ASSAM UNIVERSITY, SILCHAR
Syllabus for B.Com Course (Based on NEP-2020)

Fourth Semester
Law & Practices of Income Tax (DSC – 252)

Total Marks 100
Internal Assessment: 30 | Credit: 4
Semester End: 70

Unit I: Introduction
Types of Taxes; History & Evolution of Income Tax Structure in India.
Basic concepts as per IT Act, 1961: Income; Agricultural income, Person, Assessee, Assessment year, Previous year, Gross Total Income, Total income, Maximum marginal rate of tax andPermanent Account Number (PAN); Residential status: Scope of total income on thebasis of residential status;Exempted incomes under section 10.

Unit II: Computation of Income from Salaries and House Property
Income from Salaries; Income from House Property.

Unit III: Computation of Income from Business or Profession and Capital Gains
Profits and gains of business or profession; Capital gains.

Unit IV: Income from Other Sources, Clubbing of Income and Set-off
Income from other sources; Income of other persons included in assessee's total income; Aggregation of income and set-off and carry forward of losses.

Unit V: Deductions and Computation of Total Income and Tax Liability
Deductions from gross total income; Rebates and reliefs; Computation of total incomeand tax liability of individuals.

UNIT-I

1. Define the following:
(i)Person. (ii) Income. (iii) Agricultural Income. (iv) Assessee. (v) Assessment Year. (vi) Previous Year. (vii) Gross Total Income. (viii) Total Income. (ix) Maximum Marginal Rate of Tax.

Ans. (i) Person: As per Section 2(31) of Income Tax Act, 1961, the term "person" includes:
(i) an individual,
(ii) a Hindu undivided family,
(iii) a company,
(iv) a firm,
(v) an association of persons or a body of individuals, whether incorporated or not,
(vi) a local authority, and
(vii) every artificial juridical person, not falling within any of the preceding sub-clauses.

(ii) Income: As per Section 2(24) of Income Tax Act, 1961, Income includes:
(i) Profits and gains.
(ii) Dividend.
(iii) Voluntary Contributions received by a trust.
(iv) The value of any perquisite or profit in lieu of salary taxable under section 17(2)(3).
(v) Any special allowance or benefit, other than perquisite included under sub-clause (iii), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit.
(vi) Any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment.
(vii) Value of any benefit or amenity, whether convertible into money or not.
(viii) The value of any benefits or perquisites, whether convertible into money or not.
(ix) Any sum chargeable to income-tax under section 28(u) and (iii) or section 41 or section 59.
(x) Any sum chargeable to tax u/s 28 (iiia).
(xi) Any sum chargeable to tax u/s 28(iiib).
(xii) Any sum chargeable to tax u/s 28 (iiic).
(xiii) The value of any benefit or perquisite taxable under section 28 (iv).
(xiv) Any capital gain taxable under section 45.
(xv) Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever etc.

(iii) Agricultural Income: Agricultural income is defined under section 2(1A) of the Income Tax Act, 1961. According to this Section, agricultural income generally means:
(a) Any rent or revenue derived from land which is situated in India and is used for agricultural purposes.
(b) Any income derived from such land by agriculture operations including processing of agricultural produce so as to render it fit for the market or sale of such produce.
(c) Any income attributable to a farm house subject to satisfaction of certain conditions specified in this regard in section 2(1A).
(d) Any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.
As per Section 10(1) of the Income Tax Act, 1961, agricultural income is exempted from taxation.

(iv) Assessee: As per S. 2(7) of the Income Tax Act, 1961, unless the context otherwise requires, the term "assessee" means a person by whom any tax or any other sum of money is payable under this Act, and includes,-

(a) every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or assessment of fringe benefits or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person;

(b) every person who is deemed to be an assessee under any provision of this Act;

(c) every person who is deemed to be an assessee in default under any provision of this Act.

From above definition, we can construe that normally the term 'Assessee' is considered as one who is supposed to pay tax under the Income Tax Act,

(iv) Assessment Year [section 2(9)]: Assessment Year" means the period of 12 months commencing on the 1 St. day of April every year.
In India, the Govt. maintains its accounts for a period of 12 months i.e. from 1st April to 31st March every year. As such it is known as financial year. The income tax department has also selected same year for its assessment procedure.
The Assessment year is the financial year of the Govt. of India during which income of a person relating to the relevant previous year is assessed to tax. The current assessment year is 2019-20 for the previous year 2018-19.

(v) Previous Year [section 3]: The term previous year is very important because it is the income earned during previous year which is to be assessed to tax in the assessment year. As the word previous means coming before, hence it can be simply paid that the previous year is the financial year preceding the assessment year e.g. for the assessment year 2019-20 the previous year should be the financial year ending on 31st March 2019.
In simple words, it may be said that the year in which income is earned is called previous year and the next year in which income is computed and put to tax is known as assessment year.

(vi) Gross Total Income: As per section 14,income of a person is computed under the following heads:
(i))Salaries,
(ii) Income from House Property,
(iii) Profits and Gains of Business or Profession,
(iv)Capital Gains,
(v)Income from Other Sources.
Aggregate of incomes computed under the above 5 heads, after applying clubbing provisions and making adjustments of set off and carry forward of losses, is known as Gross Total Income (GTI).

(vii) Total Income: As per section 14,income of a person is computed under the following heads:
(i))Salaries,
(ii)Income from House Property,
(iii)Profits and Gains of Business or Profession,
(iv)Capital Gains,
(v)Income from Other Sources.
Aggregate of incomes computed under the above 5 heads, after applying clubbing provisions and making adjustments of set off and carry forward of losses, is known as Gross Total Income (GTI).

From these the deductions allowed under section 80C to 80U will be deducted. The balance left will be the total income or taxable income of the assessee.

(ix) Maximum Marginal Rate of Tax: As per Section 2(29C) of Income Tax Act, 1961, unless the context otherwise requires, the term "maximum marginal rate" means the rate of income-tax (including surcharge on income-tax, if any) applicable in relation to the highest slab of income in the case of an individual, association of persons or, as the case may be, body of individuals as specified in the Finance Act of the relevant year.

In other words, the term maximum marginal rate of income tax refers to the applicable highest rate slab of income tax, mostly in the case of individuals, HUF, etc.

2. What do you mean by Residential Status? What are the different categories of assesses according to their residential status?

Ans. Residential Status is a term coined under Income Tax Act 1961 and has nothing to do with nationality or domicile of a person. An Indian, who is a citizen of India can be non-resident for income tax purposes, where as an American who is citizen of America cab be resident of India for income tax purposes. Residential Status of a person depends upon the territorial connections of the person with this country, i.e. for how many days he has physically stayed in India.
The Residential Status of different types of persons is determined differently. Similarly the Residential Status of the assessee is to be determined each year with reference to the previous year.

Under the provision of Income Tax Act 1961, the total income of each person is based upon his Residential Status. Section- 6 of the Act divides assessable persons into three categories:
(i) Ordinary Resident.
(ii) Resident but Not Ordinarily Resident.
(iii) Non- Resident.

3. How would you determine the residential status of different persons i.e. individual, HUF, company, firm, AOP/BOP and local authority.

Ans. It is important to determine the residential status of a person since the taxability of income of a person depends on his residential status during that financial year.

Under the provision of Income Tax Act 1961, the total income of each person is based upon his Residential Status. Section- 6 of the Act divides assessable persons into three categories:
(i) Ordinary Resident.
(ii) Resident but Not Ordinarily Resident.
(iii) Non- Resident.

I. Individual:
The residential status of individual for the purpose of taxation is determined on the basis of his physical presence in India during the previous year (April 1 to March 31) and proceeding previous years. An individual is said to be a resident of India if he is:

1) Physically present in India for a period of 182 days or more in the previous year, or

2) Physically present in India for a period of 60 days or more during the relevant previous year and 365 days or more in aggregate in four preceding previous years.

If a person doesn't meet any of the above two conditions then he is said to be a non-resident in India for the purpose of taxation in India.

A resident individual is further classified into 'Resident but not Ordinarily Resident' if:

1) His stay in India is of 729 days or less in previous 7 years; and

2) He was considered as 'non-resident' in 9 out of previous 10 years.

II. HUF:
An HUF is said to be resident in India if the control and management of HUF is in India. A resident HUF is further classified into 'Resident but not Ordinarily Resident' if:

a) Stay of Karta in India is 729 days or less in previous 7 years; and

b) Karta was considered as 'non-resident' in 9 out of previous 10 years.

If control and management of HUF is situated wholly outside India then HUF shall be treated as non-resident.

III. Company:
An Indian Co. is always treated as resident in India. However, in the case of a Foreign Co., it shall be treated as resident in India if the Place of Effective Management (POEM) of Foreign Co. is in India. If POEM of Foreign Co. is outside India then it shall be treated as non-resident in India.

IV. Every other person:
In case of every other person, i.e., Firm/BOI/AOP, they will be treated as resident in India if control and management of person is situated in India. If it is situated outside India then status will be non-resident.

It must be noted that if a person is resident in India in a previous year in respect of any source of income, he is deemed to be resident in India in respect of all other sources of income. An assessee is not allowed to claim different residential status for his different sources of income. So, before calculating income during the year, it is most important to calculate the residential status of the assessee during the previous year.

4. Briefly explain the scope of Total Income / Tax liability/Incidence of Tax.
Ans. The tax is levied on total income of a person. The total is based upon the residential status of an assessee. Section-5 provides the scope of total income which varies on the basis of status. The provisions of section-5 can be expressed in the following manner:

I. Taxability of income in case of ordinary resident person: A resident assessee shall be liable to pay tax in India on the following incomes:

1. Income received or is deemed to be received by him in India in the previous year.

2. Income accrues or arises or is deemed to accrue or arise to him in India during such year.

3. Income accrues or arises to him outside India during such year.
Scope of Total Income = Indian Income + Foreign Income.
II. Taxability of income in case of non-ordinary resident person: A resident but not ordinarily resident individual and HUF shall be liable to pay tax in India on the following incomes:
1. Income received or is deemed to be received by him in India in the previous year.

2. Income accrues or arises or is deemed to accrue or arise to him in India during such year.

3. Income accrues or arises to him outside India during such year if it is derived from a business controlled from India or from a profession setup in India.

Scope of Total Income = Indian Income + One particular type of Foreign Income.

III. Taxability of income in case of non-resident person: In case of a non-resident assessee, being an individual, HUF, partnership firm, company or other person, following incomes shall be taxable in India:

1. Income received or is deemed to be received in India by such person in the previous year.

2. Income accrues or arises or is deemed to accrue or arise to such person in India during such year. Scope of Total Income = Indian Income.

5. Explain any ten incomes which are not included in Total Income. Or Give ten examples of income which are totally exempted from tax.

Ans. Section-10 of the Income Tax Act has given a long list of incomes which are totally exempted from tax and so these incomes are not included in the Gross Total Income of the assessee. In other words such incomes are totally tax free. Following are some of the examples of such income:

1. Agriculture Income [Section 10(1)]: As per section 10(1), agricultural income earned by the taxpayer in India is exempt from tax.

2. Any sum received by a Co-parcener from Hindu Undivided Family (H.U.F.) [Section 10(2)]: As per section 10(2), amount received out of family income, or in case of impartibly estate, amount received out of income of family estate by any member of such HUF is exempt from tax.

3. Share of Income from the Firm [Section 10(2A)]: As per section 10(2A), share of profit received by a partner from a firm is exempt from tax in the hands of the partner.

4. Interest paid to Non-Resident [Section 10(4)(i)]: As per section 10(4)(i), in the case of a non-resident any income by way of interest on certain notified securities or bonds (including income by way of premium on the redemption of such bonds) is exempt from tax.

5. Interest to Non-Resident on Non-Resident (External) Account [Section 10(4)(ii)]: Any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India shall be exempt from tax in case of an individual who is a person resident outside India or is a person who has been permitted by the RBI to maintain the aforesaid account

6. Remuneration or Salary received by an individual who is not a citizen of India [Section 10(6)].

7. Perquisites and Allowances paid by Government to its Employees serving outside [Section- 10(7)]

8. Payment received under Bhopal Gas Leak Disaster (Processing of Claims) Act 1985 [Section 10 (10BB)]: Any amount received under the provision of such Act or any scheme framed there under shall be fully exempted.

9. Compensation received in case of any disaster [Section 10(10BC)]: Any amount received from the Central Government or State Government or a Local Authority by an individual or his legal heirs as compensation on account of any disaster is exempt from tax.

10. Tax on Non-monetary Perquisites paid by Employer [Section 10(10CC)]: The income-tax actually paid by the employer himself on a non-monetary perquisite provided to the employee shall be exempt in the hands of the employee.

11. Payment from Statutory Provident Fund [Section 10(11)]: Employer's contribution to such fund is not treated as income of the employee and is exempt in the hands of employees.

12. Payment received from Sukanya Samridhi Account [Section 10(11A)]: Any payment from an account opened in accordance with Sukanya Samridhi Account shall be exempted.

13. Payment from Recognised Provident Fund [Section 10(12)]: The accumulated balance due and becoming payable to an employee participating in a recognised provident fund, is exempt up to 12% of salary

14. Scholarship [Section 10(16)]: The full amount of scholarship granted to meet the cost of education is exempted.

15. Income by way of dividend from Indian company [Section 10(34)]: Dividend received from a domestic company is **exempt** in the hands of the shareholders.

6. What is PAN? How PAN is formed and how it gets its unique identity? State its uses.

Ans: PAN stands for Permanent Account Number. PAN is a ten-digit unique alphanumeric number issued by the Income Tax Department. PAN is issued in the form of a laminated plastic card (commonly known as PAN card). The Permanent Account Number (PAN) is unique to an individual or entity and it is valid across India.

PAN is a ten-digit unique alphanumeric number issued by the Income Tax Department. The formation of PAN is discussed below:

(i) Out of the first five characters, the first three characters represent the alphabetic series running from AAA to ZZZ. (**E.g. ALW**PG5809L).
(ii) The fourth character of PAN represents the status of the PAN holder (E.g. ALWPG5809L). "A" stands for Association of Persons (AoP)

"B" stands for Body of Individuals (BOI)
"C" stands for Company
"F" stands for Firm/Limited Liability Partnership
"G" stands for Government Agency
"H" stands for Hindu Undivided Family (HUF)
"J" stands for Artificial Juridical Person
"L" stands for Local Authority
"P" stands for Individual
"T" stands for Trust

(iii) Fifth character of PAN represents the first character of the PAN holder's last name/surname in case of an individual. In case of non-individual PAN holders fifth character represents the first character of PAN holder's name (E.g. ALWPG5809L)
(iv) Next four characters are sequential numbers running from 0001 to 9999 (E.g. ALWPG5809L).

(v) Last character, i.e., the tenth character is an alphabetic check digit (E.g. ALWPG5809L). The combination of all the above items gives the PAN its unique identity.

The Uses of PAN Card are given below:

(i) **IT Returns Filing**: All individuals and entities who are eligible for Income tax are expected to file their IT returns. A PAN card is necessary for filing of IT returns, and is the primary reason individual as well as other entity applying for one.

(ii) **Opening a bank account**: A PAN card is required in order to open a new bank account, whether it is a savings or a current account. All banks, whether public, private or co-operative, require the submission of a PAN card in order to open an account with them.

(iii) **Buying or selling a motor vehicle:** If you wish to buy or sell a motor vehicle worth more than Rs. 5, 00, 000, you have to provide your PAN Card details when conducting the transaction.

(iv) **Applying for a credit or debit card:** When applying for either a debit card or a credit card at any bank or financial institution, furnishing your PAN card details is mandated by regulations. The bank will not issue the card if this criterion is not met.

(v) **Purchase of jewellery**: If you are looking at buying any sort of jewellery that is valued at over Rs. 5, 00, 000, you will have to provide your PAN card details at the time of purchase.

(vi) **Making investments:** Investing in securities is seen as a good way to build your wealth. If you are considering investing in securities, you would have to furnish your PAN details for any transactions amounting to above Rs. 50, 000. This extends to equities, mutual funds, bonds as well as debentures.

(vii) **Proof of Identity**: a PAN card is accepted as valid proof of identity anywhere in the country, and is also considered as proof of age. It can also be used as proof of identity when making an application for a passport, voter ID card, driving license, electricity connection etc.