DEFINITIONS/BASIC TERMS of INCOME TAX.

1. **Assessee [Section 2(7)]** :- ‘Assessee’ means a person by whom any tax or any other sum of money is payable under this Act and includes—
   
   Every person in respect of whom any proceedings under this Act have been taken for the assessment of his income or of the income of any other person in respect of which he is assessable or loss sustained by him or by such other person or of the amount of refund due to him or to such 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;

   The above definition divides various types of assessees into three categories:-

   - **Ordinary assessee** ----- it includes
     
     a) any person against whom some proceedings under this Act are going on. It is immaterial whether any tax or other amount is payable by him or not;
     
     b) any person who has sustained loss and filed return of loss u/s 139(3);
     
     c) any person by whom some amount of interest, tax or penalty is payable under this Act; or
     
     d) any person who is entitled to refund of tax under this Act.

   - **Representative assessee or deemed assessee**:- A person may not be liable only for his own income or loss but also on the income or loss of other persons e.g. agent of a non-resident, guardian of minor or lunatic etc. In such cases, the person responsible for the assessment of income of such person is called representative assessee. Such person is deemed to be an assessee.

   **Deemed Assessee**
   
   In case of a deceased person who dies after writing his will the executors of the property of deceased are deemed as assessees.
   
   In case a person dies intestate (without writing his will) his eldest son or other legal heirs are deemed as assessees.
   
   In case of a minor, lunatic or idiot having income taxable under Income-tax Act, their guardian is deemed as assessee.
   
   In case of a non-resident having income in India, any person acting on his behalf is deemed as assessee.

   - **Assessee-in-default**:- A person is deemed to be an assessee-in-default if he fails to fulfill his statutory obligations. In case of an employer paying salary or a person who is paying interest it is their duty to deduct tax at source and deposit the amount of tax so collected in Government treasury. If he fails to deduct tax at source or deducts tax but does not deposit it in the treasury, he is known as assessee-in-default.
2. **Person [Section 2(31)]:** Person includes:
   - An Individual;
   - A Hindu Undivided Family;
   - A Company;
   - A Firm;
   - An association of persons or a body of individuals, whether incorporated or not;
   - A Local Authority, and
   - Every artificial juridical person not falling within any of the proceedings sub-clauses.

   Association of Person or Body of Individual or a Local authority or Artificial Juridical Persons shall be deemed to be a person whether or not, such persons are formed or established or incorporated with the object of deriving profits or gains or income. This amendment has been inserted with effect from 1-4-2002 i.e. from assessment year 2002-03.

3. **Assessment Year [Section 2(9)]**: It means the period of 12 months commencing the 1st day of April every year.

   In India, the Government 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 Government of India during which income of a person relating to the relevant previous year is assessed to tax. Every person who is liable to pay tax under this Act, files return of income by prescribed dates. These returns are processed by the income tax department officials and officers. This processing is called assessment. Under this income returned by the assessee is checked and verified. Tax is calculated and compared with the amount paid and assessment order is issued. The year in which whole of this process is undertaken is called assessment year.

4. **Previous year [Section 3]**: The term pervious 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 said that the previous year is the financial year preceding the assessment year e.g. for the assessment year 2006-07 the previous year should be the financial year ending on 31st March 2006.

   **Previous year in case of a continuing business:** It is the financial year preceding the assessment year. As such of the assessment year 2006-07, the previous year for a continuing business is 2005-06 i.e. 1-4-2005 to 31-3-2006.

   **In case of newly set up business:** The previous year in case of a new started business shall be the period between commencement of business and 31st March next following e.g. in case of a newly started business commencing its operations on Diwali 2005, the
previous year in relation to assessment year 2006-07 shall be period between Diwali 2005 to 31st March 2006.

**In case of newly created source of income:** - In such case the previous year shall be period between the day on which such source comes into existence and 31st March next following.

**Previous year in case of deemed incomes**

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5. **Agriculture income [Section 2(1A):** - It 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; or
      ➢ the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or
      ➢ the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause;
   c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on:

**Provided that-**

(i) the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building, and

(ii) the land is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such or where the
land is not so assessed to land revenue or subject to a local rate, it is not situated-

6. **Assessing Officer [Section 2(7A)]** :- It means the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director of Income Tax or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Joint Commissioner or Joint Director who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;

7. **Average rate of Income-tax [Section 2(10)]** :- It means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income;

8. **Charitable purpose [Section 2(15)]** :- It includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility;

9. **Maximum Marginal Rate [Section 2(29C)]** :- It 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;

10. **Income deemed to be received [Section 7]** :- The following incomes shall be deemed to be received in the previous year:-

    - the annual accretion in the previous year to the balance at the credit of an employee participating in a recognized provident fund, to the extent provided in Rule 6 of Part A of the Fourth Schedule;
    - the transferred balance in a recognized provident fund, to the extent provided in sub-rule (4) of rule 11 of Part A of the Fourth Schedule.

11. **Transfer [Section 2(47)]** :- "Transfer” in relation to a capital asset, includes,-

    - The sale, exchange or relinquishment of the asset; or
    - The extinguishment of any rights therein; or
    - The compulsory acquisition thereof under any law; or
In a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment; or any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882); or (vi) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, any immovable property.

**Explanation:** For the purposes of sub-clauses (v) and (vi) "immovable property" shall have the same meaning as in clause (d) of section 269UA.

12. **Capital asset [Section 2(14)]** :- It means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include-

(i) any stock-in-trade, consumable stores or raw materials held for the purposes of his business or profession;

(ii) personal effects, that is to say, movable property (including wearing apparel and furniture, but excluding jewellery) held for personal use by the assessee or any member of his family dependent on him.

**Explanation.** For the purposes of this sub-clause, “jewellery” includes-

(a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;

(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;

(iii) agricultural land in India, not being land situated-

(a) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year; or
(b) in any area within such distance, not being more than eight kilometers, from the local limits of any municipality or cantonment board referred to in item (a), as the Central Government may, having regard to the extent of, and scope for, urbanization of that area and other relevant considerations, specify in this behalf by notification in the Official Gazette;


(v) Special Bearer Bonds, 1991, issued by the Central Government.

13. **Approved gratuity fund [Section 2(5)]**: It means a gratuity fund which has been and continues to be approved by the Chief Commissioner or Commissioner in accordance with the rules contained in Part C of the Fourth Schedule;

14. **Approved superannuation fund [Section 2(6)]**: It means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Chief Commissioner or Commissioner in accordance with the rules contained in Part B of the Fourth Schedule;