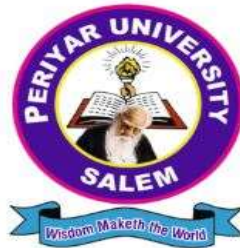


PERIYAR UNIVERSITY

**(NAAC 'A++' Grade with CGPA 3.61 (Cycle - 3)
State University - NIRF Rank 59 - NIRF Innovation Band of 11-50)
SALEM - 636 011**

CENTRE FOR DISTANCE AND ONLINE EDUCATION (CDOE)

MASTER OF COMMERCE SEMESTER - III



CORE VII : TAXATION

(Candidates admitted from 2023- 2024 onwards)

PERIYAR UNIVERSITY

CENTRE FOR DISTANCE AND ONLINE EDUCATION (CDOE)

M.Com 2023 -2024 onwards

CORE – VII

Taxation

Prepared by:

Centre for Distance and Online Education
Periyar University
Salem - 636011

CORE - VII TAXATION

Course Code	Title of the Course	Category	L	T	P	O	Credits	Inst. Hours	Marks		
									CIA	External	Total
23UPCO M3C07	TAXATION		7	-	-	-	5	7	25	75	100
Learning Objectives											
1	To identify deductions from gross total income and computation of income for different classes of assesses										
2	To understand the procedure for filing of returns and tax planning										
3	To analyse the structure on international business taxation										
4	To assess Goods and Services Tax and filing GST returns										
5	To compute customs duty as per Customs Act										
SYLLABUS											
<p>UNIT I (18 hrs) Assessment of persons Tax Exemptions for Agricultural Income-Deductions to be made in computing total income (80G, 80GGB & 80GGC, 80IA, 80IAB, 80IAC, 80IB, 80IBA, 80ID, 80IE, 80JJA, 80JJAA, 80LA, 80M, 80P, 80PA) – Assessment of Firms, AOP, BOI, Company and Co-operative society.</p>											
<p>UNIT II (18 hrs) Tax Returns and Tax planning Return of income: Statutory obligation, Return Forms, Time for filing of return, Revised return, Modified return–Assessment -Tax Deducted at Source - Advance payment of Tax: Persons liable to pay, Due date, Computation - Payment in pursuance of order of Assessing Officer, Consequences on non-payment. – Tax planning, Tax avoidance and Tax evasion - Tax planning and specific management decisions: Make or buy, Own or lease, Retain or replace, Shut down or continue.</p>											
<p>UNIT III (18 hrs) International business taxation International business taxation - Taxation of Non-resident - Double taxation relief - Transfer pricing and other anti-avoidance measure - Application and interpretation of tax treaties - (Double taxation avoidance agreement - DTAA) - Equalization levy.</p>											
<p>UNIT IV (18 hrs)</p>											

Goods and Services Tax

Goods and Services Tax: GST Act, 2017 - Registration – Procedure for registration under Schedule III – Amendment of registration – Rates of Tax of IGST, CGST, SGST/UGTST- Assessment of GST- Self-assessment – Provisional assessment – Scrutiny of returns – Assessment of non filers of returns – Assessment of unregistered persons – Assessment in certain special cases – Tax Invoice – Credit and Debit Notes – Payment of Tax – Input Tax Credit - Anti profiteering – Filing of Returns- Penalties – Prosecution – Appeal and Revision.

UNIT V**Customs Act, 1962(18 hrs)**

Customs Act, 1962: Important Definitions – Basics – Importance of Customs Duty – Constitutional authority for levy of Customs Duty – Types of Customs Duty – Prohibition of Importation and Exportation of goods – Valuation of goods for Customs Duty – Transaction Value – Assessable Value – Computation of Assessable Value and Customs Duty.

Course Outcomes: Students will be able to

CO No.	CO Statement	Knowledge level
CO 1	Apply the provisions of income tax to determine taxable income	K3
CO 2	Plan taxes	K3
CO 3	Illustrate the nuances of international business taxation	K2
CO 4	Apply the provisions of GST	K3
CO 5	Summarise the provisions of Customs Act	K2

Books for study:

1. Vinod Singhania and Kapil Singhania, Direct Taxes Law & Practice Professional Edition, Taxmann Publications, New Delhi
2. Mehrotra H.C. and Goyal S.P, Income Tax including Tax Planning & Management, Sahitya Bhawan Publications, Agra
3. Sekar G, “Direct Taxes” - A Ready Refresher, Sitaraman C.& Co Pvt.Ltd., Chennai.
4. Balachandran V, (2021) Textbook of GST and Customs Law, Sultan Chand and Sons, New Delhi
5. Vandana Bangar and Yogendra Bangar, “Comprehensive Guide to Taxation”(Vol.I and II), AadhyaPrakashan, Prayagraj(UP).

Books for reference:

1. ShaR.G. and Usha DeviN.,(2022) “Income Tax” (Direct and Indirect Tax), HimalayaPublishing House,Mumbai.
2. Girish Ahuja and Ravi Gupta, “Practical Approach to Direct and Indirect Taxes: Containing Income Tax and GST”, Wolters Kluwer India Private Limited
3. Swetha Jain, GST Law & Practice, Taxmann Publishers Pvt.Ltd, Chennai.
4. DatyV.S., “GST - Input Tax Credit”,Taxmann Publishers, Chennai.
5. AnuragPandy,“Law & Practices of GST and Service Tax”- Sumedha Publication House, New Delhi.

Web references:

1. https://www.icsi.edu/media/webmodules/16112021_Advance_Tax_Laws.pdf
2. https://www.icsi.edu/media/webmodules/Final_Direct_Tax_Law_17_12_2020.pdf
3. https://www.icsi.edu/media/webmodules/TL_Final_pdf_25102021.pdf

Note: Latest edition of the books may be used

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011, TamilNadu, India.

CENTRE FOR DISTANCE AND ONLINE EDUCATION (CDOE)

Master of COMMERCE -(MCOM) SEMESTER III-TAXATION

Unit1–Assessment of persons			
Tax Exemptions for Agricultural Income-Deductions to be made in computing total income (80G, 80GGB & 80GGC, 80IA, 80IAB, 80IAC, 80IB, 80IBA, 80ID, 80IE, 80JJA, 80JJAA, 80LA, 80M, 80P, 80PA) – Assessment of Firms, AOP, BOI, Company and Co-operative society.			
Section 1.1	Tax Exemptions for Agricultural Income	PPT	Video
1.1.1	Meaning of Agricultural Income		
1.1.2	Examples of Non-Agricultural Income		
1.1.3	Examples of Non-Agricultural Income		
1.1.4	Taxation of Agricultural Income		
1.1.5	Applicability		
1.1.6	Which ITR to File for Agricultural Income?		
1.1.7	Tax Benefit Under Section 54B		
1.1.8	Is Agricultural Income Taxable?		
1.1.9	Incomes not classified as agricultural incomes as per Income Tax Act		
	Summary		
	Check your Progress – Quiz – QR Code		
Section 1.2	Deductions to be made in computing total income		
1.2.1	Deduction as to specified donations SEC 80G		
1.2.2	Deduction in respect of expenditure incurred on payment of house rent (80 GG)		
1.2.3	Deduction in respect of any payment made to certain scientific institutions having rural development programme as its object [sec. 80GGA]		
1.2.4	Deduction in respect of contributions given by companies to political parties (sec. 80GGB)		
1.2.5	Deduction in respect contributions given by any person to political parties (sec. 80GGC)		

1.2.6	Tax Deductions under Section 80 IA		
1.2.8	Section 80-IB		
1.2.9	Section 80-IBA		
1.2.10	Section 80-IC		
1.2.11	Section 80-ID		
1.2.12	Section 80-IE		
1.2.13	Section 80 JJA		
1.2.14	Section 80 JJAA		
1.2.15	Deduction in respect of certain incomes of off shore banking units and international financial services centre [SEC. 80 LA]		
1.2.16	Section 80M		
1.2.17	Deduction in respect of income of co-operative societies [sec. 80P]		
1.2.18	Section 80PA		
1.2.19	Deduction in respect of income of authors [SEC. 80 QQB]		
1.2.20	Deduction in respect of royalty on patents [SEC. 80 RRB]		
1.2.21	Deduction in respect of interest on deposits in saving accounts[SEC. 80 TTA]		
1.2.22	Deduction in the case physically handicapped resident person [SEC. 80 U]		
	Summary		
	CheckyourProgress –Quiz–QR Code		
Section 1.3	Assessment		
1.3.1	Assessment of Firms		
1.3.2	Instrument		
1.3.3	Computation of Total Income of a Firm		
1.3.4	Book Profit		
1.3.5	Rate of tax of Firms		
1.3.6	Assessment of Individuals HUF, AOP, BOI and Artificial Person		
1.3.7	Senior citizen assesses		
1.3.8	for Super senior citizen assesses		
1.3.9	Company		
1.3.10	Cooperative Society		
	Summary		
	Check your Progress – Quiz – QR Code		
1.4	Unit-Summary		
1.5	Glossary		
1.6	Self-AssessmentQuestions		

1.7	Activities/Exercises/CaseStudies		
1.8	AnswersforCheckyourProgress		
	Module1		
	Module2		
	Module3		
	Module4		
	Module5		
1.9	OpenSourceE-ContentLinks		
1.10	SuggestedReadings/ References		
Unit2–Tax Returns and Tax planning			
Return of income: Statutory obligation, Return Forms, Time for filing of return, Revised return, Modified return–Assessment -Tax Deducted at Source - Advance payment of Tax: Persons liable to pay, Due date, Computation - Payment in pursuance of order of Assessing Officer, Consequences on non-payment. – Tax planning, Tax avoidance and Tax evasion - Tax planning and specific management decisions: Make or buy, Own or lease, Retain or replace, Shut down or continue.			
Section 2.1	Tax Returns and Tax planning	PPT	Video
2.1.1	Meaning		
2.1.2	Return of income: Statutory obligation		
2.1.3	Return Forms		
2.1.4	ITR forms		
2.1.3	Income Tax Return Filing		
2.1.6	Types of ITRs		
2.1.7	Who Should File Income Tax Returns?		
2.1.8	Process for ITR Filing		
2.1.9	Time for filing of return		
2.1.10	Revised return		
2.1.11	Modified return		
	Summary		
	Check your Progress – Quiz – QR Code		
Section 2.2	Assessment		
2.2.1	Different Types of Assessment		
2.2.2	Self Assessment		
2.2.3	Regular Assessment		
2.2.4	Tax Deducted at Source		
	Summary		
	Check your Progress – Quiz – QR Code		
Section 2.3	Advance payment of Tax		
2.3.1	Who can pay advance tax?		
2.3.2	Advance tax late payment		
2.3.3	Persons liable to pay		

2.3.4	Who is liable to pay Advance Tax?		
2.3.5	Computation of amount of advance tax		
2.3.6	Payment in pursuance of order of Assessing Officer		
2.3.7	Consequences on non-payment		
	Summary		
	Check your Progress – Quiz – QR Code		
Section 2.4	Tax planning		
2.4.1	Objectives of tax planning		
2.4.2	Advantages of tax planning:		
2.4.3	Types of tax planning		
2.4.4	Steps to follow while planning the taxes		
2.4.5	Tax Avoidance		
2.4.6	Examples of Tax Avoidance		
2.4.7	How to save taxes?		
2.4.8	Tax evasion		
2.4.9	Examples of tax evasion		
2.4.10	Difference between tax evasion and tax avoidance		
	Summary		
	Check your Progress – Quiz – QR Code		
Section 2.5	Tax planning and specific management decisions		
2.5.1	Make or buy		
2.5.2	Own or lease		
2.5.3	Retain or replace		
2.5.4	Shut down or continue		
	Summary		
	Check your Progress – Quiz – QR Code		
2.6	Unit- Summary		
2.7	Glossary		
2.8	Self- Assessment Questions		
2.9	Activities / Exercises / Case Studies		
2.10	Answers for Check your Progress		
	Module 1		
	Module 2		
	Module 3		
	Module 4		
	Module 5		
2.11	Open Source E-Content Links		
2.12	Suggested Readings / References		
Unit - 3	International business taxation		

International business taxation - Taxation of Non-resident - Double taxation relief - Transfer pricing and other anti-avoidance measure - Application and interpretation of tax treaties - (Double taxation avoidance agreement - DTAA) - Equalization levy.

Section 3.1	International business taxation	PPT	Video
3.1.1	Meaning		
3.1.2	Taxation of Non-resident		
3.1.3	Determination of residential status		
3.1.4	What is the income tax slab for NRI?		
	Summary		
	Check your Progress - Quiz - QR Code		
Section 3.2	Double taxation relief		
3.2.1	Meaning		
3.2.2	Types of double taxation		
3.2.3	Benefits of DTAA in India		
3.2.4	How to Claim Double Taxation Relief?		
3.2.5	Transfer pricing and other anti-avoidance measure		
3.2.6	Introduction		
3.2.7	Types of Transfer Pricing Methods		
3.2.8	When Do Transfer Pricing Rules Apply in India?		
	Summary		
	Check your Progress - Quiz - QR Code		
Section 3.3	Application and interpretation of tax treaties		
3.3.1	Interpretation of treaties		
3.3.2	DTAA		
3.3.3	Documents required to avail the benefits under DTAA		
3.3.4	Benefits of double taxation avoidance agreements		
3.3.5	Equalisation Levy		
3.3.6	Background and Relevance		
3.3.7	Equalisation Levy Applicability		
3.3.8	Services Covered Under Equalisation Levy		
	Summary		
	Check your Progress - Quiz - QR Code		
3.4	Unit- Summary		
3.5	Glossary		
3.6	Self- Assessment Questions		
3.7	Activities / Exercises / Case Studies		
3.8	Answers for Check your Progress		
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	Module 2		
	Module 3		
	Module 4		

	Module 5		
3.9	Open Source E-Content Links		
3.10	Suggested Readings / References		
Unit4– Goods and Services Tax			
Goods and Services Tax: GST Act, 2017 - Registration – Procedure for registration under Schedule III – Amendment of registration – Rates of Tax of IGST, CGST, SGST/UGTST- Assessment of GST- Self-assessment – Provisional assessment – Scrutiny of returns – Assessment of non filers of returns – Assessment of unregistered persons – Assessment in certain special cases – Tax Invoice – Credit and Debit Notes – Payment of Tax – Input Tax Credit - Anti profiteering – Filing of Returns- Penalties – Prosecution – Appeal and Revision.			
Section4.1	Goods and Services Tax	PPT	Video
4.1.1	GST Act, 2017 - Introduction		
4.1.2	Meaning		
4.1.3	Objectives of GST		
4.1.4	Registration		
4.1.5	Procedure for registration under Schedule III		
4.1.6	List of Documents Required for GST Registration		
4.1.7	Amendment Of GST Registration		
4.1.8	Time Limit for GST Amendment		
	Summary		
	CheckyourProgress –Quiz–QR Code		
Section4.2	Rates of Tax IGST, CGST, SGST/UGTST		
4.2.1	Assessment of GST		
4.2.2	Who is Liable to Pay GST?		
4.2.3	Procedure for Assessment under GST		
4.2.4	Components of GST		
4.2.5	Why GST?		
4.2.6	Types of Assessment under GST		
4.2.7	Self-assessment		
4.2.8	Provisional assessment		
4.2.9	Scrutiny of returns		
4.2.10	Assessment of non filers of returns		
4.2.11	Assessment of unregistered persons		
4.2.12	Assessment in certain special cases		
	Summary		
	CheckyourProgress –Quiz–QR Code		
Section4.3	Tax Invoice		
4.3.1	Meaning		
4.3.2	When is a tax invoice required?		
4.3.3	Who issues tax invoices?		
4.3.4	What information is included in a tax invoice?		
4.3.5	Types of tax invoices		

4.3.6	Contents of tax invoice		
4.3.7	Credit Notes		
4.3.8	Issuance of Credit Note		
4.3.9	Debit Notes		
4.3.10	Issuance of Debit Notes		
4.3.11	Format of Debit Note and Credit Note		
	Summary		
	CheckyourProgress –Quiz–QR Code		
Section4.4	Payment of Tax		
4.4.1	The GST payment process		
4.4.2	Electronic ledgers		
4.4.3	Electronic liability ledger		
4.4.4	Electronic credit ledger		
4.4.5	Electronic cash ledger		
4.4.6	GST payment form		
4.4.7	Input Tax		
4.4.8	Input Tax Credit and GST		
4.4.9	Procedure for registration under GST		
4.4.10	Anti profiteering		
4.4.11	Anti-profiteering mechanism under CGST act		
4.4.12	Who can file the complaint against profiteering?		
	Summary		
	CheckyourProgress –Quiz–QR Code		
Section4.5	Filing of Returns		
4.5.1	How to File GST Return Online in India?		
4.5.2	Who should file GST Returns?		
4.5.3	Penalties		
4.5.4	Prosecution		
4.5.5	Offences and punishment under GST [Section		
4.5.6	Appeal and Revision.		
4.5.7	Appeals to Appellate Authority		
	Summary		
	CheckyourProgress –Quiz–QR Code		
4.6	Unit-Summary		
4.7	Glossary		
4.8	Self-AssessmentQuestions		
4.9	Activities/Exercises/CaseStudies		
4.10	AnswersforCheckyourProgress		
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	Module2		
	Module3		
	Module4		

	Module5		
4.11	OpenSourceE-ContentLinks		
4.12	SuggestedReadings/References		
Unit5–Customs Act, 1962			
Customs Act, 1962: Important Definitions – Basics – Importance of Customs Duty – Constitutional authority for levy of Customs Duty – Types of Customs Duty – Prohibition of Importation and Exportation of goods – Valuation of goods for Customs Duty –Transaction Value – Assessable Value – Computation of Assessable Value and Customs Duty.			
Section5.1	Customs Act, 1962	PPT	Video
5.1.1	Introduction		
5.1.2	Meaning of Customs Duty		
5.1.3	Important Definitions		
5.1.4	Importance of Customs Duty		
5.1.5	Objectives of Customs Duties		
5.1.6	Merits and Demerits		
5.1.7	Sources of Custom Laws		
5.1.8	Constitutional authority for levy of customs duty		
5.1.9	Taxable Event		
5.1.10	Types of Customs Duty		
5.1.11	Difference between Safeguard duty and Anti-Summary		
	CheckyourProgress –Quiz–QR Code		
Section5.2	Prohibition of Importation and Exportation of goods		
5.2.1	Provisions for detection of illegally imported goods		
5.2.2	Provision for prevention and Detection of illegal export of goods		
5.2.3	Procedure for Import		
5.2.4	Power to Prohibit Importation and Exportation of Goods		
5.2.5	Reasons for prohibiting Imports and Exports		
	Summary		
	CheckyourProgress –Quiz–QR Code		
Section5.3	Valuation of goods for Customs Duty		
5.3.1	Transaction Value		
5.3.2	Exemptions from Customs Duty		
5.3.3	Conditions for Exemption from Duty		
5.3.4	Difference between Excise Duty and Customs Duty		
5.3.5	Customs Tariff Act 1985		
5.3.6	Customs Duty Drawback		

5.3.7	Conditions for Claiming Duty Drawback		
	Summary		
	CheckyourProgress –Quiz–QR Code		
Section5.4	Assessable Value		
5.4.1	Computation of Assessable Value and Customs Duty		
5.4.2	Transaction value in case of Export		
5.4.3	Transaction value in case of Import		
	Summary		
	CheckyourProgress –Quiz–QR Code		
5.5	Unit-Summary		
5.6	Glossary		
5.7	Self-AssessmentQuestions		
5.8	Activities/Exercises/CaseStudies		
5.9	AnswersforCheckyourProgress		
	Module1		
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5.11	SuggestedReadings/References		



SELF-LEARNING MATERIAL

TAXATION

UNIT OBJECTIVES

The unit aims to provide a comprehensive understanding of the tax exemptions for agricultural income and the various deductions under sections 80G, 80GGB, 80GGC, 80IA, 80IAB, 80IAC, 80IB, 80IBA, 80ID, 80IE, 80JJA, 80JJAA, 80LA, 80M, 80P, and 80PA. It focuses on the eligibility criteria, computation methods, and tax implications for different entities, including Firms, Associations of Persons (AOP), Bodies of Individuals (BOI), Companies, and Co-operative Societies. Through practical examples and case studies, learners will grasp the application of these deductions, ensuring accurate tax computation and compliance.

SECTION 1.1: - TAX EXEMPTIONS FOR AGRICULTURAL INCOME

Welcome, MCOM Programme learners, to the active world of **Taxation**. Learners will have a comprehensive understanding of tax exemptions of agricultural income and to identify deductions from gross total income and computation of income for different classes of assesses.

1.1.1 – Meaning of Agricultural Income

Agricultural income refers to the income earned or revenue generated from sources essentially premised on agricultural activities. These sources of income include farming land, buildings on or identified with agricultural land as well as commercial produce from a horticultural land.

By default, agricultural income is exempted from taxation and not included under total income. The Central Government can't impose or levy tax on agricultural income. The exemption clause is mentioned under Section 10 (1) of the Income Tax Act of India.

1.1.2 - Examples of Agricultural Income

The following are some the examples of agricultural income:

- Income from the sale of seeds.
- Income from the sale of replanted trees.
- Interest on capital received by a partner from a firm engaged in agricultural operations.

- Income from growing flowers and creepers.
- Rent received for agricultural land.
- Profits received by a partner from a firm involved in agrarian produce or activities.
- Income from growing of bamboo.

1.1.3 - Examples of Non-Agricultural Income

Below are some examples of non-agricultural income:

- Income from poultry farming.
- Income from agricultural land held as stock-in-trade
- Any dividend paid from an organization's agriculture income.
- Income from dairy farming.
- Income from bee hiving.
- Income from fisheries.
- Income from cutting and selling timber trees.
- Income from butter and cheese making.
- Receipts from TV serial shooting in the farmhouse.

1.1.4 -Taxation of Agricultural Income

As discussed above, agricultural income is exempt from income tax. However, the Income-tax Act has laid down a method to indirectly tax such income. This method or concept may be called the partial integration of agricultural income with non-agricultural income. It aims at taxing the non-agricultural income at higher rates of tax.

1.1.5 - Applicability

This method is applicable to individuals, HUFs, AOPs, BOIs, and artificial juridical persons, when the following conditions are met:

- Net agricultural income is greater than Rs. 5,000 during the year; and
- Non-agricultural income is above the basic exemption limit:
 - Greater than Rs 2.5 lakh for individuals below 60 years of age and all other applicable persons
 - Greater than Rs 3 lakh for individuals between 60 – 80 years of age
 - Greater than Rs 5 lakh for individuals above 80 years of age

In simple terms, the non-agricultural income should be greater than the maximum amount not

chargeable to tax (as per the slab rates).

Thus companies, firms/LLP, co-operative societies, and local authorities are excluded from using this method.

1.1.6 - Which ITR to File for Agricultural Income?

Agricultural income is to be shown under the column of Agriculture Income in ITR 1. But ITR 1 applies only when the agricultural income is up to Rs 5,000. In case it exceeds the limit of Rs.5,000, ITR 2 form must be filed.

1.1.7 - Tax Benefit Under Section 54B

Section 54B provides relief of capital gains to taxpayers who sell their agricultural land and acquire another agricultural land from the sale proceeds. The conditions for claiming the benefit u/s 54B are:

- The taxpayer should be an individual or HUF.
- The asset transferred should be agricultural land, whether a long-term or short-term capital asset.
- The agricultural land should be used for agricultural purposes for at least two years immediately preceding the date of transfer of land.
- The taxpayer should acquire/purchase another agricultural land within two years from the transfer date.

The exemption amount under section 54B is the lower of the following:

- Amount of capital gains arising on transfer of agricultural land.
- Investment in a new agricultural land or the amount deposited in the Capital Gains Deposit Account Scheme.

1.1.7 - Is Agricultural Income Taxable?

As per Section 10(1) of the Income Tax Act, 1961, agricultural income is exempted from taxation. The central government cannot levy tax on the agricultural income received. However, agricultural income is considered for rate purposes while assessing the income tax liability if the following two conditions are met:

Net agricultural income is greater than Rs. 5,000/- for previous year. Total income,

excluding net agricultural income, surpasses the basic exemption limit (Rs. 2,50,000 for individuals below 60 years of age and Rs. 3,00,000 for individuals above 60 years of age).

Incomes not classified as agricultural incomes as per Income Tax Act

Incomes derived from allied agricultural activities are not considered as agricultural income according to the Income Tax Act. The central government levies tax on income earned from allied activities. Even state governments can levy tax on allied taxes. However, if a state government is levying tax on allied activities incomes, then the central government cannot levy tax on it. It cannot happen that an allied agricultural activity income is being taxed by both state and central governments.

Let's Sumup

To sum up, this unit covers the tax exemptions for agricultural income, defining agricultural income and distinguishing it from non-agricultural income with relevant examples. It addresses the taxation of agricultural income, its applicability, and specifies which Income Tax Return (ITR) forms to file for such income. The unit also explores the tax benefits under Section 54B and clarifies the conditions under which agricultural income is taxable. Additionally, it highlights incomes that are not classified as agricultural under the Income Tax Act, ensuring a clear understanding of the nuances in agricultural income taxation.



CheckYourProgress



-QUIZ -1

1. What constitutes agricultural income under the Income Tax Act of India?
 - A. Income from sale of processed agricultural products
 - B. Income from any rent or revenue derived from land
 - C. Income from the sale of agricultural land
 - D. Income from the export of agricultural goods
2. Which of the following is an example of non-agricultural income?
 - A. Income from growing and selling crops
 - B. Income from dairy farming
 - C. Income from renting out agricultural land

D. Income from agro-processing industries

3. Is agricultural income taxable under the Income Tax Act in India?

- A. Yes, it is fully taxable
- B. No, it is completely exempt from tax
- C. It is taxable if it exceeds a certain amount
- D. It is partially taxable based on the type of crop

4. Under what condition can agricultural income become indirectly taxable?

- A. When combined with non-agricultural income
- B. When it exceeds Rs. 50,000 per annum

5. Agricultural income is exempt from tax under which section of the Income Tax Act?

- A. Section 10(1)
- B. Section 54B
- C. Section 80C
- D. Section 24

TAXATION

SECTION 1.2: DEDUCTIONS TO BE MADE IN COMPUTING TOTAL INCOME

The scheme of income tax act, has provided for various tax exemptions and concessions in three forms namely,

- a. Incomes which are wholly exempt from tax by virtue of their exclusion from total income under sections 10 to 13
- b. Incomes which are included in the total income for rate purposes but entitled for relief under section 86
- c. Deductions from gross total income which are allowed for the purpose of computing total income in respect of payments and in respect of certain incomes as provided u/s80

1.2.1 - Deduction as to specified donations SEC 80G

- Donations shall be of 'sum of money'. Donations in kind do not qualify for deductions.
- Donation must be made to specified institution/funds.
- For claiming deduction u/s 80G it is essential on the part of the assessee to produce proof of payment.

- For the purpose of determining the amount deductible the funds are classified under 3 categories as
 - a) 100% qualifying and 100% deductible.
 - b) 100% qualifying and eligible for 50% deduction.
 - c) Restricted donations.

COMPUTATION AND RATES OF DEDUCTIONS U/S 80G DONATIONS

	Donation	Q.A.	Rate
	NO LIMIT DONATIONS		
1.	To P.M. National Relief Fund	100%	100%
2.	To Africa fund	100%	100%
3.	To Armenia Earthquake relief fund	100%	100%
4.	To University or Institution of National Eminence (so notified)	100%	100%
5.	To National Foundation for communal harmony	100%	100%
6.	To the CMs Earthquake Relief fund, Maharashtra	100%	100%
7.	To Zila Sakharata samiti	100%	100%
8.	To AP CM's cyclone Relief fund	100%	100%
9.	To National sports fund	100%	100%
13.	To National cultural fund	100%	100%
14.	To Technology development and application fund	100%	100%
15.	To National Defence fund	100%	100%
16.	Any Fund set up by the State Govt of Gujarat	100%	100%
17.	To P.M. National Drought Relief fund	100%	50%
18.	To National Children's Fund	100%	50%
19.	To Jawahar Lal Nehru memorial fund	100%	50%
20.	To Indira Gandhi memorial fund	100%	50%
21.	To Rajiv Gandhi foundation	100%	50%

	WITH LIMIT DONATIONS		
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1.	To State Govt.	Actual total of 1 to 10 or 10% of gross taxable income WEL is Q.A.	Out of Q.A. 100% of donation for F.P + by a company to Indian Olympic
2.	To Local Authority		
3.	To Educational Institutions		
4.	To Charitable Institutions		
5.	To Sports Institutions		
6.	To a Corporation set upto protect the interest of		
7.	minorities.		
G. Tax. I = G.T.I. – [LTCG + All other deductions u/s 80 + Rebateable income, if any + STCG on shares)			

1.2.2 -Deduction in respect of expenditure incurred on payment of house rent (80 GG)

Individual taxpayers who do not receive house rent allowance are eligible for this deduction on the rent paid by them, subject to a maximum deduction equivalent to 25% of their total income or Rs 2,000 a month. The lower of these options can be claimed as deduction.

This deduction is allowed to individually only for rent paid. The assessee must be living in a rented house due to his employment, business or profession. He should not be getting any HRA.

Rate of Deduction

- a. Statutory limit `5,000 p.m.
- b. Rent paid – 10% of adjusted G.T.I.
- c. 25% of adjusted G.T.I. WEL.

Adjusted GTI = GTI [LTCG+STCG on shares covered under STT + Income referred in sec 115A + All other deductions u/s 80 except 80GG]

1.2.3 - Deduction in respect of any payment made to certain scientific institutions or an institution having rural development programme as its object [sec. 80GGA]

Tax deductions under this section can be availed by all assessees, subject to them not having any income through profit or gain from a business or profession. Donations by such members to enhance social/scientific/statistical research or towards the National Urban Poverty Eradication Fund are eligible for tax benefits.

Assessee should not carry on any business or profession 100% of such contribution

qualifies for deduction.

1.2.4 - Deduction in respect of contributions given by companies to political parties (sec. 80GGB)

Tax deductions under this section can be availed by Indian Companies only, with the amount donated by them to a political party or electoral trust qualifying for deductions.

In case a company is donating or contributing any amount to any political party, a deduction @ 100% of such donation shall be allowed.

1.2.5 - Deduction in respect contributions given by any person to political parties (sec. 80GGC)

Under this section, funds donated/contributed by an assessee to a political party or electoral trust are eligible for deduction. Local authorities and artificial juridical persons are not entitled to the tax deductions available under Section 80GGC.

- i. Any donation given to a political party
- ii. 100% of such donation is allowed as deduction

DEDUCTIONS IN RESPECT OF CERTAIN INCOMES

1.2.6 -Tax Deductions under Section 80 IA

Section 80 IA provides an avenue for all taxpaying assesseees to claim tax deductions on the profits generated through industrial activities. These industrial undertakings can be related to telecommunication, power generation, industrial parks, SEZs, etc.

The following subsections are related to Section 80-IA

1. Section 80-IAB: Section 80 IAB can be used by SEZ developers, who can claim tax deductions on their profits through development of Special Economic Zones. These SEZs need to be notified after 1/4/2005 in order for them to be eligible for tax deductions.

2. Section 80-IAC:

- Section 80-IAC of the Income-tax Act, 1961 provides 100% tax deductions for eligible startups involved in innovation, development, and scalable business models. It aims to support and encourage startups during their initial phase by reducing tax burdens and promoting compliance.
-
- Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent of the profits and gains derived from such business for three consecutive assessment years.

1.2.7 - Section 80-IB

Provisions of section 80-IB can be used by all assessees who have profits from hotels, ships, multiplex theatres, cold storage plants, housing projects, scientific research and development, convention centres, etc.

1.2.8 - Section 80-IBA

- Section 80IBA provides a tax deduction for individuals who have gained profits from the business of building developing housing projects in the affordable housing segment. The key reason for the insertion of this section 80IBA is to incentivise the development of affordable housing for the promoters and builders of these products. In this article, we look at Section 80IBA in detail.
- To give impetus to the housing sector, the Legislature has introduced the provisions of section 80IBA with effect from 01/04/2017 providing 100% deduction of the profits and gains arising from "developing and constructing a housing project".

1.2.9 - Section 80-IC

Section 80 IC can be used by all assessees who have profits from states categorised as special. These include Assam, Manipur, Meghalaya, Himachal Pradesh, Uttarakhand, Arunachal Pradesh, Mizoram, Tripura and Nagaland.

1.2.10 - Section 80-ID

All assesseees who have profits or gain from hotels and convention centres are eligible for deduction under this section, subject to their establishments being located in certain specified areas.

1.2.11 - Section 80-IE

All assesseees who have undertakings in North-East India are eligible for deductions under this Section, subject to certain conditions.

1.2.12 - Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste [SEC. 80 JJA]

1. Section 80 JJA: Section 80 JJA relates to deductions permitted on profits and gains from assesseees who are in the business of processing/treating and collecting bio-degradable waste to produce biological products like bio-fertilizers, bio-pesticides, bio-gas, etc. All assesseees who deal with this are eligible for deductions under this section. Such assesseees can claim deduction equivalent to 100% of their profits for 5 successive assessment years since the time their business started.

The whole of the profits and gains of the above activities shall be deductible for a period of 5 consecutive assessment years beginning with the assessment year relevant to the previous year in which such business commence.

1.2.13 - Deduction in respect employment of new workmen. [SEC. 80 JJAA]

Section 80 JJAA: Deductions under Section 80 JJAA can be claimed by Indian companies which have profits from the manufacture of goods in factories. Deductions equivalent to 30% of the salary of new full time employees for a period of 3 assessment years can be claimed. A chartered accountant should audit the accounts of such companies and submit a report showing the returns. Employees who are taken on a contract basis for a period less than 300 days in the preceding year or those who work in managerial or administrative posts do not qualify for deductions.

Deduction u/s 80JJAA is allowed to only an Indian company

Amount of deduction

30% of additional wages

1.2.14 - Deduction in respect of certain incomes of off shore banking units and international financial services centre [SEC. 80 LA]

Deductions under Section 80LA can be availed by Scheduled Banks which have offshore banking units in Special Economic Zones, entities of International Financial Services Centres and banks which have been established outside India, in accordance to the laws of a foreign nation. These assesseees are eligible for deductions equivalent to 100% of the income for the first 5 years, and 50% of income generated through such transactions for the next 5 years, subject to the rules of the land.

Such entities should have relevant permission, either under the SEBI Act, Banking Regulation Act or registration under any other relevant law.

This deduction is allowed to a scheduled bank whose income includes from the branch in special economic zone.

Amount of Deduction

100% of such income for the first 5 AY's and thereafter 50% for 5 years.

1.2.15 - Section 80M

Provides that a domestic company can claim a deduction from its total income in respect of any dividend received from its subsidiary company. The deduction is available to the extent of the amount of dividend received by the domestic company.

Section 80M of the Income Tax Act, was introduced by the Finance Act 2020 to exempt inter-corporate dividends from tax when received from a domestic company before 1st April 2020.

Facts of the case: The assessee is a private limited company earning income from commission. The return of income was filed electronically.

1.2.16 - Deduction in respect of income of co-operative societies [sec. 80P]

Section 80P caters to cooperative societies, offering tax deductions on their income, subject to certain conditions. 100% deduction is permitted to cooperative societies which have incomes

through cottage industries, fishing, banking, sale of agricultural harvest grown by members and milk supplied by members to milk cooperative societies.

Cooperative societies which are involved in other forms of business are eligible for **deductions ranging between Rs 50,000 and Rs 1 lakh**, depending on the type of work they are involved in.

Deductions which can be claimed by all cooperative societies are listed below.

- Income which a cooperative society makes by renting out warehouses
- Income derived through interest on money lent to other societies
- Income earned through interest from securities or properties

Amount of Deduction

The whole of the amount of the profits attributable to any one or more of the activities carried on by the cooperative society.

1.2.17 - Section 80PA

Income Tax Act, 1961 allows a 100% deduction of profits and gains attributable to an eligible business of a producer company having a turnover below 100 crore rupees in the previous year. This deduction applies to assessment years beginning on or after 1st April 2019 and before 1st April 2025.

For purposes of this section —

“Eligible Establishment” means

- the marketing of agricultural produce grown by members; or
- the purchase of agricultural implements, seeds, livestock, or other articles intended for agriculture to supply them to members; or
- Processing of Agricultural Produce of Members.

“Producer Company” means:

A Producer Company is essentially a body corporate registered as a producer company under the Companies Act, 2013 and shall carry on or relate to any of the following activities generally classified:-

- Production, harvesting, processing, purchase, sorting, pooling, handling, marketing, sale, export primary production of Members or importation of goods or services for their benefit.

- providing technical services, consulting services, training, education, research and development, and all other activities to promote the interests of its members;
- Production, transmission, and distribution of energy, revitalization of land and water resources, their use, protection, and communication related to primary production;
- Support for mutual aid, measures in the field of welfare, financial services, and insurance of producers, or their primary production.

“Member” means

Which meets the amount and duration of the Producer Company’s patronage as the bylaws may require?

Conditions for Deduction under Section 80PA

Deduction under Section 80PA is available if the following conditions are fulfilled –

- The assessee is a production company as defined in section 581 A (i) of the Companies Act 1956 (i.e. a corporation that is primarily engaged in the production of its active members. The objects of the production company will relate to all or some of the matters specified in section 581B of the Act companies, 1956).
- The total turnover of the company is below Rs. 100 crores in any previous year.
- The company’s income includes all profit and gains arising from the authorized business. An eligible business for this purpose is–
 - marketing agricultural produce is grown by members; or
 - purchase of agricultural implements, seeds, livestock, or other items intended for agriculture for supply to members; or
 - Processing of agricultural production of members.

Amount of Deduction under Section 80PA

If the above conditions are fulfilled, the production company can claim a 100% deduction for the assessment years 2019-20 to 2024-25 in respect of the profits and income of the “Eligible Business”.

(The deduction is only available to eligible businesses listed above and not to all businesses listed under section 581B of the Companies Act 1956).

1.2.18 - Deduction in respect of income of authors [SEC. 80 QQB]

Allowed to individual being an author or joint author in literacy, artistic or scientific nature whose GTI includes royalty income. The amount of deduction is `3,00,000 or royalty income WEL

1.2.19 - Deduction in respect of royalty on patents [SEC. 80 RRB]

The tax payee is an individual being a patentee or owner of patent and in receipt of income being royalty, the amount of deduction is `3,00,000 or royalty income WEL.

1.2.20 - Deduction in respect of interest on deposits in saving accounts[SEC. 80 TTA]

It is allowed to individual and HUF. Any interest on deposits in saving accounts with banks, co-operative banks, post offices, every year actual amount of interest earned or 10,000 p.a. WEL.

In case of interest on POS a/c exemption is upto `3,500 for single account & `7,000 for joint a/c

1.2.21 - Deduction in the case physically handicapped resident person [SEC. 80 U]

A resident individual who is totally blind or suffers from permanent physical disability is entitled to a deduction of `75,000 under section 80 U. A higher deduction of `1,25,000 with severe disability is allowed.

Disability includes

- 1) Blindness.
- 2) Low vision.
- 3) Leprosy cured.
- 4) Hearing impairment
- 5) Locomotor disability.

Let's Sumup

To sum up, deductions is very essential to calculate the total income. These deductions include both in respect of income and expenses separately. These are (80G, 80GGB & 80GGC, 80IA, 80IAB, 80IAC, 80IB, 80IBA, 80ID, 80IE, 80JJA, 80JJAA, 80LA, 80M, 80P, 80PA). From 80 G there is no limit donations 100%, no limit 50% and with limit donations.

Deductions include Deduction in respect of expenditure incurred on payment of house rent (80 GG), Deduction in respect of any payment made to certain scientific institutions having rural development programme as its object [sec. 80GGA], Deduction in respect of contributions given by companies to political parties (sec. 80GGB), Tax Deductions under Section 80 IA, Deduction in respect of certain incomes of off shore banking units and international financial services centre [SEC. 80 LA], Section 80M, Deduction in respect of income of co-operative societies [sec. 80P], Deduction in the case physically handicapped resident person [SEC. 80 U]. These deductions are calculated to find out the total income and for tax calculation.



CheckYourProgress



-QUIZ -1

1. Deduction available u/s 80GG in respect of rent paid cannot be more than –
 - (A) 6,000 p.m.
 - (B) 5,000 p.m.
 - (C) 2,000 p.m.
 - (D) 110,000 p.m.

2. Donation to university for research in Social Science is eligible for deduction at:
 - (A) 100%
 - (B) 25%
 - (C) 150%
 - (D) 175%

3. Deduction in respect of donations to National Defence Fund is allowed u/s
 - (A) 80G
 - (B) 80CCG
 - (C) 80C
 - (D) None of the above

4. The maximum amount of deduction u/s 80U allowed to a person with 80% or more of one or more disabilities is
 - (A) 40,000

- (B) 60,000
- (C) 50,000
- (D) 1,25,000

5. The profits of a Co-operative Society engaged in (i) Carrying out the business of banking, (ii) A cottage industry, and (m) Collective disposal of labor of its members are exempt from tax as per section 80P up to :

- (A) 75% of the profits
- (B) 100% of the profits
- (C) 50% of the profits
- (D) 40% of the profits

TAXATION

SECTION 1.3: ASSESSMENT

Income tax assessment is the process by the Income Tax Department of India to examine the income tax returns (ITR) filed by individuals and businesses. It involves verifying the income reported, deductions claimed, and tax liability calculated in the ITR.

1.3.1 - ASSESSMENT OF FIRMS

- a) It pays tax at flat rate of 30% with no exemption limit,
 - b) For LTCG – 20%,
 - c) For STCG – 15%.
 - d) Winnings from lotteries, cross word puzzles, races, card games, gambling and betting – 30%.
- Health and Education Cess @ 4% , Surcharge @ 12% of tax shall be added if total income exceeds Rs.1 crore

According to the new scheme of taxation of firms, there will be two types of firms namely

1. A firm assessed as such.
2. A firm assessed as an AOP.

1.3.2 - INSTRUMENT

A partnership shall be assessed as a firm, if the following conditions are satisfied [Sec. 184]

1. A firm must be evidenced by an Instrument [Sec 184 (1)(i)]

A firm given the status of PFAS (Partnership firm assessed as such) if it is evidenced by an “instrument” which means a document of legal nature by which any right or liability is or purpose to be created, transferred, limited, extended, extinguished or recorded. “Instrument” does not mean only a regular partnership deed but it may constitute any other formal document.

2. Individual share of partners must be specified in “Instrument”

A firm gets the status of PFAS if the instrument of partnership specifies the individual share of partners in profits of the partnership. Individual shares of each partner should be mentioned in the instrument. The share of partners should not be made to depend on a reference and scrutiny of a number of documents.

3. Submission of certified instrument

Certified copy of the instrument of partnership should accompany the first return of income of a firm. If the arrangement is reflected in more than one deed or documents the instrument for submission include all documents and deeds.

1.3.3 - COMPUTATION OF TOTAL INCOME OF A FIRM

Total income of a partnership firm will be ascertained as a separate entity.

Income under various Heads

Income of a firm will be computed under various heads of income of in the same manner as in the case of any other assessee. However, a firm will have income under four heads only i.e

1. Income from house property.
2. Income from business or profession.
3. Income from capital gains.
4. Income from other sources.

Computation of income under the head “profits and gains of business or profession”

1. Payment to Non working partners
2. Payment to working partners
3. Payment to partners for a period prior to the date of deed

4. Interest to be allowed upto 12%
5. Payment of remuneration as Sec. 40

1.3.4 - BOOK PROFIT

Book profit for the above purpose means the net profit as per profit and loss account for the relevant PY computed in accordance with the provisions to arrive at the profit as increased by the aggregate amount of remuneration paid or payable to the partners of the firm if such amount has been deducted while computing the new profit.

The specified limit is as follows.

Book Profit	Limit
On the first ₹3,00,000 of book profit or in case of loss	₹1,50,000 or 90% of Book profits WE is more. (WEH)
On the balance of book profit	60% of profit exceeding ₹3 Lakhs

1.3.5 - RATE OF TAX OF FIRMS

Income	Tax Rate
On total income (exclusive of LTCG and casual income)	30%
On LTCG	20%
STCG on sale of listed shares	15%
On casual income	30%
Health & Education Cess	

1.3.6 - ASSESSMENT OF INDIVIDUALS HUF, AOP, BOI and Artificial person

Taxable income range	Rates of Income tax
Upto ₹2,50,000	Nil
₹2,50,001 – Rs.5,00,000	5% of income exceeding ₹2,50,000
₹5,00,001 – Rs.10,00,000	₹12,500 + 20% of the income exceeding ₹5,00,000.
Above ₹10,00,000	₹1,12,500 + 30% of the income exceeding ₹10,00,000.

1.3.7 - For Senior Citizen assesses (60 years or above but less than 80 years)

Taxable income range	Rates of Income tax
Upto Rs.3,00,000	Nil
`3,00,001 – `5,00,000	5% of income exceeding `3,00,000
`5,00,001 – `10,00,000	`10,000 + 20% of income exceeding `5,00,000
Above `10,00,000	`1,10,000 + 30% of income exceeding `10,00,000

1.3.8 - For Super Senior Citizen assesses [who are the age of 80 years are more]

Taxable income range	Rates of Income tax
Upto Rs.5,00,000	Nil
`5,00,001 – Rs.10,00,000	20% of income exceeding Rs.5,00,000
Above `10,00,000	`1,00,000+30% of income exceeding `10,00,000

Health and Education Cess @ 4%

Special rates:

For short term capital gain on shares which are subject to Security Transaction Tax (STT) 15%.

For LTCG 20%, For casual income (Lotteries, races, puzzles) 30%

1.3.9 - COMPANY

Company	Rate of IT
In the case of a domestic company	30% of total income
In the case of a company other than a domestic company (1). On so much of the income as consists of 1. Royalty received from Govt. company or an Indian concern in pursuance of an agreement made by it with the government or the Indian concern, after the 31 st day of March, 1961 but before the 1 st day of April 1976 or 2. fees for rendering technical services received from Govt or	50% of total Income

an Indian concern in pursuance of an agreement made by it with the government or the Indian concern, after the 29 th day of March, 1964 but before the 1 st day of April 1976 and where such agreement has in either case been approved by the central government.	
(2). On the balance if any of the total income.	40 % of total income

1.3.10 - COOPERATIVE SOCIETY

Taxable Income Range	Rate of IT for the AY 2023 – 24
Where the total income Rs.10,000	10% of the total income
`10,001 – Rs.20,000	`1,000 + 20% of the amount where the total income exceeds `10,000
`20,000 and above	`3,000 + 30% of the amount where the total income exceeds `20,000

Health and Education Cess @ 4% of tax.

Surcharge @ 12% of tax shall be added if total income exceeds Rs.1 crore

LOCAL AUTHORITY

On the basis of the total income - 30%

SURCHARGE

For individuals, HUFs, AOP/BOI and artificial juridical persons; the rate of surcharge shall be

1. If total income exceeds Rs.50 lakhs but does not exceed 1 crore - 10%
2. If total income exceeds Rs.1 crore but does not exceed 2 crore - 15%
3. If total income exceeds Rs 2 crore but does not exceed 5 crore - 25%
4. If total income exceeds Rs 5 crore - 37%
5. If total income exceeds Rs. 2 crore - 15%

Let's Sumup

Tosumup, in taxation assessment is made to find out the total tax payable separately for Individuals HUF, AOP, BOI and Artificial Person, firm, company and cooperative society. Assessment of Firms include Instrument, Computation of Total Income of a Firm its Book Profit, Rate of tax of Firms. Also Assessment of Individuals HUF, AOP, BOI and Artificial Person separately for Senior citizen assesses and for Super senior citizen assesses. Finally include assessment of company and cooperative society.



1. The book profit of a partnership firm is Rs. `1,20,000. The actual remuneration paid to working partners is Rs. `3,54,000. The allowable deduction under section 40(b) towards remuneration to partners is -
 - A. Rs.` 1,50,000
 - B. Rs.` 3,54,000
 - C. Rs.` 1,08,000
 - D. Rs.` 1,20,000
2. Profit earned during the year by a partnership firm is Rs. ` 1,40,000. The maximum amount of remuneration deductible from profit is -
 - A. Rs.` 1,50,000
 - B. Rs.` 1,40,000
 - C. Rs.` 1,26,000
 - D. Rs.` 50,000
3. In computing the income under the head Profits and Gains of Business or Profession of a firm which is assessed as such, the following shall be disallowed in accordance with the provisions of Section 40(b),-
 - A. Remuneration to working partner.
 - B. Remuneration to non working partner.
 - C. Interest to working partner.
 - D. Interest to non working partner

4. For computing the Book Profit under section 115 JB, which of the following is not added back to the profits?
 - (A) Income-Tax
 - (B) Provision for Tax
 - (C) Dividend Distribution Tax u/s 115-0
 - (D) Securities Transaction Tax [June 2017]

5. Provisions of Section 115JB are applicable in case of –
 - (A) Domestic companies only
 - (B) Foreign companies only
 - (C) All companies
 - (D) Closely held companies [Dec. 2016]

1.4 - UnitSummary

The first unit aims the taxation framework pertaining to agricultural income which includes exemptions that generally exempt agricultural income from income tax. Deductions from total income are available under various sections like 80G (donations), 80GGB and 80GGC (political contributions), 80IA, 80IAB, 80IAC, 80IB, 80IBA, 80ID, 80IE (deductions for specified industries), 80JJA and 80JJAA (deductions for business activities), 80LA (income of investment funds), 80M (deductions for companies engaged in infrastructure), 80P (income of co-operative societies), and 80PA (deductions for specified businesses). Assessment procedures vary for different types of entities including firms, associations of persons (AOP), body of individuals (BOI), companies, and co-operative societies, each subject to specific taxation rules and compliance requirements under Indian tax law. These provisions collectively aim to regulate tax liabilities while encouraging certain activities and sectors through targeted deductions and exemptions, ensuring equitable tax treatment across different entities and income sources.

1.5- Glossary

Agricultural income	The income earned or revenue generated from sources on agricultural activities. These sources of income include farming land, or identified with agricultural land as well as commercial produce from a horticultural land.
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Deductions	Deductions from gross total income which are allowed for the purpose of computing total income in respect of payments and in respect of certain incomes as provided under section 80
Section 80 IA	Provides an avenue for all taxpaying assesseees to claim tax deductions on the profits generated through industrial activities.
Section 80P	It caters to cooperative societies, offering tax deductions on their income, subject to certain conditions. 100% deduction is permitted to cooperative societies which have incomes through cottage industries, fishing, banking, sale of agricultural harvest grown by members and milk supplied by members to milk cooperative societies.
Instrument	Certified copy of the instrument of partnership should accompany the first return of income of a firm. If the arrangement is reflected in more than one deed or documents the instrument for submission include all documents and deeds.
Book profit	The net profit as per profit and loss account for the relevant PY computed in accordance with the provisions to arrive at the profit as increased by the aggregate amount of remuneration paid or payable to the partners of the firm.

1.6 - SelfAssessmentQuestions

ShortAnswers:(5Marks)K3/K4LevelQuestions

Sl.no	Questions	Level
1.	ExplaintheAgricultural Income with examples	K3
2.	Is Agricultural Income Taxable?	K3
3.	List out Incomes not classified as agricultural incomes as per Income Tax Act	K3
4.	Listanddescribethemaintypesof communication	K3
5.	Explain the Deduction in the case physically handicapped resident person [SEC. 80 U]	K3
6.	Describe the Book Profit and its specified limit	K4
7.	Explain the Assessment of Individuals of senior and super senior citizens	K4
8.	Discuss about in detail about surcharge	K4

EssayTypeAnswers:(8Marks)K5/KSLevelQuestions

Sl.no	Questions	Level
1.	Describe the Tax Benefit Under Section 54B	K5
2.	Explain the Deduction as to specified donations SEC 80G	K5
3.	Discuss deductions in respect of certain incomes	K5
4.	Explain the Deduction in respect of income of co-operative societies sec. 80P and 80PA	K5
5.	Discuss the Assessment of Firms and the instrument	K5
6.	illustrate the tax liability for super senior citizen assesses	K6
7.	Write down the format for Assessment of Individuals, HUF, AOP, BOI and Artificial Person	
8.	Explain the Computation of Total Income of a Firm	K6

1.7 Activities-Assignment



Activities

1. Mr. Sharma owns a piece of agricultural land where he grows crops and earns an income of ₹5,00,000 annually. He also has a small business that generates a non-agricultural income of ₹10,00,000 per year. Mr. Sharma made donations amounting to ₹50,000 to a registered charitable institution, eligible for deduction under Section 80G. He is uncertain about how to file his Income Tax Return and which sections apply to him.

Assignment Questions:

1. Define Agricultural Income. Is Mr. Sharma's crop income considered agricultural income?
2. Explain the applicability of Section 80G for Mr. Sharma's donations.
3. Which ITR form should Mr. Sharma file given his sources of income?
4. Is Mr. Sharma's agricultural income taxable?
5. How should Mr. Sharma compute his total taxable income for the year?

2. DEF & Co., a partnership firm, earned a profit of ₹20,00,000 from its business activities during the financial year. The firm made eligible donations of ₹1,50,000 under Section 80G and invested ₹3,00,000 in renewable energy projects, qualifying for deductions under Section 80IA. The firm also employed ten new workers, making it eligible for deductions under Section 80JJAA.

Assignment Questions:

1. What are the total deductions DEF & Co. can claim under Sections 80G, 80IA, and 80JJAA?
2. How should DEF & Co. compute its taxable income after these deductions?
3. Discuss the eligibility criteria for claiming deductions under Section 80IA for renewable energy projects.
4. Explain the tax implications of employing new workers for DEF & Co.
5. What are the steps DEF & Co. must follow to ensure compliance

1.8 Topics for Discussion (Quadrant – 4)

1. Calculate the total deductions ABC Co-operative Society can claim under Sections 80JJA and 80JJAA.
2. How does Section 80P apply to the income earned by ABC Co-operative Society?
3. Discuss the tax benefits available to co-operative societies under the Income Tax Act.
4. What are the implications of employing additional workmen for tax purposes?
5. How should ABC Co-operative Society compute its total taxable income after deductions?

1.8 AnswersforCheckyourProgress

Section 1.1	Tax Exemptions for Agricultural Income
1	B
2	D
3	B
4	A
5	A
Section 1.2	Deductions to be made in computing total income
1	B
2	C
3	A
4	D
5	B
Section 1.3	Assessment
1	A
2	C
3	B
4	C
5	C

1.9-OpenSourceE-Content Links

Sl.no	Topic	E-ContentLink	QR Code
1	Income Tax Deductions	https://www.youtube.com/watch?v=SLkFtA_WI9Y	
2	Deductions for Specific Sections (80IA, 80IB, 80JJAA, etc.)	https://www.youtube.com/watch?v=b5zD8HDa80I	
3	Tax Exemptions for Agricultural Income	https://www.youtube.com/watch?v=bhzMJ4tFwA8	
4	Assessment of Firms, AOP, BOI, Companies, and Co-operative Societies	https://www.youtube.com/watch?v=gE2fbOJ_pOI	
5	Income Tax Deductions for Businesses and Corporations	https://www.youtube.com/watch?v=aPhou5FtxXQ	

1.10 SuggestedReadings /References

1. V.K. Singhania and Kapil Singhania. Income Tax Law and Practice"
2. "Taxmann's Direct Taxes Law & Practice" by Dr. Vinod K. Singhania and Dr. Monica Singhania
3. Students' Guide to Income Tax" by Dr. Vinod K. Singhania and Dr. Monica Singhania
4. "Corporate Tax Planning and Management" by Girish Ahuja and Ravi Gupta
5. "Corporate Tax Planning and Management" by Girish Ahuja and Ravi Gupta
6. "International Taxation: A Compendium" by K. Rupesh Kumar.
7. Taxation of Income: Principles and Practice" by Robert W. McGee.
8. (www.taxmann.com)(www.incometaxindia.gov.in)(www.icaai.org)

Books

1. "Corporate Tax Planning and Management" by Girish Ahuja and Ravi Gupta
2. "Tax Planning & Management" by Dr. R.N. Lakhotia and Subhash Lakhotia
3. "Direct Tax Planning & Management" by Dr. Vinod K. Singhania
4. "Strategic Corporate Tax Planning" by John E. Karayan and Charles W. Swenson
5. "Taxation of Income: Principles and Practice" by Robert W. McGee

Articles and Journals

1. "The Chartered Accountant" - Journal by ICAI, "Journal of Taxation"
2. "Tax Adviser" - Journal by the Chartered Institute of Taxation (CIOT)
3. "International Tax Review"

Websites

1. **Income Tax Department, Government of India (www.incometaxindia.gov.in)**
2. **Taxmann (www.taxmann.com), ClearTax (www.cleartax.in)**
3. **Institute of Chartered Accountants of India (ICAI) (www.icai.org)**

TAXATION

RETURN OF INCOME

UNIT OBJECTIVES

In this unit, learners will have a comprehensive understanding of Return of income its Statutory obligation, Assessment, Tax Deducted at Source, Persons liable to pay, Due date, Computation, Payment in pursuance of order of Assessing Officer and the procedure for filing of returns and tax planning.

SECTION 2.1: Tax Returns and Tax planning

INTRODUCTION

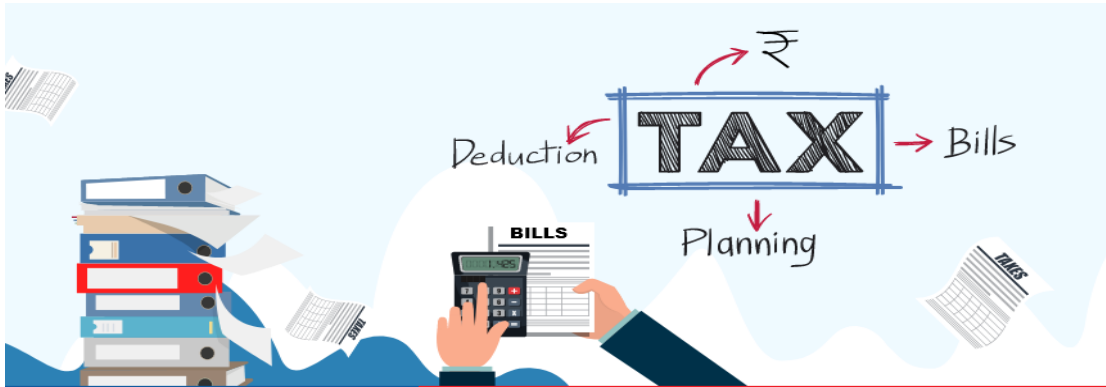
An Income Tax Return (ITR) is a form primarily used for filing details about your income and the applicable tax to the Income Tax Department of India. The Indian income tax laws state that the IT return should be filed by every individual and business earning an income. It assists in declaring taxable income, tax liability, and tax deductions claims, if any.

It is mandatory for Firms or corporations, Hindu Undivided Families (HUFs), and self-employed or salaried individuals to file income tax returns before the due date otherwise, a penalty will be levied for late filing.

2.1.1 MEANING

Income Tax Return or ITR is a form used to show the gross taxable income for the given fiscal year. The form is used by taxpayers to formally declare their income, deductions claimed, exemptions and taxes paid. Therefore, it calculates net income tax liability in a fiscal year.

According to the Income Tax Act of 1961, a person under 60 years of age must file tax returns if a part of their income is taxable. If taxable income exceeds Rs. 5 lakh in a financial year or have paid advance tax, also need to file an ITR. When filing tax returns, also have to pay due taxes as decided by applicable income tax slabs.



2.1.2 -RETURN OF INCOME - STATUTORY OBLIGATION

Under Section 139(1), in the following cases the filing of Income Tax Return is Mandatory: Every person who has a total income that exceeds the exemption limit is liable to furnish Income Tax Return within the due date. Any private, public, domestic or foreign country located and/or doing business in India.

139. (1) Every person

(a) being a company [or a firm]; or

(b) being a person other than a company [or a firm], if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed :

2.1.3 - Return Form

ITR Form 7. Income Tax Return Form 7 is for persons, including Companies that file returns under Sections 139(A), 139(B), 139(C), 139(D), 139(E), and 139(F). Persons with income derived from property held under trust for charitable or religious purposes should file the income tax return under Section 139(4A)

2.1.4 - ITR forms

Income tax return is a form which is filed with the taxing authority. It reports income, expenses, and other relevant tax information. Tax returns make it easy for taxpayers to determine their tax liability, plan their tax payments and request refunds for its over payment. Taxpayers are required first to determine the type of ITR forms they need to fill before actually submitting the returns. ITR forms are solely dependent on the income of taxpayers.

2.1.5 - Income Tax Return Filing

ITR filing is the process through which a taxpayer must record his total income earned during the fiscal year. Individuals can file their taxes through the Income Tax Department's official portal. It has been notified in seven different forms.

Income Tax Return (ITR) forms refer to those forms in which taxpayers file information about their income earned and tax applicable to the department of income tax. The department has notified 7 types of ITR forms –

ITR 1 ITR 2 ITR 3 ITR 4 ITR 5 ITR 6 ITR 7

Every taxpayer must know all the ITR forms details and file the ITR before the specified due date to avoid penalties. The applicability of ITR forms depends on the amount of the income earned, sources of income of the taxpayer, and the category the taxpayer belongs to, such as individuals, HUF, and company.

2.1.6 - Types of ITRs

There are nearly nine different sorts of ITR forms available for a taxpayer to use while filing his taxes. Individuals must, however, use only the following forms for filing returns, according to the Central Board of Direct Taxes in India-

- **ITR 1 or Sahaj**

It should be used by individuals earning an annual income of less than Rs 50 lakh through salary/pension and from only 1 house property.

- **ITR 2**

The ITR-2 Form is a type of ITR form used by individuals who have earned money from the sale of assets or property. This form is also beneficial for people who earn money in countries other than India. Individuals or Hindu Undivided Families (HUF) can usually use this form to file their ITR.

- **ITR 2A**

The ITR-2A form is a new income tax return form that was introduced in the 2015-16 tax year. A Hindu Undivided Family (HUF) or an individual taxpayer can utilize this form.

- **ITR 3**

The ITR-3 Form is useful for an individual taxpayer or a Hindu Undivided Family who is a partner in a firm but does not conduct any business via the firm. This also applies to those who do not make any money from the firm's operations.

- **ITR-4 or Sugam**

This sort of ITR form is useful for persons who own a business or earn a living through a vocation. This form is appropriate to all types of businesses, undertakings, or professions, with no income restriction.

- **ITR-4S**

The ITR-4S form could be used to file income tax returns by any person or Hindu Undivided Family (HUF).

- **ITR 5**

The ITR-5 form is exclusively used to file income tax returns by the Firms, Local authorities, Co-operative societies, Artificial Judicial persons, Body of individuals.

- **ITR 6**

Except for firms or organizations that claim tax exemption under Section 11, all companies utilize the ITR-6 form. Organizations that can claim tax exemptions under Section 11 are those whose income is derived from property utilized for religious or charitable purposes. This particular income tax return form can only be filed online.

- **ITR 7**

This form is required to be used by entities claiming an exemption as colleges, universities, scientific research institutions, religious or charitable trusts, political parties, etc.

2.1.7 - Who Should File Income Tax Returns?

- Assessee with a total income of Rs. 5 lakhs or more.

- Individual/HUF resident with assets outside of India.
- An Assessee is required to file returns under Section 139 (4B) (ITR 7).
- The assessee must provide the assessing officer with a notice under Section 11(2) (a).
- A person who claims relief or deductions under sections 90 or 90A.
- A person who is a resident and has signing authority over any account situated outside of India.
- Every business.
- An assessee who is obliged by the Act to provide an audit report stated in sections 10(23C) (IV), 10(23C) (v), 10(23C) (VI), 10(23C) (via), 10A, 12A (1) (b), 44AB, 80IA, 80IB, 80IC, 80ID, 80JJAA, 80LA, 92E, or 115JB.
- AOP, BOI, Local Authority (ITR 5), Artificial Juridical Person, or Cooperative Society that does not fall under the terms of Section 44AB.

2.1.8 - Process for ITR Filing

Income tax return filing can be done in 2 ways i.e. via an online mode or offline mode.

- **Online Mode**

For filing the income tax return online, first, determine the income tax liability. Visit the official portal of the income tax department for e-filing income tax. Fill in the required details, upload the necessary documents if needed, and once confirmed, validate the filings.

Visit the official portal of income tax e-filing and under the IT Return Preparation Software section, download the relevant ITR form. Open the downloaded ITR form on your computer. Next, fill in the necessary details and gather the required documents like Form 16, Form 26AS, TDS certificates. Once done, generate a JSON file of the ITR form and save it. Finally, submit the ITR form by uploading the JSON file.

2.1.9 - Time For Filing Of Return

Due Date for ITR Filing and Penalty for Late Submission

Last date to file Income Tax Return (ITR) for Financial Year 2023-24 (Assessment Year 2024-25) without late fees is 31st July 2024.

A late fee of up to Rs 5,000 for individuals having an annual income of more than Rs 5 lakh will be levied. This income tax penalty amount can go up to Rs 10,000 if the income tax return is filed post the deadline.

Last Date for Filing Income Tax Returns in India 2024

The deadline for filing your Income Tax Returns (ITR) for the income earned in FY 2023-24 (AY 2024-25) is 31 July 2024, without incurring any late fees. However, for belated returns or missed filings, the deadline is extended to 31 December 2024 with penalty.

Start of Income Tax Returns (ITR) Filing for FY 2023-24 (AY 2024-25)

E-filing of Income Tax Returns (ITR) for the financial year 2023-24 (assessment year 2024-25) is scheduled to commence in April 2024. Taxpayers will be allotted sufficient time to submit their returns based on their taxpayer category.

Tax Due Dates for FY 2023-24 (AY 2024-25)

Details regarding the deadline for filing ITR for FY 2023-24 are outlined below:

According to the Income Tax Act, 1961, a certain amount of tax must be paid by individuals and establishments. Find the latest due dates of ITR filing given below:

Tax Due Dates for FY 2023-24 (AY 2024-25)

Details regarding the deadline for filing ITR for FY 2023-24 are outlined below:

According to the Income Tax Act, 1961, a certain amount of tax must be paid by individuals and establishments. Find the latest due dates of ITR filing given below:

Due Date	Nature of Compliance
31 July 2024	ITR filing for Individual/HUF/AOP/BOI
31 October 2024	Businesses (Tax audit report)
30 November 2024	Transfer Pricing Report (specific domestic transactions or undertaken international transactions)
31 December 2024	Revised Return
31 December 2024	Revised return or belated return filing

Status of taxpayer	Due date
	December 31 of the relevant assessment year.
Revised ITR for every taxpayer	For FY 2023-24 (ended on March 31, 2024), the AY is 2024-25.
Updated ITR	March 31 from the end of two relevant assessment years. For FY 2023-24 (ended on March 31, 2024), the AY is 2024-25.

2.1.10 -REVISED RETURN

Under section 139(5) of the Income Tax Act. A Revised Income Tax Return under Section 139(5) refers to the opportunity provided to taxpayers to correct errors, omissions, or any inaccuracies in their originally filed income tax returns by filing a revised return.

It starts on 1st April and ends on 31st March of the next calendar year. The ITD has started income tax e filing for taxpayers. The income tax ITR filing due date for FY 2023-24 is 31st July 2024. However, this date can be extended, if the Income Tax Department finds it necessary. The last date to file Income Tax Return (ITR) for FY 2023-24 (AY 2024-25) without a late fee is 31st July 2024. Taxpayers filing their return after the due date will have to pay interest under Section 234A and a penalty under Section 234F.

Section 139 (5) of the Income Tax Act of 1961 allows taxpayers to file a revised income tax return if they have made mistakes in the returns filed earlier. From FY 2016-17, even a belated return can be revised.

A Revised Return under Section 139(5) of the Income Tax Act is filed when an individual needs to make changes or corrections to a previously filed Income Tax Return (ITR). Here are the situations in which you would file a Revised Return:

1. **Correction of Errors:** If you realize that you have made an error or omission in your original ITR, such as reporting incorrect income, deductions, or any other information, you

can file a Revised Return to correct those errors. This allows you to provide accurate and updated information to the tax authorities.

2. **Missed Reporting:** If you inadvertently omitted certain income sources or failed to include certain deductions or exemptions in your original ITR, you can file a Revised Return to include those missed details. This helps ensure that your tax assessment is based on complete and accurate information.
3. **Changes in Tax Calculation:** If there are changes in the tax laws, rules, or tax rates that affect your tax liability after you have filed your original ITR, you can file a Revised Return to incorporate those changes in your tax calculation. This allows you to adjust your tax liability accordingly.

2.1.11 - MODIFIED RETURN

A modified return must be filed within three months of the end of the month in which Section 92CD entered into the aforementioned arrangement for an assessment year for which an advance pricing agreement was entered.

Section 170A of the Income-tax Act, 1961 provides that the entities going through business reorganization may furnish modified return of income for any assessment year to which such order of business reorganization is applicable within six months from the end of the month of issuance of order of competent authority. A modified return is to be filed for an assessment year relevant to a previous year to which an advance pricing agreement is entered in terms of Section 92CC. The modified return is to be filed within a period of three months from the end of the month in which the said agreement was entered into under Section 92CD.

Let's Sum Up

To sum Up, in this section Tax returns and tax planning involve the strategic preparation and submission of income information to tax authorities to ensure compliance and optimize tax liability. Filing a return of income is a statutory obligation for individuals and entities whose income exceeds specified limits. This is done using various ITR forms, tailored to different income sources and taxpayer categories. The process of filing an Income Tax Return (ITR) includes identifying the

appropriate form, gathering necessary documentation, and submitting the return within the stipulated time frame. Different types of ITRs cater to diverse income profiles, and it is crucial to determine who is required to file. Timely filing is essential, and taxpayers have the option to submit revised or modified returns if corrections are needed after the initial filing



1. Who is required to pay advance tax?

- a) Only salaried individuals
- b) b) Only businesses
- c) c) Individuals and businesses with a tax liability of INR 10,000 or more in a financial year
- d) d) Non-profit organizations

2. What is the consequence of late payment of advance tax?

- a) No penalty is imposed
- b) A fixed fine of INR 1,000
- c) Interest under Sections 234B and 234C of the Income Tax Act
- d) Criminal prosecution Persons Liable to Pay

3. Which of the following individuals are liable to pay advance tax?

- a) Salaried individuals with only salary income
- b) Self-employed professionals
- c) Retired individuals with only pension income
- d) Minors with interest income exceeding the exemption limit

4. How is advance tax computed?

- a) Based on last year's tax payable
- b) Based on estimated current year's income and applicable tax rates

- c) A fixed percentage of gross income
- d) A standard deduction provided by the tax authorities

5. What does 'payment in pursuance of order of Assessing Officer' refer to?

- a) Voluntary tax payments by taxpayers
- b) Payment of tax as directed by the Assessing Officer after an assessment
- c) Donations to charitable organizations
- d) Refunds issued by the tax authorities

TAXATION

Section 2.2: ASSESSMENT

The assessing officer computes the taxable income and tax payable by the assessee on the basis of return of income earned during the previous year. This procedure is called 'assessment'. The expression 'assessment' is used in the Income - Tax Act at different places with different connotations.

It is used as meaning sometimes the 'computation of income', sometimes the determination of the amount of tax payable and sometimes, the whole procedure laid down in the Act for imposing liability upon the tax payer.

The assessment of tax is made by the Assessing Officer but the responsibility of furnishing a return of income is that of the assessee. A person whose taxable income exceeds the maximum exempted limit must himself furnish a return of income.

2.1.1 - Different types of assessment

Different types of assessment are as under:

- (a) Self - assessment which means payment of the amount of tax by the assessee himself before filing the return under Section 140A .
- (b) Regular Assessment:
 - (i) Summary assessment without calling the assessee,
 - (ii) Assessment after hearing the assessee,
 - (iii) Best Judgment Assessment

(a) Self - Assessment (Sec . 140A)

An assessee is required U / s 140A to pay the tax before filing the return and the return should be accompanied by proof of payment of such tax . The assessee will have to compute his tax liability after taking into account T.D.S. and Advance Tax . He will have to pay interest @ 1 % for every month or part of a month on the amount of arrears of income tax. It is simply paying tax and filing of Return by an assessee. The IT Department only gives an acknowledgement / intimation U / s 143 (1). The assessee can file ITR as self - assessment under the different sections of 139 (Return within due date / belated return / return of loss etc.) or in response to notice U / s 142 (1) or 148 or 153A .

(b) Regular Assessment:

Assessment made under Section 143 is called regular assessment

(1) Summary Assessment without calling the Assessee [Section 143 (1)]:

Where a return of income has been filled U / s 139 or in response to a notice served U/s 142 (1) the Assessing Officer may without requiring the presence of the assessee or the production of any evidence , make an assessment of the total income or loss of the assessee (after making necessary adjustments to rectify arithmetical error or incorrect claim put by the assessee) . The main features of ' Summary Assessment ' are as under:

(i) The assessment is completed on the basis of Return submitted by the assessee, subject to the following adjustments: .

- Corrections in respect of arithmetical error
- Disallowing apparently incorrect claims
- In case of late filing of return of preceding previous year , any claim regarding set - off of loss will be ignored
- Similarly expenditure indicated in the audit report but not taken into account in computing the total income in the Return will be disallowed
- Deduction claimed U/s 10AA, 80 - IA, 80 - IB, 80 - IC, 80 - ID or 80 - IE will not be allowed if the return is furnished beyond the due date
- Incomes appearing in Form Nos. 16, 16A, 26AS but not included in computing total incomes in the Return will be added. Tax and interest will be calculated on the basis of such adjusted income.

(ii) An intimation will be sent to the assessee when tax / interest is payable by him . An opportunity shall be provided to the assessee to explain and rectify the proposed adjustments to be made by the assessing officer , within 30 days of issuance of such intimation . Assessessee's response shall be considered before making such adjustments . In case of no response received from the assessee the assessing officer shall implement the adjustments.

(iii) An intimation will be sent to the assessee when tax is refundable to him.

(iv) No intimation is required to be sent after the expiry of nine months from the end of the financial year in which the return is made . The acknowledgement of return of income shall be deemed to be an intimation of completion of the assessment , where no sum is payable or refundable to the assessee and no adjustment has been made.

(2) Scrutiny Assessment or Assessment after hearing the Assessee (Section 143 (3)) :

If the Assessing Officer is not satisfied with the return submitted to an assessee and wants to ensure the assessee,

(i) has not understated income or

(ii) has not computed excessive loss or

(iii) has not under - paid taxes , he may issue a notice U/s 143 (2) to the assessee within 3 months of expiry of financial year in which the returns was furnished, requiring him to attend the office or to produce any evidence on which the assessee may rely in support of the return. After hearing the assessee and after taking into account all relevant material, the Assessing Officer will make an assessment of the total income or loss of the assessee. He will thus determine the sum payable by him or refundable to him on the basis of such assessment. The assessee has a right of appeal against such an assessment.

(3) Best Judgement Assessment [Section 144]

This assessment is also van to und called ex - parte assessment.

(i) Where any person fails to furnish his Return U/s 139 (1); or

(ii) Where any person fails to comply with the notice to produce audited accounts, or

(iii) Where a person fails to comply with direction to get his accounts audited; or

(iv) Where any person having filed Return, fails to comply with the notice under Section 143 (2)

fails to remain present or produce evidence and documents; or

(v) The income - tax officer is not satisfied about the correctness or completeness of the accounts or no accounting method has been regularly used by the assessee [Section 145 (3)]. The assessee will be sent a Show Cause Notice ' and will be given an opportunity of being heard. Then the Income - tax Officer will, after taking into account all relevant materials, make the assessment of the total income or loss to the best of his judgement. He will accordingly determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment. But the assessee has a right to make an appeal under section 246A or 264. The assessee has a right of appeal to the Deputy Commissioner (Appeals) against the assessment made under this section or against the refund by the I.T.O. to reopen the assessment .

(C) Faceless Assessment [Section 144B]:

The purpose of introduction of this new scheme is to avoid personal interface between an assessee and the income tax officer. This will lead to greater transparency and accountability in the system. This will be implemented by National Faceless Centres.

Its main features are:

- (1) Cases to be selected only through a system using data analytics;
- (2) Abolition of territorial jurisdiction of income - tax authorities;
- (3) Automated random allocation of cases;
- (4) Central issuance of notices with Document Identification Numbers;
- (5) No physical interface between an assessee and the income tax department ; (6) Team - based assessments and Team - based review;
- (7) Draft assessment order in any city centre, review by another city centre and finalisation of the order by another city centre.

2.2.4 - Tax Deducted at Source

TDS or Tax Deducted at Source is an income tax that is collected from certain payments like rent, salary, commission, interest, professional fees, etc. The person paying the amount should deduct TDS from such a payment.

Tax Deducted at Source (TDS) is a procedure implemented by the Indian government to collect taxes at the source of income. A certain percentage of tax is deducted by the payer at the

time of making payments to the receiver, and this amount is then remitted to the government. TDS is applicable to a wide range of income categories such as salaries, interest on fixed deposits, rent, commissions, etc. TDS helps prevent tax evasion and understanding it is crucial for both payers and receivers of income in India.

TDS has to be deducted at the rates prescribed by the tax department. The company or person that makes the payment after deducting TDS is called a deductor and the company or person receiving the payment is called the deducted. It is the deductor's responsibility to deduct TDS before making the payment and deposit the same with the government. TDS is deducted irrespective of the mode of payment—cash, cheque or credit—and is linked to the PAN of the deductor and deducted.

- **Leave Encashment:** The exemption threshold for Leave encashment has been increased to ₹25 lakh from ₹3 lakh for non-government employees. Thus, at the time of retirement, leave encashment of up to ₹25 lakhs for a maximum period of 10 months is tax-free under Section 10(10AA).
- **TDS on EPF Withdrawal:** TDS rate has been reduced to 20% from 30% on taxable withdrawal of EPF.

Let's Sum Up

To sum Up, in this section, Assessment in taxation involves evaluating and verifying a taxpayer's declared income to ensure accurate tax liability. There are different types of assessments: Self-Assessment, where taxpayers voluntarily compute and file their tax returns; Regular Assessment, which is conducted by tax authorities to verify the accuracy of the filed returns and correct any discrepancies; and Tax Deducted at Source (TDS), where tax is deducted at the origin of income by the payer and credited to the government's account on behalf of the payee. These assessments ensure compliance, prevent tax evasion, and facilitate the proper collection of taxes.



1. Which of the following is NOT a type of tax assessment?

- a) Self-assessment
- b) Regular assessment
- c) Provisional assessment
- d) Corporate assessment

2. What is the primary objective of tax assessment?

- a) To impose penalties on taxpayers
- b) To calculate and determine the accurate tax liability of a taxpayer
- c) To collect personal information of taxpayers
- d) To promote tax evasion

3. Regular assessment under the Income Tax Act is also known as:

- a) Summary assessment
- b) Scrutiny assessment
- c) Provisional assessment
- d) Initial assessment

4. Which of the following payments is NOT typically subject to TDS?

- a) Salary payments
- b) Interest on securities
- c) Agricultural income
- d) Rent payments

5. Which form is used for self-assessment tax payment in India?

- a) Form 15G
- b) Form 16
- c) Form 26AS
- d) Challan 280

TAXATION

Section 2.3: Advance Payment of Tax

Advance tax is the income tax that is paid in advance instead of lump sum payment at year end. It is the tax that you pay as you earn. These payments have to be made in instalments as per due dates provided by the income tax department.

Advance tax meaning, in simple words, would be paying tax liabilities before the end of a fiscal year, is called an advance tax or pay-as-you-earn scheme.

Advance tax, also known as "pay as you earn" tax, is a system where taxpayers make prepayments of their income tax throughout the financial year instead of paying a lump sum at year-end. It is mandated when the anticipated tax liability for the year exceeds a certain threshold, typically specified in tax regulations. This ensures a steady flow of revenue for the government and helps taxpayers manage their tax obligations effectively.

It is payable when the tax liability of an individual exceeds Rs.10000 in a given fiscal year. Notably, such a tax is paid in instalments on due dates and is paid in the same year the income is generated. It is considered to be favourable for the government as it facilitates a smooth and constant flow of income around the year. In case the estimate of a taxpayer's income increases or decreases as the instalment progresses, then the payable advance tax amount can be adjusted accordingly.

2.3.1 - Who Can Pay Advance Tax?

A taxpayer whose total tax liability is more than Rs.10000 after adjusting TDS in a fiscal year must pay advance tax. It applies to all categories of taxpayers, including – freelancers, professionals, salaried and senior citizens.

- **Freelancers, Professionals and Salaried Taxpayers**

Individuals whose tax liability in a fiscal year amounts to Rs.10000 or more have to pay advance tax. Regardless, senior citizens who are 60 years of age or older and do not own a business are exempt from advance tax.

- **Presumptive Earnings (Businesses)**

Taxpayers who choose a presumptive tax regime under Section 44AD are required to pay the entire advance tax liability in one instalment on or before 15th March. Nonetheless, they can also pay their tax liabilities by the 31st of March.

- **Presumptive Income (Professionals)**

Independent professionals like - architects, doctors, lawyers, consultants, etc., come under the purview of the presumptive tax regime under Section 44ADA.

Under the said tax regime, professionals have to pay the entire advance tax liability in a single instalment either on or before the 15th of March. They also have the option to pay the whole amount by the 31st of March.

2.3.2 - ADVANCE TAX LATE PAYMENT

It must be noted that delaying advance taxes or paying less than the specified amount against the first due date attracts a penalty at the rate of 1% interest on the remaining tax liability each month. Such an interest is paid under Section 234B and Section 234C of the Income Tax Act 1961.

The interest penalty will also apply if taxpayers fail to pay the due amount by the next deadline. In case they fail to pay the third or last instalment, they will be paying 1% S.I. on the default tax for each month until the entire sum is paid.

2.3.3 - Person liable to pay

A person liable to pay is termed as an Assessee. The person liable to pay the VAT due on a transaction to the tax authorities is usually the supplier, but it may also be the customer. In the case of the customer, it is not only taxable persons (businesses) who may have to pay the tax (as in a reverse-charge supply or on an intra-EU acquisition) but sometimes also a non-taxable legal entity.

2.3.4 - Who is liable to pay Advance Tax?

Advance tax is typically required to be paid by individuals and entities with significant tax liabilities. Here are the key categories of taxpayers who should pay advance tax:

- **Individuals (including salaried employees):** If total tax liability after accounting for TDS (Tax Deducted at Source) is expected to be Rs. 10,000 or more for the financial year, it is required to pay advance tax.
- **Self-Employed and Professionals:** Individuals earning income through business, freelancing, consultancy, or any profession are also liable to pay advance tax if their estimated tax liability exceeds Rs. 10,000 for the financial year.

- **Corporate Entities:** All companies, including public and private limited companies, are required to pay advance tax. The due dates and percentages may vary based on the company's size, revenue, and profit.
- **Partnership Firms and LLPs:** Partnership firms and Limited Liability Partnerships (LLPs) should also pay advance tax if their estimated tax liability exceeds Rs. 10,000 for the financial year.
- **Non-Resident Taxpayers:** Non-resident individuals and foreign companies earning income in India are subject to advance tax requirements if their tax liability crosses the Rs. 10,000 threshold.
- **Capital Gains:** Individuals earning capital gains from the sale of assets such as real estate, stocks, or other investments may need to pay advance tax if their estimated capital gains tax liability is Rs. 10,000 or more.
- **Businesses with Specified Incomes:** Some businesses, such as lottery and horse racing, are required to pay advance tax on specified incomes irrespective of the Rs. 10,000 threshold.

All must pay advance tax before the financial year ends in 4 instalments: 15th June, 15th September, 15th December and 15th March. If advance tax is not paid according to this schedule, then 1% monthly interest will be levied.

Due Date to File a Revised Return Under the Income Tax Act

The revised return under Section 139(5) has to be filed by 31 December. It can be filed even if the original return has been processed by the tax department. There is also no limit to the number of times that the tax return can be revised.

For the revised return related to the financial year 2023-24 (assessment year 2024-25), the deadline is on or before 31st December 2024, provided the assessment of the original return has not been completed before that date.

2.3.5 -Computation of amount of advance tax

1. Deduction for tax deducted at source (TDS), prepaid taxes and other tax payments:

Taxpayers are required to compute the advance tax by estimating income for the entire year, tax payable on the same and reduce tax already deducted at source or advance tax already paid. Further, eligible minimum alternate tax or alternate minimum tax (on book profits) credit and foreign tax credit, is allowed to be deducted to the extent permissible.

2. Adjustment of brought forward losses and inter-head set off during the year:

In computing the taxable income, brought forward losses of earlier year/s, which are eligible for set off should be reduced. It is worthwhile to note that long term capital losses can be set off only against long term capital gains whereas short term capital losses can be set off against both long term capital gains and short term capital gains.

Certain brought forward losses such as those derived from House property, Business losses or speculative business losses can only be set off against respective heads of income.

3. Determination of the tax regime (old tax regime vs. new tax regime):

The taxpayers, whether corporate or non-corporate, would be required to determine the type of tax regime (i.e. old tax regime vis-à-vis the new tax regime) they want to opt for and accordingly determine the total income and the tax for the year. The assessee may choose to opt for either of the two tax regimes:

1. Existing/ Old Tax Regime (with no restrictions on claiming deductions/ exemptions)
2. New Tax Regime (with certain restrictions on claiming deductions/ exemptions)

The amount for the purpose of computation of advance tax would be as follows:

Particulars

Gross Total Income

Less: Deduction under Chapter VIA, if any

Net Total Income

Tax on Total Income

Less: Rebate u/s 87A, if any

Tax Liability (after rebate u/s 87A)

Add: Health & Education Cess @ 4%

Add: Applicable Surcharge, if any

Tax Liability before consideration of any credit/ relief

Less: TDS/ TCS Credit, MAT/AMT Credit, Foreign Tax Credit, etc.

Amount to be considered for the purpose of computation of Advance Tax

2.3.6 - Payment in pursuance of order of Assessing Officer

Advance tax can be paid by the taxpayer either on his own account or in pursuance of an order of the assessing officer.

In most cases, the taxpayer who is liable to pay advance tax is required to estimate his current income for the financial year and pay advance tax on his own account. In such a case, the taxpayer would not be required to submit any estimate or statement of income to the tax authorities.

However, if taxpayer fails to pay advance tax or in cases where such advance tax paid is lower than the amount required to be paid, then the assessing officer may under Section 210(3) (during the financial year but on or before the last date of February) require the taxpayer to pay advance tax on his current year's income.

2.3.7 - Consequences on non-payment

The income tax law levies different types of interests for various defaults. Accordingly, the taxpayer would be subjected to interest u/s 234B (for non- payment or short payment of advance tax) and 234C (for non-payment or short payment of quarterly installment or installments of advance tax i.e., deferment of advance tax). No penalty is applicable for non-payment or short payment of advance tax.

Interest u/s 234B for default in payment of advance tax

Interest u/s 234B would be leviable if a taxpayer has either failed to pay any advance tax which he is liable to pay or fails to pay at least 90% of the tax payable on or before the end of the financial year. Such simple interest would be levied at the rate of 1% per month or part of a month on the tax dues from April 1 till the date of determination of income under Section 143(1) or when regular assessment is made, then till the date of such a regular assessment.

The said interest would be levied on the amount of unpaid advance tax amount by which advance tax is short paid in case there is a shortfall in payment of advance tax.

Let's Sum Up

To sum Up, in this section advance payment of tax involves paying tax in installments throughout the financial year instead of a lump sum at year-end, aimed at spreading out the tax burden and ensuring a steady flow of revenue to the government. Individuals, businesses, and professionals with a tax liability of ₹10,000 or more in a financial year are required to pay advance tax. The computation of advance tax is based on estimated total income, and it is paid in specified installments. If ordered by the Assessing Officer, the taxpayer must comply with the payment directives. Late payment or non-payment of advance tax can result in interest penalties and potential legal consequences, underscoring the importance of timely compliance.



1. Which income category is NOT required to pay advance tax?

- a) Salary income with TDS deducted
- b) Rental income
- c) Capital gains income
- d) Business income

2. What are the consequences of non-payment of advance tax?

- a) No consequences
- b) Only a warning from the tax authorities
- c) Interest penalties and possible prosecution
- d) Permanent exemption from future tax payments

3. What is the consequence of late payment of advance tax?

- a) No penalty is imposed
- b) A fixed fine of INR 1,000
- c) Interest under Sections 234B and 234C of the Income Tax Act
- d) Criminal prosecution

4. Which of the following individuals must pay advance tax?

- a) Salaried employees with substantial rental income

- b) Housewives with no other income
- c) Individuals with agricultural income only
- d) Non-resident Indians with interest income below the exemption limit

5. Which section of the Income Tax Act imposes interest for deferment of advance tax payment?

- a) Section 234A
- b) Section 234B
- c) Section 234C
- d) Both b and c

TAXATION

Section 2.4: TAX PLANNING

Tax planning is an essential part of financial planning and involves analyzing your financial situation, identifying tax-saving opportunities, and implementing strategies to reduce your tax liability. By minimizing your tax burden, you can increase your disposable income and allocate more resources toward achieving your financial goals. Effective tax planning requires a thorough understanding of tax laws and regulations and an awareness of current and potential changes to the tax code. In the excerpt below, we will help you with tax planning tips to maximize your tax savings while complying with all applicable laws and regulations.

Taxes can eat into your annual earnings. To counter this, tax planning is a legitimate way of reducing your tax liabilities in any given financial year. It helps you utilise the tax exemptions, deductions, and benefits offered by the authorities in the best possible way to minimise your liability.

The definition of tax planning is quite simple. It is the analysis of one's financial situation from the tax efficiency point-of-view.

2.4.1 - Objectives of tax planning

Tax planning is a focal part of financial planning. It ensures savings on taxes while simultaneously conforming to the legal obligations and requirements of the Income Tax Act, 1961.

The primary concept of tax planning is to save money and mitigate one's tax burden. However, this is not its sole objective. Tax planning is important for several reasons. Here are some of the key objectives of tax planning

- **Minimizing tax liability:** Tax planning aims to reduce the amount of tax that an individual or business owes by taking advantage of all available deductions, credits, exemptions, and other tax-saving opportunities.
- **Manage Cash Flow:** Effective tax planning allows you to anticipate and prepare for tax payments, avoiding any financial strain or disruption to your cash flow.
- **Plan for Life Changes:** Major life events like marriage, divorce, the birth of a child, or starting a business can significantly impact your taxes. Planning helps you adapt your strategy and minimize tax implications during these transitions.
- **Invest Strategically:** Understanding the tax implications of different investment options allows you to choose those that optimize your after-tax returns.
- **Optimize Business Operations:** Businesses can benefit from tax planning by maximizing deductions, minimizing taxable income, and understanding the tax implications of business decisions.
- **Maximizing tax efficiency:** Tax planning seeks to optimize the use of tax-advantaged investment vehicles and strategies, such as retirement plans, tax-deferred accounts, and tax-exempt investments.
- **Achieving financial goals:** Tax planning is an integral part of financial planning and helps individuals and businesses achieve their financial objectives by minimizing taxes and maximizing after-tax returns.
- **Ensuring compliance:** Tax planning also involves ensuring compliance with all applicable tax laws and regulations to avoid penalties, fines, and other legal consequences.

- **Managing risk:** Tax planning also involves assessing and managing tax-related risks, such as the risk of an audit, and taking steps to mitigate those risks.

2.4.2 - Advantages of tax planning

1. **To minimise litigation:** To litigate is to resolve tax disputes with local, federal, state, or foreign tax authorities. There is often friction between tax collectors and taxpayers as the former attempts to extract the maximum amount possible while the latter desires to keep their tax liability to a minimum. Minimising litigation saves the taxpayer from legal liabilities.
2. **To reduce tax liabilities:** Every taxpayer wishes to reduce their tax burden and save money for their future. You can reduce your payable tax by arranging your investments within the various benefits offered under the Income Tax Act, 1961. The Act offers many tax planning investment schemes that can significantly reduce your tax liability.
3. **To ensure economic stability:** Taxpayers' money is devoted to the betterment of the country. Effective tax planning and management provide a healthy inflow of white money that results in the sound progress of the economy. This benefits both the citizens and the economy.
4. **To leverage productivity:** One of the core tax planning objectives is channelising funds from taxable sources to different income-generating plans. This ensures optimal utilisation of funds for productive causes.

2.4.3 - Types of tax planning

Most people merely perceive tax planning as a process that helps them reduce their tax liabilities. However, it is also about investing in the right securities at the right time to achieve your financial goals. Tax planning can be categorized into different types based on various criteria. Here are some common types of tax planning:

1. **Short-term tax planning:** This type of tax planning involves taking actions to minimize taxes in the current tax year. It may include deferring income or accelerating deductions to reduce tax liability in the current year.

2. **Long-term tax planning:** Long-term tax planning involves taking actions to reduce taxes over a longer period, typically several years or more. It may include strategies such as retirement planning, estate planning, or investment planning.
3. **Permissive tax planning:** This type of tax planning involves taking advantage of tax breaks or incentives provided by the government to reduce tax liability. Examples include tax deductions for charitable donations or tax credits for energy-efficient investments.
4. **Purposive tax planning:** Purposive tax planning involves structuring financial transactions or investments to minimize tax liability. It may involve using legal tax loopholes or tax shelters to reduce taxes.
5. **Marginal tax planning:** Marginal tax planning involves analyzing the impact of additional income or deductions on the taxpayer's marginal tax rate. The goal is to identify the optimal level of income or deductions to minimize taxes.
6. **Structural tax planning:** Structural tax planning involves reorganizing a business or personal finances to maximize tax efficiency. Examples include changing the legal structure of a business or using offshore accounts to reduce tax liability.

2.4.4 - Steps to follow while planning the taxes

1. **Start Early**-It is generally advisable to start tax planning as early as possible rather than waiting until the last minute. Tax planning involves taking advantage of deductions and credits, contributing to retirement accounts, and making charitable donations, among other strategies. By starting early in the year, individuals can ensure they are on track to meet their financial goals while minimizing their tax liability.
2. **Assess your tax situation:** The first step in tax planning is to assess your tax situation, including your income, expenses, and deductions. This will help you determine your tax liability and identify areas where you can reduce your taxes.

3. **Identify tax-saving opportunities:** The next step is to identify tax-saving opportunities such as deductions, credits, and exemptions that taxpayers can use to lower their tax liability.
4. **Develop a tax-saving strategy:** Based on your tax situation in Step 1 and the available tax-saving opportunities in Step 2, you can develop a tax-saving strategy that minimizes your tax liability and maximizes tax efficiency.
5. **Implement your tax-saving plan:** Once you have developed a tax-saving plan, you need to implement it by taking action to reduce your taxes. This may involve investing, donating to charity, or structuring your business finances tax-efficiently.
6. **Monitor your tax situation:** Tax laws and regulations can change over time, so it's important to monitor your tax situation regularly and make adjustments as needed to ensure that your tax plan remains effective.

2.4.5 - How to save taxes?

Taxpayers are provided with several options to reduce their tax liabilities. Various sections of the Indian income tax law offer tax deductions and exemptions, of which, Section 80C is the most popular tax-saving avenue. For e.g., Deposits in Public Provident Fund, Five Year Bank Deposits, National Savings Certificate, Investment in ELSS schemes.

A practical approach to saving taxes is to create a well-rounded financial plan that aligns with fluctuations in your income. You may use an SIP calculator for financial planning. Also, it is a good habit to make tax-saving investments at the beginning of the year rather than making hasty and often incorrect investment decisions at the last moment. To do this, it is crucial to be aware of all the exemptions and deductions available to you.

Tax saving options under Section 80C

Section 80C, one of the most prevalent sections in the Income Tax Act, 1961, provides provisions to save up to Rs46,800 (assuming the highest slab of income tax i.e. @30% plus education cess 4%) on tax liabilities each year. One of the best tax-saving avenues under Section 80C is investing in an equity-linked savings scheme, more commonly known as ELSS. Such tax

planning mutual funds offer the dual benefit of potential capital appreciation and tax-saving. Apart from ELSS funds, you can choose to invest in government schemes such as National Savings Certificate (NSC), Public Provident Funds (PPF), tax-saving FDs, etc. Cumulative investments under these securities can offer deductions up to Rs1.5 lakh.

2.4.6 - Tax Avoidance

Tax avoidance is a legal approach used to circumvent the intended purpose of the law by unfairly exploiting loopholes in the tax code. It alludes to developing creative approaches or instruments to evade paying taxes while remaining within the boundaries of the law. This can be accomplished by modifying the financial records in a way that will not conflict with any tax regulations and will also reduce the tax incurred. Tax avoidance was once considered legal, but it is now classified as criminal behaviour in some specific situations.

Tax avoidance only reduces, delays, or sometimes eradicates the tax burden. This can be accomplished through participating in government programmes and incentives like exemptions, deductions, tax privileges, tax credits and other offers that reduce tax obligations without breaking the law or committing any infractions.

2.4.7 - Examples of Tax Avoidance

When it comes to tax evasion vs tax avoidance, the latter comes with the following examples:

- Investment in financial products reduces your tax liability.
- Making use of deductions for things like student loan interest, health insurance premiums, mortgage interest, etc.
- Donation to a charity or political party to claim deductions.
- Seeking services of a financial advisor to invest and file deductions.

2.4.8 - Tax Evasion

Tax evasion is a fraudulent approach to avoid paying the taxes that you are required to. It is an act of deceit when you understate your income or overstate the sum of your expenditures.

The definition of tax evasion is the intentional manipulation of your income to avoid paying taxes or to have your tax liability reduced. Here are the following actions considered as an attempt to tax evasion:

- Falsifying information regarding your revenue or expenses
- Hiding or concealing related documents and hiding income
- Having an excessively high tax credit
- Claiming personal expenses as commercial/corporate expenses

In every nation, evading taxes is a criminal offence with legal repercussions.

2.4.9 - Examples of Tax Evasion

- Failure to report any foreign income falls under the bracket of tax evasion.
- Failure to report revenue from cryptocurrency results in tax evasion.
- Failure to record earnings from all-cash transactions is tax evasion.
- Often, tax evasion includes fabricating documents or financial records that are false
- Bribing a tax official to conceal your financial records results in tax evasion.

2.4.10 - Difference Between Tax Evasion and Tax Avoidance

Here is a table representing the difference between tax evasion and tax avoidance based on aspects like meaning, concepts, attributes, consequences, etc. Check it out.

Parameters	Tax Evasion	Tax Avoidance
Meaning	It is a fraudulent and unlawful approach to reducing or	It is the legal strategy used to reduce tax liability without violating

	eliminating tax liability	any law.
Commonly Used For	Tax concealment	Tax hedging
Attributes	Unlawful and objectionable, both in terms of morals and script	Immoral attribute, which includes exploiting the loopholes of the law without breaking it.
Concept	Intentional account manipulations leading to a fraudulent activity	Making the most out of the loopholes in the tax laws
Implications	Use of approaches prohibited and punishable by the law	Use of lawful and justified means
When Does It Happen	After the occurrence of tax liability	Before the tax liability arises
Act	Criminal/punishable offence	Legal and legitimate
Repercussions	Imprisonment or penalty fee	Deferment/evasion of tax liability

Let's Sum Up

To sum up, in this section Tax planning involves strategically managing finances to minimize tax liability within legal boundaries. The objectives include maximizing savings, ensuring compliance, and utilizing tax benefits. Advantages include increased financial efficiency, reduced tax burden, and better investment opportunities. There are various types of tax planning, such as short-term, long-term, and permissive planning. Effective tax planning steps include understanding tax laws, evaluating financial goals, and leveraging deductions and exemptions. While tax avoidance is legally minimizing taxes through smart planning, such as investing in tax-saving instruments, tax evasion involves illegal practices like underreporting income. Examples of tax avoidance include claiming eligible deductions, whereas tax evasion might involve hiding income. The key difference is legality: tax avoidance is lawful, whereas tax evasion is illegal and punishable.

1. The objectives of tax planning is to minimise?
 - (A) Tax liability
 - (B) Finance liability
 - (C) Tax return
 - (D) None of these

2. Which of the following is an objective of tax management?
 - (A) Minimize litigation
 - (B) Productive investment
 - (C) Compliance with legal formalities
 - (D) Healthy growth of economy

3. Reducing tax liability, utilizing the deductions, exemptions or reliefs allowed in the Act and Rules is called----
 - (A) Tax Evasion
 - (B) Tax Planning
 - (C) Tax Avoidance
 - (D) Tax Management

4. Section 115JB relates to ----
 - (A) Securities Transaction Tax
 - (B) Maximum Alternative Tax
 - (C) Minimum Alternative Tax
 - (D) Surcharge

5. Return filed after the due date is called
 - (A) Revised return
 - (B) Best return
 - (C) Belated return
 - (D) Defective return

TAXATION

Section 2.5: Tax planning and specific management decisions

Tax planning is of great significance with regard to specific managerial decisions taken on various issues like “make or buy” decision, “own or lease”, “repair or replace” etc. and all these managerial decisions have tax implications which require due attention from tax savings point of view.

In business, decisions are made with the intention of maximizing profits for participants. A prominent feature to consider is the effect of the same tax on the first line in order to share a small profit with the Government without violating any tax or other applicable laws. It is important that tax outcomes alone do not have to force managers to make decisions and it is something that affects management decisions.

In addition, in the case of taxation, there is both direct or indirect taxation and in an effort to plan the results of the tax sector it is necessary to consider it. Management decisions, which impact on the line are analyzed below based on the tax perspective.

2.5.1 - Make or buy decisions

When a business concern requires a product or any part or component of the product for its existing unit, it has to decide whether it should make the product or buy it from other manufacturers. Various tax considerations with respect to these decisions are:

1. If the organization has surplus capacity and even decide to buy a product it may require to sell surplus plant and machinery. In such a case it may be liable to capital gains tax.
2. If anew undertaking is established to make the product which fulfils the conditions of section 80IB/80-IC of the Act, a deduction is allowed to such undertakings.
3. If the product is a capital asset, its cost will not be allowed as a deduction in computing the income in both cases. But in both cases, the organization can claim depreciation.

2.5.2 - Own or lease decisions

Leasing is an arrangement that provides a person with the use and control over an asset, for a price payable periodically, without having title of ownership. Here the decision with respect to own the asset by paying the cash in full or leasing the product by paying periodical installments. It is an important consideration in tax planning. The assessee should follow such a method for obtaining an asset which reduces his tax liability and profits after tax are greater. For this purpose some people suggest that own funds should not be used in purchase of an asset because interest on owned fund is not deductible in computing total income, whereas interest on borrowed funds is deductible.

A lease is a provision that provides a person with the use and control of an asset, at a price paid from time to time, without having a title deed. Here is a decision regarding ownership of the property by paying in full or by leasing the product by paying periodic installments. It is very important for tax planning. The prudent one should consider the option of acquiring an asset that reduces his or her tax liability and profits after a major tax deduction. For this purpose some people suggest that their money should not be used for the purchase of property because interest in the owner-occupied fund is not deducted from making a total income, while interest on the loan is deducted.

2.5.3 - Repair or replace decisions

Repair of an asset is revenue expenditure whereas replacement is capital expenditure as per tax point view. If the factors other than tax were not predominant, they can select repairs as a part of tax planning.

Following points should be kept in mind to reduce the tax liability while taking a decision to repair or replace an asset:

1. There are some conditions to carry-forward and set-off of business losses. Hence, if in the relevant previous year less income is expected, it will be better to slow down the pace of repair and renewal of a part of asset in such a manner that it is spread over a number of years. On the other hand, if the income is increased, the repair work can be increased.
2. As far as possible a part of the asset should be replaced and not the entire asset. In case of replacement of a part of asset, the cost of replacement is allowed as a deduction in computing the income for tax purpose.

2.5.4 - Shut down or continue decisions

When a business suffers loss continuously, whatever reasons of loss may be, the management has to decide whether the business should shut down or continue. While taking this decision, the impact of Income tax provisions should not be over looked.

Various tax planning considerations are:

1. If the business is discontinued, the business losses and unabsorbed depreciation still can be carry forwarded and set off against profits and gains of business or profession. (in the case of unabsorbed depreciation – set off against income under any head)
2. The benefit of deductions under section 33AB (Tea Development Account/ Coffee Development Account/ Rubber Development Account) and 115VT (Reserve for shipping business) may be withdrawn and liable to tax for the year in which business is discontinued.
3. If the business is discontinued and the assets used for scientific research and family planning are sold, the selling price to the extent of deduction claimed shall be deemed as the profits of the previous year in which such assets are sold.
4. If a person is running more than one business the loss making business should not be discontinued but operated in a minimal way so that the losses and expenses like retrenchment compensation, interest on borrowed funds, bad debts etc. adjusted with profit making units.

Let's Sum Up

To sum Up, in this section Tax planning significantly influences specific management decisions such as whether to make or buy products, own or lease assets, retain or replace equipment, and shut down or continue operations. These decisions impact a company's tax liability and overall financial health. For instance, leasing might provide tax benefits over owning due to deductible lease payments, while making in-house could offer tax credits or deductions. Similarly, deciding to retain or replace equipment involves evaluating depreciation benefits and operational efficiency. The decision to shut down or continue a segment also involves assessing potential tax implications on losses and future profits. Effective tax planning ensures these decisions align with both strategic goals and tax optimization.

1. **Which of the following best describes the 'Make or Buy' decision?**
 - a) Whether to produce goods in-house or purchase them from an external supplier
 - b) Whether to rent or purchase office space
 - c) Whether to continue operations or shut down a business unit
 - d) Whether to hire employees or use contractors

2. **In a 'Make or Buy' decision, which factor is most influenced by tax considerations?**
 - a) Quality control
 - b) Production capacity
 - c) Tax deductions for manufacturing costs
 - d) Supplier reliability

3. **What is a key tax advantage of leasing an asset rather than owning it?**
 - a) Higher depreciation rates
 - b) Deductibility of lease payments
 - c) Increased asset value on the balance sheet
 - d) Lower insurance costs

4. **Which tax benefit might encourage a business to replace an old asset rather than retain it?**
 - a) Higher insurance costs for the old asset
 - b) Lower maintenance costs for the old asset
 - c) Accelerated depreciation on the new asset
 - d) Improved operational efficiency of the old asset

5. **Which financial aspect is crucial when deciding whether to shut down or continue operations?**
 - a) The age of the company's assets
 - b) The company's historical growth rate

- c) The impact on the company's workforce
- d) The after-tax profitability of continuing operations

2.6 - Unit Summary

The **Return of Income** is a statutory obligation requiring individuals and entities to file tax returns, with various forms available for different categories of taxpayers. The deadline for filing returns, typically July 31 for individuals in India, allows for submission of revised or modified returns if errors are found post-filing. **Assessment** follows, where the tax authority reviews returns for accuracy and may initiate scrutiny if discrepancies are detected. **Tax Deducted at Source (TDS)** mandates withholding taxes on payments made, ensuring timely revenue collection. Advance tax payments are required periodically based on projected income, with penalties for non-compliance. Payment following an Assessing Officer's order is mandatory, with penalties for non-payment. **Tax planning** involves strategic decisions like make or buy, own or lease, and other financial choices aimed at optimizing tax liabilities legally. Differentiating from tax avoidance and evasion, it seeks to minimize taxes while complying with laws, ensuring financial prudence and legal compliance in decision-making processes.

2.7: Glossary

Statutory Obligation	The legal requirement for taxpayers to file their income tax returns with the relevant tax authorities.
Return Forms	Prescribed forms by the tax authorities for taxpayers to declare their income, deductions, and tax liabilities. Examples include ITR-1, ITR-2, ITR-3, etc., in India.
Time for Filing of Return	The deadline set by tax authorities for taxpayers to submit their income tax returns. For individuals in India, it is typically July 31st of the assessment year.
Revised Return	A return filed by the taxpayer to correct any errors or omissions in the originally filed return. It must be filed within a specified period, usually before the end of the assessment year.
Tax Planning	The legitimate arrangement of financial affairs to minimize tax liability within the bounds of the law. This involves taking advantage of deductions, exemptions, and rebates.
Tax Avoidance	The use of legal methods to reduce tax liability, often through complex financial structures and transactions, which may exploit loopholes in the tax law.

Tax Evasion	The illegal practice of not paying taxes by underreporting income, inflating deductions, or hiding money and investments.
Tax Deducted at Source	A mechanism where tax is deducted at the time income is generated rather than at a later date. The payer deducts tax and remits it to the government on behalf of the payee.
Retain or Replace	Evaluating whether to continue using an existing asset or replace it with a new one, considering the tax impacts of depreciation, disposal gains/losses, and efficiency.
Shut Down	A decision about whether to shut down a part of the business or continue operating, based on the profitability and tax implications of each option.

2.8 SelfAssessmentQuestions

ShortAnswers:(5Marks)K3/K4LevelQuestions

Sl.no	Question s	Level
1.	Explain the statutory obligation for filing a return of income under the Income Tax Act.	K3
2.	Describe the assessment in detail.	K3
3.	What is Revised return and Modified return?	K3
4.	What is Tax Deducted at Source (TDS), and what are its primary objectives?	K3
5.	Distinguish between tax planning, tax avoidance, and tax evasion.	K3
6.	Under what circumstances revised return and modified return can be filed and what are the implications?	K4
7.	What are the different Income Tax Return (ITR) forms available for individuals and entities, and how do they differ?	K4

EssayTypeAnswers:(8Marks)K5/KSLevelQuestions

Sl.no	Questions	Level
1.	Explain the concept of advance tax in detail.	K5
2.	Who is liable to pay advance tax and what are the due dates for its payment?	K5
3.	Discuss the process and consequences of payment in pursuance of an order by the Assessing Officer.	K5
4.	Discuss the computation of advance tax.	K5

5.	What are the implications of non-payment?	K5
6.	Explain the features of Faceless Assessment.	K6
7.	How does tax planning influence the decision-making process in terms of 'make or buy' and 'own or lease'? Provide examples.	K6
8.	What are the consequences of non-payment of taxes as per the Income Tax Act? Include penalties, interest, and other legal implications.	K6

UNIT-2-TAX RETURNS AND TAX PLANNING-ASSIGNMENTS –Quadrant3

2.9Activities-Assignment



Activities

1. Anita Sharma is a software engineer employed with a multinational company in Mumbai. For the financial year 2023-24, her gross salary is INR 18,00,000. She also earns INR 30,000 as interest from fixed deposits and INR 2,40,000 as rental income from a second house property. Anita has invested INR 1,50,000 in various tax-saving instruments under Section 80C, paid INR 35,000 as health insurance premium under Section 80D, and made a donation of INR 25,000 to a registered charity under Section 80G.

AssignmentQuestions:

1. What are the different sources of income for Anita?
2. How is the rental income calculated for tax purposes?
3. What deductions are available to Anita under Sections 80C, 80D, and 80G?
4. How is Anita's total taxable income calculated?
5. What is the total tax payable by Anita for the assessment year 2024-25?

2. XYZ Ltd., a manufacturing company, is planning to acquire new machinery worth INR 70,00,000. The company has the option to either purchase the machinery outright or lease it for INR 1,50,000 per month. The useful life of the machinery is estimated to be 10 years. XYZ Ltd. falls in the 30% corporate tax bracket and can avail depreciation at 15% per annum on the machinery if purchased.

AssignmentQuestions:

1. What are the tax implications of purchasing the machinery for XYZ Ltd.?
2. How does depreciation impact the tax liability in the first year of purchasing the machinery?

	<ol style="list-style-type: none"> 3. What are the tax benefits of leasing the machinery? 4. Calculate the total tax savings in the first year for both purchasing and leasing options 5. Based on the tax savings alone, which option is more beneficial for XYZ Ltd.?
	<p>2.10 Topics for Discussion (Quadrant-4)</p> <ol style="list-style-type: none"> 1. How to calculate the total taxable income? 2. What deductions can be claimed for paying tax? 3. In what it helps for tax benefit to the assessee? 4. Discuss the scenarios for best course of action for planning of tax strategy. 5. Identify the amount of tax to be paid after filing of return

2.10 Answers for Check your Progress

Section 2.1	Tax Returns and Tax planning
1	C
2	C
3	B
4	B
5	B
Section 2.2	Assessment
1	D
2	B
3	B
4	C
5	D
Section 2.3	Advance payment of Tax
1	A
2	C
3	C
4	A
5	D
Section 2.4	Tax planning
1	A

2	C
3	B
4	C
5	C
Section 2.5	Tax planning and specific management decisions
1	A
2	C
3	B
4	C
5	D

2.11 OpenSource E-ContentLinks

Sl. no	Topic	E-ContentLink
1	Filing Income Tax Return (ITR)	https://www.youtube.com/watch?v=G-tp7cTPtFY
2	How to File Income Tax Return Online for Salaried Employees	https://www.youtube.com/watch?v=G-tp7cTPtFY
3	Income Tax Return Filing Process - AY 2023-24	https://www.youtube.com/watch?v=5yHiv4rzwMQ
4	Tax planning strategies	https://www.youtube.com/watch?v=UQmczeoE0DE
5	How to Save Income Tax	https://www.youtube.com/watch?v=8l2eKszwGLM

2.12 - Suggested Readings/References:

Books:

"Income Tax Law and Practice" by V.K. Singhania and Monica Singhania:

"Direct Taxes Law & Practice" by Dr. Vinod K. Singhania and Kapil Singhania:

"Practical Guide to Indian Taxation" by Taxmann:

"Corporate Tax Planning & Business **Tax Procedures**" by **Girish Ahuja and Ravi Gupta:**

Websites and Online Resources:

Income Tax Department of India (www.incometaxindia.gov.in):

Taxmann (www.taxmann.com):

ClearTax (www.cleartax.in):

Chartered Club (www.charteredclub.com):

Journals and Articles:

The Journal of Indian Taxation:

Scholarly articles and case studies on income tax laws, return filing, tax assessments, and strategic tax planning.

International Journal of Accounting, Auditing and Taxation:

Covers various aspects of taxation, including tax planning, avoidance strategies, and implications for management decisions.

Government Publications:

Income Tax Ready Reckoner by Government of India:

CBDT Circulars and Notifications:

Professional Courses and Seminars:

Institute of Chartered Accountants of India (ICAI):

National Academy of Direct Taxes (NADT):

UNIT OBJECTIVES

In this unit, learners will have a comprehensive understanding to analyse the structure on international business taxation and Taxation of Non-resident, Double taxation relief, Transfer pricing and other anti-avoidance measure.

TAXATION

SECTION 3.1: INTERNATIONAL BUSINESS TAXATION

INTRODUCTION

International taxation is the study or determination of tax on INCOME /PROFIT of an

individual or enterprise, subject to the tax laws of different countries. v Any income or profit not taxable under a domestic tax law of a country cannot be taxed in that country under international tax agreement between that country and another country.

3.1.1 - Meaning

It combines elements of taxation, accounting and business law. Focus on the functioning and structure of taxation worldwide, both from a private and public perspective.

In the residence-based system, residents of the country are taxed on their worldwide (local and foreign) income, while nonresidents are taxed only on their local income. In addition, a small number of countries also tax the worldwide income of their nonresident citizens in some cases.

3.1.2 - Taxation of Non-Resident

NRI definition as per the Income Tax Act, a Non-resident Indian (NRI) is someone who isn't physically present in India enough to be considered a resident for tax purposes. This is determined by an individual stay in India during a financial year (182 days or more makes him a resident) or over the past four years (60 days or more in a year and 365 days or more in total). There's an exception for Indian citizens PIOs abroad who are only residents if they stay in India for 182 days or more in a year.

3.1.3 -Determination of Residential Status

So, as defined above, "a non-resident is a person who is not resident in India," therefore, we need to understand who is considered a Resident in India.

You are considered a "Resident in India" for a financial year

- If in India for a period of 182 days or more during the Financial year OR
- If you have stayed in India for 60 days in the financial year, and for a total of 365 days in the preceding 4 years.

There are certain exceptions to the above condition of 60 Days:

- If an Indian citizen who has left India in the Financial year as a crew member of an Indian ship or for the purposes of employment abroad or
- If a PIO or a citizen of India who comes on a visit to India,

Then, the second condition of 60 Days and 365 days will not apply to you, which means that in the above situations, you will be considered resident in India if and only if you were present in India in the relevant financial year for a period of 182 days or more.

Therefore, you are a Non-Resident if you do not fulfill any of the above conditions.

Resident but Not Ordinarily Resident (RNOR)

Individuals are considered RNOR upon meeting the following conditions -

- If you have been a non-resident in India for 9 years out of 10 years preceding the previous year.
- If you have stayed in India for 729 days or less in the 7 years preceding the previous year.

Any Indian citizen or PIO visiting India can be called an RNOR as per the conditions -

- Total income apart from foreign income is more than 15 lakh.
- The individual has stayed in India for more than 120 days but less than 182 days in the previous year.
- An individual has stayed in India for 365 days or more in the 4 years preceding the previous year.

The tax slab rates for Non-resident Individuals are:

Old Tax Regime		New Tax Regime u/s 115BAC	
Income Tax Slab	Income Tax Rate	Income Tax Slab	Income Tax Rate
Up to ₹ 2,50,000	Nil	Up to ₹ 2,50,000	Nil
₹ 2,50,001 - ₹ 5,00,000	5% above ₹ 2,50,000	₹ 2,50,001 - ₹ 5,00,000	5% above ₹ 2,50,000
₹ 5,00,001 - ₹ 10,00,000	₹ 12,500 + 20% above ₹ 5,00,000	₹ 5,00,001 - ₹ 7,50,000	₹ 12,500 + 10% above ₹ 5,00,000

Above ₹ 10,00,000	₹ 1,12,500 + 30% above ₹ 10,00,000	₹ 7,50,001 - ₹ 10,00,000	₹ 37,500 + 15% above ₹ 7,50,000
		₹ 10,00,001 - ₹ 12,50,000	₹ 75,000 + 20% above ₹ 10,00,000
		₹ 12,50,001 - ₹ 15,00,000	₹ 1,25,000 + 25% above ₹ 12,50,000
		Above ₹ 15,00,000	₹ 1,87,500 + 30% above ₹ 15,00,000

3.1.4 -What is the income tax slab for NRI?

Unlike residents for whose tax rates are classified on the basis of age, no such classification is available for Non-Residents.

Hence, for Non-Residents whether aged

Below 60 Years

Above 60 - 80 Years, and

Above 80 Years

All are taxed uniformly.

Revised Income

Tax Slabs for the New Tax Regime (default) FY 2023–24:

- Up to Rs.3 lakh - 0% (Nil)
- Rs. 3 lakh to Rs. 6 lakh - 5%
- Rs. 6 lakh to Rs. 9 lakh - 10%
- Rs. 9 lakh to Rs. 12 lakh - 15%
- Rs. 12 lakh to Rs. 15 lakh - 20%
- Above Rs. 15 lakh - 30%

Surcharge Rates for NRI's

- Surcharge Rate is 10% of income tax payable on total income exceeding Rs 50 lakhs but up to Rs 1crore.
- The surcharge Rate is 15% of income tax payable on total income exceeding Rs 1crore but up to Rs 2crore.
- The surcharge Rate is 25% of income tax payable on total income exceeding Rs 2crore but up to Rs 5crore.
- The surcharge Rate is 37% of income tax payable on total income exceeding Rs 5crore.
- The surcharge is subject to marginal relief and is applicable to the income of an NRI as well.

Rebate u/s 87A

The rebate under section 87A of a maximum of Rs.12,500 is not allowed to a Non-resident.

Why should NRI file an Income Tax Return in India?

- To get a tax refund of NRI TDS deducted
 - Serve as an Income Tax Proof of the residential status of a person.
 - To avail of loans, credit cards, and term insurance policies.
 - If NRI has short-term or long-term capital gains from any investment or assets held in India.

The due date to file tax return for FY 2023-24 (AY 2024-25) is 31st July 2024, file your taxes here.

Let'sSumUp

To sum Up, in this section International business taxation encompasses the principles and regulations governing how income earned by non-residents is taxed in various countries. Non-resident taxation typically depends on factors such as the source of income, duration of stay, and tax treaties between countries. Determining residential status involves assessing factors like physical presence, duration of stay, and intent to reside in a particular country. In India, for Non-Resident Indians (NRIs), income tax slabs are structured differently compared to residents, with specific rates and exemptions applicable to their income earned in India, subject to provisions under the Income Tax Act and relevant tax treaties. This ensures that NRIs are taxed fairly and in accordance with international tax norms, promoting transparency and compliance in cross-border transactions and investments.

1. International business taxation primarily deals with:

- a) Domestic transactions
- b) Cross-border transactions
- c) Local municipal taxes
- d) Agricultural taxes

2. Which income is generally taxable for non-residents in a country?

- a) Global income
- b) Income earned within the country
- c) Income earned from local investments
- d) Income earned from exports

3. Which of the following criteria is used to determine the residential status of an individual for tax purposes in India?

- a) Citizenship
- b) Duration of stay in India
- c) Place of birth
- d) Language spoken

4. An individual is considered a resident in India if they stay for:

- a) At least 60 days in a financial year and 365 days in the preceding four years
- b) At least 182 days in a financial year
- c) At least 90 days in a financial year
- d) At least 30 days in a financial year

5. As of the financial year 2023-2024, the income tax slab for NRIs earning up to INR 2.5 lakhs is:

- a) 0%
- b) 5%

c) 10%

d) 15%

TAXATION

Section 3.2: Double Taxation Relief

Introduction

Tax relief is provided either as per the exemption method or the credit method. Double Taxation Relief Under Sections 90, 90A, and 91 can be claimed irrespective of whether there is a Double Taxation Avoidance Agreement (DTAA) signed between India and the foreign country.

A system known as **double taxation relief (DTR)** aims to eliminate or lessen the effects of double taxation on taxpayers who earn income in multiple nations. A taxpayer may be subject to double taxation if they are taxed on the same income in two distinct nations, each of which has its tax laws. By providing relief to taxpayers who are subject to double taxation, DTR contributes to the prevention of this.

If a person has income or gains from a source in one country and is resident in another, that same income or gain can suffer tax twice. Double Tax Relief (DTR) is designed to alleviate this double charge on the same source of income or gain.

Credit relief, exemption relief, and deduction relief are all examples of double taxation relief. Taxpayers can use credit relief to offset taxes they owe in one country against taxes they paid in another. Income earned in one country is exempt from taxation in the other. This is known as exemption relief. Taxpayers can deduct foreign taxes paid from their taxable income in their home country thanks to deduction relief.

The reduction of taxpayers' tax burden as a result of international trade and commerce is the goal of DTR. Taxpayers would be reluctant to invest or conduct business outside of their home nation without DTR, which could hinder economic expansion. **Double taxation agreements**, which are treaties between nations governing how income earned in one country is taxed in another, include DTR as an essential component. Agreements preventing double taxation serve as a framework for the implementation of DTR and aid in preventing it.

3.2.1 - Meaning

Double taxation occurs when a person or company is taxed twice on the same income in two different countries. This often happens when a person or company conducts business in more than one country, and each country has its tax laws. To prevent this from happening, most countries have double taxation agreements in place. These agreements are designed to provide relief to taxpayers who are subject to double taxation.

Double taxation relief (DTR) is a method used by countries to eliminate or reduce the amount of double taxation that occurs when a person or company earns income in more than one country. Double taxation relief can take several forms, including credit relief, exemption relief, and deduction relief.

3.2.2 - Types of Double Taxation

Double taxation is a situation where an individual or a business entity is taxed twice for the same source of income or asset. In India, double taxation can occur at various levels, such as within the country, between states, or between India and other countries. Here are the **types of double taxation in India**:

1. Domestic Double Taxation:

Domestic double taxation occurs when an individual or a **business entity** is taxed by both the central government and state government for the same source of income or asset. This type of double taxation can occur in cases where both central and state governments have the authority to levy taxes on a particular source of income or asset. For example, an individual can be taxed on their income by both the central government, which levies an **income tax**, and the state government, which levies a state-level tax on the same income.

2. International Double Taxation:

International double taxation occurs when an individual or a business entity is taxed twice for the same source of income or asset in two or more countries. This type of double taxation can occur when a person or a business has a source of income or asset that is taxed in one country and also taxed in another country where they are a resident or have a business presence. This can

happen because different countries have different tax laws, and the same source of income or asset may be taxed differently in each country.

3. Double Taxation of Dividends:

Double taxation of dividends occurs when a company pays out dividends to its shareholders, and both the company and the **shareholders** are taxed on the same income. In India, the company paying out dividends is required to pay a **dividend distribution tax (DDT)** of 15% to the government, and the shareholder is also required to pay tax on the dividends received, which is added to their income and taxed as per their income tax bracket.

4. Double Taxation of Capital Gains:

Double taxation of capital gains occurs when an individual or a business entity sells an asset and is taxed on the gain twice. In India, capital gains tax is levied by the central government when an asset is sold, and the gain is added to the individual's income and taxed as per their income tax bracket. However, when the asset is sold by a non-resident of India, the gain is also taxed in their home country, resulting in double taxation.

5. Double Taxation of Royalties and Fees for Technical Services:

Double taxation of royalties and fees for technical services occurs when an individual or a **business entity** receives payments for the use of **intellectual property** or technical know-how and is taxed on the same income in two or more countries. In India, royalties and fees for technical services are subject to withholding tax, which is deducted from the source of payment. The withholding tax rate can be reduced under tax treaties between India and other countries to avoid double taxation.

3.2.3 - Benefits of DTAA in India

Avoidance of double taxation: DTAA ensures that individuals or businesses do not pay taxes on the same income in both countries. Multinational companies operating in multiple countries greatly benefit from this practice as it allows them to avoid a substantial tax burden. Double taxation refers to income tax being paid twice on the same source of income. This can occur when income is taxed at both the corporate level and the personal level, as in the case of stock dividends. Double taxation also refers to the same income being taxed by two different

countries.

For example, if you have paid 35% tax in a foreign country, but as per the Indian tax bracket, you need to pay 25%, you will get 25% tax relief in India because this rate is lower between these two.

Computing relief under section 91

1. Step 1: Calculate the tax payable in India.
2. Step 2: Compare the Indian tax rate and foreign tax rate.
3. Step 3: Multiply the lower tax rate with the doubly taxed income. This will be the amount of relief under section 91.

3.2.4 -How to Claim Double Taxation Relief?

1. Determine income eligibility for relief.
2. Find if applicable DTAA exists with other country.
3. Calculate & pay taxes in both countries as per local laws.
4. File DTAA or Section 91 relief claim in India.
5. Submit supporting documents like TRCs, tax computations & payments proofs.

3.2.5 - Transfer Pricing and other Anti-Avoidance Measure

Transfer pricing refers to the rules and methods for pricing transactions within and between enterprises under common ownership or control. Because of the potential for cross-border controlled transactions to distort taxable income, tax authorities in many countries can adjust intragroup transfer prices that differ from what would have been charged by unrelated enterprises dealing at arm's length (the arm's-length principle). The OECD and World Bank recommend intragroup pricing rules based on the arm's-length principle, and 19 of the 20 members of the G20 have adopted similar measures through bilateral treaties and domestic legislation, regulations, or administrative practice. Countries with transfer pricing legislation generally follow the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations in most respects, although their rules can differ on some important details.

3.2.6 - Introduction

Transfer pricing should not be conflated with fraudulent trade mis-invoicing, which is a technique for concealing illicit transfers by reporting falsified prices on invoices submitted to

customs officials. “Because they often both involve mispricing, many aggressive tax avoidance schemes by multinational corporations can easily be confused with trade misinvoicing. However, they should be regarded as separate policy problems with separate solutions,” according to Global Financial Integrity, a non-profit research and advocacy group focused on countering illicit financial flows.

3.2.7 - Types of Transfer Pricing Methods

There are mainly 5 types of transfer pricing methods, as follows –

1. Comparable Uncontrolled Price Method (CUP)

It is the most common and preferred method by the OECD and the tax administrations in most cases. The CUP method compares the price of goods or services in an intercompany transaction with the price exchanged between independent parties.

Goods and services must be valued on comparable terms to obtain an exact price tax administrations will accept. This can also be called set-market pricing because, unlike other methods focusing on margins, the CUP Method is based on a fair market price. A drawback to this approach is when the external market does not meet the criteria for internal transfer pricing. Commodity prices can be very volatile. For example, prices fluctuate significantly for oil, so for companies that rely on oil for their primary manufacturing activity, the CUP may not be the best transfer pricing model.

2. Added Cost Method

It is a transaction method that compares gross profit with sales costs. The division supplying goods or services determines the transaction cost and then adds a markup on the goods or services delivered. The profit margin should equal what a third party would earn from transactions in a comparable situation, including similar risks and market conditions.

One drawback is that this method does not necessarily encourage the supply division to be efficient in manufacturing practices. It may be less efficient when limiting things like labour, and avoiding competitive pricing.

3. Resale Price Method

Analyze the gross margin or the difference between the price at which a product or service is purchased and the price at which it is sold to a third party. Although similar to the CPM, the

Resale Price Method only considers the margin (minus associated costs) as the transfer price. For this reason, it is more appropriate for distributors and resellers and not so much for manufacturers.

4. Transaction Net Margin Method (TNMM)

TNMM recently emerged as the favoured model for many multinationals because the transfer price is based on net profit compared to the comparable foreign market price. The CUP, add-on cost, and resale price methods are based on the actual cost of comparable goods or services for outside transactions. Instead, TNMM compares the net profit margin earned on a controlled intercompany transaction with the net profit margin earned on a similar transaction with a third party. It compares the profit margin to actual costs. It is especially attractive when external pricing data is unavailable to determine the market price. With TNMM, businesses can measure net profit against sales, costs, or assets. TNMM usually applies by targeting an operating margin within a set range. While tax authorities have preferred the CUP Method, TNMM is emerging as a new standard.

5. Profit Distribution Method

Like TNMM, it is based on profit, not comparable market price. This method determines the transfer price by evaluating how the profits from a particular transaction would have been divided among the independent companies involved. It is based on the relative contribution of each trading party associated with the transaction.

3.2.8 - When Do Transfer Pricing Rules Apply in India?

Here are the scenarios in which transfer pricing rules apply in India:

1. **International Transactions:** Transfer pricing rules apply when an Indian entity enters into a transaction with a non-resident entity. This can include transactions related to the sale, purchase, provision of services, loan transactions, royalty payments, etc.
2. **Specified Domestic Transactions:** Transfer pricing rules also apply to certain domestic transactions that the Income Tax Act specifies. These are transactions between related parties within India, where at least one party enjoys tax benefits under specified provisions.

3. **Thresholds:** When the aggregate value of international or specified domestic transactions during a financial year exceeds a specified monetary threshold. The government determines this threshold, and it is subject to change.
4. **Exemptions:** Small and medium-sized enterprises (SMEs) with total turnover or gross receipts not exceeding a certain threshold may be exempt from transfer pricing documentation requirements, provided certain conditions are met.
5. **Documentation and Reporting:** Taxpayers falling within the scope of transfer pricing regulations must maintain comprehensive documentation. This includes the details of the transactions and any other relevant information as proof of their transactions.
6. **Advance Pricing Agreement (APA):** Taxpayers can enter into an APA with the Indian tax authorities to determine transfer prices in advance. This provides certainty and reduces the risk of disputes.
7. **Penalties:** Failure to comply with transfer pricing regulations can lead to penalties, adjustments to taxable income, and potential disputes with tax authorities.

Key Takeaways

- Transfer pricing is the process of setting prices for transactions between related parties.
- Related parties are businesses under common control, such as parent-subsidiary companies.
- The goal of transfer pricing is to ensure that the prices of transactions between related parties are at arm's length, meaning that they would be the same if the parties were unrelated.
- Businesses that do not comply with transfer pricing rules may be subject to penalties from tax authorities.

Let's Sum Up

To sum up, in this section Double taxation relief (DTR) refers to mechanisms that alleviate the burden of being taxed twice on the same income or transaction by two or more tax jurisdictions. In India, relief is primarily achieved through Double Taxation Avoidance Agreements (DTAA), which outline rules for allocating taxing rights between countries, ensuring taxpayers do not pay tax on

the same income in both countries. Benefits of DTAA include reduced withholding tax rates, exemption or credit for foreign taxes paid, and clarity on tax residency status. To claim DTR, taxpayers typically need to submit proof of tax residency, income source details, and documentation like Tax Residency Certificates (TRC) and self-declarations. Transfer pricing regulations are another critical aspect of tax law aimed at preventing tax avoidance through artificial pricing of transactions between related parties. These rules apply in India when transactions between related entities exceed specified thresholds, necessitating adherence to prescribed transfer pricing methods to ensure arm's length pricing and fair taxation.



1. Double taxation relief could be :-

- a) Bilateral Relief
- b) Unilateral Relief
- c) Multilateral Relief
- d) Both A and B

2. Where an assessee is eligible to claim the DTAA benefit :-

- a) Provisions of DTAA shall apply to the assessee
- b) Provisions of Income-Tax Act shall apply to the assessee
- c) Provisions of DTAA or Income-Tax Act, whichever is more beneficial, shall apply to the assessee
- d) None of the above

3. In order to claim DTAA relief, non-resident is required to furnish :-

- a) Tax Residency Certificate
- b) Form 10F
- c) PAN
- d) Both A and B

4. Different kinds of Anti-Avoidance measures include: –

- a) GAAR
- b) SAAR
- c) Both A and B
- d) None of the above

5. General Anti-Avoidance Rules are introduced to :-

- a) To catch all schemes of tax evasion in general
- b) To avoid double taxation of same income
- c) to catch all schemes for tax avoidance in general
- d) None of the above

TAXATION

Section 3.3: Application and Interpretation of Tax Treaties

Interpretation of Tax Treaties has been a very vexed issue, full of controversies and complexities. Basically tax treaties have dual nature in that they are international tax treaties between two sovereign States and at the same time they are a part of the domestic tax law of each country applying such treaties.

3.3.1 - Interpretation of Treaties

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

A **tax treaty**, also called **double tax agreement (DTA)** or double tax avoidance agreement (**DTAA**), is an agreement between two countries to avoid or mitigate double taxation. Such treaties may cover a range of taxes including income taxes, inheritance taxes, value added taxes, or other taxes. Besides bilateral treaties, multilateral treaties are also in place. For example, European Union (EU) countries are parties to a multilateral agreement with respect to value added taxes under auspices of the EU, while a joint treaty on mutual administrative assistance of the Council of Europe and the Organisation for Economic Co-operation and Development (OECD) is open to all countries. Tax treaties tend to reduce taxes of one treaty country for residents of the other treaty country to reduce double taxation of the same income.

The provisions and goals vary significantly, with very few tax treaties being alike. Most treaties:

- define which taxes are covered and who is a resident and eligible for benefits,
- reduce the amounts of tax withheld from interest, dividends, and royalties paid by a resident of one country to residents of the other country,
- limit tax of one country on business income of a resident of the other country to that income from a permanent establishment in the first country,
- define circumstances in which income of individuals resident in one country will be taxed in the other country, including salary, self-employment, pension, and other income,
- provide for exemption of certain types of organizations or individuals, and
- provide procedural frameworks for enforcement and dispute resolution.

The stated goals for entering into a treaty often include reduction of double taxation, eliminating tax evasion, and encouraging cross-border trade efficiency. It is generally accepted that tax treaties improve certainty for taxpayers and tax authorities in their international dealings.

3.3.2 - DTAA

Double Taxation Avoidance Agreements is a treaty signed between two countries, which, through the elimination of international double taxation, promotes the exchange of goods, services, and investment of capital between the two countries. This implies that there are consented tax rates and jurisdiction on specified kinds of incomes arising in one country to a tax resident of another nation. The taxpayers in these 88 countries can avoid being taxed twice for the same income.

Double taxation is an issue related to the taxation of income that crosses boundaries. DTAA can either cover all types of income or can target a specific type of income depending upon the types of businesses/holdings of citizens of one country in another. The following categories are covered under the Double Taxation Avoidance Agreements (DTAA):

- services
- salary
- property
- capital gains
- savings/fixed deposit accounts

3.3.3 -Documents required to avail the benefits under DTAA

To benefits from the provisions laid under DTAA, an NRI individual will have to provide the following documents in a timely fashion to the concerned deductor.

- Self-declaration cum indemnity format
- Self-attested PAN card copy
- Self-attested visa and passport copy
- PIO proof copy (if applicable)
- Tax Residency Certificate (TRC)

According to the Finance Act 2013, an individual will not be entitled to claim any benefit of relief under the Double Taxation Avoidance Agreement unless he or she provides a Tax Residency Certificate to the deductor.

3.3.4 - Benefits of Double Taxation Avoidance Agreements

Sections 90 and 91 under the Income Tax Act 1961 offers specific relief to taxpayers to avoid double taxation. Section 90 deals with those provisions involving taxpayers who have paid tax to another country with which India has a DTAA. Section 91 is for those countries with which India does not have a DTAA. In effect, India provides relief to both types of taxpayers.

Some of the major benefits of Double Taxation Avoidance Agreements (DTAA) are mentioned below:

- The countries under the DTAA are provided relief from double taxation. Relief on double taxation is provided by the exemption of incomes earned abroad from tax in the resident country or by providing credit to the extent taxes that have been already been paid abroad.
- In some cases, the DTAA also provide concessional rates of tax.
- DTAA can become an incentive for even legitimate investors to route investments through low-tax regimes to sidestep taxation. This leads to a loss of tax revenue for the country.
- DTAA also provides tax certainty to the various investors and businesses of both the countries through the clear allocation of taxing rights between the contracting states by Agreement.

3.3.5 - Equalisation Levy

Equalisation Levy is a tax imposed on specified digital services provided by non-resident companies to Indian residents or businesses. It applies to transactions involving online advertising, digital platforms, or related services.

Equalisation Levy was introduced in India in 2016, with the intention of taxing the digital transactions i.e. the income accruing to foreign e-commerce companies from India. It is aimed at taxing business to business transactions.

3.3.6 - Background and Relevance

Over the last decade, Information Technology has gone through an exponential expansion phase in India and globally. This has led to an increase in the supply and procurement of digital services.

Consequently, this has given rise to various new business models, where there is a heavy reliance on digital and telecommunication networks. As a result, the new business models have come with a set of new tax challenges in terms of nexus, characterization, and valuation of data and user contribution. The combination of inadequacy of physical presence based nexus rules in the existing tax treaties and the possibility of taxing such payments as royalty or fee for technical services creates a fertile ground for tax disputes. To bring clarity in this regard, the government introduced vide Budget 2016, the equalisation levy to give effect to one of the recommendations of the BEPS (Base Erosion and Profit Shifting) Action Plan.

3.3.7 - Equalisation Levy Applicability

Equalisation Levy is a direct tax, which is withheld at the time of payment by the service recipient. The two conditions to be met to be liable to equalisation levy:

The payment should be made to a non-resident service provider;

The annual payment made to one service provider exceeds Rs. 1,00,000 in one financial year.

3.3.8 - Services Covered Under Equalisation Levy

Currently, not all services are covered under the ambit of equalisation Levy. The following services covered are required to be met to be liable to equalisation levy –

- The payment should be made to a non-resident service provider;

- The annual payment made to one service provider exceeds Rs. 1,00,000.00 in one financial year.

The following services were covered for levying equalization levy –

- Online advertisement;
- Any provision for digital advertising space or facilities/ service for the purpose of online advertisement;
- It was also mentioned during the introduction of the levy that as and when any other services are notified, these will be included with the aforesaid services.

Let's Sum Up

To sum Up, in this section understanding and applying tax treaties (DTAA) involves interpreting bilateral agreements between countries to avoid double taxation and promote cross-border trade and investments. This requires analyzing treaty provisions, such as definitions of residency and income types, to determine tax liabilities and avail benefits like reduced withholding rates. Documentation such as Tax Residency Certificates (TRC) and Permanent Establishment (PE) certificates are essential for claiming treaty benefits. Double Taxation Avoidance Agreements aim to provide clarity and fairness in tax treatment, benefiting taxpayers by preventing double taxation and fostering international economic cooperation. Additionally, the Equalisation Levy introduced by various countries, including India, imposes a tax on specified digital services to ensure fair taxation in the digital economy, aiming to capture revenue from digital transactions that may otherwise escape traditional tax regimes.



1. DTAA stands for:

- a) Double Taxation Avoidance Agreement
- b) Double Tax Assessment Agreement
- c) Dual Tax Avoidance Agreement
- d) Double Treaty Avoidance Agreement

2. Which of the following is a primary benefit of DTAA?

- a) Reduced tax evasion
- b) Elimination of double taxation
- c) Increased tax revenue for countries
- d) Simplification of tax filing

3. The Equalisation Levy is primarily applicable to:

- a) Domestic transactions
- b) Cross-border digital transactions
- c) Export transactions
- d) Import transactions

4. Which of the following services is covered under the Equalisation Levy?

- a) Legal consulting
- b) Online advertisement
- c) Real estate
- d) Healthcare services

5. The Equalisation Levy was introduced in India in:

- a) 2016
- b) 2017
- c) 2018
- d) 2019

3.4 Unit Summary

In this section, International business taxation involves complex frameworks to address taxation of non-residents, ensuring fair treatment and avoiding double taxation through Double Taxation Avoidance Agreements (DTAA). These agreements provide relief by specifying rules for income sourced across borders, mitigating tax burdens. Transfer pricing regulations are crucial to prevent profit shifting and ensure arm's length pricing between related entities. Anti-avoidance measures further safeguard against tax evasion and aggressive tax planning strategies. The application and interpretation of tax treaties play a pivotal role in resolving cross-border tax issues,

harmonizing tax treatment between countries, and providing legal clarity on tax liabilities. Additionally, equalization levy addresses digital transactions, ensuring equitable taxation of income generated from digital platforms. Together, these elements form a comprehensive framework facilitating international trade while maintaining tax fairness and compliance.

3.5 Glossary

International Business Taxation	The set of laws, regulations, and principles that govern the taxation of business activities conducted across international borders. This includes the taxation of income earned by multinational companies and individuals engaging in cross-border trade and investment.
Double Taxation Relief	Mechanisms to prevent or mitigate the incidence of double taxation, where the same income is taxed by two or more jurisdictions. Relief can be provided through tax credits, tax exemptions, or the application of double taxation avoidance agreements (DTAAs).
Taxation of Non-residents	The rules and regulations that determine how income earned by individuals and entities who are not residents of a country is taxed. This typically focuses on income sourced within the taxing jurisdiction.
Transfer Pricing	The rules and methods for pricing transactions within and between enterprises under common ownership or control. Transfer pricing aims to ensure that transactions between related entities are conducted at arm's length, reflecting market prices.
Anti-avoidance Measures	Legal provisions and strategies implemented by governments to prevent tax evasion and aggressive tax avoidance schemes. These include general anti-avoidance rules (GAAR), specific anti-avoidance rules (SAAR), and transfer pricing regulations.
(DTAA)	A bilateral or multilateral treaty between two or more countries aimed at avoiding or mitigating double taxation of the same income. DTAAs typically allocate taxing rights between the countries involved and provide methods for double taxation relief.
Equalization Levy	A tax introduced to address the challenges of taxing the digital economy, specifically targeting transactions involving non-resident digital companies. The levy is applied to certain specified services such as online advertising and e-commerce.
Non-resident Service Providers	Entities providing digital services without a physical presence in the taxing jurisdiction, subject to the Equalization Levy.

3.6 SelfAssessmentQuestions

ShortAnswers:(5Marks)K3/K4LevelQuestions

Sl.no	Question s	Level
1.	Explain the concept of "Permanent Establishment" and its significance in the taxation of non-residents.	K3
2.	What is the Foreign Tax Credit (FTC), and how does it help in providing double taxation relief?	K3
3.	How does the withholding tax mechanism work for payments made to non-residents for services provided outside India?	K3
4.	Define the arm's length principle in the context of transfer pricing.	K3
5.	Briefly describe the role of Double Taxation Avoidance Agreements (DTAAs) in international taxation.	K3
6.	Explain the significance of the concept of "tax residency" in tax treaties.	K4
7.	What is equalization levy? and why was it introduced in India?	K4
8.	Discuss the scope of the equalization levy on digital advertisements.	K4

EssayTypeAnswers:(8Marks)K5/KSLevelQuestions

Sl.no	Questions	Level
1.	Discuss the criteria used to determine whether a non-resident has a "Permanent Establishment" in India and the tax implications thereof.	K5
2.	How does Indian tax law address the taxation of business profits earned by non-residents without a permanent establishment in India?	K5
3.	Explain the methods available for double taxation relief and how they are applied in India.	K5
4.	Discuss the importance of DTAAs in the context of international business and provide an example of how a specific provision in a DTAA can provide relief from double taxation.	K5
5.	Explain the consequences of non-compliance with transfer pricing regulations, including penalties and adjustments.	K5
7.	Discuss the process for claiming benefits under a tax treaty, including the necessary documentation and procedural requirements.	K6
8.	Discuss the implications of the equalization levy on cross-border digital transactions and how it affects companies operating in the digital	K6

3.7 Activities-Assignment



Activities

1. XYZ Corp, an Indian company, has subsidiaries in the USA and Germany. The subsidiaries have earned income in their respective countries, which has been taxed locally. XYZ Corp. wants to repatriate the profits back to India and is concerned about double taxation.


Assignment Questions:

1. What mechanisms are available to XYZ Corp. to avoid double taxation on repatriated profits?
2. Explain the concept of Foreign Tax Credit (FTC) and how it applies to XYZ Corp.
3. How can Double Taxation Avoidance Agreements (DTAAs) assist in providing relief from double taxation for XYZ Corp.?

2. PQR Ltd., an Indian multinational, transfers goods and services between its subsidiaries located in various countries. The tax authorities have raised concerns about the prices at which these transactions are conducted.

Assignment Questions:

1. What is transfer pricing, and why is it important in international taxation?
2. Describe the arm's length principle and its application in transfer pricing.
3. What documentation is required to support transfer pricing arrangements, and what are the consequences of non-compliance?
4. Discuss other anti-avoidance measures that can be taken to prevent tax evasion through transfer pricing.

	<p><u>3.8 Topics for Discussion (Quadrant-4)</u></p> <ol style="list-style-type: none"> 6. How do tax treaties help in determining the taxability of income from cross-border transactions? 7. Explain the concept of “tax residency” as per tax treaties and its significance for RST Inc. 8. How does the India-US DTAA affect the taxation of royalty income earned by RST Inc. from the Indian company? 9. Discuss the process of claiming benefits under a tax treaty.
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3.8 Answers for Check your Progress

Section 3.1	International business taxation
1	B
2	B
3	B
4	B
5	A
Section 3.2	Double taxation relief
1	D
2	C
3	D
4	C
5	C
Section 3.3	Application and interpretation of tax treaties
1	A
2	C
3	B
4	C
5	D

3.9 OpenSource E-Content Links

Sl. no	Topic	E-Content Link
1	International Taxation	https://www.youtube.com/watch?v=8BxCdDjxaQ

2	Double Taxation Avoidance Agreement	https://www.youtube.com/watch?v=iyWJLRyKxbU
3	Transfer Pricing Basics	https://www.youtube.com/watch?v=lZY04qylldI
4	Understanding Anti-Avoidance Measures	https://www.youtube.com/watch?v=xdwpDNXWuiQ
5	Equalization Levy in India	https://www.youtube.com/watch?v=HSUtAm6LLjS

3.10 Suggested Readings /References

1. Anghel and Back, published by IBFD. "Principles of International Taxation"
2. Mindy Herzfeld, "International Taxation in a Nutshell" West Academic Publishing
3. Richard Thompson, published by CCH. "Transfer Pricing: Rules, Compliance, and Controversy" "Model Tax Convention on Income and on Capital: Condensed Version"
4. Journals: "International Tax Review," "Tax Analysts," "The Tax Adviser."
5. Websites:
6. OECD (www.oecd.org),
7. IBFD (www.ibfd.org),

UNIT OBJECTIVES

In this unit, learners will have a comprehensive understanding of Goods and Services Tax: GST Act, 2017, its Registration, Procedure for registration under Schedule III, Amendment of registration and to assess Goods and Services Tax and filing GST returns Penalties, Prosecution and Appeal and Revision.

TAXATION

SECTION 4.1: GOODS AND SERVICES TAX

4.1.1 - GST ACT, 2017 - INTRODUCTION

The introduction of Goods and Services Tax (GST) would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, it would mitigate cascading or double taxation in a major way and pave the way

for a common national market. From the consumer point of view, the biggest advantage would be in terms of a reduction in the overall tax burden on goods, which is currently estimated to be around 25% to 30%. Introduction of GST would also make Indian products competitive in the domestic and international markets. Studies show that this would have a boosting impact on economic growth. Last but not the least, this tax, because of its transparent and self-policing character, would be easier to administer.

4.1.2 - MEANING

In India, Goods and Services Tax, (GST), came into effect on July 1, 2017. Goods and Services Tax was introduced to avoid the cascading effect of indirect tax. GST Council was constituted to fix the rates of Goods and Services Tax.

The Goods and Services Tax (GST) is a value-added tax levied on most goods and services sold for domestic consumption. The GST is paid by consumers, but it is remitted to the government by the businesses selling the goods and services.

4.1.3 - OBJECTIVES OF GST

1. One Country One Tax:

Implementation of goods and service tax aims at creating one tax rate one market across the country by removing different rates of taxes applicable. By the implementation of GST only one rate of tax is applicable on a particular product across the country.

2. Consumption based tax instead of Manufacturing:

Goods and Services tax on consumption. It is a destination based tax i.e., the tax will be paid to the state where the final product is purchased/consumed by the final consumer rather than where the product is produced or manufactured.

3. Uniform GST Registration, payment and Input Tax Credit:

To create simple administrative procedure this GST system needs only a Single Uniform GST registration across the states. The manufacturer, wholesaler, trader will be eligible for input tax credit on the inputs used for the final product being sold.

4. To eliminate the cascading effect of Indirect taxes on single transaction:

The key objective of implementation of goods and services tax is to remove cascading effect of tax i.e., tax on taxes. In the earlier system where the Value added tax/sales tax was levied on excise duty, customs duty included in the purchase price of the inputs which was lead to cascading of taxes and thereby the selling price will be increased, it was burden to the final consumers. Under GST the tax paid on inputs in earlier stages will be allowed as input tax credit hence the tax will be levied only on value addition in each stage of consumption. Hence, the cascading of taxes will be removed to a maximum extent.

5. Subsume all indirect taxes at Centre and State Level:

The pre GST implementation taxes like central excise duty, special additional duty, value added tax, service tax etc. Will be subsumed under dual system i.e., Central goods and services tax and State goods and services tax.

6. Reduce tax evasion and corruption:

Implementation of GST aims at reducing the tax evasion by the businessmen, public and entities.

7. Increase productivity:

By allowing taxes paid in the earlier stages as inputs the cost of the products will be reduced and there by the consumption will be increased which will in turn leads for increase in productivity.

8. Increase Tax to GDP Ratio and revenue surplus:

The implementation of GST assists all the sectors to contribute to the higher extent than at present contribution.

9. Increase Compliance:

Under GST only single registration, single return is required to be submitted compared to old indirect tax system. It can be expected that the compliance level will be enhanced.

10. Reducing economic distortions:

Implementation of goods and services tax tries to solve the economic problems by

making the necessity products cheaper to all category of people.

4.1.4 - REGISTRATION

Application for registration (1)

- (1) Every person, (other than a non-resident taxable person, a person supplying online information and data base access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, a person required to deduct tax at source under section 51 and a person required to collect tax at source under section 52), who is liable to be registered under subsection (1) of section 25 and

- (2) every person seeking registration under sub-section (3) of section 25 (hereinafter referred to in this Chapter as “the applicant”) shall, before applying for registration, declare his Permanent Account Number (PAN), mobile number, e-mail address, State or Union territory in Part A of FORM GST REG-01 on the Common Portal either directly or through a Facilitation Centre notified by the Commissioner. Provided that a Special Economic Zone unit or Special Economic Zone developer shall make a separate application for registration as a business vertical distinct from its other units located outside Special Economic Zone.
 - (a) The PAN shall be validated online by the Common Portal from the database maintained by the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);
 - (b) The mobile number declared under sub-rule (1) shall be verified through a one-time password sent to the said mobile number.; and
 - (c) The e-mail address declared under sub-rule
 - (1) shall be verified through a separate onetime password sent to the said e-mail address.
 - (3) On successful verification of the PAN, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.

(4) Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in Part B of FORM GST REG-01, duly signed, along with documents specified in the said Form, at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

(5) On receipt of an application under sub-rule (4), an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02. (6) A person applying for registration as a casual taxable person shall be given a temporary identification reference number by the Common Portal for making advance deposit of tax in accordance with the provisions of under section 27 and the acknowledgement under sub-rule (5) shall be issued electronically only after the said deposit in the electronic cash ledger thereafter. (7) The person applying for registration under sub-rule (6) shall apply for registration at least five days before commencement of business and make an advance deposit of tax in an amount equivalent to the estimated tax liability during the period for which registration is sought, as specified in section 24.

2. (1) Verification of the application

The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within three common working days from the date of submission of application.

(3) Where the application submitted under rule 1 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may so intimate issue a notice to the applicant electronically in FORM GST REG-03 within three common working days from the date of submission of application and the applicant shall furnish such clarification, information or documents sought electronically, in FORM GST REG-04, within seven common working days from the date of receipt of such intimation.

- (d) Explanation,- The clarification includes modification or correction of particulars declared in the application for registration, other than PAN, State, mobile number and e-mail address declared in Part A of FORM GST REG-01. (3) Where a clarification under sub-rule (2) of the SGST Rules of the concerned State has been sought prior to any clarification, information or document being sought under sub-rule (2), the clarification, information or document furnished by the applicant shall be forwarded to the proper officer
- (e) the application for grant of registration shall be deemed to have been approved.

3. (1) Issue of registration certificate

Subject to the provisions of sub-section (12) of section 25, where the application for grant of registration has been approved under rule 2, a certificate of registration in FORM GST REG-06 showing the for the principal place of business and for every additional place(s) of business shall be made available to the applicant on the Common Portal.

(2) The registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within thirty days from such date.

(3) Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration under sub-rule (1) or sub-rule (4) or sub-rule (6) of rule 2.

(4) Every certificate of registration made available on the Common Portal shall be digitally signed by the proper officer under the Act.

(5) Where the registration has been granted under sub-rule (6) of rule 2, the applicant shall be communicated the registration number and the certificate of registration under sub-rule (1), duly signed, shall be made available to the applicant on the common portal.

4. (1) Separate registration for multiple business verticals within a State or a Union territory

Any person having multiple business verticals within a State or a Union territory, requiring a separate registration for any of its business verticals under sub-section (2) of section 19 25

shall be granted separate registration in respect of each of the verticals subject to the following conditions:

- (a) Such person has more than one business vertical as defined under sub-section in clause (18) of section 2 of the Act;
- (b) No business vertical of a taxable person shall be granted registration to pay tax under section 10 if any one of the other business verticals of the same person is paying tax under section 9.

Explanation.- Where any business vertical of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 810, all other business verticals of the said person shall become ineligible to pay tax under the said section.

- (c) All separately registered business verticals of such person shall pay tax under this Act on supply of goods or services or both made to another registered business vertical of such person and issue a tax invoice for such supply.
- (2) A registered person eligible to obtain separate registration for business verticals may submit a separate application in FORM GST REG-01 in respect of each such vertical.
- (3) The provisions of rule 1 and rule 2 relating to verification and grant of registration shall, apply mutatis mutandis, apply to an application submitted under this rule.

5. Grant of registration to persons required to deduct tax at source or to collect tax at source

- (1) Any person required to deduct tax under in accordance with the provisions of sub-section (1) of section 51 or a person required to collect tax at source in accordance with the provisions of under section 52 shall electronically submit an application, duly signed, in FORM GST REG-07 for grant of registration, through the Common Portal, either directly or from a Facilitation Centre notified by the Commissioner.
- (2) The proper officer may grant registration after due verification and issue a certificate of registration in FORM GST REG-06 within three common working days from the date of submission of application.
- (3) Where, upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in FORM GST REG-06 has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued under sub-rule (2) and such cancellation shall be communicated to the said person in FORM GST REG-08.

4.1.5 - Procedure for registration under schedule III of GST

Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than lottery, betting and gambling.
7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8. (a) Supply of warehoused goods to any person before clearance for home consumption;
(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Explanation 1.—For the purposes of paragraph 2, the term “court” includes District Court, High Court and Supreme Court.

Explanation 2.—For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962

4.1.6 -List of Documents Required for GST Registration

Before understanding how to do GST registration, following checklist of documents required for obtaining GST registration:

Proof of Constitution of Business (Any One)	Certificate of Incorporation
Passport size photo of the applicant	Passport size photo of Promoter/Partner
Photo of the Authorised Signatory	Photo
Proof of Appointment of Authorised Signatory (Any One)	Letter of Authorisation
	Copy of Resolution passed by BoD/ Managing Committee and Acceptance letter
Proof of Principal Place of business (Any One)	Electricity Bill
	Legal ownership document
	Municipal Khata Copy
	Property Tax Receipt
Proof of Details of Bank Accounts (Any One)	The first page of Pass Book
	Bank Statement
	Cancelled Cheque

4.1.7 - AMENDMENT OF GST REGISTRATION

Amendment of GST registration refers to modifying or updating the details provided during the initial GST registration. It allows registered individuals or entities to change their registration information as required by updating particulars such as business address, contact details, authorized signatories, business activities, or any other relevant information.

GST registration amendment maybe required in some cases, wherein wrong information about the **taxable person under GST** has been updated in the GST Portal. In this article, we look at the procedure for correcting mistakes in GST registration certificate.

Eligibility Criteria

Any taxpayer of the following category, registered under GST, can file the amendment of registration application:

- New Registrants & Normal Taxpayers
- TDS/ TCS Registrants, UN Bodies, Embassies & Other, Notified person having UIN
- Non-Resident Taxable Person
- GST Practitioner
- Online Details and Database Access or Retrieval Service Provider

Making Changes to GST Registration Certificate

If at any point while obtaining **GST registration** or after obtaining GST registration, there are changes to be made to the information furnished to the GST Common Portal, an GST registration amendment application can be filed. In case of changes to GST registration application or changes to GST registration information, the GST amendment application form GST REG-14 must be signed by the applicant within 15 days of change in any information. The GST amendment application must be digitally signed by the applicant. **(Know more about signing GST documents).**

GST Amendment – Changes to Business Name

In case of any changes to the legal name of a business, the GST registration certificate need not be cancelled. The existing GST registration can be amended to reflect the new business name. Changes to business name can be updated on the GST portal by filing FORM GST REG-14 within 15 days of change of business name.

On filing the application for change in business name, the GST Officer is required to verify the application and approve the amendment to the business name within 15 working days in FORM GST REG-15. On approval, the amendment would take effect from the date of occurrence of the event warranting the amendment.

GST Amendment – Changes to Address

In case of any changes to the address of principal place of business or any additional place of business, GST FORM REG-14 can be filed. For changes to address, proof of address for the new location must be provided in the GST registration amendment application. Accepted proof of address include:

- **For Own Premises:** Any document in support of the ownership of the premises like latest Property Tax Receipt or Municipal Khata copy or copy of Electricity Bill.
- **For Rented or Leased premises:** A copy of the valid Rent / Lease Agreement with any document in support of the ownership of the premises of the Lessor like Latest Property Tax Receipt or Municipal Khata copy or copy of Electricity Bill.
- **For premises not falling under any of the above category:** A copy of the Consent Letter with any document in support of the ownership of the premises of the Consenter like Municipal Khata copy or Electricity Bill copy. For shared properties also, the same documents may be uploaded.
- **For rented/leased premises where the Rent/lease agreement is not available:** An affidavit to that effect along with any document in support of the possession of the premises like copy of Electricity Bill.
- **If the principal place of business is located in an SEZ or the applicant is an SEZ developer:** Necessary documents/certificates issued by Government of India are required to be uploaded.

All changes to address recorded in the GST portal must be updated within 15 days of change. On making an application for change of GST address, the GST office would approve the change within 15 days. The date of amendment on approval by the Officer would be the date of occurrence of the event warranting the amendment.

GST Amendment – Changes to Promoter Information

In case of addition, deletion or retirement of partners or directors, Karta, Managing

Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for day to day affairs of the business, a GST amendment application must be filed within 15 days of of such event.

In the new GST amendment application, details of the new promoter including identity proof, address proof and photograph must be provided along with a **GST Declaration for Authorised Signatory**.

On receipt of application for GST amendment, the concerned officer would approve the change or request for additional information within 15 days of application.

GST Amendment – Changes to Mobile Number or Email ID

Any changes to the mobile number or email id mentioned on the GST Common Portal can be made by the Authorised Signatory using his/her digital signature after an online verification process. Changes to mobile number or email ID does not require the filing of GST amendment application or verification by an Officer. Changes to email or mobile number in GST common portal is considered routine changes.

GST Amendment – Changes to PAN

In case of changes to constitution of a business or PAN, then GST Amendment application cannot be made. For changes to PAN only a new GST registration application in FORM GST REG-01 can be submitted.

4.1.8 -Time Limit for GST Amendment

Any change to information updated in the GST common portal must be intimated by the taxpayer within 15 days of occurrence of event leading to the change of information by filing a GST amendment application.

On receiving a GST amendment application, the concerned officer is required to approve the application after due verification within 15 working days from the date of receipt of application. On approval, the amendment shall take effect from the date of occurrence of the event warranting amendment.

If the application for GST amendment is either not warranted or the documents furnished therewith are incomplete or incorrect, then the concerned officer can serve a notice requiring the

taxpayer to submit additional information or clarification within 15 days. On receiving the notice, the taxpayer is required to submit clarification or additional information within 7 days. If the information submitted by the taxpayer is acceptable, the officer can approve the application for GST amendment. If the information is not acceptable, then the GST officer can reject the application for amendment.

However, if a GST officer fails to take action within 15 working days of submission of amendment application or within 7 working days of receipt of clarification or additional information in response to a notice, then the certificate of registration shall stand amended to the extent applied for and the amended certificate would be made available to the registered person on the Common Portal.

Let's SumUp

Dear Learners, in this first section, we have seen the essentials of GST Act, how it is being introduced in the initial stage. GST is a very significant step in the field of indirect tax reforms in India. It is a value-added tax levied on most goods and services sold for domestic consumption. Implementation of goods and service tax aims at creating one tax rate one market across the country by removing different rates of taxes applicable. Every person seeking registration shall apply for it and be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within thirty days from such date. It allows registered individuals or entities to change their registration information as required by updating particulars such as business address, contact details, authorized signatories, business activities, or any other relevant information. Any change to information updated in the GST common portal must be intimated by the taxpayer within 15 days of occurrence of event leading to the change of information by filing a GST amendment application.



1. Which one of the below taxes is included in the GST?
(A) Central sales tax
(B) Central excise duty
(C) VAT
(D) All of the above

2. GST is imposed on the production of all services and goods, except.....

- (A) Liquor intended for human ingestion
- (B) Tobacco
- (C) Health care service
- (D) All of the above.

3. GST stands for Goods and Services Tax, and it is a tax system that covers a wide range of

- (A) Goods
- (B) Services
- (C) Goods, companies and imports
- (D) Products, systems, and exports

4. Which one of the below will not be added to supply value?

GST

- (A) Interest
- (B) Late fee
- (C) Commission

5. IGST is billed as soon as the stock is

- (A) Federal
- (B) Intra- UT
- (C) Intra-state
- (D) All of the above

TAXATION

SECTION 4.2 : RATES OF TAX OF IGST, CGST, SGST/UGTST

Goods	SGST	CGST	IGST
Household necessities like tea, coffee (except instant), edible oil, spices, and sugar. Coal, life-saving drugs and Indian Sweets are also covered under this GST slab.	2.5%	2.5%	5%
Processed food and computers	6%	6%	12%
Hair oil, soaps and toothpaste, capital goods and industrial intermediaries.	9%	9%	18%
Luxury items, including premium cars consumer durables like AC and refrigerators, cigarettes, aerated drinks, and high-end motorcycles	14%	14%	28%

4.2.1 - Assessment of GST

Assessment under GST is a process by which the tax authorities examine the returns filed by taxpayers to verify the correctness of their tax liability. The purpose of assessment is to ensure that taxpayers have accurately calculated and paid their taxes.

4.2.2 - Who is Liable to Pay GST?

The following categories of persons are liable to pay GST –

- Individuals registered under GST and making taxable supplies.
- GST registered persons are required to pay under the reverse charge mechanism.
- Persons registered under GST and required to deduct tax at source (TDS).
- E-commerce operators registered under GST.
- E-commerce operators registered under GST are required to collect tax at source (TCS).
- Individuals supplying goods or services on behalf of a supplier or manufacturer (agents).

4.2.3 - Procedure for Assessment under GST

The procedure for assessment under GST is as follows:

- **Issue of Notice:** The tax authorities can issue a notice to the taxpayer, asking them to provide additional information or documents to support their returns. The notice must specify the reason for the assessment, the period under assessment, and the nature of the information or documents required.
- **Conduct of Audit:** The tax authorities can conduct an audit of the taxpayer's records to verify the correctness of their returns. The audit can be done on-site or off-site, and the taxpayer must provide all necessary information and documents to the auditors.
- **Issue of Assessment Order:** Based on the information obtained through the notice and audit, the tax authorities can issue an assessment order. The assessment order specifies the final amount of tax to be paid by the taxpayer. The assessment order can also include interest, penalties, and fines, if applicable.

- **Rectification of Errors:** If the taxpayer disagrees with the assessment order, they can request rectification of errors. The request must be made within 30 days of the receipt of the assessment order. The tax authorities will then review the request and issue a revised assessment order if necessary.
- **Appeal:** If the taxpayer is still dissatisfied with the assessment order after rectification, they can file an appeal with the appropriate appellate authority. The appeal must be filed within three months of the receipt of the assessment order. The appellate authority will then review the case and issue a final order. Read more about Grounds of GST Appeal here.

4.2.4 - Components of GST

There are three components of GST, namely **SGST, CGST and IGST**.

- **SGST/UTGST:** It is collected by the individual states and union territories when the supply occurs within the same state/union territory. For example, when a good is both manufactured and sold within Gujarat, SGST will be levied by the Gujarat state.
- **CGST:** It is collected by the **Central government** in case of an intra-state transaction **i.e. transaction within the same state**. In the above example, CGST will be levied, in addition to SGST, by the Central government.
- **IGST:** IGST or Integrated GST is levied by the Central government when the location of **the** supplier of a good/service and the place of consumption lie in different states. The IGST so collected is subsequently divided between the State and Centre.

4.2.5 - Why GST?

- Before the implementation of GST on 1st July, 2017, several indirect taxes were levied both by the state and the centre.
- Interstate sale of goods was taxed by the centre in the form of Central State Tax (CST).
- Different states followed different rules and regulations.
- Moreover, there were additional taxes like entertainment tax, local tax and octroi.

All this resulted in **lack of uniformity in taxation** and posed a barrier to interior trade within the country. It also resulted in overlapping of taxes by the Centre and state government all of which often featured different tax rates. Thus, under the earlier regimes, in many cases, tax was levied on tax, a phenomenon called ‘the **cascading effect of taxes**’.

Assessment under GST mean Assessment means determination of tax liability under GST law.

The following are the various kinds of assessments under GST.

Main documents required for GST registration

1. PAN card.
2. Proof of business registration.
3. Proof of identity.
4. Photographs.
5. Address proof of persons in charge.
6. Business's address proof.
7. Bank account statements.

4.2.6 - Types of Assessment under GST

- Self-assessment
- Provisional assessment
- Scrutiny assessment
- Best judgment assessment
- Assessment of non-filers of returns
- Assessment of unregistered persons
- Summary assessment

Types of Assessment under GST There are six types of assessment under GST:

4.2.7 - Self-Assessment:

This is the first level of assessment, which is done by the taxpayers themselves. In self-assessment, the taxpayer calculates and pays their own tax liability, and files the returns accordingly. This is done on a monthly, quarterly or annual basis, depending on the turnover of the taxpayer. The relevant section under GST for self-assessment is Section 59.

4.2.8 - Provisional Assessment:

Provision assessment can be resorted to only in two possible scenarios 1st is when the registered person is unable to determine the value of supply and 2nd is when registered person is unable to determine the rate of tax. Apart from the above two scenarios, provisional assessment cannot be applied by the taxable person for any other purpose. Within the 90 days from the receipt of such request the proper office shall pass an order, allowing payment of tax on a provisional basis at such rate or on such value as may be specified by him. The final assessment order should be passed within six months from the date of communication of provisional assessment order.

4.2.9 - Scrutiny Assessment:

Scrutiny assessment is done by the tax authorities to verify the correctness of the returns filed by taxpayers. This is applicable for only registered persons and not to unregistered persons. Notice under section 61 can be issued only if return has been filed by the registered persons. The tax authorities can issue a notice to the taxpayer, asking them to provide additional information or documents to support their returns. The tax authorities can also conduct an audit of the taxpayer's records. Based on the information obtained, the tax authorities can issue an assessment order, which specifies the final amount of tax to be paid by the taxpayer.

Best Judgment Assessment:

Best judgment assessment is done when the taxpayer fails to furnish the return under Section 39 or Section 45, even after the service of a notice under Section 46, the proper office may assess the tax liability of the said person to the best of his judgement taking into account all the material which is available or he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

Assessment of Unregistered Persons:

When a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub section (2) of Section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement for the relevant tax periods. He will issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial

year to which the tax not paid relates. No such assessment order shall be passed without giving the person an opportunity of being heard.

Summary Assessment:

Summary assessment is done in certain special cases, such as when the tax authorities believe that the taxpayer is trying to evade tax or when there is a threat to revenue. There should be evidence available with the proper officer that tax is payable and remains unpaid. Prior permission is required from the Additional Commissioner and Joint Commissioner. It is believed that any delay in assessment would harm the revenue's interest. If the taxpayer to whom the liability pertains is not ascertainable, then such liability is fastened to the person in charge of such goods. Generally summary assessment is resorted to in cases of absconding and defaulting taxpayers. There is no time limit prescribed for passing of order. The section does not mention that the said person should be given an opportunity of being heard.

4.2.10 -Assessment of non filers of returns under GST

According to Section 62, when the registered person fails to furnish the return within the prescribed time limit even after the service of a notice under Section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgment, taking into account all the relevant material

If the registered taxable person does not file his return (even with a notice) he will be sent a notice u/s 62. If he does not file return, the proper officer will assess the tax liability to the best of his judgment. He will assess on the basis of the available information. Notice of being heard may not be given (different from service tax law). The assessment order will be issued within 5 years from the due date of the annual return.

Section 62 – Assessment of non-filers of returns

CGST ACT 2017

(1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the

date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within sixty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of **section 50** or for payment of late fee under section 47 shall continue.

Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of section 50 or to pay late fee under section 47 shall continue.”.

4.2.11 - Assessment of Unregistered Person

The officer can issue an assessment order within five years from the date specified under section 44 for furnishing annual return for the financial year for which taxes are unpaid.

Section 63 – Assessment of unregistered persons

CGST ACT 2017

Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates: **Provided** that no such assessment order shall be passed without giving the person an opportunity of being heard.

4.2.12 - Assessment In Certain Special Cases

Section 64 deals with summary assessment in certain special cases to protect the interest of the revenue. It gives special powers, in exceptional circumstances, to the proper officer to

assess tax without giving any notice or opportunity of hearing.

Section 64 – Summary assessment in certain special cases

CGST ACT 2017

(1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

(2) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

Let'sSumUp

To sum Up, this section includes the Rates of Tax IGST, CGST, SGST/UGTST and the rates being stated to know the payment of tax. The purpose of assessment is made to ensure that taxpayers whether have accurately calculated and paid their taxes and stated persons who are liable to pay GST. The procedure for assessment under GST is mentioned to make the payment easier and on time. Tax was levied on tax, a phenomenon called 'the cascading effect of taxes'. Types of Assessment under GST are Self-assessment, Provisional assessment, Scrutiny assessment, Best judgment assessment is being made to know the level of assessment and pays their own tax liability, and files the returns accordingly.

[



1.The maximum rate for CGST is?

- a) 28
- b) 12
- c) 18
- d) 20

2.The maximum rate for CGST/ITGST is?

- a) 28
- b) 14
- c) 20
- d) 30

3.Goods and service tax is –

- a) Supply based
- b) Consumption based
- c) Both supply and consumption based
- d) None of these

4.Goods which get input tax credit without being liable to collect output tax is called

- a) Exempt goods
- b) White goods
- c) Sin goods
- d) Zero rated goods

5.GST can be collected by

- a) Any registered dealer
- b) Any GST dealer
- c) Any service provider
- d) Any dealer

TAXATION

SECTION 4.3: TAX INVOICE

4.3.1 - Meaning

A tax invoice is a document used to record a transaction between a buyer and a seller. It shows the sale details, including the quantity and price of the goods or services, any applicable taxes, and the total amount due. In other words, it's a record of the money changing hands.

4.3.2 - When is a tax invoice required?

A tax invoice is typically required whenever a taxable sale is made. It means that if a business is selling a product or service subject to sales tax, they must provide a tax invoice to the

buyer. The specific requirements for tax invoices can vary depending on the jurisdiction, but generally, they are required for any transaction involving sales tax.

4.3.3 - Who issues tax invoices?

In most cases, the seller is responsible for issuing the tax invoice. This is because they are the ones who are collecting the sales tax from the buyer. However, the buyer may also need to issue a tax invoice in some cases.

For example, if a business is purchasing goods or services for their use and they are required to self-assess the sales tax, they may need to issue a tax invoice to themselves.

4.3.4 - What information is included in a tax invoice?

A tax invoice should include specific information to be considered valid. This information typically includes:

- The name, address, and GST number of the seller
- The name and address of the buyer
- A description of the goods or services being sold
- The quantity of the goods or services
- The price per unit and the total price
- Any applicable taxes, including the rate and amount
- The date the invoice was issued
- The invoice number

4.3.5 - Types of tax invoices

When it comes to tax invoices, there are different types of invoices that businesses may use, depending on their needs and the requirements of their tax jurisdiction. Here are three types of tax invoices:

1. Full tax invoice

A full tax invoice is the most detailed type of tax invoice. It includes all of the required information for a valid tax invoice, such as the seller's name and address, the buyer's name and address, a description of the goods or services, the quantity and price, any applicable taxes, the date of the transaction, and an invoice number. A full tax invoice is typically required for larger transactions or for transactions involving international trade.

Example: A construction company hires a contractor to build a new office building. The contractor provides a full tax invoice to the construction company, including all required information for the transaction.

2. Simplified tax invoice

A simplified tax invoice is a less detailed version of a tax invoice. It includes less information than a full tax invoice but still meets the requirements of a valid tax invoice in the jurisdiction. Simplified tax invoices are often used for smaller transactions or for transactions where the full tax invoice requirements are not necessary.

Example: A coffee shop sells a customer a cup of coffee and a pastry. The coffee shop issues a simplified tax invoice, which includes the name and address of the coffee shop, the date of the transaction, a description of the goods sold, and the total amount due, including any applicable taxes.

3. Electronic tax invoice

An electronic tax invoice is a tax invoice that is issued and received electronically. This type of tax invoice is becoming increasingly popular due to the convenience and efficiency of electronic transactions. Electronic tax invoices must meet the same requirements as paper tax invoices to be considered valid.

Example: An online retailer sells a product to a customer through their website. The retailer issues an electronic tax invoice to the customer, which includes all of the required information for the transaction, and the customer receives the invoice via email.

4.3.6 - Contents of tax invoice

A tax invoice must include certain required information, which includes:

- The name, address, and GSTIN of the supplier and the recipient.
- The unique invoice number and date of issue.
- A description of the goods or services provided.
- The quantity and value of the goods or services.

- The applicable tax rates and amounts (CGST, SGST/UTGST, and IGST).
- The total amount payable by the recipient, including taxes.

4.3.7 -Credit Notes

Credit notes is a document that is issued by a registered person under section 34(1) of CGST Act 2017 when supplies are returned or found deficient, or decrease in taxable value or GST charged in invoice. The tax liability of the supplier will reduce, as and when the Credit Note is issued by the registered person.

Credit Note under GST

- Credit note cannot be issued with GST on account of renegotiation of prices after supply if prices are reduced. In this case credit note can be issued without showing GST.
- This credit note will not be required to be filed with monthly return.
- Credit note for bad debts cannot be issued with GST.
- Credit note cannot be issued with GST in respect of B2C supply as the tax invoice does not have the GSTIN of the buyer.

4.3.8 - Issuance of Credit Note

Supplier who has supplied goods or services or both, shall issue a Credit Note to the recipient in following cases:

- When the value declared in the invoice is more than the value of the actual goods or service
- The tax amount or GST is charged at a higher rate than the applicable rate for the kind of goods or services.
- The recipient received less quantity than mentioned in the tax invoice.
- The recipient returned the goods supplied to him or her.
- Services are found to be deficient by the recipient.

4.3.9 -Debit Notes

Debit note is a document issued by a supplier under Section 34(3)of CGST Act, 2017, when there is a need of increase in taxable value or increase in GST charged in invoice.

The tax liability of the supplier will increase, as and when the Debit Note is issued by the supplier.

It is to be noted that a debit note can be issued by a recipient also when the goods are returned or damaged in transit. But under GST, only supplier can issue the debit note.

Debit Note under GST

Debit note is to be issued by supplier in following cases:

- When the tax invoice that is issued and the taxable value in that invoice is less than the actual taxable amount.
- When the tax invoice that is issued and the tax charged in that invoice is less than the actual tax to be paid.

4.3.10 - Issuance of Debit Note

The person who supplies the goods shall issue a debit note in the following cases:

- When the value of invoice is less than the actual value of goods or services.
- When the taxable amount or GST charged is at a lower rate than what is applicable for such goods or services.

4.3.11 -Format of Debit Note and Credit Note

The format for debit note or credit note is not prescribed. However, it must include the following particulars that are prescribed:

- The word “Debit Note” or “Credit Note” should be clearly mentioned
- Details of Name, Address and GSTIN of the Supplier should be included
- Nature of the document
- A consecutive serial number not exceeding 16 characters, containing letters, numbers or special characters for a Financial Year
- Date of issue of the document
- Name, address and GSTIN or UIN of the registered recipient
- Name and address along with the address of delivery of the unregistered recipient
- Serial number and date of the corresponding Tax Invoice
- Value of Taxable supply of goods or services, rate of tax and the amount of tax credited or debited to the recipient
- Signature or Digital signature of the supplier or his or her authorized representative

Particulars	Debit note	Credit note
Who issues it?	The buyer of goods issues it.	The seller of goods issues it.
Meaning	The buyer of goods issues a debit note to the seller to return the goods received due to quality issues or other reasons. A debit note contains the reason for the return of goods.	The seller of goods issues a credit note to confirm that the purchase return is accepted.
Can be issued	It can be issued only in the event of credit purchases from the buyer's perspective.	It can be issued only in the event of credit sales.
Impact	It reduces account receivables in the books of sellers.	It reduces account payables in the books of the buyer.
Reflects	A debit note reflects a positive amount.	A credit note reflects a negative amount.
Form	It is another form of purchase return.	It is another form of sales return.
Accounting	It leads to updating purchase return books.	It leads to updating of sales return books.
Entry	Supplier Account Dr. Purchase return Cr.	Sales return account Dr. Customer Account Cr.

Particulars	Debit note	Credit note
Issued in exchange of	A debit note is issued in exchange for a credit note.	A credit note is issued in exchange for a debit note.
Issued by a seller to the buyer	The seller issues debit notes to the buyer if the buyer is undercharged or the seller has sent additional goods.	The buyer issues a credit note as an acknowledgement of a debit note received.
Ink	It is issued in blue ink.	It is issued in red ink.

Let's Sum Up

A tax invoice is typically required whenever a taxable sale is made. A tax invoice include specific information to be considered valid. When it comes to tax invoices, there are different types of invoices Full tax invoice, Simplified tax invoice and Electronic tax invoicethat businesses may use, depending on their needs and the requirements of their tax jurisdiction. Supplier who has supplied goods or services or both, shall issue a Credit Note to the recipient. The tax liability of the supplier will increase, as and when the Debit Note is also issued by the supplier. It is to be noted that a debit note can be issued by a recipient also when the goods are returned or damaged in transit.



1. An invoice must be issued:

- At the time of removal of goods;
- On transfer of risks and rewards of the goods to the recipient;
- On receipt of payment for the supply;
- Earliest of the above dates.

2.The tax invoice should be issued _____the date of supply of service:

- a) Within 30 days from
- b) Within 1 month from
- c) Within 15 days from
- d) On 87.

3.A credit note is issued by _____ and it is a document accepted for GST purposes: a)

- Supplier, for reducing the tax/ taxable value;
- b) Recipient, for reducing the tax/ taxable value;
- c) Supplier, for increasing the tax/ taxable value;
- d) Recipient, for increasing the tax/ taxable value.

4.A bill of supply can be issued in case of inter-State and intra-State:

- (a) Exempted supplies
- (b) Supplies to unregistered persons
- (c) Both of above
- (d) None of the above

5.Credit note is issued when _____

- a. Tax invoice is found to exceed the taxable value or tax payable
- b. Goods supplied are returned by the recipient
- c. Goods or services supplied are found to be deficient
- d. All of the above

TAXATION

Section4.4: Payment of Tax

Payment of taxes by the normal tax payer is to be done on monthly basis by the 20th of the succeeding month. Cash payments will be first deposited in the Cash Ledger and the tax payer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return.

4.4.1 - The GST payment process

Indian businesses are in for a learning curve — the payment process under Goods and Services Tax (GST) differs drastically from current procedures. Namely, each step of the process — like all other aspects of GST — now occur online within the GST portal.

Section 49 of the Central Goods and Services Tax Act, along with rules published by the Central Board of Excise and Customs (CBEC), govern the new payment procedures. This whitepaper provides an overview of what they entail and looks at the following:

- Electronic ledgers
- Manner of utilization and cross-utilisation of input tax credit (ITC)
- Interest on delayed payments
- Electronic payment forms
- Unique identification number for each transaction

4.4.2 - Electronic ledgers

In the GST portal, a taxable person can track his tax liabilities across three ledgers, each maintained in real-time:

1. **Electronic liability ledger** (also known as electronic tax liability register): Accounts for a taxpayer's gross tax liability — form GST PMT-01 on the GST portal
2. **Electronic credit ledger** (also known as electronic input tax credit ledger): Records the tax payments already made during the supply chain e. every claim of ITC is recorded here — form GST PMT-02
3. **Electronic cash ledger**: All amounts paid by the taxpayer are reflected here — form GST PMT-05

4.4.3 - Electronic liability ledger

This ledger records all liabilities of a taxable person including:

- The tax, interest, late fees, or any other amount payable per the return furnished by the taxpayer or per any proceedings
- The tax and interest payable arising out of any mismatch of ITC or output tax liability
- Any interest that may accrue from time to time
- The reversal of ITC or interest

Taxpayers should settle their liabilities in the following order:

1. Self-assessed tax and other dues, such as interest, penalty, fees, or any other amount relating to **previous tax period returns**
2. Self-assessed tax and other dues relating to the **current tax period return**
3. Any other amount payable under the act/rules (liability arising out of demand notice, proceedings, etc.)

4.4.4 - Electronic credit ledger

Every claim of ITC self-assessed by the taxpayer shall be credited to this ledger. The amount available in this ledger may be used for payment towards output tax only. Under no circumstance can an entry be made directly in the electronic credit ledger.

This ledger may include the following:

- ITC on inward supplies from registered taxpayers
- ITC available based on distribution from input services distributor (ISD)
- ITC on input of stock held/semi-finished goods or finished goods held in stock on the day immediately preceding the date on which the taxpayer became liable to pay tax, provided he applies for registration within 30 days of becoming liable
- Permissible ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day of conversion from composition scheme to regular tax scheme
- ITC eligible on a payment made on a reverse charge basis

4.4.5 - Electronic cash ledger

Any amount paid by the taxpayer will be reflected in the electronic cash ledger. The amount available in this ledger may be used for making any payment towards tax, interest, penalty, fees, or any other amount due under the act/rules in the time and manner prescribed. (It is reiterated that any credit in the electronic credit ledger can be utilized only for payment of output tax.)

To initiate a payment, taxpayers generate a challan online using **form GST PMT-06**, which will be valid for a period of 15 days. Payment can then be remitted through any of the following modes:

- Internet banking (authorized banks only)
- Credit or debit card (authorized banks only)

- National Electronic Fund Transfer (NEFT) or real-time gross settlement (RTGS) (any bank, authorized or unauthorized)
- Over-the-counter (OTC) payment (authorized banks only) **for deposits up to ten thousand rupees** per challan and per tax period

The taxpayer is responsible for any commission due on the payment.

The payment date shall be recorded as the date the payment is credited to the appropriate government account. The date, the payment is debited from the taxpayer's account is not relevant. Unregistered taxpayers needing to make a tax payment will still use the online GST portal but with a temporary identification number generated through the portal.

Manner of utilization and cross-utilisation of ITC

The input tax credit available in the electronic credit ledger shall be utilized in the following manner:

Input tax on	Utilisation (in the order shown)
IGST	IGST, CGST, SGST/UTGST
CGST	CGST, IGST
SGST/UTGST	SGST/UTGST, IGST

From the above table, it is evident that central tax shall not be utilized towards payment of state tax or union territory tax; and state tax or union territory tax shall not be utilized towards payment of central tax.

Interest on delayed payments

Per Section 50 of the CGST Act, interest will start accruing on a delayed payment the day after the payment was due. This applies to both missed payments and payments not made in full.

The payment of interest is automatic and should be made voluntarily, even without a demand. The interest rate, not to exceed 18 percent, will be determined by the Government on the recommendation of the GST Council.

In the case of undue or excess claim of ITC, or undue or excess reduction in output tax liability, interest shall be paid at a higher rate, not to exceed 24 percent, to be notified by the Government.

4.4.6 - GST payment forms

Sr. no.	Form no.	Short description	Purpose
1	GST PMT-01	Electronic tax liability register	Any tax, interest, penalty, late fee, or any other amount will be debited to this register
2	GST PMT-02	Electronic credit ledger	Every claim of ITC shall be credited to this ledger
3	GST PMT-03	Refund to be recredited	Refund if rejected the amount debited from the electronic credit ledger or electronic cash ledger, as the case may be, will be recredited by order of a proper officer
4	GST PMT-04	Discrepancy in electronic credit ledger	Discrepancy in electronic credit ledger, communicated to an officer through this form
5	GST PMT-05	Electronic cash ledger	Any tax, interest, penalty, late fee, or any other amount to be deposited in cash are credited to this ledger
6	GST PMT-06	Challan for deposit of tax	Generate and pay a challan
7	GST PMT-07	Application for intimating discrepancy relating to payment	The application is meant for the tax payer where the amount intended to be paid is debited from his account but CIN has not been conveyed by bank to Common Portal or CIN has been generated but not reported by concerned bank (within 24 hours of debit)”

Additional points to ponder

Whenever a payment of any liability is made, the electronic credit ledger or the electronic cash ledger shall be debited; the electronic tax liability register shall be credited and will display the monthly net tax liability.

Every person who has paid tax on goods and/or services shall be deemed to have passed on the full incidence of such tax to the recipient unless he proves the contrary.

The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fees, or any other amount payable may be refunded from electronic cash or electronic credit ledger, respectively.

If a refund claim is rejected, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic cash ledger or electronic credit ledger by the proper officer.

Unique identification number for each transaction

Within the online GST portal, a unique identification number shall be generated for each debit or credit to the electronic cash or credit ledgers, as the case may be. This number shall be indicated in the corresponding entry on the electronic tax liability register.

To conclude, there is a paradigm shift in the way tax payments will be made in the soon-to-be-in-force GST, as compared to the methods to which we have become accustomed. The shift helps to support GST's aim to make the entire tax process run smoothly with minimal government involvement — all with the aid of technology.

4.4.7 - Input Tax

Input tax is the tax paid on purchases by a registered dealer in the course of his business for,

1. Resale, or
2. Use in the execution of works contract; or
3. Use in processing or manufacturing, where such goods;
 - ♣ Directly goes into the composition of the finished products,
 - ♣ Are used as packing materials for packing of goods for sale,
 - ♣ Are consumables directly used in the process of manufacturing,
 - ♣ Are capital goods (other than those described in schedule 'D') used directly in the process of manufacturing.

4.4.8 - Input Tax Credit and GST

Let's assume, you are a producer and GST payable on the final product is Rs. 500. However, you had already paid Rs. 300 on the purchase of raw materials, you can claim Rs. 300 as **input tax credit** and only pay Rs. 200 as **GST** at the time of supply.

Now let's understand how input tax credit works in terms of SGST, CGST and IGST credit. It should be noted that as per the GST Act, **GST Credit should be applied in the following order:**

1. To set off IGST liability
2. To set off CGST liability
3. To set off SGST liability

Suppose a manufacturer, Raj from UP sold goods worth Rs. 1 lakh to a dealer, Sumit located in UP. The dealer in turn sold the goods at Rs. 1.2 lakh to a trader, Manav in Haryana. The trader finally sold it to the end consumer, Mehak at Rs. 1.5 lakh.

The applicable GST rates on this good are SGST= 6%, CGST=6% and IGST=12%.

4.4.9 - Procedure for registration under GST



Step-by-step Guide explaining GST Registration Process Online

1. Step 1: Go to the GST Portal. ...
2. Step 2: Generate a TRN by Completing OTP Validation. ...
3. Step 3: OTP Verification & TRN Generation. ...
4. Step 4: TRN Generated. ...
5. Step 5: Log in with TRN. ...
6. Step 6: Submit Business Information. ...
7. Step 7: Submit Promoter Information.

4.4.10 -Anti-Profiteering

Any reduction in rate of GST tax on any supply of goods or services or the benefit of input tax credit should have been passed on to the recipient by way of commensurate reduction in prices. The willful action of not changing the final price of the good or service by various means,

despite the reduction in the rate of the tax for that particular good or service, is amount to “profiteering”.

4.4.11 -Anti-profiteering mechanism under CGST act

CGST mandate a 3-tier structure for investigation and adjudication of the complaints regarding profiteering.

- a) National Anti-profiteering
- b) Authority Directorate General of Safeguards
- c) State-level screening committees and standing committee

4.4.12 -Who can file the complaint against profiteering?

Any consumer or organisation experiencing the non-reduction in the price of the goods or service despite reduction in the rate of GST can file the complaint with proper evidences. Any supplier, trader, wholesaler or retailer, who could not get benefit of input tax credit on account of reduction in the rate of GST, can also file the complaint with proper evidences.



1.Input tax credit is allowed to

- a) Any one who has paid tax
- b) Any registered person
- c) Any Composite dealers
- d) Any dealer under GST

2.Input tax credit shall be allowed only on the support of

- a) Delivery note
- b) Payment slip
- c) Credit note
- d) Tax invoice

3.Input tax credit shall be allowed only against

- a) Any tax payable

- b) Output tax
- c) Composite tax
- d) Refund

4. Input tax credit is not available for

- a) services
- b) zero rated supplies
- c) taxable supplies
- d) exempt supplies

5. Input tax credit is not available for supplies to

- a) SEZ
- b) Exports
- c) Provide non taxable services
- d) Produce taxable good

TAXATION

Section 4.5: Filing of Returns

GST return is a document that will contain all the details of your sales, purchases, tax collected on sales (output tax), and tax paid on purchases (input tax). Once you file GST returns, you will need to pay the resulting tax liability (money that you owe the government).

A **GST return** is an official record that includes information about all purchases, sales, taxes paid on purchases, and taxes received on sales. Following the submission of the GST returns, the person must settle their tax debt.

4.5.1 - How to File GST Return Online in India?

The businesses registered under GST have to file returns monthly, quarterly and annually based on the category of business through the Government of India's GST portal. They have to provide the details of the sales and purchases of goods and services along with the tax collected and paid.

Implementation of a comprehensive Income Tax system like GST in India will ensure that taxpayer services such as registration, returns, and compliance are transparent and straightforward.

Individual taxpayers will be using 4 forms for filing their GST returns such as the return for supplies, return for purchases, monthly returns, and annual return. Small taxpayers who have opted for a composition scheme will have to file quarterly returns. All filing of returns will be done online.

4.5.2 -Who should file GST Returns?

GST returns has to be filed by all the business entities who are registered under the GST system. The filing process has to be identified on the basis of the nature of the business.

The registered dealer who part of the following activities needs to file a GST return:

1. Sales
2. Purchase
3. Output Goods and services tax (on Sales)
4. Input Tax Credit with GST paid on the purchase

4.5.3 - Penalties

The word “penalty” is not specifically defined in GST and so it takes the meaning from various judicial pronouncements and principles of jurisprudence.

A penalty is a punishment imposed by law for committing an offence or failing to do something that was the duty of a party to do. A penalty can be both corporal or pecuniary, civil or criminal. Both corporal (jail) and pecuniary (monetary) penalties are applicable under GST. An offender not paying tax or making short-payments has to pay a *penalty of 10% of the tax amount due, subject to a minimum of Rs. 10,000.*

Type of offence	Amount of penalty
Penalty for not issuing an invoice	Penalty 100% of the tax due or Rs. 10,000 – whichever is higher
Penalty for not registering under GST	Penalty 100% of the tax due or Rs. 10,000 – whichever is higher

Type of offence	Amount of penalty
Penalty for delay in filing GSTR	The late fee is Rs. 100 per day per Act. So it is 100 under CGST & 100 under SGST. Total will be Rs. 200/day. The maximum is Rs. 5,000. There is no late fee on IGST.
Penalty for not filing GSTR	Penalty 10% of the tax due or Rs. 10,000 – whichever is higher
Penalty for committing a fraud	Penalty 100% of the tax due or Rs. 10,000 – whichever is higher (High-value fraud cases also have jail term)
Penalty for helping a person to commit fraud	Penalty extending up to Rs. 25,000
Penalty for opting for composition scheme even though he is not eligible	Demand & recovery provisions of sections 73 & 74 will apply. (i) Fraud case- Penalty 100% of the tax due or Rs. 10,000 – whichever is higher (ii) Non-fraud case Penalty 10% of the tax due or Rs. 10,000 – whichever is higher
Penalty for wrongfully charging GST rate— charging a higher rate	Penalty 100% of the tax due or Rs. 10,000 -whichever is higher (if the additional GST collected is not submitted with the govt)
Penalty for not issuing an invoice	Penalty 100% of the tax due or Rs. 10,000 – whichever is higher
Penalty for not registering under GST	Penalty 100% of the tax due or Rs. 10,000 – whichever is higher
Penalty for incorrect invoicing	A penalty of Rs. 25,000

4.5.4 - Prosecution

Prosecution actions include filing of private complaint based on facts which constitute an offence (under the GST law) for initiation of criminal proceedings, when the Tax official has reason to believe that any person has committed any of the offences under provisions of GST law.

4.5.5 - Offences and punishment under GST [Section 132]

Section 132(1) specifies the offences and punishments for the same. Details of offences specified in the clauses of sub-section (1) of Section 132 are given as under:

- a) Non-issuance or incorrect issuance or false issuance of invoice;
- b) Issuance of invoice without actual supply of goods/services;
- c) Availment of ITC based on invoice referred above in (b);
- d) Failure to pay tax collection beyond 3 months of its due date;
- e) Fraudulently avail ITC/refund other than (a) to (d) above;
- f) Falsification or substitution of financial records or production of fake accounts and information with intention to evade tax;
- g) Preventing any officer in discharging duties;
- h) Acquire possession or in any way concerned with transporting, removing, depositing, keeping, concealing, supplying, or purchasing or dealing with any goods which he knew that liable for confiscation;
- i) Tamper with or destroys any material evidence or documents;
- j) Receives or supplies any service which is in contravention of any provisions of the GST Act;
- k) Fails to supply any information which he is required to supply or supplies false information;
- l) Attempts to commit or abate any offences.

The term of imprisonment for the specified offences is dependent on the quantum of tax evasion.

The punishment u/s. 132(1) is explained with the help of following table:

Sr. No.	Quantum of tax evasion	Term of imprisonment
1.	Exceeding ₹ 100 lakhs up to ₹ 200 lakhs	Up to 1 year and fine
2.	Exceeding ₹ 200 lakhs up to ₹ 500 lakhs	Up to 3 years and fine

3.	Exceeding ₹ 500 lakhs	Up to 5 years and fine
4.	Abetting offence under clause (f), (g) or (j)	Up to six months and fine

3. Every subsequent offence punishable [Section 132(2)]

As per sub-section (2) of Section 132 if any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years. Here it is pertinent to note that the monetary limit with respect to evasion of tax does not apply in case of repeat offence.

4. Minimum Punishment [Section 132(3)]

By section 132(3), it is provided that the minimum punishment will be six months unless for adequate written reasons in judgment, it is waived by concerned Court.

5. Offences are non-cognisable and bailable [Section 132(4)/(5)]

Sub-section (4) of Section 132 says that all the offences under GST Act, except those referred in sub-section (5), are non-cognisable and bailable even if they are cognisable or non-bailable under Code of Criminal Procedure, 1973. Sub-section (5) says that the offences involving evasion of tax as per clause (a), (b), (c) or (d) mentioned above and which exceeds ₹ 500 lakhs shall be cognisable and non-bailable. Therefore, all offences under the GST Act are non-cognisable and bailable if the amount of evasion of tax is below ₹ 500 lakhs.

6. Sanction for Prosecution [Section 132(6)]

An essential provision with regard to sanction for prosecution is made under sub-section (6). For prosecuting any person under Section 132, there must be previous sanction of the Commissioner. Further, Section 134 mandates that the Court should not take cognisance of any complaint in absence of previous sanction of the Commissioner and further that offences under this Act cannot be tried by any Court anterior to Magistrate of first class.

7. Prosecution of Officers [Section 133]

Section 133 is for prosecution of officers of department if they wilfully disclose an information or contents of any return furnished under GST and shall be liable for prosecution, except such disclosure is in term of requirement of law in different situation.

The punishment for such offence will be imprisonment up to six months and fine up to ₹ 25,000/-. However the prosecution of such officer should be with prior sanction of Government, if he is Government servant and by Commissioner, for others.

8. Presumption of culpable mental State [Section 135]

The section has wide implications and almost all burden is placed on accused person to defend. Normally, for prosecution under Indian Penal Code etc. the burden is on prosecutor/complainant to prove the charge. However, due to specific provision under section 135 of GST Act, the burden is shifted on accused person. The section is reproduced below to comprehend the scope of said section.

“135. In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

9. Relevancy of statements under certain circumstances [Section 136]

One more such obscure provision in GST Act is about relevancy of statement made during course of issue of summons under section 70. It is provided that in specified situations the statement given will be considered to be valid and relevant for prosecution. The two circumstances mentioned in above section are as under:

“(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the Court and the Court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.”

Normally, the parties are entitled to retract the statement based on facts. If the party finds any such eventuality it should do needful at the earliest, else the above provision may affect adversely.

Normally, if any statement is relied upon in prosecution the person making such statement is required to be made available for cross examination. By making above speaking provision, it appears that fundamental right under principles of natural justice of getting cross examination opportunity is sought to be set at naught. Citizen expect that there should not be such artificial encroachment on fundamental rights of citizen. This will also led to dereliction of duty on part of prosecutors. Appropriate changes are required in above provision.

10. Offences by companies and certain other persons

Section 137 enumerates the persons who would be guilty and be prosecuted for the offences, if the offences are committed by a firm, company, LLP, HUF, Trust.

As per Section 137(1) in case of company, every person who was in charge/responsible when offence committed, can be prosecuted and company can also be prosecuted.

As per Section 137(2), in case of the company, director, manager secretary or other officer will also be liable for prosecution, if their connivance or negligence is proved in relation to offence.

As per Section 137(3), in case of Partnership Firm or Limited Liability Partnership Firm or Hindu Undivided Family or Trust, the partner or karta or managing trustee will be deemed to be guilty of offence and shall be liable to be proceeded against and liable for punishment, similar to director in case of company.

As per Section 137(4), the persons, as stated above, would not be held liable for punishment if it is proved that the offence was committed without their knowledge or all due diligence to prevent commission of offence was exercised.

11. Compounding of offences [Section 138]

Section 138 allows for compounding of offences by the competent authority either before or after institution of prosecution on payment of compounding fees as may be prescribed. Rules are prescribed vide Rule 162.

Amount for compounding of offence shall be prescribed under the GST Rules. The said compounding fees :

- shall not be less than ₹ 10,000/- or 50% of tax, whichever is greater and
- Shall not be more than ₹ 30,000/- or 150% of tax, whichever is greater.

Compounding shall not be allowed without payment of tax, interest and penalty.

On payment of compounding amount no further proceeding shall be initiated under GST Act and if any criminal proceeding is initiated, the same shall stand abated. However the compounding can be withdrawn if it was obtained by concealment etc. and if withdrawn, the trial will continue.

12. Arrest power [Section 69)

While discussing provisions of prosecution it is also necessary to take note of section 69 of CGST Act, which provides for arrest by GST Department Officer. Similar powers are under SGST Act also. It is self contained provision for arrest and bail etc.

Under MVAT Act, such powers were not there. There is fear in mind of dealers that it may be used indiscriminately and in unjustified manner.

4.5.6 - Appeal and Revision

The aggrieved person has to file appeal before Tribunal within 3 months from the date of receipt of the order appealed against. Department has to complete review proceedings and file appeal within a period of six months from the date of passing the order under revision.

4.5.7 - Appeals to Appellate Authority

(1) Any person aggrieved by any decision or order passed under this Act or the Central Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2) The Commissioner may, on his own motion, or upon request from the Commissioner of central tax, call for and examine the record of any proceeding in which an adjudicating authority has passed any decision or order under this Act or the Central Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

(3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an

application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

(5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.

(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.

(8) The Appellate Authority shall give an opportunity to the appellant of being heard.

(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.

(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.

(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.

(15) A copy of the order passed by the Appellate Authority shall also be sent to the Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of central tax or an authority designated by him in this behalf.

(16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.

Let's Sumup

Under the GST regime in India, all registered taxpayers, including regular taxpayers, composition scheme dealers, e-commerce operators, and non-resident taxable persons, are required to file periodic returns such as GSTR-1, GSTR-3B, and GSTR-9. These returns detail their sales, purchases, input tax credit, and tax liability. Filing GST returns online involves logging into the GST Portal (www.gst.gov.in), selecting the appropriate return form, entering the necessary details, and submitting the form with authentication via Digital Signature Certificates (DSC), Electronic Verification Code (EVC), or Aadhar-based OTP. Serious offenses under Section 132 of the CGST Act, such as tax evasion and issuing fake invoices, can result in prosecution with penalties ranging from fines to imprisonment for one to five years. Taxpayers can appeal against GST decisions starting with the Appellate Authority, moving up to the Appellate Tribunal, High Courts, and the Supreme Court, within prescribed time limits and formats, including a pre-deposit of 10% of the disputed amount for appeals to the Appellate Authority.



1. What is the threshold limit for GST registration for businesses in India?

- a. Rs. 5 lakhs
- b. Rs. 10 lakhs
- c. Rs. 20 lakhs
- d. Rs. 50 lakhs

2. What is the GST rate on essential goods like milk, fruits, and vegetables?

- a. 0%
- b. 5%
- c. 12%
- d. 18%

3. What is the due date for filing GST returns in India?

- a. 15th of every month
- b. 20th of every month

- c. 25th of every month
- d. Last day of every month

4. What is the penalty for late filing of GST returns in India?

- a. Rs. 100 per day
- b. Rs. 500 per day
- c. Rs. 1000 per day
- d. Rs. 5000 per day

5. Refund of GST is not applicable in the case of

- a) Imports
- b) Notified Multilateral Financial Institution
- c) Embassy of foreign countries
- d) Zero rated supplies;

4.6 Unit Summary

The **Goods and Services Tax (GST) Act, 2017** is India's comprehensive legislation governing the taxation of goods and services. It outlines procedures such as registration, which is mandatory for businesses exceeding specified turnover thresholds, and includes provisions for amendments to registration details. GST imposes different tax rates—Integrated GST (IGST), Central GST (CGST), State GST (SGST)/Union Territory GST (UTGST)—based on the nature of transactions. Assessment under GST includes self-assessment by taxpayers, provisional assessments in certain cases, and scrutiny of returns to ensure compliance. The Act provides for the assessment of non-filers and unregistered persons, as well as special cases necessitating unique assessment methods. Tax invoices, credit and debit notes, and the payment of taxes are standardized under GST. Input Tax Credit (ITC) allows businesses to offset taxes paid on inputs against their final tax liability. Anti-profiteering measures ensure benefits of GST rate reductions are passed on to consumers. Filing returns is mandatory, with penalties for non-compliance and provisions for prosecution in severe cases. Taxpayers have avenues for appeal and revision through appellate authorities to resolve disputes under the GST regime effectively.

4.7 Glossary

Registration	Mandatory process for businesses exceeding turnover thresholds to enroll under GST, facilitating compliance and tax collection.
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Amendment of Registration	Process allowing registered businesses to update their GST registration details, such as address change or business activities, ensuring accurate record-keeping.
Rates of Tax	Tax rates under GST include Integrated GST (IGST) for interstate transactions, Central GST (CGST) for intra-state transactions, and State GST (SGST)/Union Territory GST (UTGST) for transactions within states/union territories, each determined to maintain revenue neutrality.
Scrutiny of Returns	Examination of filed tax returns by tax authorities to verify accuracy, completeness, and compliance with tax laws.
Self-assessment	Method where taxpayers calculate and report their own GST liability, ensuring transparency and timely tax payment.
Assessment of GST:	Process where tax authorities review filed returns to verify accuracy and compliance with GST laws.
Tax Invoice	Document issued by a registered taxpayer to another party detailing goods or services supplied, essential for claiming Input Tax Credit (ITC) and compliance with tax regulations.
Anti-Profiteering	Measures to ensure businesses pass on the benefits of reduced GST rates or input tax credit to consumers, preventing unjust enrichment.
Appeal and Revision	Legal recourse available to taxpayers to challenge tax assessments or decisions made by tax authorities, ensuring fair resolution of disputes under the law.
Filing of Returns	Mandatory submission of periodic tax declarations by taxpayers, detailing income, deductions, and tax liabilities under GST or other tax regimes.

4.8 SelfAssessmentQuestions

ShortAnswers:(5Marks) K3/K4LevelQuestions

Sl.no	Question s	Level
1.	What are the circumstances under which a person is not required to register under GST as per Schedule III of the GST Act?	K3
2.	Briefly explain the process for amending a GST registration.	K3
3.	What is the standard rate of GST for services under CGST and SGST?	K3
4.	What is self-assessment under GST?	K3
5.	Explain the concept of self-assessment under the GST regime.	K3
6.	When can a taxpayer opt for provisional assessment under GST?	K4
7.	What is the purpose of scrutiny of returns under GST?	K4
8.	Explain the circumstances under which an unregistered person is assessed under GST.	K4
9.	Explain the provisions related to the assessment of non-filers of returns under the GST regime.	

10.	What is the time limit for filing an appeal before the Appellate Authority under GST?	
11.	What are the mandatory contents of a tax invoice under GST?	
12.	When is a credit note issued under GST? Briefly explain its significance.	
13.	What are the due dates for filing GSTR-1 and GSTR-3B?	
14.	Briefly explain the penalty for failure to furnish returns under GST.	
15.	What constitutes an offense for prosecution under GST?	

EssayTypeAnswers:(8Marks)K5/KSLevelQuestions

Sl.no	Questions	Level
1.	Discuss the criteria and procedure for registration under GST. What are the special provisions for casual taxable persons and non-resident taxable persons?	K5
2.	Describe in detail the steps involved in amending a GST registration and the types of amendments that can be made.	K5
3.	Compare and contrast the rates of IGST, CGST, and SGST/UGST for goods and services. Provide examples of goods or services taxed at	K5
4.	Discuss the different types of assessments under GST. How do these assessments ensure compliance and accuracy in tax reporting?	K5
5.	Analyze the importance of self-assessment in the GST framework. How does it facilitate tax compliance and administration?	K5
6.	Describe the process and significance of the scrutiny of returns under GST. What are the possible outcomes of such scrutiny?	K6
7.	Examine the assessment procedure for non-filers of returns under GST. What penalties and actions are imposed on non-filers?	K6
8.	Discuss the provisions related to the best judgment assessment under GST. Under what circumstances is this type of assessment carried out?	
9.	Explain the differences between a tax invoice and a bill of supply. In which scenarios is each document used?	
10.	Analyze the impact of credit and debit notes on the output tax liability of a registered person under GST.	
11.	Elaborate on the various modes of payment of GST and the process for each mode.	
12.	Discuss the reversal of input tax credit under GST. Under what circumstances is ITC required to be reversed?	
13.	Describe the process and significance of the scrutiny of returns under GST. What are the possible outcomes of such scrutiny?	
14.	Critically analyze the concept of anti-profiteering under GST. How does the law ensure that the benefits of reduced tax rates are passed on to consumers?	

4.9 Activities-Assignment



Activities

1. ABC Pvt. Ltd. is a new company that has just crossed the turnover threshold requiring it to register for GST. The company is unsure about the registration process under Schedule III and is considering the amendment of its registration to include additional business verticals later.

Assignment Questions:

1. What is the procedure for GST registration under Schedule III for ABC Pvt. Ltd.?
 2. Explain the steps involved in amending the GST registration to add new business verticals.
 3. What documents are required for the initial registration and subsequent amendments?
2. PQR Enterprises has various assessment types under GST such as self-assessment, provisional assessment, and scrutiny of returns. They have concerns about compliance, especially in cases of non-filers and unregistered persons.

Assignment Questions:

1. Explain the process of self-assessment under GST and its significance for PQR Enterprises.
2. What are the procedures for provisional assessment and scrutiny of returns?
3. Discuss the steps involved in the assessment of non-filers of returns and unregistered persons.
4. How does the GST Act address assessment in certain special cases?



4.10 Topics for Discussion (Quadrant-4)

1. Differentiate between IGST, CGST, SGST, and UGST and explain when each is applicable.
2. How are the tax rates determined for different goods and services under GST?
3. Provide examples of products with their respective tax rates for IGST, CGST, and SGST/UGST.

4.10 Answers for Check your Progress

Section 4.1	Goods and Services Tax
1	D
2	A
3	C
4	A
5	A
Section 4.2	Rates of Tax IGST, CGST, SGST/UGST
1	D
2	A
3	B
4	D
5	B
Section 4.3	Tax Invoice
1	D
2	C
3	A
4	A
5	D
Section 4.4	Payment of Tax
1	B
2	D
3	B
4	D
5	C

Section 4.5	Filing of Returns
1	C
2	A
3	B
4	A
5	B

4.11 OpenSource E-Content Links

Sl. no	Topic	E-Content Link
1	GST Registration Process	https://www.youtube.com/watch?v=jL7R6MOwIW4
2	Tax Invoices, Debit and Credit Notes under GST	https://www.knowyourgst.com/
3	GST Registration, Filing Returns, and Input Tax Credit	https://www.youtube.com/watch?v=yVWoSmuA7GU
4	Tax Invoice, Credit & Debit Notes, E-Way Bill	https://www.youtube.com/watch?v=SqRhH3pNETY#:~:text=URL%3A%20https%3A%2F%2Fwww
5	GST Return Filing:	https://www.youtube.com/watch?v=kgOqcf45Sel

4.12 Suggested Readings /References

1. Balachandran V, (2021) Textbook of GST and Customs Law, Sultan Chand and Sons, New Delhi
2. Taxmann Publications "GST Ready Reckoner" and "GST Case Digest"
3. Wolters Kluwer "GST Law & Procedure" comprehensive coverage of ITC rules and procedures
4. "GST Law Manual" by for a practical understanding of registration procedures.
5. Websites of CBIC (www.cbic.gov.in) and GSTN (www.gstn.org)

UNIT OBJECTIVES

In this unit, learners will have a comprehensive understanding Customs Act, 1962 its importance, types of customs duty and levy of customs duty and to compute customs duty as per Customs Act.

TAXATION

SECTION 5.1: CUSTOMS ACT 1962

5.1.1 - Introduction

The major economic function of indirect taxation in a developing economy is to help transfer real resource to the public sector, raise savings and investment, and influence the allocation of resources in the private sector of the economy in accordance with social priorities. Given the need to raise the rate of savings in a country like India, the role of indirect taxation in this regard may be said to be crucial.

It is a duty or tariff imposed by law on imports or exports.

It is levied and collected by the central government.

It is levied under the Customs Act 1962.

It is charged at rates specified in the Customs Tariff Act 1975.

It extends to the whole of India.

The Act was introduced in the year 1962 and it came into force on 1.2.1963.

5.1.2 - Meaning of Customs Duty

The term customs have derived its essence from the term custom, which means a customary practice or a course of action that is observed and repeated in the like circumstances. Customs duty has been in vogue from ancient times.

In the present time customs duty means a tax which is levied by the Government on import of goods into India and export out of India. It is a central tax and mainly imposed on imported goods. Generally Govt. levies export duty on a very few items due to export promotion. At present peak rate of customs duty is 10%.

5.1.3 - Important Definitions

- (1) "adjudicating authority" means any authority competent to pass any order or decision under this Act, but does not include the Board Commissioner (Appeals) or Appellate Tribunal;
- (1A) "aircraft" has the same meaning as in the Aircraft Act, 1934 (22 of 1934);
- (1B) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129;
- (2) "assessment" includes provisional assessment, reassessment and any order of assessment in which the duty assessed is nil;
- (3) "baggage" includes unaccompanied baggage but does not include motor vehicles;
- (4) "bill of entry" means a bill of entry referred to in section 46;
- (5) "bill of export" means a bill of export referred to in section 50;
- (6) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);
- (7) "coastal goods" means goods, other than imported goods, transported in a vessel from one port in India to another;
- (7A) "Commissioner (Appeals)" means a person appointed to be a Commissioner of Customs (Appeals) under sub-section (1) of section 4;
- (8) "Commissioner of Customs", except for the purposes of Chapter XV, includes an Additional Commissioner of Customs;
- (9) "conveyance" includes a vessel, an aircraft and a vehicle;
- (10) "customs airport" means any airport appointed under clause (a) of section 7 to be a customs airport;
- (11) "customs area" means the area of a customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities;

- (12) "customs port" means any port appointed under clause (a) of section 7 to be a customs port and includes a place appointed under clause (aa) of that section to be an inland container depot;
- (13) "customs station" means any customs port, customs airport or land customs station;
- (14) "dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;
- (15) "duty" means a duty of customs leviable under this Act;
- (16) "entry" in relation to goods means an entry made in a bill of entry shipping bill or bill of export and includes in the case of goods imported or to be exported by post, the entry referred to in section 82 or the entry made under the regulations made under section 84;
- (17) "examination", in relation to any goods, includes measurement and weighing thereof;
- (18) "export", with its grammatical variations and cognate expressions means taking out of India to a place outside India;
- (19) "export goods" means any goods which are to be taken out of India to a place outside India;
- (20) "exporter", in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter;
- (21) "foreign-going vessel or aircraft" means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, and includes –
- (i) any naval vessel of a foreign Government taking part in any naval exercises;
 - (ii) any vessel engaged in fishing or any other operations outside the territorial waters of India;
 - (iii) any vessel or aircraft proceeding to a place outside India for any purpose whatsoever;
- (21A) "Fund" means the Consumer Welfare Fund established under section 12C of the Central Excises and Salt Act, 1944 (1 of 1944);
- (22) "goods" includes –

(a) vessels, aircrafts and vehicles;(b) stores;(c) baggage;(d) currency and negotiable instruments; and(e) any other kind of movable property;

(23) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(24) "import manifest" or "import report" means the manifest or report required to be delivered under section 30;

(25) "imported goods" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

(26) "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer;

(27) "India" includes the territorial waters of India;

(28) "Indian customs waters" means the waters extending into the sea up to the limit of contiguous zone of India under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Maritime Zones Act, 1976 (80 of 1976) and includes any bay, gulf, harbour, creek or tidal river;

(29) "land customs station" means any place appointed under clause(b) of section 7 to be a land customs station;

(30) "market price", in relation to any goods, means the wholesale price of the goods in the ordinary course of trade in India;

(31) "person-in-charge" means, -

(a) in relation to a vessel, the master of the vessel;(b) in relation to an aircraft, the commander or pilot-in-charge of the aircraft;(c) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;(d) in relation to any other conveyance, the driver or other person-in-charge of the conveyance;

- (32) "prescribed" means prescribed by regulations made under this Act;
- (33) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;
- (34) "proper officer", in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the Commissioner of Customs;
- (35) "regulations" means the regulations made by the Board under any provision of this Act;
- (36) "rules" means the rules made by the Central Government under any provision of this Act;
- (37) "shipping bill" means a shipping bill referred to in section 50;
- (38) "stores" means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;
- (39) "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;
- (40) "tariff value", in relation to any goods, means the tariff value fixed in respect thereof under sub-section (2) of section 14;
- (41) "value", in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) of section 14;
- (42) "vehicle" means conveyance of any kind used on land and includes a railway vehicle;
- (43) "warehouse" means a public warehouse appointed under section 57 or a private warehouse licensed under section 58;
- (44) "warehoused goods" means goods deposited in a warehouse;
- (45) "warehousing station" means a place declared as a warehousing station under section 9.

Some important terms are as follows

1.—Customs airport

means any airport appointed under clause (a) of section 7 to be a customs airport [Section 2(10)].

2. —Customs area

means the area of a customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities [Section 2(11)].

3. —Customs port

means any port appointed under clause (a) of section 7 to be a customs port and includes a place appointed under clause (aa) of that section to be an inland container depot [Section 2(12)].

4. —Customs station

any customs port, customs airport or land customs station [Section 2(13)].

5. Import with its grammatical variations and cognate expressions, means bringing into India from a place outside India [Section 2(23)].

6. 'Import goods' means —any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption [Section 2(25)].

7. Importer in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer [Section 2(26)].

8. 'Import Manifest' or import report means the manifest or report required to be delivered under section 30. [Section 2(24)]

9. Person-in-charge

means, - (a) in relation to a vessel, the master of the vessel; (b) in relation to an aircraft, the commander or pilot-in-charge of the aircraft; (c) in relation to a railway train, the conductor, guard or other person having the chief direction of the train; (d) in relation to any other conveyance, the driver or other person-in-charge of the conveyance; [Section 2(31)]

10. —Land Customs Station

means any place appointed under clause (b) of section 7 to be a land customs station [Section 2(29)] The organisations which play vital roles in the clearance of Import cargo are:

(i) The Steamer Agents/Airline Companies as the case may be (who are —appointed by the person in charge of a conveyance and who represent to any officer of Customs as an agent,

(Section 148) who transport the goods to India, (carriers). 66 Lesson 6 Part I – Arrival or Departure and Clearance of Imported or Export Goods

(ii) The Port Trust Authorities or International Airport Authorities of India (IAAI) (in case of air consignments) who are approved by the Principal Commissioner of Customs as Custodians of Imported Cargo, (Section 45) who act as bailees and are responsible for the receipt, storage, custody and delivery of the goods, after the customs formalities are complied with by the Importers.

(iii) The Custom House Agents now renamed as customs brokers, who are licenced by the Principal Commissioner of Customs (Section 45) to carry on business as an agent relating to the entry or departure of a conveyance or the Import or the Export of goods at any customs station.

(iv) The Custom Houses comprising particularly Customs Officers of the Appraising Department, viz., the Deputy Commissioner, Appraisers, Examiners and supporting ministerial staff as well as various other units in the Customs House.

5.1.4 - Importance of Customs Duty

- ★ The levy is on goods and the event is import or export only.
- ★ Customs duty is levied on goods belonging to Government as well as goods not belonging to Government.
- ★ It means even goods imported by Govt, are to suffer duty.
- ★ To impose Customs duty the transaction need not be a sale or purchase. Customs duty will be levied on goods received by an agent in India from his overseas principal.
- ★ Customs duty is attracted even in the case of baggage brought by the passenger.
- ★ The customs duty is not distributed between the central and states as the constitution does not provide for such distribution.

5.1.5 - Objectives of Customs Duties

- ⇒ To safeguard domestic trade by imposing duty on imported goods.
- ⇒ To discourage imports.
- ⇒ To levy and collect adequate revenue resources for the economic development of India.

- ⇒ To protect Indian Industries in the interest of trade, commerce and economy.
- ⇒ To provide for necessary powers to the Central Government to prevent smuggling activities.
- ⇒ To ensure that the home markets do not become a dumping ground for foreign goods.
- ⇒ To raise revenue.

The major objectives of imposing export duties

- ⇒ Export duties for revenue purposes, for anti-inflationary condition, to stabilize price of essential commodities, to protect home industries.
- ⇒ Export duties as countervailing measure, to control export of raw material

5.1.6 - Merits and Demerits

Merits of Customs Duty

- Regulating import and export
- Protection to Domestic industries
- Regulating the international trade competition
- Checking on wasteful expenditure

Demerits of Customs Duty

- Increase the prices
- Increase the cost of project
- Domestic industries become lethargic
- Incidence of customs Duty is uniform without discrimination
- Corruption

5.1.7 - Sources of Custom Laws

Customs law is a combined study of the Customs Act 1962, Customs Tariff Act 1975, Annual Union Finance Acts, Rules and Notifications, circulars/instructions, Trade Notices/ Clarifications and case laws.

(1) Customs Act 1962: Customs Act, 1962 contains the provisions governing the imports and export duty imposed on import and export of goods.

(2) Customs Tariff Act, 1975: Contains the provisions relating to various types of customs duties and the classification of imported and export goods.

(3) Rules and Regulations: Some of the rules and regulations issued under the Customs Act 1962 are the Customs valuation (determination of value of export goods) Rules 2007, Baggage Rules, 1998, Export Manifest (Vessels) Regulations, 1976 etc.

Section 5.1.8: Constitutional authority for levy of customs duty

There are four stages in any tax structure, viz., levy, assessment, collection and postponement. The basis of levy of tax is specified in Section 12, charging section of the Customs Act. It identifies the person or properties in respect of which tax or duty is to be levied or charged. Under assessment, the liability for payment of duty is quantified and the last stage is the collection of duty which is may be postponed for administrative convenience.

As per Section 12, customs duty is imposed on goods imported into or exported out of India as per the rates specified under the Customs Tariff Act, 1975 or any other law.

On analysis of Section 12, we derive the following points:

- (i) Customs duty is imposed on goods when such goods are imported into or exported out of India;
- (ii) The levy is subject to other provisions of this Act or any other law; (iii) The rates of Basic Custom Duty are as specified under the Tariff Act, 1975 or any other law;
- (iv) Even goods belonging to Government are subject to levy, though they may be exempted by notification(s) under Section 25. Custom Tariff Act, 1975 has two schedules. Schedule I prescribes tariff rates for imported goods, known as —Import Tariff and Schedule II contains tariff for export goods known as —Export Tariff.

5.1.9 - Taxable Event

The basic condition for levy of customs duty is import/export of goods i.e. goods become liable to duty when there is import into or export from India. — Import means bringing into India from a place outside India [Section 2(23)]. — Export means taking out of India to a place outside India

[Section 2(18)]. — "India" includes the territorial waters of India [Section 2(27)]. The limit of the territorial waters is the line every point of which is at a distance of twelve nautical miles from the nearest point of the appropriate baseline. Though the taxable event is import/export yet it is difficult to determine the exact time of levy. The provision of assessment and collection of duty will be discussed in other parts.

Here in this part, we will discuss the types of duties leviable under Custom Tariff Act. As per section 12, Customs duties are levied on the goods imported into, or exported from, India at the rates specified in the schedules to the Customs Tariff Act, 1975. The first schedule prescribed the rates of duty on imports and Second schedule prescribe the rates of duty on exports.

5.1.10 - Types of Customs Duty

There are 13 sections in the Customs Tariff Act, 1975. They prescribe a variety of duties.

- **Basic Customs Duty:**

Basic Customs Duty is levied under section 12 of the Customs Act. The rates at which duties of customs shall be levied are specified in the First and Second Schedules to the Customs Tariff Act, 1975.

- **Additional Customs Duty (CVD) for Excise:**

This duty is popularly known as countervailing duty because it is levied to counter balance the excise duty in India for such imported items. Under Section 3(1) of the Customs Tariff Act, an additional duty on goods imported into the country is levied. The rate of this duty is equal to the excise duty on like articles produced or manufactured in India.

- **Additional Customs Duty for sales tax:**

Special Additional Duty is levied under section 3(5) of the Customs Tariff Act accordingly, any article which is imported into India shall in addition, be liable to a special additional duty, which shall be levied at a rate of 4% having regard to the maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India.

- **Safeguard duty :**

Central Government is empowered to impose safeguard duty in specified imported goods if central Government is satisfied that the goods are being imported in large quantities and under such

conditions that they are causing or threatening to cause serious injury to domestic industry. Such duty is permissible under WTO agreement. The only condition under WTO is that it should not discriminate between imports from different countries having Most Favored Nation (MFN) status.

- **Protective duties:**

Section 6 of the Customs Tariff Act empowers the Central Government to levy a protective duty based on a recommendation made by the Tariff Commission.

- **Countervailing duty :**

If a country pays any subsidy (directly or indirectly) to the exporters for exporting goods to India, Central Government can imposed Countervailing duty upto the amount of subsidy cannot be ascertained, provisional duty can be collected and after final determination, difference may be refunded. Such imposition should be by way of a notification.

- **Anti-Dumping duty:**

Dumping means export of an article from any country or territory to India at less than its normal value i.e. when the prices at which the goods are exported to India are less than the comparable price for the like product when destined for consumption in the domestic market of the exporting country. Anti dumping duty is imposed for offsetting the adverse effects of increased imports, subsidized imports or dumped imports.

- **Export duty :**

At present, 15% Export Duty is levied only on hides, skins and leather, and duty of 10% is levied on snake skins, hides, skins and leathers, and fur lamb skins (No export duty is levied on hides, skins and leather of finished leather of goat, sheep and bovine animals and their young ones). There is no export duty on any other product.

5.1.11 - Difference between Safeguard duty and Anti-dumping duty

S.no	Safeguard duty	Anti-dumping duty
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1.	legal authority The safeguard duty on imported goods is leviable under Section 8B of the Customs Tariff Act, 1975.	The Government has been given the powers under Section 9A of the Customs Tariff Act, 1975 to levy anti-dumping duty.
2.	Purpose Safeguard duty is levied in order to ensure that goods imported in increased quantity do not cause or threaten to cause serious injury to domestic industry.	Anti-dumping duty is levied on the dumped articles in order to protect the domestic market.
3.	Nature Safeguard duty relates to quantum of imports.	Anti-dumping duty is concerned with valuation of imported goods.
4.	Duration Safeguard duty is effective for 4 years, but in appropriate cases can be extended to a period not exceeding 10 years.	Anti-dumping duty is effective up to 5 years and can be extended in certain cases for a further period of

Let's Sum Up

To sum up, Customs Act, 1962 serves as the principal legislation governing the imposition and collection of customs duties in India. Customs duty includes the tax levied on imports and exports of goods. Key definitions include terms like "import," "export," and "customs area." The importance of customs duty lies in revenue generation, regulation of imports and exports, and protection of domestic industries. The objectives of customs duties encompass raising government revenue, protecting domestic manufacturers, and regulating the movement of goods. The merits of customs duties include revenue generation and industry protection, while demerits involve increased costs for consumers and potential trade barriers. Sources of custom laws include the Customs Act, 1962, Customs Tariff Act, 1975, and various notifications and circulars issued by the government. The constitutional authority for levy of customs duty is derived from Article 265 of the Indian Constitution. There are various Types of Customs Duty, such as basic customs duty, additional customs duty, and protective duty. Safeguard Duty is imposed to protect domestic

industries from a surge in imports, while Anti-Dumping Duty is levied to protect against goods sold below fair market value, which can harm local industries.



1. Customs Act, 1962 extends to

- (A) Whole of India excluding Jammu & Kashmir
- (B) Whole of India
- (C) Whole of India excluding Jammu & Kashmir and Union Territories
- (D) Whole of India excluding Jammu & Kashmir and Special Economic Zones

2. Under the Customs Act, 1962, the rulemaking power is delegated to

- (A) Central Board of Indirect Taxes and Customs (CBIC)
- (B) Central Government
- (C) Respective State Governments
- (D) Partly to the Central Government and partly to the respective State Governments

3. "Customs Station" means

- (A) Any customs port
- (B) Any customs airport
- (C) Any international courier terminal
- (D) All of the above

4. Basic Custom Duty could be levied at

- (A) Standard Rate
- (B) Preferential Rate
- (C) Both (A) and (B)
- (D) Either (A) or (B)

5. The general basic rate of basic customs duty is

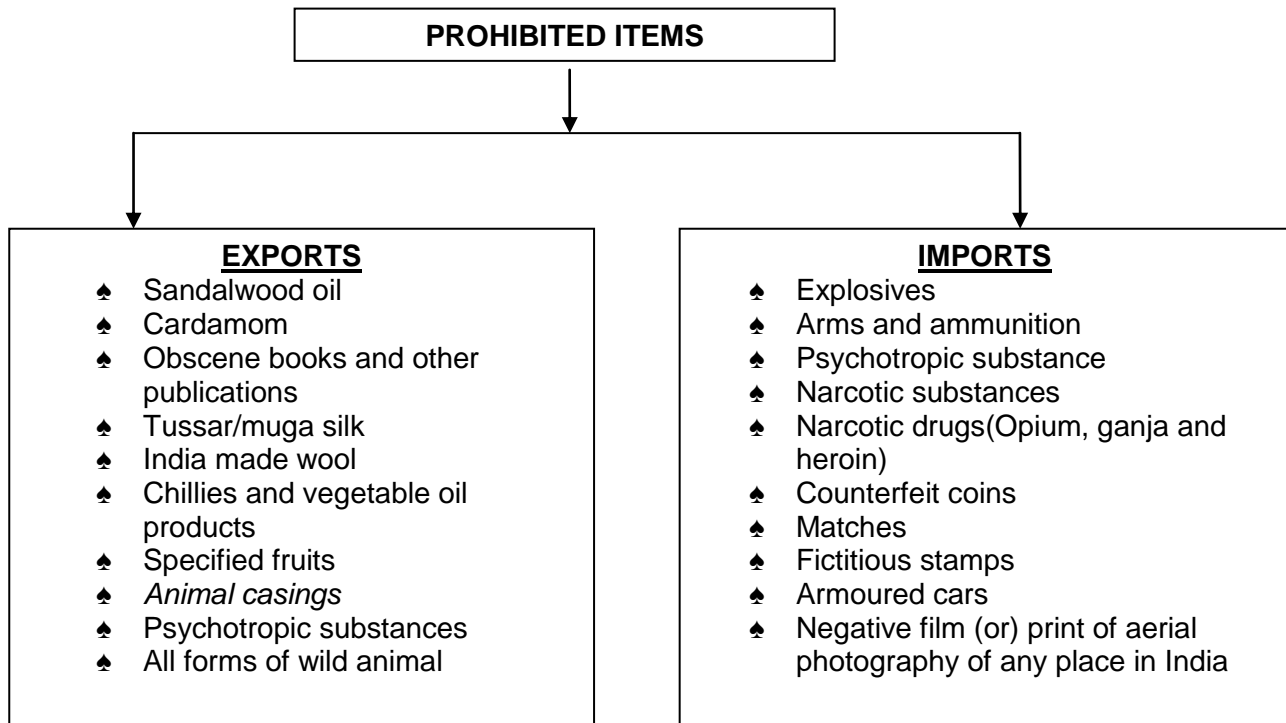
- (A) 5%
- (B) 10%
- (C) 15%
- (D) 7.5%

TAXATION

Section 5.2: Prohibition of Importation and Exportation of Goods

PROHIBITED ITEMS OF IMPORT AND EXPORT

Some of the prohibited items of import/export are shown here under



5.2.1 - Provisions for detection of illegally imported goods and prohibition of disposal sec 11A to 11G

The following are the special measures taken by central govt, to stop to detect illegal imports.

1. Notified goods:

The goods prone to illegal import of high magnitude are identified and notified by Central Government through notifications published in the official gazette. They are called "Notified goods". Sec. 1 IB of the Customs act, 1962 empowers the Central Govt, to notify goods.

2. Power of Central Govt, to notify goods Sec. 1 IB:

Section 11B empowers the Central Govt; for the purpose of checking illegal import (or) disposal of such illegally imported goods, with a view to protect public interest, to declare such goods as "notified goods" by notification in the official gazette.

3. Persons possessing notified goods to intimate the place of storage Sec. 11C:

Every person possessing any notified goods will be required, within seven days from the date, to deliver to the proper officer a statement as prescribed, in relation to notified goods owned, possessed or controlled by him and place where goods are kept or stored.

4. Precautions to be taken by persons acquiring notified goods Sec 11D:

A person can acquire any notified goods only if,

- ❖ A person who has himself imported any goods, by any evidence showing clearance of such goods by customs authorities and,
- ❖ He has taken, before acquiring such goods from a person other than a dealer having fixed place of Business, such reasonable steps as may be notified by the rules made in this behalf, to ensure that goods so acquired have not been illegally imported

5. Persons possessing Notified goods to maintain Accounts Sec 11E:

Persons possessing notified goods are required to maintain a true and complete account of the notified goods acquired, transferred / parted with this account is required to be kept along with the notified goods at the place of storage.

6. Sale etc of notified goods to be evidence by vouchers Sec. 11F:

A person cannot sell or otherwise transfer any notified goods, unless every transaction in relation to sale (or) transfer of such goods is evidenced by a voucher containing following particulars.

- ❖ Name and full business address of the person selling or transferring notified goods.
- ❖ Particulars of notified goods.
- ❖ Time and date of sale or transfer,
- ❖ Name and full address of the person to whom notified goods are sold or transferred.

Conditions as above not to apply to goods in personal use Sec 11G:

The conditions prescribed in the case of possession acquisition, transfer etc. of notified goods shall not apply to any notified goods which are,

1. In personal use of the person by whom they are owned, possessed or controlled or
2. Kept in the residential premises of a person for his personal use.

5.2.2 - Provision for prevention and Detection of illegal export of goods

It deals with provisions in respect of prevention (or) detection of illegal export of goods.

1. Specified goods:

For the purpose of prevention and detection, the Central Government is authorized by Section 11-1 to identify goods prone to illegal export. These goods are called "Specified goods". For this purpose area vulnerable to export smuggling is notified by Govt. This area is called "Specified area".

Silver, bullion, and coins have been specified and such goods under the notification issued and the following restrictions apply to these specified goods.

2. Persons possessing specified goods to intimate the place of storage Sec. 11-J:

Every person who owns, possess or controls, on the specified date, any specified goods the market price of which exceeds Rs. 15,000, he is required, within seven days from that date, to deliver to the proper officer an intimation containing particulars of place where such goods are kept (or) stored within the specified area. A similar intimation is to be given by any person who acquires any specified goods within the specified area, before making such acquisition.

3. Transport of specified goods to be covered by vouchers Sec. 11-K:

Any specified goods can be transported from, into (or) within any specified area or loaded on any animal or conveyance in such area, only if they are accompanied by a transport voucher as prescribed, duly prepared by the person owning, possessing, controlling or selling such goods.

4. Persons possessing specified goods to maintain accounts Sec 11-L:

Every person who owns, possesses or controls any specified goods within any specified area is bound to maintain a true and proper account of such goods. If the market value of such goods exceeds Rs.15, 000. If at any time on verification by a customs officer, it is found that specified goods are less in qty, then it will be presumed that the shortfall has been illegally exported unless the contrary is proved.

5. Steps to be taken by persons selling or transferring any specified goods Sec. 11-M:

Persons selling or transporting any specified goods within any specified area are required to obtain on their copy of the sale (or) transfer voucher, the signature and full postal address of the

person to whom the goods have been sold (or) transferred. They are also required to take such other reasonable steps, as prescribed to satisfy themselves as to the identity of the purchaser or the transferee. If an after enquiry made by a customs officer, it is found that the purchaser is not readily traceable or is a fictitious person it will be presumed that such goods have been illegally exported unless contrary is proved

6. Restricted items for export –

In this category such goods covered which shall be exported under some restrictions. Such goods can be exported after the fulfillment of required conditions and legal formalities. The list of restricted goods for exportation is as up under –

- 1) Cattle
- 2) Camel
- 3) Chemical fertilizers
- 4) Fresh and frozen silver pom fishes
- 5) Fur, hides and skins
- 6) Industrial leather, fur leather, luggage leather, shoe upper leather.
- 7) Ores of chrome, manganese
- 8) Pulses, paddy, rice bran, seeds and planting material
- 9) Sea shells
- 10) Silk worms
- 11) Groundnut oil in consumer packs above 5 kgs.
- 12) Vintage motor cars,
- 13) Human blood plasma
- 14) Waste special minerals
- 15) Viscose staple fiber and Chemicals for weapons

Aforesaid restricted items can be exported by dealers and agencies after obtaining license. They should follow the conditions mentioned in license.

5.2.3 - Procedure for Import

Import Procedure has been explained as follows

- Goods should arrive at customs port
- Person in charge of conveyance is required to submit import general Manifest/import report

- Goods can be unloaded only after grant of entry inward
- Importer has to submit Bill of Entry
- Goods are assessed to duty
- Goods can be cleared from port after payment of Duty/cleared for warehousing
- Out of customs charge order is issued by customs officer after payment of duty

5.2.4 - Power to Prohibit Importation and Exportation of Goods

Sec 11 of the customs Act empowers the Central Government to prohibit the import or export of goods of any specified description. The conditions for restrictions may be required to be fulfilled before (or) after clearance. The purpose for which importation/exportation can be prohibited are enumerated below.

5.3.5 - Reasons for prohibiting Imports and Exports

- Maintenance of security of India.
- Maintenance of public order and standards of decency & morality.
- Prevention of smuggling.
- Prevention of shortage of goods of any description.
- Conservation of foreign exchange and safeguarding of balance of payments.
- Prevention of surplus of any agricultural produce (or) product of fisheries.
- The establishment of any Industry.
- Prevention of serious injury to domestic production of goods of any description.
- Production of human, animal or plant life (or) health.
- Protection of patents, trademark and copy rights.
- Prevention of deceptive practices.
- Implementation of any treaty, agreement (or) convention with any country.
- Maintenance of International peace and security.
- Conservation of exhaustible natural resources.
- Prevention of the contravention of any law for the time being in force.

Let's Sum Up

To sum up, the prohibition of importation and exportation of goods is enforced to safeguard national security, public health, and morality, protect the environment, and comply with

international obligations. To ensure compliance, there are provisions for detection of illegally imported goods which involve customs surveillance, intelligence gathering, and inspections. Similarly, provisions for prevention and detection of illegal export of goods include monitoring exports, verifying documentation, and conducting physical inspections. The Procedure for Import involves filing an import declaration, paying applicable duties, and undergoing customs inspection. Authorities have the power to prohibit importation and exportation of goods under specific legal frameworks to protect domestic industries, prevent harmful products from entering the market, and preserve national interests. reasons for prohibiting imports and exports include preventing the entry of hazardous materials, protecting endangered species, enforcing sanctions, and preserving cultural heritage. These measures collectively ensure controlled and secure international trade practices.



1. Central Government may prohibit, _____, the import/ export of goods of the specified description

- (A) absolutely
- (B) subject to such conditions specified in the notification
- (C) either absolutely or subject to such conditions specified in the notification
- (D) none of the above

2. What is the minimum penalty for 'prohibited goods'?

- (A) ₹ 5,000
- (B) ₹ 10,000
- (C) ₹ 50,000
- (D) ₹ 1,00,000

3. As per Section 112 of the Customs Act, 1962, what is the penalty for 'dutiable goods' other than prohibited goods?

- (A) 10% of the duty sought to be evaded or ₹ 10,000, whichever is higher.
- (B) Value of goods or ₹ 10,000, whichever is higher.

(C) 10% of the duty sought to be evaded or ₹ 5,000, whichever is higher.

(D) Value of goods or ₹ 5,000, whichever is higher.

4.As per Section 112 of the Customs Act, 1962, what is the penalty for 'prohibited goods'?

(A) Value of goods or ₹ 5,000, whichever is higher.

(B) 10% of the duty sought to be evaded or ₹ 5,000, whichever is higher.

(C) Value of goods or ₹ 10,000, whichever is higher.

(D) 10% of the duty sought to be evaded or ₹ 10,000, whichever is higher..

5.In the case of any goods not intended for use in any 100% EOU, such goods can be stored up to a period of _____

(A) 2 years

(B) 1 year

(C) 6 months

(D) 3 months

TAXATION

Section 5.3: Valuation of Goods Under Customs Act

Customs duty is chargeable on any goods by reference to their value. According to Sec.(2) the value of dutiable goods shall be deemed to be the price at which such goods or ordinarily sold or offered for sale, for delivery at the time and place of importation or exportation in the course of international trade, where the seller and buyer have no interest in the business of each other and the price is the sale consideration for the sale or offer for sale.

For purpose of this Section—

⇒ The 'rate of exchange' means the rate of exchange

⇒ Determined by the Central Government, of

⇒ Ascertained in such manner as the Central Government may direct for the conversion of Indian currency into foreign currency.

5.3.1 - Transaction Value

According to the Customs Valuation Rules, 1988, the Customs Value should normally be the "Transaction Value", i.e., the price actually paid or payable after adjustment by Valuation Factors and subject to (a) Compliance with the Valuation Conditions (see below) and (b) Customs authorities being satisfied with the truth and accuracy of the Declared Value.

Rule 3(i) of the Customs Valuation Rules, the value of imported goods shall be the transaction value. Rule 4(i) thereof states that the transaction value of imported goods shall be the price actually paid or payable for the goods when sold for export to India, adjusted in accordance with the provisions of Rule 9.

The price actually paid or payable is the total payment made or to be made by the buyer to the seller or for the benefit of the seller for the imported goods. It includes all payments made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller.

Rule 10A of the Customs Valuation Rules, valuation has to be carried out by another method in the following hierarchical order:

- Comparative Value Method – Comparison with Transaction Value of Identical goods (Rule 5);
- Comparative Value Method – Comparison with Transaction Value of Similar goods (Rule 6);
- Deductive Value Method – Based on sale price in the importing country (Rule 7); Computed Value Method – Based on cost of materials, fabrication and profit in the country of production (Rule 7A);
- Fallback Method – Based on previous methods with greater flexibility (Rule 8).

5.3.2 - Exemptions from Customs Duty

It has just been observed that the Central Government is also empowered to grant ad hoc exemptions. Accordingly, exemptions are granted in respect of:

- ⇒ High dignitaries/ VVIPs, Equipment imported for fairs/exhibitions.
- ⇒ Imports by Indian Navy, equipment required by Police, Ministry of Defense, etc.
- ⇒ Import computer software, research materials, scientific equipment by Universities, Research Institutions etc and import of input (raw materials) components used for manufacturing final products. Exports from Free Trade Zones as well as by 100% Export Oriented Units in India.

5.3.3 - Conditions for Exemption from Duty

1. Exemption by general notification 25(1):

Section 25(1) of customs Act 1962 authorizes Central Government to issue notifications granting exemptions from duty. General notification granting exemption is published in official Gazette. The exemption is permitted only in the public interest. Exemption notification issued U/S 25 should be laid before parliament. Exemption may be absolute or conditional. When the exemption is subject to conditions, the conditions should be specified in the notification and they may be required to be fulfilled before or after clearance.

Goods exempted by notification

Export of the following goods have been exempted from export duty through notification issued by central Govt. U/S 25(1) of the Act.

Examples: Coffee, tea, Animal feed, Mica, Iron ore, Granite, Black pepper, raw cotton, Cotton waste, Cardamom, Turmeric.

Import of the following goods also have been exempted by notification

- ♣ Specified life saving drugs or equipment for govt, hospitals.
- ♣ High dignitaries / VVIP.
- ♣ Articles of utility imported by disabled and handicapped persons.
- ♣ Equipment imported for fairs/ exhibitions.
- ♣ Empty cylinders imported for re-export filled with gas.
- ♣ Imports by Indian Navy, Police, and Ministry of defense.
- ♣ Import of computer software, research materials, scientific equipment by universities, research institution.
- ♣ Trophies, medals and cups awarded to Indian team, specified sports goods by reputed players.
- ♣ Import of input components used for manufacturing final products.

2. Exemption by special order 25(2):

Under this section the Central Government, is also empowered to grant 'ad hoc' exemptions. Special order is issued separately for each case and communicated to the beneficiary directly by the govt. It can be done only in public interest. The exemption by special order is always 100%. Exemption orders u/s 25 (2) can be issued in favour of individual imports also.

Amendment of sec 25(2):

The finance Act 1999 has amended of the Act to empower the central govt, to exempt from payment of customs duty-

- Goods of strategic nature.
- Goods of secret nature.
- Goods for charitable purpose.

Sec 25 of the customs Act, 1962 has been amended by finance Act, 2003 to provide that no duty will be collected if the total amount of duty leviable is Rs.100 or less

5.3.4 - Difference between Excise Duty and Customs Duty

Excise Duty	Customs Duty
1. It is a tax on production/manufacture of goods.	It is charged in respect of goods imported into/exported from India.
2. Excisable goods have been classified by Central Excise Tariff Act, 1985 for the purpose of levy and rates of duty.	Goods have been classified by Customs Tariff Act for the purpose of levy and rates of duty.
3. Excise duties on medicinal and toilet preparations are levied by Central Government but collected and appropriated by the State Governments.	Customs duties are the sole prerogative of the Central Government.
4. Excise duty is levied by State Governments in respect of alcoholic liquors for human consumption, opium, Indian hemp, narcotics, etc.	State Governments are not empowered to levy customs duty.

5.3.5 - Customs Tariff Act 1985

The act contains various types of customs duty to be levied on the importation and exportation of the articles. It contains two schedules – Schedule –I known as import tariff and Schedule II known as export tariff.

Import tariff contains 98 chapters grouped under 21 sections. This section refers to goods liable to import duty of customs. Export tariff refers to goods liable to export duty of customs.

5.3.6 - Customs Duty Drawback

The term 'drawback of duty' is distinct from the grant of refund of duty. "Drawback" in relation to any goods manufactured in India and exported, means—

- The rebate of duty chargeable on any imported materials or excisable materials used in the manufacture of such goods in India, or
- The rebate of duty chargeable under the Central Excises Act, 1944 on the goods specified in Schedule I.

5.3.7 - Conditions for Claiming Duty Drawback

The following have to be fulfilled in order to claim for repayment of duty drawback:

- The goods on which the drawback is claimed should have been previously imported.
- That the imported goods are capable of being easily identified.
- That the import duty must have been paid on the good when they were imported.
- That the goods must have been entered for export and the proper officer has made an order permitting clearance and loading of the goods for exportation.
- That the goods must be entered for re-export within 2 years from the date of payment of duty. However, the Board may extend the said period of two years if sufficient cause is shown for the purpose.

Let's Sum Up

To sum up, valuation of goods for customs duty is taken and the transaction value is considered as the primary basis for valuing imported goods. Goods which are exempt from customs duty based on specific conditions laid out by the government. Difference between excise duty and customs duty is given to know the differences between both and found the major causes. And for claiming duty drawback the conditions include proper documentation and proof of export and compliance with all procedural requirements set by customs authorities. By understanding these points, businesses can better navigate the complexities of international trade and customs regulations.

1.Valuation for Customs Duty begins with

- (A) Determination of Import Value
- (B) Determination of Transaction Value
- (C) Determination of Invoice Value
- (D) Interrogation of Importer.

2.What is the maximum rate of the drawback of duty as per Section 74 of the Customs Act, 1962?

- (A) 90%
- (B) 80%
- (C) 95%
- (D) 98%

3.Self-assessed goods may be _____ by the proper officer.

- (A) Verified
- (B) Examined
- (C) Tested
- (D) Verified, examined, or tested

4.Safeguard duty is a duty paid on _____

- (A) Import of goods into India
- (B) Export of goods out of India
- (C) (A)or(B)
- (D) (A) and (B)

5.Custom value fixed as per Section 14 is the value that would be used for calculating the customs duty payable. This is also called

- (A) Standard Value
- (B) Assessable Value
- (C) Nominal Value
- (D) Any of the above

TAXATION

Section 5.4: Assessable Value

The assessable value is calculated by adding up the cost of goods, freight for transporting the goods, and insurance charges. There is no specific rate of BCD, and it can vary on the basis of the country of origin and the types of goods being imported.

Assessable value = Cost, Insurance and Freight + Handling charges.

The **Assessable value** form is available only for import orders. For an order other than an import order, landing charges are not included in the assessable value at the time of calculation. You can select the basis for the calculation of customs duty and view the consolidated miscellaneous charges value.

1. Click Accounts payable > Common > Purchase orders > All purchase orders. Select a purchase order and on the Action Pane, on the Purchase order tab, in the Maintain group, click Edit. On the Purchase order form, on the Purchase order lines tab, click Purchase order line > Assessable value.
2. View the purchase order number of import orders in the Purchase order field.
3. View the net amount for the purchase order line in the Net amount field.
4. Select the basis for the calculation of customs duty in the Basis field from the following options:
 - FOB — If the Free on Board (FOB) option is selected, the Misc. charges field is updated with the value set in the Misc. charges transactions form only if the Assessable value check box is selected in the Misc. charges transaction form.
 - CIF — If the Cost, insurance, and freight (CIF) option is selected, the Misc. charges field is not updated with the value set in the Misc. charges transactions form, even if the Assessable value check box is selected.

View the sum of the net amount and the miscellaneous charges amount in the CIF field.

View or modify the landing charges percentage in the Landing charges pct. field, and view the multiplication of landing charges percentage and the CIF amount in the Landing charges field.

View the assessable value in the Assessable value field, that is, the addition of the CIF amount and the landing charges amount.

Click the General tab to view the following the invoice currency, customs currency, and default currency details:

- The FOB, Misc. charges, CIF, landing charges pct., landing charges, and assessable value in the invoice currency and customs currency.
- The exchange rate in customs currency and default currency and the base amount in default currency.

Click Misc. charges to open the Misc. charges transactions form.

5.4.1 - Computation of Assessable Value and Customs Duty

The assessable value of the goods is determined by adding the cost of the goods, insurance charges, and freight charges incurred in transporting the goods to India. The customs duty is then calculated as a percentage of the assessable value.

When goods are imported or exported, the goods are subject to import duty and export duty respectively. It is levied either on specific duty or on ad valorem basis. Specific duty is levied on the quantity of goods and ad valorem duty is imposed on the value of goods. To apply ad valorem one must know the transaction value of goods.

5.4.2 - Transaction value in case of Export

It will be the price actually paid or payable for the goods when sold for export from India for the delivery at the time and place of exportation where the buyer and seller of the goods are not related and the price is a sole consideration for the sale. The value in foreign currency is converted in to Indian currency at the exchange rate given by Central Board of Indirect Taxes and Customs (CBIC) and the rate shall be the rate prevalent on date on which a shipping bill/bill of export has

been presented.

5.4.3 - Transaction value in case of Import

The transaction value in case of import will be price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation where the buyer and seller of the goods are not related and the price is a sole consideration for the sale. The value in foreign currency is converted in to Indian currency at the exchange rate given by Central Board of Indirect Taxes and Customs (CBIC) and the rate shall be the date of bill of entry has been filed under section 46.

In addition to price the value also include the any amount including the following

- Commission and brokerage
- Engineering and design work'
- Royalties and license fees
- Cost of transportation to the place of importation
- Insurance
- Loading, unloading and handling charges.

Let'sSumUp

To sum Up, in this section it is covered computation of assessable value and customs duty. The assessable value is calculated by adding up the cost of goods, freight for transporting the goods, and insurance charges. The assessable value of the goods is determined by adding the cost of the goods, insurance charges, and freight charges incurred in transporting the goods to India. The customs duty is then calculated as a percentage of the assessable value. It is covered Transaction value in case of exportthe price actually paid or payable for the goods when sold for export from India for the delivery at the time and place of exportation where the buyer and seller of the goods are not related and the price is a sole consideration for the sale. Transaction value in case of Import the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation where the buyer and seller of the goods are not related and the price is a sole consideration for the sale. It covered transactional value forboth export and import to determine the assessable value.



1. Which of the following has to be taken as an assessable value under the Customs Act, 1962?

- (A) FOB Value
- (B) CIF Value
- (C) Landed Value
- (D) Import Value

2. What is the interest rate for late payment of customs duty?

- (A) 10%
- (B) 12%
- (C) 15%
- (D) 22%

3. A refund application must be filed within _____ from the date of payment of duty.

- (A) 1 year
- (B) 6 months
- (C) 2 years
- (D) 3 months

4. Which of the following types of goods can be warehoused?

- (A) Only dutiable goods
- (B) All types of imported goods whether dutiable or not
- (C) Only goods to be exported
- (D) Only prohibited goods

5. As per Section 4 of the Customs Act, 1962, who may appoint persons as officers of customs?

- (A) Board
- (B) Central Government
- (C) Board with prior approval of the Central Government
- (D) Board with prior approval of the respective State Governments

5.5 Unit Summary

The **Customs Act, 1962** is the cornerstone legislation for regulating customs duties in India, defining key terms like import, export, and customs area. Customs duty, a crucial tax on imported and exported goods, serves important functions such as revenue generation, protection of domestic industries, and regulation of trade. The authority to levy these duties stems from Article 265 of the Indian Constitution. Various types of customs duties include Basic Customs Duty (BCD), Additional Customs Duty (CVD), Special Additional Duty (SAD), and others designed to safeguard domestic markets and enforce trade policies. The Act prohibits the import and export of certain goods to protect national interests and public welfare. Valuation of goods for customs duty is primarily based on the transaction value, which includes cost, insurance, and freight (CIF). The assessable value, crucial for duty computation, is derived from the transaction value with necessary adjustments. This structured framework ensures accurate computation of customs duties, reflecting the total cost and regulatory compliance required for goods entering or leaving the country. This comprehensive summary encapsulates the key elements of the Customs Act, 1962, providing a clear understanding of its provisions, importance, and the processes involved in customs duties in India.

5.6 Glossary

Customs area	"Customs area" means the area of a customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities
Customs Tariff Act, 1975	Contains the provisions relating to various types of customs duties and the classification of imported and export goods.
Anti-Dumping Duty	Imposed on goods imported at a price lower than their normal value to protect domestic industries from unfair trade practices.
Safeguard Duty	Temporary duty imposed to protect domestic industries from a sudden surge in imports causing or threatening to cause serious injury.
Protection of Domestic Industries	By imposing duties on imports, domestic industries are shielded from foreign competition, fostering local production.

Transactional Value	The actual price paid or payable for goods when sold for export to the importing country. This value serves as the primary basis for determining the assessable value of imported goods, subject to adjustments for certain costs and charges.
Assessable Value	The value of goods on which customs duty is calculated. It typically includes the cost of the goods, insurance, and freight (CIF) up to the port of importation.
Customs Duty	A tax levied by the government on goods imported into or exported out of a country. It serves to generate revenue, protect domestic industries, and regulate the flow of goods.
Prohibition	A legal restriction or ban on the importation or exportation of certain goods. Prohibitions can be implemented for various reasons, including protection of national security, public health, environmental preservation, and compliance with international obligations.
Specific Goods	Goods that are identified and classified for special treatment under customs laws and regulations. These goods may be subject to particular duties, restrictions, or prohibitions based on their nature, use, or impact on the economy, health, or environment

5.7 SelfAssessmentQuestions

ShortAnswers:(5Marks)K3/K4LevelQuestions

Sl.no	Questions	Level
1.	Define Customs Duty and its significance.	K3
2.	Mention different types of customs duties.	K3
3.	Mention the scope and administration of the Act.	K3
4.	Explain the constitutional provisions related to the levy of customs duty.	K3
5.	Highlight the key roles of customs duty in the Indian economy.	K3
6.	Briefly describe the purpose of the Customs Act.	K4
7.	Discuss revenue generation, trade regulation, and protection of domestic industries.	K4
8.	List and briefly explain various types of customs duties like BCD, CVD, SAD, etc.	K4

EssayTypeAnswers:(8Marks)K5/KSLevelQuestions

Sl.no	Questions	Level
1.	Define and discuss the concept of "Transaction Value" under the Customs Act, 1962.	K5

2.	Explain the process of valuation of goods for Customs Duty under the Customs Act, 1962.	K5
3.	What is Assessable Value and how is it computed for the purpose of Customs Duty?	K5
4.	Detail the steps involved in computing customs duty.	K5
5.	Discuss the rules and methods used for valuing imported goods.	K5
6.	Discuss the authority and conditions under which goods can be prohibited from import/export.	
7.	Explain the steps involved in computing assessable value, including transaction value and necessary adjustments.	K6
8.	How is Customs Duty computed? Explain with an example.	K6

UNIT-5-CUSTOMS ACT, 1962-ASSIGNMENTS –Quadrant3

5.8Activities–Assignment



Activities


1. ABC Pvt. Ltd. is a new company that has just crossed the turnover threshold requiring it to register for GST. The company is unsure about the registration process under Schedule III and is considering the amendment of its registration to include additional business verticals later.

AssignmentQuestions:

1. What is the procedure for GST registration under Schedule III for ABC Pvt. Ltd.?
 2. Explain the steps involved in amending the GST registration to add new business verticals.
 3. What documents are required for the initial registration and subsequent amendments?
-
1. XYZ Traders operates in multiple states and deals with both intra-state and inter-state supplies. They need to understand the applicable rates for IGST, CGST, SGST, and UGST for their products.

AssignmentQuestions:

1. Differentiate between IGST, CGST, SGST, and UGST and explain when each is applicable.
2. How are the tax rates determined for different goods and services under GST?
3. Provide examples of products with their respective tax rates for IGST, CGST, and SGST/UGST.
4. What are the procedures for provisional assessment and scrutiny of returns?

	<p><u>5.9 Topics for Discussion (Quadrant-4)</u></p> <ol style="list-style-type: none"> 1. Outline the process of tax payment under GST for OPQ Ltd. 2. What are the conditions for claiming input tax credit (ITC)? 3. What is the anti-profiteering mechanism under the GST Act? 4. Describe the steps involved in the investigation and adjudication of anti-profiteering complaints. 5. What are the due dates for filing these returns? 6. Discuss the consequences of late filing or non-filing of GST
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5.9 Answers for Check your Progress

Section 5.1	Customs Act, 1962
1	B
2	B
3	D
4	D
5	B
Section 5.2	Prohibition of Importation and Exportation of goods
1	C
2	A
3	C
4	A
5	B
Section 5.3	Valuation of goods for Customs Duty
1	C
2	A
3	C
4	A
5	B
Section 5.4	Assessable Value
1	B
2	D
3	D

4	A
5	C

5.10 OpenSource E-ContentLinks

Sl. no	Topic	E-ContentLink
1	Basics of Customs Act, 1962	https://www.youtube.com/watch?v=3ldl6E4cpzQ
2	Customs Act 1962 - Definitions and Types of Customs Duties:	https://www.youtube.com/watch?v=4x8hyt0kMTY
3	Types of Duty	https://www.youtube.com/watch?v=mjPn5ZmsXeU
4	Prohibition of Importation and Exportation of Goods	https://www.youtube.com/watch?v=ot2LK3qSEYY
5	Transaction Value and Assessable Value Calculation	https://www.youtube.com/watch?v=ZQOgbUsEBWk

5.11 Suggested Readings / References

Books

1. "Indirect Taxes" by V.S. Datey
2. "Customs Law Manual" by R.K. Jain
3. "Handbook of Import-Export Procedures" by Krishnan K.J. and Sunil Puri
4. "Practical Guide to Customs Act" by R. K. Gupta
5. "Taxmann's Indian Customs Tariff" by Taxmann Publications

Online Resources

1. Central Board of Indirect Taxes and Customs (CBIC):
 - o Official website: cbic.gov.in
2. Taxmann:
 - o Articles, case laws, and expert analysis: taxmann.com
3. World Trade Organization (WTO):
 - o WTO Valuation Agreement: wto.org
4. Institute of Chartered Accountants of India (ICAI):
 - o Useful for professional courses and certifications: icai.org

