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DIRECT TAXES - AT A GLANCE

THIS CHAPTER INCLUDES

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CHAPTER AT A GLANCE

1.1 Taxes- An Introduction

The word tax is based on the latin word taxo which means to estimate. If tax is levied directly on the income of a person, then it is a direct tax e.g. income-tax. If tax is levied on the price of a good or service, then it is called an indirect tax e.g. Goods and Services Tax (GST), Custom Duty etc.

1.2 Definitions

Hugh Dalton: A tax is a compulsory charges imposed by a public authority irrespective of the exact amount of service rendered to the tax payer in return and not imposed as a penalty for legal offence.

According to Prof Seligman

A tax is compulsory contribution from the person to the government to defray the expense incurred in the common interest of all without reference to special benefits conferred.

According to Trussing, "The essence of Tax as distinguished from other charges by government is the absence direct quid pro quo- tit for tat between the tax payers and the public authority".

1.3 Characteristic of taxes

1. Tax is compulsory
2. Tax is contribution
3. Tax is for public benefit
4. No direct benefit
5. Tax is paid out of income of the tax payer
6. Government has the power to levy tax
7. Tax is not the cost of the benefit
8. Tax is for the economic growth and public welfare

1.4 Direct Taxes Vs. Indirect Taxes**Differences between direct and indirect taxes**

Point of Difference	Direct Tax	Indirect Tax
Incidence and Impact	A tax is said to be direct when impact and incidence of a tax are on one and same person.	If impact of tax is on one person and incidence on the another, the tax is called 'indirect'
Burden	Direct tax is imposed on the individual organisation and burden of tax cannot be shifted to others.	Indirect tax is imposed on commodities and allows the tax burden to shift.
Viability of payment	Direct taxes are lesser burden then Indirect taxes to people as direct taxes are based on Income earning ability of people.	Indirect taxes are borne by the consumers of commodities and services Irrespective of financial ability as the MRP Includes all taxes.

Administrative viability	The administrative cost of collecting direct taxes is more and Improper administration may result in tax evasion.	Cost of collecting Indirect taxes is very less as indirect taxes are wrapped up in prices of goods and services and cannot be evaded.
Penalty	It is levied on the assessee.	It is levied on supplier of Goods & Services.

1.5 Canons of Taxation

The fundamental canons of taxation are as follows:

1. Canons of Equity
2. Canons of Certainty
3. Canon of Convenience
4. Canon of Economy

1.6 Objectives of Taxation

The Objectives of taxation in brief are as under:

1. Revenue
2. Social objectives – Taxes became a main goal for some of social objectives
 - (a) Redistribution of income and wealth
 - (b) Social welfare:
 - (c) Safety of society from bad and injurious customs
3. Economic significance of taxes
4. Economic growth
5. Enforcing government policy
6. Directing limited scarce resources into effective and essential channels
7. Economic stability

1.7 Merits of Direct Tax

1. Equity
2. Elasticity and productivity

3. Certainty
4. Reduce inequality
5. Good instrument in the case of inflation
6. Simplicity

1.8 Demerits of Indirect Tax

1. Evasion
2. Uneconomically
3. Unpopular
4. Little incentive to work and save
5. Not suitable to a poor country
6. Arbitrary

1.9 Merits of Indirect Tax

1. High revenue production
2. No evasion
3. Convenient
4. Economy
5. Wide coverage
6. Elasticity

1.10 Demerits of Indirect Tax

1. Regressive in effect
2. Uncertainty in collection
3. Discourage savings
4. Increase inflation

1.11 Tax Structure in India**Constitution of India**

- (a) Article 265– No tax shall be levied or collected except by the Authority of Law.
- (b) Article 246- Distributes legislative powers including taxation, between the Parliament of India and the State Legislature.

Schedule VII- Enumerates powers under three lists

1. **Union List:** Parliament has the exclusive power to make laws on the matters contained in Union List.
2. **State List:** The Legislatures of any State has the exclusive power to make laws on the matters contained in the State List.
3. **Concurrent List:** Both Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent list.

If a state law relating to an entry in List III is repugnant to a Union law relating to that entry, the Union law will prevail, and the state law shall, to the extent of such repugnancy, be void. (Article 254).

Following major entries in the respective list enable the legislature to make law on the matter:

1.13 Administration of Tax Laws

The administrative hierarchy of tax law is as follows:

(a) **Central Board of Direct Taxes**

The CBDT is a statutory authority functioning under the Central Board of Revenue Act, 1963. It is India's official Financial Action Task Force (FATF) unit.

(b) **Organisational Structure**

The CBDT is headed by CBDT Chairman and also comprises six members. The Chairperson holds the rank of Special Secretary to Government of India while the members rank of Additional Secretary to Government of India.

1. Member (Income Tax)
2. Member (Legislation and Computerisation)
3. Member (Revenue)
4. Member (Personnel & Vigilance)
5. Member (Investigation)
6. Member (Audit & Judicial)

(c) **Income Tax Department**

Income Tax Department functions under the Department of Revenue in Ministry of Finance.

(i) Income Tax Act, 1961

(ii) Various Finance Acts (Passed Every Year in Budget Session)

(d) **Central Board of Indirect Tax and Customs**

Central Board of Indirect Tax and Customs (CBIC) is a part of the Department of Revenue under the Ministry of finance, Government of India. It deals with the tasks of formulation of policy concerning levy and collection of Customs & Central excise duties and GST, prevention of smuggling and administration of matters relating to Customs, Central excise, GST and narcotics to the extent under CBEC's purview.

(e) **GST Council**

A GST Council consisting of representatives from the Centre as well as State has been formulated under the GST Law of indirect taxes. The Council will make recommendations to the union and the States on Goods and Service Tax laws, on any other matter relating to GST.

MULTIPLE CHOICE QUESTIONS

1. Demerits of indirect tax are:

- (a) Regressive in effect
- (b) Uncertainty in collection
- (c) Discourage savings
- (d) All of the above

Answer:

2. CBIC is a part of

- (a) Department of Accounts
- (b) Department of Economics
- (c) Department of Revenue
- (d) Department of Tax

Answer:

3. GST Council will make recommendation to:

- (a) Union Only
- (b) State Only
- (c) Union and State
- (d) None of the above

Answer:

4. No tax shall be levied or collected except by the Authority of Law is written in which article of the constitution?

- (a) 246
- (b) 265
- (c) 254
- (d) 275

Answer:

5. A tax is a compulsory charges imposed by a public authority irrespective of the exact amount of service rendered to the tax payer in return and not imposed as a penalty for legal offence is a definition by which author:

- (a) Trussing
- (b) Prof Seligman
- (c) Hugh Dalton
- (d) None of the above

Answer:

ANSWER

1	(d)	2	(c)	3	(c)	4	(b)	5	(c)
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