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Taxation Notes for law students

for 3 YDC students

Law of Taxation

Q1. Explain concept of Income Tax & method of computation of Income Tax relating to taxable income under Income Tax Act 1961.

Ans. Taxation is major source of income for state & central government. Central government & state government collect the taxes according to respective statutes. There are two types of taxes.

1. Direct Tax. 2. Indirect Tax.

1. **Direct Tax:-** These tax is paid by relevant party called as assesses. Income tax & wealth tax are direct taxes.

2. **Indirect Taxes:-** These taxes are collected by traders, sellers, dealer, from customer & makes payment in tax department having jurisdiction.

Ex:- Central sale tax, state sale tax, service tax, VAT, Value added tax (or) indirect tax.

Constitutional validity of income tax act:-



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1. Taxes can be collected by central government specified under article 245 & 265 of constitution & 7th schedule of constitution.
2. In preamble of constitution government have to do social economic & political justices collection of taxes comes under economic justice.
3. In directive principle of constitution it is mentioned that government to minimize concentration of wealth & therefore income tax is collected from rich people.
4. Standard of living of poor people to be increased & it is possible by collection.
5. Wealth of the country to be distributed among the people of the country.
6. State have to do welfare activities & it is possible through income from taxes.

Computation of Income:- Following are the incomes which are considered in computation of income tax.

1. **Income from Salary:-** Person who are earning salary have to pay income tax when it becomes more than 2.5 lacs per year for senior citizens it is 3lacs. It includes basic pay, DA, HRA, CCA & Arrears of allowances. There are also some permissible deductions in salary.
2. **Income from Property:-** There is income from immovable property by collection of rent it includes rent of shop, house, godwon, these rent is also calculated in total income of assessee.
3. **Agricultural Income:-** Agriculture income is exempted from income tax, agriculture income includes income from following sources.
 - a. All the grains produced in agriculture land.
 - b. Production & sale of vegetable, flowers & fruits.
 - c. Income from teak wood & medicinal plants.
 - d. Poultry firm income.
 - e. Dairy farm income.
 - f. Medicinal plants from which income is made by owner.

There is no tax on agricultural income but if he purchased property then he have to pay income tax.
4. **Income from Business:-** When anybody do business & make income in assessment year then he has to pay income tax. When it cross permissible limit.
5. **Income from capital gains:-** Capital gain means investment done in share market, debentures, fixed deposit, loan transactions. Income of interest (or) profit also comes in income tax.
6. **Income through profession:-** There are various professions such as Actor, Doctor, Architect, Advocate, Charted Accountant, Tuition classes (or) Coaching classes then they have to maintain record & pay income tax.
7. **Income from Skill:-** When anybody makes income through skills (or) Talent then it is also taxable, cross puzzle, KBC, Horse Race, Writing Books & Articles, Royalty, Income on trade mark, copy right, patent right.

These is details about different type of Income which come under income tax act 1961.

Q2. Explain provisions of income from salary, property, profit of business & capital gains & other sources & permissible deduction.

Ans. Income tax is collected after all permissible deductions. In income tax act 1961 no of provisions made about deductions after all deductions income tax is computed on left over income according to rules.

1. **Income from Salary:-** Salary income is on record & it includes basic pay, DA, HRA, CCA & all the arrears when there is revision in pay scale & also benefit given by employers, following are the permissible deductions in income from salary.

- There is deduction of provident fund.
- There is also deduction of the rent paid for accommodation by the employee.
- There is deduction of fee paid in the school & colleges for children.
- If employee has taken loan then interest paid for loan amount in the year is deducted.
- If there is hospital expenditure of employee (or) his family member for treatment in financial year then it is allowed in deduction.
- If vehicle is maintained then expenses for petrol (or) diesel.
- There is deduction of donations given for religion & charitable purpose.

All these deduction should not exceed one lakh rupees.

2. **Deduction from property:-** There is also income from through rent such as rent of shop, house, godown, following are the permissible deduction in income from property.

- If property is purchase by taking loan then interest paid on loan amount is deducted.
- Municipal tax paid by the property owner in financial year is also deducted.
- There is also repairing of the property amount spent for repairing work in the year is also deducted.
- If employees are appointed for management of the property such as watchman, attender, clerk, gardener, then payment of their salaries is also deducted.

After all about deductions income tax is collected on remaining income according to rules.

3. **Profits from Business:-** There are many business carried by people. It includes occupation,, Trade, profession, following are the deduction allowed in profit of business.

- If place of business is taken on rent then yearly rent paid by business is deducted.
- If there are employees to run the business then salaries of employee is deducted.
- If loan is borrowed for business then interest on loan is also deducted.
- If loss is caused in business because of any reason then it is also deducted.
- There is also deduction of amounts spent on maintenance of vehicle.
- If there is insurance of business then premium paid for insurance.

4. **Deduction of Capital Gain:-** Capital gain means earning done through investment it includes investment in share market, investment in mutual funds, interest on fixed deposit, such income is subjected to deduction at the rate of 10% of income of the party is not taxable then TDS can be claimed by filing return.

5. **Income from other sources:-** There are many other sources of income such as income from games, sports, income from modeling, advertisement, horse race, lottery, there is deduction of income tax done by relevant authority & payment is made to the party.

These details about various income & permissible deduction specified in income tax act 1961.

- Q3. Explain procedure for assessment, prosecution, penalties, appeal & double taxation relief.
- Ans. Income tax return have to be filed during financial year (or) assessment year. It is from 1st April to 31st March, again 3months grace period is given & income tax return can be filed upto end of june month. There us power of tax authorities to extend the period on reasonable grounds to file income tax return. The person who files income tax return is called as ASSESSE & the year is called as ASSESSMENT YEAR (or) FINANCIAL YEAR.

Procedure of filing income tax return:-

- a. **Printed proforma application**:- Assessee who wants to file income tax return have to obtain printed proforma application which is available from income tax office free of cost, there is separate number to every application, such as for service people, for partnership firm, capital gain, company assessment, business assessment there are separated printed application. Assess have to fillup the application & give complete details of relevant information.
- b. **Documents**:- Assesses have to enclose all the documents either original (or) copy such as salary certificate, claim of permissible deduction, receipt of rent, net income certificate, hospital expenses bills, insurance bills, if loss is caused then relevant documents can be enclosed.
- c. **Assessment of Return**:- There are assessment officers in tax department who makes assessment of all the tax returns if there is clarification then notice will be issued to assessee about payment of amount of income tax. If advance payment of tax is done then it is deducted & balance of the amount is claimed by issue of notice.
- d. **Explanation**:- If there is no clarification in the return then notice is issued to appear personally (or) through tax practitioner on particular date & time. They take relevant explanation & information about the facts specified in return.
- e. **Tax & Penalty**:- After assessment tax authority have power to fix income tax & also imposed the penalty. Notice is given immediately (or) sent on the address of the assesee.
- f. **Claim of refund**:- If excess income tax is paid then assessee can claimed the refund on printed proforma, refund is deposited in account of assesee with reasonable interest.

Appeal:- After decision of tax authorities in the dispute is allowed before income tax appellate tribunal within 3months period. Appellate tribunals gives decision after hearing both the sides appeal from tribunal is allow to High court & lastly to Supreme court.

Penalties:- Following are the provisions relating to penalties & prosecutions.

- a. If tax return is not filed intentionally then there can be penalty not exceeding double the amount (or) 3months imprisonment (or) both.
- b. If any false (or) misleading information is given in the return then penalty is upto 1lac rupees (or) imprisonment upto 6months.
- c. If anybody makes black money by avoiding the tax then penalty upto 5lacs (or) 1year imprisonment.
- d. If default is done for 5years (or) more period then there can be 2years imprisonment (or) arrears of income tax with penalty is collected.

Double Taxation Relief:- There is relief from double taxation policy, if income tax has been paid in other country (or) any other state then there is no need to pay income tax on same income burden of prove is on party.

These is details about assessment, penalties, appeal & double taxation relief in Income Tax Act.



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