. so gross total income may be defined as summation of all the five heads of taxable income before making any deduction under chapter VIA of the Act.

Total Income [Sec. 2(45)]

computation of "total income is very vital in the Income-tax Act as tax liability of an assessee is computed based on total income. Tax liability arises only when is a positive 'total income'. Of course this Act will show tax liability is an assesse reports a positive taxable total income.

so, Total Income can be computed as follows:

Gross Total income - Deduction under chapter VI A.

Tax evasion

It is an illegal practice of avoiding tax payment or suppressing tax liability. An assessee may do this either by suppressing income deliberately or inflating expenses or setting off some bogus losses and so on. It is punishable offence.

Tax avoidance

Tax avoidance is a lawful practice of avoiding tax payment or reducing tax liability by an assessee. A tax-payer may do so by taking the advantages of loopholes or lacuna in the tax Law. Although it is not punishable offence by obviously unethical in some cases.

Tax Planning

It is an intelligent exercise of a tax-payer of reducing tax liability by availing of various incentives, allowances, concessions, rebates, reliefs of the Act.

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