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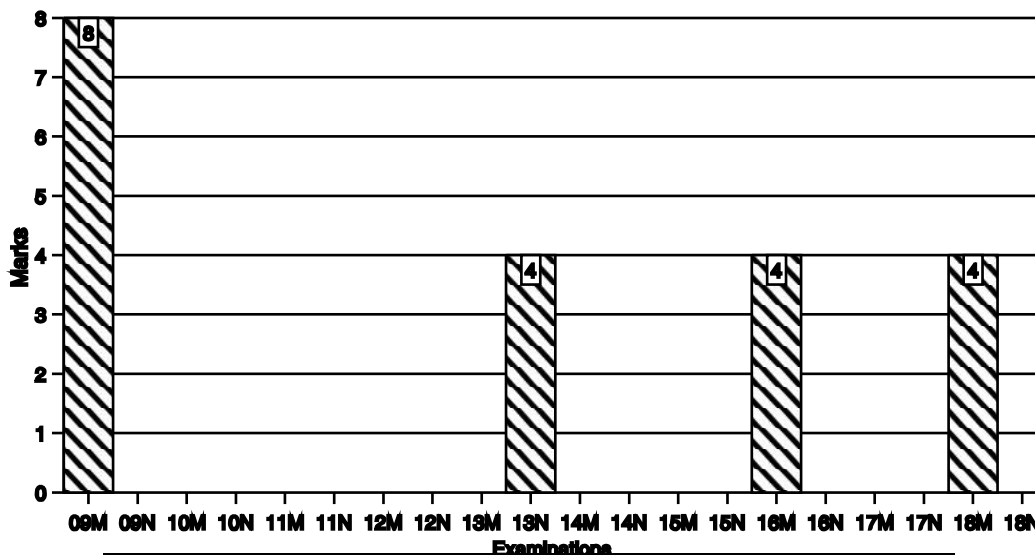
On the basis of Maximum marks from a chapter Nil  
 On the basis of Questions included every year from a chapter Nil  
 On the basis of Compulsory questions from a chapter Nil

<b>CHAPTER</b>	
<b>1</b>	<b>Basic Concepts</b>
<b>THIS CHAPTER COMPRISES OF</b>	
☞ What is Tax ? ☞ Overview of Income- tax law in India ☞ Important Definitions ☞ Previous Year and Assessment Year ☞ Previous year for undisclosed sources of income ☞ Charge of Income- tax.	

Marks of Objective, Short Notes, Distinguish Between, Descriptive & Practical Questions

**Legend**

 Objective
  Short Notes
  Distinguish
  Descriptive
  Practical



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**DESCRIPTIVE QUESTIONS**

**2008 - Nov [5]** Answer the following with regard to the provisions of the Income-tax Act, 1961 :

(c) Explain the concept of "Marginal Relief" under the Income-tax Act, 1961. (4 marks)

**Answer :**

As per Income Tax Act, 1961, surcharge become applicable if the taxable income of an individual exceeds a specified limit. It is applicable on the basic tax (without inclusion of cess). For example, a surcharge of 10 per cent is applicable on Individuals / HUF / AOP / BOI / artificial juridical person with taxable income between ₹ 50 lakh and ₹ 1 crore.

And a 15 percent surcharge on income above ₹ 1 crore. The concept of marginal relief is designed to provide relaxation from levy of surcharge to a taxpayer where the total income exceeds marginally above ₹ 50 lakhs or ₹ 1 crore, as the case may be marginal relief is available in cases where the net total taxable income is slightly above ₹ 50 Lakhs or ₹ 1 Crore.

Thus, while computing surcharge, in case of taxpayers (i.e. Individuals / HUF / AOP / BOI / artificial juridical person) having total income of more than ₹ 50 lakhs marginal relief shall be available in such a manner that the net amount payable as income-tax and surcharge shall not exceed the total amount payable as income-tax on total income of ₹ 50 lakhs by more than the amount of income that exceeds ₹ 50 lakhs.

In case of a company, surcharge is levied @ 7% (2% in case of foreign company) on the amount of income-tax if the total income exceeds ₹ 1 crore but does not exceed ₹ 10 crore and @ 12% (5% in case of foreign company) on the amount of income-tax if total income exceeds ₹ 10 crore. Hence, in case of company whose total income exceeds ₹ 1 crore but does not exceeds ₹ 10 crore, marginal relief will be computed as discussed above, but in the case of company having total income above ₹ 10 crore marginal relief is available in such a manner that the net amount payable as income-tax and surcharge shall not exceed the total amount payable as income-tax and surcharge on total income of ₹ 10 crore by more than the amount of income that exceeds ₹ 10 crore.

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**2009 - May [5]** Answer the following with regard to the provisions of the Income-tax Act, 1961 :

(a) Explain "Previous year" for undisclosed sources of Income. (4 marks)

**Answer :**

There are many occasions when the Assessing Officer detects cash credits, unexplained investments, unexplained expenditure etc, the source for which is not satisfactorily explained by the assessee to the Assessing Officer. The Act contains a series of provisions to provide for these contingencies:

- 1. Cash Credit: [Sec. 68]:** Where any sum is found credited in the books of an assessee maintained for any previous year and the assessee offers no explanation about the nature and source thereof or the explanation offered by him, is not in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.
- 2. Unexplained investments [Sec. 69]:** Where in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of accounts and the assessee offers no satisfactory explanation about the nature and source of the investment or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory the value of the investments are taxed as income of the assessee of such financial year.  
**Unexplained money, etc.[Sec. 69A]:** Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery, or other valuable article and such money, bullion, jewellery, or other valuable article is not recorded in the books of account and the assessee offers no explanation about the nature and source of acquisition of such articles or the explanation offered by him is not satisfactory, the money and the value of such articles may be deemed to be the income of the assessee for such financial year. Ownership is important and mere possession is not enough.
- 3. Amount of investments, etc., not fully disclosed in books of account [Sec. 69B]:** Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article and the Assessing Officer finds that the amount spent on making such investments or in acquiring such articles exceeds the amount recorded in the books of account maintained by the

assessee and the assessee offers no explanation for the difference or the explanation offered is unsatisfactory, such excess amount may be deemed to be the income of the assessee, for such financial year.

- 4. Unexplained expenditure, etc. [Sec. 69C]:** Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, is unsatisfactory, the Assessing Officer can treat such unexplained expenditure as the income of the assessee for such financial year. Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under any head of income.
- Amount borrowed or repaid on hundi [Sec. 69D]:** Where any amount is borrowed on a hundi from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be. However, where any amount borrowed on a hundi has been deemed to be the income of any person, he will not be again liable to be assessed in respect of such amount on repayment of such amount. The amount repaid shall include interest paid on the amount borrowed.

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**2009 - May [5]** Answer the following with regard to the provisions of the Income-tax Act, 1961 :

- (b) Define the meaning of “Infrastructure Capital Fund” as per Section 2(26B) of the Income-tax. Act, 1961. (4 marks)

**Answer:**

**Infrastructure capital fund [Sec. 2(26B)]**

The expression “infrastructure capital fund” means such fund operating under a trust deed (which is registered under the Registration Act), established to raise moneys by the trustees for investment by way of acquiring shares or providing long- term finance to any of the following enterprises or undertakings:

1. An undertaking wholly engaged in the business referred to in Section 80-IA (4).
2. An undertaking wholly engaged in the business referred to in Section 80-IAB(1).
3. An undertaking wholly engaged in the business of developing and building housing projects referred to in Section 80-IB(10).
4. An undertaking wholly engaged in a project for constructing a hotel of not less than three-star category as classified by the Central Government.
5. An undertaking wholly engaged in a project for constructing a hospital with at least one hundred beds for patients.

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**2013 - Nov [7]** (a) Define the term “assessee” as per the Income-tax Act, 1961. (4 marks)

**Answer:**

As per section 2(7), “Assessee” means a person by whom any tax or any other sum of money is payable under this Act. In addition, it includes-

- 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
  - the income of any other person in respect of which he is assessable; or
  - the loss sustained by him or by such other person; or
  - the amount of refund due to him or by such other person.
- Every person who is deemed to be an assessee under any provision of this Act.
  - Every person who is deemed to be an assessee in default under any provision of this Act ( i.e. Fails to comply with the provision of TDS, Fails to pay advance tax).

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**2016 - May [2]** (a) (ii) How is the term “Assessee” defined under the provisions of the Income-tax Act, 1961? (4 marks)

**Answer:**

Please refer 2013 - Nov [7] (a) on page no. [21](#)

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**2018 - May [7]** (b) Briefly explain the purpose for which the words “PROVISO” and “EXPLANATION” are incorporated under various sections of the Income Tax Act, 1961. (2+2= 4 marks)

**Answer:**

**Proviso:** The Proviso to a section is incorporated to specify the exception(s) to the provision contained in the respective section i.e., the proviso spells out the cases where the provision contained in the respective section would not apply or where the provision contained in the respective section would apply with certain modification.

**Explanation:** An explanation is incorporated in a section to provide a clarification relating to the provision contained in that section. Generally, an Explanation is clarificatory in nature.

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### Topic not yet asked but equally important for examination

**Q1.** Define the meaning of “Infrastructure Capital Company” as per Section 2(26A) of the Income-tax. Act, 1961.

**Answer:**

“Infrastructure Capital Company” means such company which makes investments by way of acquiring shares providing long-term finance to –

1. any enterprise or undertaking wholly engaged in the business referred to in Section 80- IA(4) or Section 80- IAB(1) or
2. an undertaking developing and building a housing project referred to in Section 80-IB(10) or

3. a project for constructing a hotel of not less than three star category as classified by the Central Government or
4. a project for constructing a hospital with at least 100 beds for patients.

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**Q2.** State any four instances where the income of the previous year is assessable in the previous year itself instead of the assessment year.

**Answer:**

The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. However, in a few cases, the income is taxed in the previous year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

- (i) Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.
- (ii) Where it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of his departure from India is chargeable to tax in that assessment year.
- (iii) If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or in the next year, he can make assessment of the income up to the date of dissolution as income of the relevant assessment year.

- (iv) During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous year to the date, when the Assessing Officer commences proceedings under this section is chargeable to tax in that assessment year.
- (v) Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that assessment year.

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**Q3.** Describe average rate of tax and maximum marginal rate under Section 2(10) and 2(29C) of the Income-tax Act, 1961.

**Answer:**

As per Section 2(10), “Average Rate of tax” means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income.

Section 2(29C) defines “Maximum marginal rate” to mean the rate of income-tax (including surcharge on the income-tax, if any) applicable in relation to the highest slab of income in the case of an individual, AOP or BOI, as the case may be, as specified in Finance Act of the relevant year.

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**Q4.** What is the difference between the two schools of Hindu law?

**Answer:**

The basic difference between the two schools of Hindu law with regard to succession is as follows:

Dayabaga school of Hindu law	Mitakshara school of Hindu law
Prevalent in West Bengal and Assam.	Prevalent in rest of India.



Nobody acquires the right, share in the property by birth as long as the head of family is living. Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Hence, the father and his brothers would be the coparceners of the HUF.

One acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living.

Thus, every child born in the family acquires a right/share in the family property.

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**Q5.** Define India as per Income Tax Act, 1961?

**Answer:**

The term 'India'[Section 2(25A)] means:

- (i) the territory of India as per article 1 of the Constitution,
- (ii) its territorial waters, seabed and subsoil underlying such waters,
- (iii) continental shelf,
- (iv) exclusive economic zone or
- (v) any other specified maritime zone (means maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.) and the air space above its territory and territorial waters.

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