Tax–Authorities

Administrative Authorities

1. National Board of Revenue.
2. Director General (Inspection) and subordinates.
2A. Commissioner of Taxes-Appeal
2B. Commissioner of Taxes-Large Taxpayer unit
2C. Director General-Training
3. Commissioner of Taxes.
4. Additional Commissioner of Taxes.
5. Joint Commissioner of Taxes.
6. Deputy Commissioner of Taxes (DCT)
7. Tax Recovery Officer (Magistrate)
8. Assistant Commissioner of Taxes.
9. Extra-Asstt. Commissioner of Taxes.
10. Inspector of Taxes

Judicial Authorities

1. Appellate Tribunal.
2. Appellate Additional Commissioner of Taxes.
3. Appellate Joint Commissioner of Taxes.
4. Commissioner of Taxes-Appeal.

6.3: Appointment of Income Tax Authorities

The central body of the Income tax authorities is the National Board of Revenue. Government exercises supreme authority regarding the appointment of the members of the NBR. The other authorities are appointed by the NBR subject to concerned provision. The specific provisions of the I. T. Ordinance relating to this are stated in Section 4. The contents of this section & sub-sections thereof are cited below :

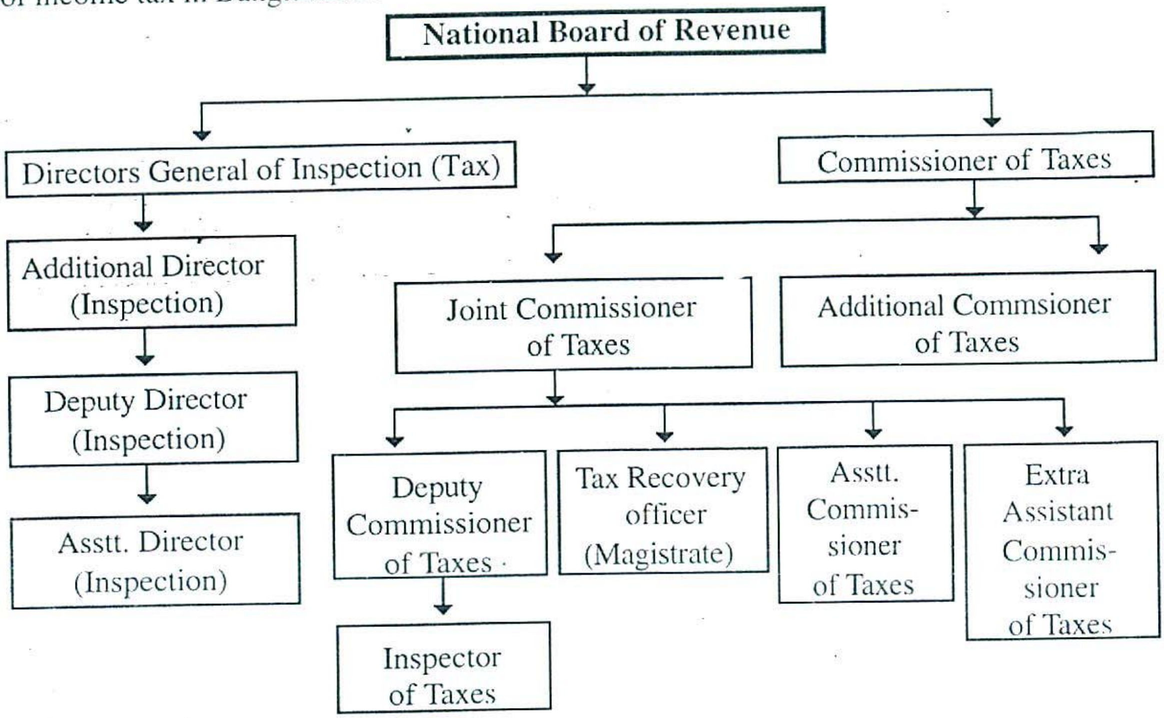
(1) Subject to the rules and orders of the Government regulating the terms and conditions of service of persons in Public services and posts, appointment of income-tax authorities shall be made in accordance with the provisions of this Ordinance.

(2) The Board may appoint as many Directors of Inspection, Commissioners, Joint-Commissioners of Taxes, Tax recovery officers and Assistent Commissioners of Taxes and such other executive or ministerial officers and staff as it may think fit.

(3) Subject to such orders or instructions as the Board may, from time to time, issue in this behalf, any other income-tax authority may appoint any income-tax authority subordinate thereto and such other executive or ministerial officers and staff as may be necessary for assistance in the execution of its functions.

6.4: Adminsitrative Authorities–Their Powers, Functions and Responsibilities

The following sketch depicts the hierachical position of the administrative authorities of income tax in Bangladesh :



Now the status, power and functions of each of the authority are discussed below :

(1) National Board of Revenue (NBR) : It is the highest administrative authority and entrusted with the administrative and judicial functions of tax administration. It is a body consists of a chairman, member (tax-1), member (tax-2), law officer and a few first and second secretaries. The chairman and the members of this board are appointed by the Government and they work under the direct control of the Finance Ministry of the Government.

The powers and functions of this body are as follows :

(a) **Provide Directives and advices :** It provides required directives and advices to the divisional officers for effective implementation of the tax rules. But it can not issue any directive or advice interfering the activities of Appellate Joint Commissioner of Taxes or other Judicial authority.

(b) **Frame Rules of IT :** It frames and issues rules for the implementation of provisions of Income Tax Ordinance.

(c) **Explain provisions of Ordinance and Finance Act :** It provides explanation of provisions of Income Tax Ordinance and Finance Act if any ambiguity arises regarding any provision.

(d) **Approve IT practitioners :** Income tax practitioners render valuable services to the assesses to assess their income accurately. So properly tranined people should only be allowed to render such services. It is the NBR which gives approval to an individual to practise as IT practitioner.

(e) **Appoint Lower Authorities :** It is also entitled to appoint Commissioner of Taxes, Commissioner (Appeal), Joint Commissioner of Taxes, Tax Recovery Officer according to need for smooth running the tax administration.

(f) **Recognition of Provident Fund :** It has the power to give recognition to a provident fund and reconsider any appeal for recognition of the same if Commissioner of Taxes refuses to recognize the same.

(g) **Issue Public Notice :** It issues notices for submission of 'Self-assessment Return' and of other matters important for the tax payers.

(h) **Others :** It can accept any commercial or trading year as Income year, declare any unregistered foreign organisation as company and transfer any case from one officer to another.

(2) **Director General of Inspections :** The members of the inspection and DG (Inspection) himself is appointed by the NBR. Their functions as specified in the Finance Act, 1997 are as follows :

(a) Inspection and investigation of cases relating to income tax.

(b) Remedy of any loophole in tax collection and tax evasion either.

(c) Audit of income-tax revenue and submission of report to NBR within 1st December next to the end of a financial year.

(d) Other activities as specified by the NBR. DG Inspection performs all his assigned duties with the assistance from additional, assistant and deputy Director General of Inspection.

It may be noted that Board may appoint as many Director general and commissioners as it thinks fit. It will decide their jurisdiction, functions and responsibilities. Thus from time to time it has appointed commissioner of taxes-appeal, commissioner-large unit & Commissioner Training and has assigned functions to then relevant to their responsibilities.

(3) Commissioner of Taxes : Commissioner of Taxes is appointed for specific area but it is also common to see that a Commissioner of Taxes is appointed for a specific Job. He acts in accordance with the advice and directives of NBR. His functions have been described in the Sections 113, 117 and 121 of the IT Ordinance, which are summarized below :

Section : 113 - Power to call for Information

Commissioner of Taxes has the power to call for information on the following matters by giving notice in writing. He may require :–

(a) any firm to furnish him with a statement of the names and address of the partners and their respective shares;

(b) any Hindu Undivided Family to furnish him with a statement of the names and address of the manager and the members of the family;

(c) any person whom he has reason to believe to be a trustee, guardian or agent to furnish him with a statement of the names and address of the persons for or of whom he is trustee, guardian or agent.

(d) any assessee to furnish him with a statement of the names and address of all persons to whom he has paid in any income year any rent, interest, commission, royalty or brokerage, or any annuity, not being an annuity classified under the head "Salaries", amounting to more than three thousand taka, together with particulars of all such payments;

(e) any dealer, broker or agent, or any person concerned with the management of a Stock Exchange to furnish a statement of the names and addresses of all persons to whom he or the Exchange has paid any sum in connection with the transfer of capital assets, or on whose behalf or from whom he or the Exchange has received any such sum, together with the particulars of all such payments and receipts; or

(f) any person, including a banking company, to furnish information in relation to such points or matters, or to furnish such statements or accounts giving such particulars, as may be specified in the notice.

Sec. 117 : Power of search and seizure :

As per the requirement of this section, he is empowered to search and seize the books of accounts, documents, money, bullion, Jewellery or other valuable articles. This power is exercised only when he is of the opinion that such documents were not produced or disclosed although they were required to be produced or disclosed.

Sec. 121 : Revisional and Other Powers of Commissioner

1. Commissioner of Taxes has the power to revise any order passed by his subordinate after re-examining the order either of his own motion or on an application made by the assessees.

But an amendment was made in the Finance Act of 2002 in this regard. It is inserted there that--

(a) he is not entitled to re-examine an order of his subordinate on his own motion;

(b) such action can be taken only if the assessee pays tax on the declared income as per submitted Return under Sec. 74; and

(c) such re-examination should be completed within 30 days.

It is to be mentioned here that NBR has no power to interfere in the revisional power of the Commissioner of Taxes.

2. He may direct the DCT to appeal to the Appellate Tribunal for any order passed by Appellate Joint Commissioner which goes against the tax department.
3. He may advise the Appellate Tribunal to refer any matter to the High Court if any explanation of law is required on that matter.
4. He decides the duties and responsibilities of DCT and Joint Commissioner of Taxes of inspection.
5. He decides the area of assessment of an assessee if the latter falls under more than one area of assessment.
6. He can transfer a case of tax from one tax officer to the another.
7. He has also the power to write off uncollectible arrear tax upto Tk. 25,000 or more.

(4) Additional Commissioner of Taxes: The post of Additional Commissioner of taxes was created by the Finance Act, 1986. These posts are filled up by promoting the efficient Joint Commissioner of Taxes and their duties and responsibilities are determined by the NBR. However, they are entrusted with the following responsibilities :

(a) He distributes the duties of Joint Commissioner of Taxes and Deputy Commissioner of Taxes.

(b) He can seize the books of accounts and other documents of a defaulter assessee authorised by the NBR.

(c) He prepares statistical report for presentation to the NBR.

(d) He can write off the tax claim upto Tk. 25,000 or more subject to the approval of the NBR.

(e) He may direct DCT to collect arrear tax.

(f) He may also demand different information from the assessee by issuing notice.

(5) Joint Commissioner of Taxes : He is appointed by NBR but works under the direct supervision of the Commissioner of Taxes. He is entrusted with the responsibilities of supervising the employees subordinate to him and seeing that nobody is avoiding tax under his Jurisdiction. His other powers are :

(a) He can demand required information by written notice like the Commissioner of Taxes from the respective representatives of the assessee (Sec. 113).

(b) He is empowered to inspect and collect the copy of list of member, debenture holders and mortgagee of any company (Sec. 114)

(c) He enjoys special power to conduct investigation and collection of relevant documents (Sec. 116)

(d) He is entitled to seize the books of accounts, documents, money, jewellery and other valuable assets. (Sec. 117)

(e) He can revise the order of DCT within 4 years. (Sec. 120)

(6) Deputy Commissioner of Taxes (D. C. T.) : DCT performs the basic functions of tax determination and collection. He performs both adiminstrative and judicial functions in rendering his service. He is appointed by the NBR and works under the supervision of the Commissioner of Taxes. He plays a key role in tax administration. He is appointed to control the tax affairs of a town, part of a district or for the specific categories of assessees in a particular area. He is the most important authority with whom an assessee comes across.

His functions and powers are as follows :

(a) **Issue of Statutory Notices :** He issues all statutory notices required for filling tax returns and for collection of taxes. He may ask an assessee to submit income statement, books of account and other relevent documents. He may also direct an assessee to present personally before him for the determination of tax liabilities.

(b) **Notice of Filing Return :** Under Sec. 77, he may, at any time after the expiry of the date specified in Sec. 75, by a notice in writing, require any person to file a return of his total income if he considers that the total income of that person during the income year is of such amount as to render him liable to tax. Such statement is to be submitted after 30 days of the issue of notice and before the maximum period extended for this purpose by the DCT.

(c) **Best Judgement Assessment :** Where any person fails to submit return under Sec. 77, 78 and did not submit documents in support of his income statement, the DCT may assess the total income of the assessee to the best of his Judgement.

(d) **Call for Relevant Information :** Like the Commissioner of Taxes and the Inspecting Commissioner, he may also call for relevant information from the legal representatives of the assessee as per the requirement of the Sec. 117.

(e) **Extension of Tax-return submission Time :** DCT is empowered to extend the submission time of tax return for three months if he is convinced that there is acceptable reason for such delay. This extension period may be extended for more then 3 months subject to the approval of the Joint Commissioner of Taxes.

(f) **Power to Inspect Registers of Companies :** He is empowered to take copies of any register of the members, debenture holders or mortgages of any company or of any entry in such register.

(g) **Power of Enquiry :** DCT is empowered to conduct any inquiry or collection of documents as per Sec. 116.

(h) **Other Functions :** He is also empowered to do the following functions under Sec. 117 of this Ordinance :

(i) Enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that any books of accounts, documents, money, bullion, jewellery or other valuable articles or things have been kept.

(ii) Break-open the lock of any door, box, locker, safe, almirah or other receptacles for the purpose of said entry and search if keys thereof are not available.

(iii) Search any person who has got out of, or is about to get into, or is in, the building, place, vehicle or aircraft, if he has reason to suspect that the person has secreted any such books of accounts, documents, money, bullion, jewellery or other valuable articles or things.

(iv) Seize any such documents, books of accounts, money, bullion, jewellary or other valuable articles or things found as a result of such search.

(v) Place marks of identification on or stamp any books of accounts or other documents or make or cause to be make extracts or copies thereof.

(i) **Power of writing off :** DCT is empowered to write off arrear tax claim up to Tk. 1,000.

(j) **Power to Impose penalty :** He can take legal action against the defaulter assessee.

(k) **Power to Appeal :** He can appeal to the Appellate Tribunal against any order of Appellate Joint Commissioner of Taxes, if the Commissioner of Taxes approves the decision.

(l) DCT. is empowered to call for submission of Wealth Statement from the assessee if his income exceeds a certain level.

(7) Tax Recovery Officer (Magistrate) : The main function of Tax Recovery Officer is to collect arrear tax from the assessee. They are appointed by NBR and their powers and functions are stated in the rules issued for collecting tax by NBR. He proceeds to collect tax from the assessee after receiving tax certificate from assessment officer. He may collect tax from the defaulter assessee in the following modes, viz :

(i) attachment and sale or sale without attachment of any movable or immovable property of the assessee;

(ii) arrest of the assessee and his detention in prison:

(iii) appointment of a receiver for the management of the assessee's movable and immovable properties.

(8) Assistant Commissioner of Taxes : This authority is also appointed by NBR and performs the duties assigned to him by another authority under whom he is appointed. Generally he works under the DCT and performs the functions assigned to him. So, he normally performs the functions relating to the assessment of tax.

(9) Extra Assistant Commissioner the areappoused by NBR. of Taxes : This authority performs the functions assigned to him under whom he is appointed. His responsibilities are generally similar to those of Assistant Commissioner of Taxes.

(10) Inspector of Taxes : They are appointed douted by DCTs. The function of this authority is to assist the DCT to prevent tax evasion and to search for new source of assessable income. So, his main functions are as follows :

(i) Examination of assessee's books of accounts.

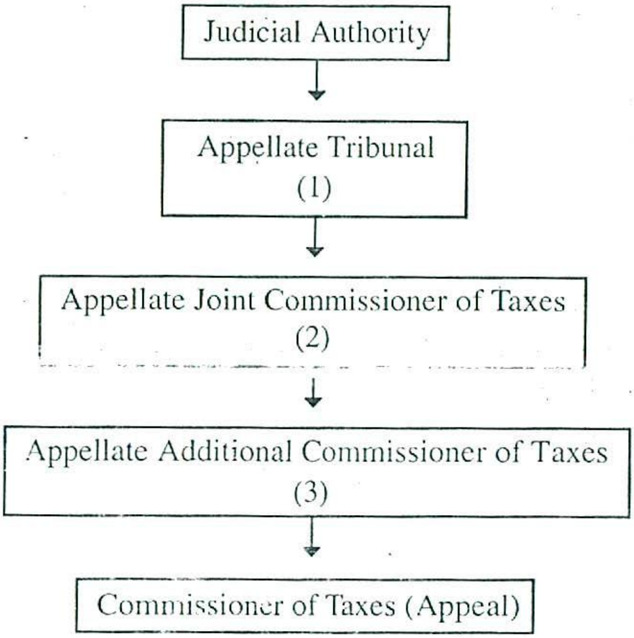
(ii) Outdoor inspection of and survey in order to find new assessee.

(iii) Recovery of outstanding demand from defaulter assessee.

(iv) Enquires regarding the new sources of income of the existing assessee.

6.5: Judicial Authorities

To ensure Justice for the assessees, the Judicial Authorities have been created in Income Tax Ordinance, 1984. If the assessee is not satisfied with the decision of the adminsitrative authority, he can approach to the appropriate Judicial Authority. Now a chart of the Judicial Authority is given below :



Now the status, power and functions of the Judicial Authorities are described below in ascending order :

(1) Commissioner of Taxes (Appeal) : He is entitled to perform the re-examination function for judicial purpose and other assigned duties. This judicial authority was created by FA, 1990.

(2) Appellate Additional Commissioner of Taxes : This judicial authority is appointed by NBR and performs the judicial functions assigned by the Board. It is important to be mentioned here that NBR can not either give any order or interfere in any judicial matter to this authority. This authority was created by the FA, 1986.

(3) Appellate Joint Commissioner of Taxes : This authority is appointed by NBR and a direct subordinate staff to NBR. This authority performs judicial functions assigned to this authority. Although NBR is entitled to give advice and directives for performing duties efficiently, but it can not give any order or directives interfering the judicial matters of this authority. The specific functions of this authority are :

(i) To hear any appeal made by the assessee against the amount of tax determined by the DCT.

(ii) To accept, reject or revise the assessment made by DCT.

(iii) To hear any appeal against Additional Commissioner of Taxes (Inspection).

(iv) To direct Commissioner or Deputy Commissioner of Taxes to investigate any matter.

(v) To impose penalty for concealnent of income.

(vi) To direct the assessee for submission of necessary information and documents to conduct any investigation.

(vii) To direct the administrative income tax authority to register a partnership firm if the latter is not given registration without any valid ground.

(viii) To inspect the register of shareholders and debentureholders of the company.

(ix) To direct the appropriate authority to return the excess tax paid by the assessee.

(x) To adjust the excess tax paid earlier by the assessee with the tax payable currently.

4. Appellate Tribunal : It is a judicial body appointed by the Government. It is constituted under Sec. 11 of the I. T. Ordinance. The aspects relevant to composition, qualification of members, functioning of Appellate Tribunal are stated below under relevant heads :

1) **Formation or Constitution :** It is a committee of Judges and Experts for settling the judicial matters relating to income tax and it consists of not more than 10 members out of whom one member is appointed as President.

2) **Qualifications of Member :** To be a member of Appellate Tribunal a person should be one of the following categories :

   (i) a person who is a Commissioner of Taxes; or

   (ii) a person who has practised professionally for a period of not less than eight years as a Chartered Accountant or Cost and Management Accountant; or

   (iii) a person who has practised professionally for a period of not less than twenty years as an income tax practitioners within the meaning of Sec. 174 (2) (f); or

(iv) an advocate who has practised professionally in any taxes office for a period of not less than ten years.

In addition, now member of the Taxes Appellate Tribunal can be a person, if–

(i) he was a member of the Board; or

(ii) he was a Commissioner of Taxes; or

(iii) he is a professional legislative expert having not less than eight years experience in the process of drafting and making financial and tax laws.

(3) Functioning : The Tribunal may be divided into benches by the President of the Tribunal to exercise and discharge the powers and functions of the Tribunal.

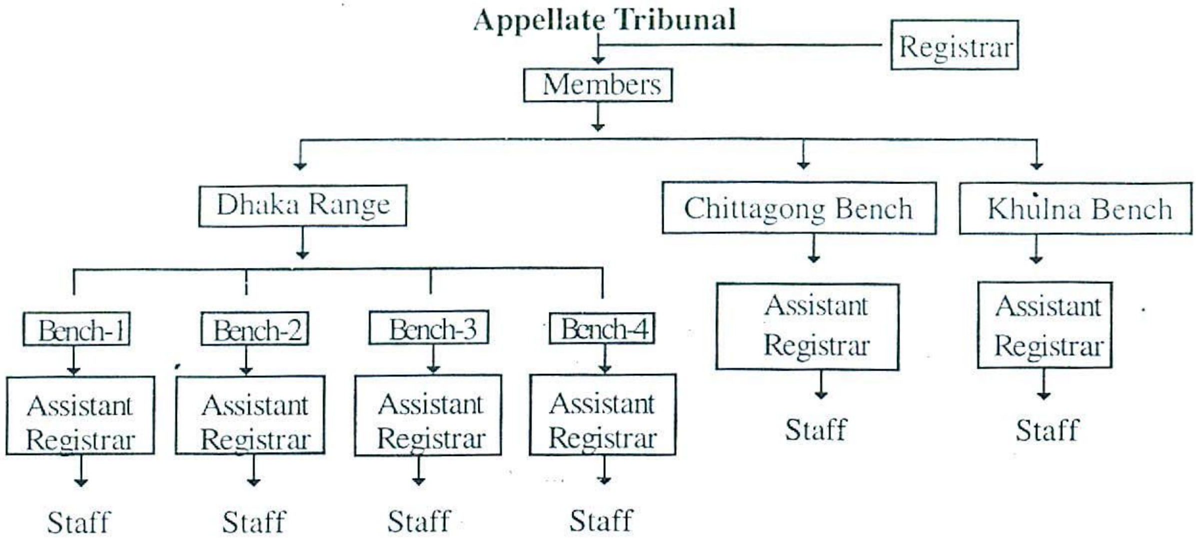
A bench shall be so constituted that it has not less than two members. The decision of a bench in any case or on any point shall be given in accordance with the opinion of the majority of its members. But if the members are equally divided, they refer the point to the president who may refer the case to other members of the Tribunal including those who have heard it first. However, if there are only two members of Tribunal, the Government may appoint an additional member for the purpose of hearing the case.

(4) Exercise of Power : The powers and functions of the Appellate Tribunal shall be exercised by any one of the members, or by two or more members Jointly or severally.

(5) Settlement of Appeal : The settlement of appeal is made by the Appellate Tribunal for the appeals made under the following conditions :

(i) The assessee paid the tax as per income tax return submitted by him under See. 74. The Tribunal will inform the assessee, the order regarding the appeal within 15 days. If no decision is given by the Tribunal within 6 month of the appeal, it will be deemed that appeal is granted.

In fact the Tribunal is the final fact-finding authority. The Tribunal's decision on the question of law is subject to reference to the High Court Division of the Supreme Court. At present six benches of the Tribunal are working throughout the country. They are : Dhaka bench 1, 2, 3 and 4, Chittagong bench and Khulna bench. To perform the administrative functions of the benches, there are one Registrar, six Assistant and other Staffs. The organisation structure of the Tribunal is shown below :



6.6: Role of Higher Courts (Civil) in Income Tax Cases

Higher civil courts are not directly related to the income-tax cases because thay are not a part of Judicial authority. But they can play an indirect role to settle income-tax cases by giving explanation of law to any point referred to them. So it is clear that the decision of the Tribunal is final regarding any income tax case.

However, the Tribunal either voluntarily or against an appeal of the assessee, may refer any point of law for explanation to the higher civil courts like High Court and Supreme Court. On the basis of the explanation, it is the Tribunal which can give final verdict on a tax case. So the decision of the Tribunal can not be challanged. But the power of higher courts is limited to the giving of explanation to a point of law referred to them but they are not empowered to give Judgement on the basis of the given explanation. Under the following circumstances and subject to the rules prescribed, a point of law can be referred to higher courts for explanation :

(a) Commissioner of Taxes or an assessee under Sec. 159 can refer a point of law for explanation to higher courts within 90 days of the decision given by Appellate Tribunal. Application is to be made in prescribed form by giving a fees of Tk. 2000.

(b) The application is to be made in triplicate along with the following documents :

  (i) Three certified copies of the decision of Appellate Tribunal on a point of law on which explanation is required.

  (ii) Copies of decision given by DCT, Inspecting Joint Commissioner or Appellate Commissioner of Taxes on the matters referred to the courts.

  (iii) Other relevant documents.

(iv) The defendent is to submit its arguments with in 7 days to the higher courts.

(v) The court shall fix a date of hearing and give explanation to the point on the basis of which Tribunal will take next step.

Questions

Who are the Income Tax Authorities? Discuss their powers and functions. Can a Civil Court deal with income tax cases? [C. U. BBA, 1991]

2. Who are the Income Tax Authorities? Discuss the position and functions of DCT in Income tax department. Can a civil Court try an Income tax case? [D. U. B. Com. 1985, 82, 92, 94, N. U. B. Com. (H) 96]

(a) Who are the Judicial authorities under Income Tax Ordinance?
(b) State the composition and functions of Appellate Tribunal. [D. U. B. Com. 91]

Discuss the formation, functions and powers of NBR.

(a) Discuss the procedure of filing an appeal to the Appellate Joint Commissioner of Taxes.
(b) How the Appellate Tribunal is formed and what is its function? [D. U. B. Com. 1986; 89]

(a) How the Appellate Tribunal is formed under Income-tax Ordinance, 1984?
(b) On which ground and how appeal may be made to Appellate Tribunal? [D. U. B. Com. 87; N. U. B. Com. (H) 97]

(a) Who are the Income Tax Authorities?
(b) Under what circumstances can an assessee appeal against the assessment made by the DCT?
(c) Can Civil Courts deal with Income Tax Cases? [D. U. B. Com. 1988]

(a) Present the organization structure of Income Tax Authorities.
(b) Enumerate the powers and duties of Commissioner of Taxes.
(c) How Taxes Appellate Tribunal is formed? [D. U. B. Com. 92]

(a) What role you think the DCTs play in the administration of Income Tax Laws in Bangladesh?
(b) Under what circumstances can an assessee move to seek relief against the assessment made by the Deputy Commissioner of Taxes? [N. U. B. Com. (H), 95]

Who are the tax authorities? Discuss the functions of DCT. State the ground on which appeal can be filed to Appellate Tribunal. [N. U. B. Com. (H.) 2000]

Chapter-7

Income Year, Tax Year and Tax Rate

Chapter Synopsis/Contents:

7.1 : Introduction
7.2 : What is meant by Assessment Year?
7.3 : What is meant by 'Income Year'?
7.4 : How to Change the Income Year?
7.5 : Importance of Income Year and Assessment Year
7.6 : Procedure for Determining Income and Assessment year
7.7 : Illustration
7.8 : Tax Rates
Questions

7.1: Introduction

One of the important features of income tax law is that income of an assessee of particular year is taxed by applying the tax rules and rates of a succeeding year immediately after the year of income. Some times the rules of tax are changed in the Finance Act and thus the tax liability of an assessee also changes even with or without any change in total income. This happens mainly for changes in tax rates and other related provisions. So it is very essential to know the rules relating to the determination of income year and assessment year as per the Ordinance and the rate or rates of tax applicable for different types of assessees for different assessment year. This chapter will deal with the aspects of Income Year and Assessment Year.

7.2: What is meant by Assessment Year?

The year in which the tax is paid is called the "Assessment Year" or tax year. According to Section 2 (9) of IT Ordinance, 1984. assessment year means that period of twelve months commencing on the first day of July every year. So it is the year in which the assessments are made for the income of the assessee of the income year.

Exceptions: There are some exceptions to the above rule. The assessment year may also be any such period, which may be deemed under the provisions of the Ordinance as the assessment year in respect of any income for any period. The following are the cases where the assessment and the income years become the same :

(a) Discontinued business or profession [Sections 89 and 19 (6)]

(b) Persons leaving Bangladesh for good (Sec. 91)

(c) Non-resident persons carrying on occassional shipping business (Sec. 102)
(d) Non-resident persons carrying on air transport business (Sec. 103 A)

7.3: What is meant by 'Income Year'?

The year of the income for which tax is levied is called 'income year'. In the Income Act of 1922, it was called the previous year.

According to Section 2 (35) of I.T. Ordinance, 1984, income year means the financial year (i. e. the year commencing on 1st July every year) immediately preceding the assessment year or any other accounting period (not exceeding twelve months) as adopted by the assessee and ending within the said financial year. But there are some exceptions to the above rule which are as follows :

(a) **Newly setup Business and Profession :** In case of a newly set up business, the first income year will be the period from the date of setting up of business or profession to the end of the financial year in which the business or profession is set up or any other accounting period not exceeding twelve months as adopted by the assessee. The next income years will be determined accordingly.

(b) **Share of Income in a firm :** In this case, the income year of the firm will be considered as the income year of the partners in respect of their share of income in the firm.

(c) **Different Sources of Income :** An assessee may have different sources of income and accordingly income year for each source of income may be different. Even income from same source may have different income year. However, for tax purpose, income earned during the income years falling within the financial year immediately preceeding the assessment year will be considered as income assessable in that particular assessment year.

7.4: How to Change the Income Year?

The income year once adopted or determined can be changed only with the consent of the DCT who may impose such terms and conditions as he may think fit while approving the change. For the purpose of change in income year, application should be made to the DCT before the end of such income year.

7.5: Importance of Income Year and Assessment Year

(1) Determination of income year has the following importance :

(a) **Computation of Total Income :** Tax is charged on the total income of the income year. What are chargeable to tax are, therefore, the income, profits and gains of the income year. Thus for the purpose of computing total income profits and gains, profits earned or losses sustained before or after the income year are irrelevant. In such a case for the purpose of computation of total income of the assessee, the income year has much importance.

(b) **Determination of Tax Burden :** The tax liability of an assessee is determined at the rate or rates prescribed in the Finance Act in force for the assessment year. The income year of an assessee will determine its corrosponding assessment year. So the tax burden of an assessee depends on the determination of income year.

(c) **Filing of Tax Rerurn :** The date for filing of return of an assessee is fixed on the basis of his income year. Thus determination of income year is important.

(2) Determination of Assessment Year:

Further it is also important to determine the assessment year correctly for the following reasons:

(a) **Exemptions:** The provisions for exemptions and rebates of assessment year are applied on the computation of total income and tax credit income. So, determination of assessment year is vital.

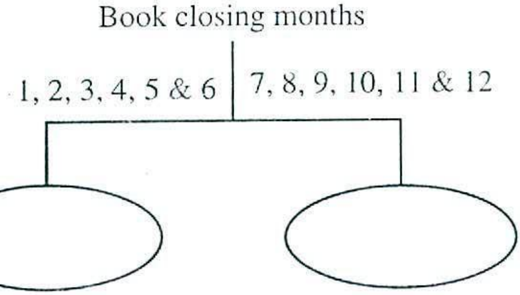
(b) **Tax Burden:** Assessment year also has an important bearing on the tax liability of the assessee because the tax rates of assessment year is applied to calculate the tax burden of an assessee.

(c) **Different Tax Rates:** Different income years and consequently different assessment years may be determined for different sources of income of an assessee if the accounting year of these sources of income are different. As the tax rates for different assessment years are not similar, the tax burden is also bound to be different. So determination of assessment year is important in the determination of tax liability.

7.6: Procedure for Determining Income and Assessment Year

The rules for determining income year and assessment year of a running business and newly established business are different. For a running business, the rule is that the 'Financial Year' in which the accounting year of a business closes is the income year of that business.

For determining income year, for practical purpose, students may follow this 'Balance' approach :



If accounts are closed in January to June the left hand side will weigh much and income year will go backward. For example if accounts are closed on 30-4-2004, its income year will be 2003-2004 and assessment year will be 2004-2005. On the other hand if accounts are closed in months July to December, right hand side will weigh much and income year will go forward. For example, if account is closed on 31st October, 2003 (31-10-2003), its income year will go forward and it will be 2003-2004; correspondingly its assesment year will be 2004-2005.

Following examples will make the point clear :

7.7. Illustration

Example-1: From the following closing dates of accounts of business of a person, determine the income year and assessment year.

(a) 1st March 2004 to 29th February, 2005.

(b) 1st January 2004 to 31st December, 2004.

(c) 1st July 2004 to 30th June, 2005.

(d) 1st November 2003 to 31st October, 2004.

Solution:

Situations	Income year	Assessment year	Remarks
(a)	2004-2005	2005-2006	In case of situation (a) & (c)
(b)	2004-2005	2005-2006	Accounting years close within financial year of 2004-2005.
(c)	2004-2005	2004-2005	So they are the income years for (a) & (c) respectively.
(d)	2004-2005	2005-2006	The same rule applied for situations (b) and (d).

In the Case of Newly Established Business : In the case of new business, the income year is the period from the date of setting up of the business to 30th June next following or at the option of the assessee to his accounting date. The following example will make this provision clear :

Exmaple-2:

	Date of establishment of the business	Option of the assessee
(a)	1-1-2003	Financial year as accounting year.
(b)	15-6-2003	Calendar year as accounting year.
(c)	14-1-2003	Bengali year as accounting year. It ends on 13th April.

Solution:

Situations	Income year	Assessment year	Comments
(a)	2002-03	2003-2004	In future, the assessee will use accounting period starting from 1st July to 30th June
(b)	2003-2004 (From , 15-6-2003 to 31-12-2004) = 6 and $\frac{1}{2}$ months	2004-2005	In future, the assessee will use accounting period from 1st January to 31st December.
(c)	2003-2004 for 4 months from 14-1-2003 to 13-5-04.	2004-2005	In future, the assessee will use full Bengali year as his accounting year.

7.7: Tax Rates

Tax liability of an assessee is determined at the rate or rates applicable on the total income of the assessee. The rate of tax is not uniform for all types of assessees and for any level of income. So it is important to know the rate or rates applicable for different types of assessees in different assessment year.

(A) Tax Rate for individual, Hindu Undivided Family, Firm, Association of persons or Artificial person created by law.

For the Assessment Year of 2005-2006 and 2006-2007

For Assessment years 2005-2006

	Rate
(i) On the first Tk. 1,00,000	00%
(ii) On the next Tk. 2,00,000	10%
(iii) On the next Tk. 2,50,000	15%
(iv) On the next Tk. 3,50,000	20%
(v) On the rest income	25%

For Assessment years 2006-2007

	Rate
On Tk. 1,20,000	nil
on next Tk. 2,50,000	10%
on next Tk. 3,00,000	15%
on next Tk. 3,50,000	20%
on the rest	25%

It is to be mentioned that the minimum tax liability of an assessee from the assessment year 2005-2006 itis Tk.1,500 and for 2006 - 2007 it is Tk. 1,800.

It is to be noted that for small & cottage industry situated in less developed or least developed areas tax rate rebate will be allowed as follows:

Particulars of Conditions	Tax rebat
(i) Production increased by 15-25% over last year	5% rebate on tax rate
(ii) Production increased over 25% than last year	10% rebate on tax rate

(B) Company, Local Authority and those assessees on whom tax is imposed at the maximum rate as per Income Tax Ordinance, 1984 (XXXVI of 1984) :

Tax rate of a Company for the Assement year 2005-2006 and 2006-2007

In the Finance Act, 2005, the tax rates for the companies have been changed as follows:

Description of the company	Tax Rate 2005-2006	Tax Rate 2006-2007
(1) All Publicly Traded Co. (except banks, insurance, leasing and other investing co.)	30% of total income	30%
(2) Not Publicly Traded Co. (except banks, insurance, leasing and other investing co.)	37.5% of total income	40%
(3) Banks, Insurance leasing and other investment companies	45% of total income	45%

Here it is to be noted that if a publicly traded company declares dividend more than 20% then it will get tax rate rebate @ 10%. Further, if publicly traded company declares dividend less than 10% it will be taxed @ 37.5%. For 2006 - 2007 instead of 37.5%. it will be 40%.

The Finance Act, 2005 also provides that-

(i) Dividend income (Excluding income not chargeable to dividend distribution tax under IT ord. 1984, sec. 16D) 15%.

(ii) Non-resident foreign persons or Association except companies 25%.

The definition of publicly traded company has been changed as follows: Publicly traded company will mean a company which is registered under the companies Act 1913 or company registered under the companies Act, 1994 and that such company's share is registered in stock exchange for the financial year of which taxes going to be charged.

Tax on Excess Profit of Banks :

Banks are required to pay an additional tax of 15% on the profit which is more than 50% of the total of capital and reserve. This rule has been introduced by insertion of a provision as Sec. 16 c in the Ordinance. This rule is applicable from the assessment year 2002-2003.

Tax Rate Reduced in 2004 through SRO: In the following cases tax rate have been reduced:

(1) SRO-218 dated 13-07-2004: Tax rate reduced to 15% on income arising from manufacture of jute goods.

(2) SRO-219 dated 13-07-2004: Tax rate reduced to 15% from 20% on income relevant to production of thread, dying, finishing etc. of cotton textile.

(3) SRO-220 dated 13-07-2004: Tax rate reduced to 10% on income arising from transfer of shares of private Ltd. Company.

Questions

1. Define Income Year and Assessment Year. State the importance of them in tax assessment. [N. U. 1995]

2. (a) What is meant by Income Year? State the rules for determining Income Year.
   (b) Discuss the importance of Assessment Year for assessment of tax. [C. U. B.B.A 1995]

3. From the following information find out Income Year and Assessment Year :
   (a) Accounting period of business is 30-6-2005.
   (b) Accounting period of business is 31-12-2005.
   (c) Accounting period range from 1-7-2004 to 30-6-2005.
   (d) A business established on 1-9-2003 likes to adopt calendar year as income year.
   (e) A business was established on 1-3-04 and has been adopting 12 months as accounting period. The business has been dissolved on 10-9-2005.

4. Discuss the rules relating to the corporate taxation for the assessment year 2005-2006.

5. Point out the tax rates prevailing now on the income of an individual

Chapter-8

Tax Assessment and Collection

Chapter Synopsis/Contents:

8.1 : Introduction
8.2 : Assessment Procedure
8.3 : Provisions Relevant to Submission of Tax Return
8.4 : Filing of Statement of Assets and Liabilities
8.5 : Different Types of Assessment
8.6 : Re-assessment in Case of Escaping Income [Sec. 93]
8.7 : Time-Limit for Completing Assessment [Sec. 94 (1)]
8.8 : Rules for Payment and Collection of Taxes [Sec. 134-143]
8.9 : Tax Deducted at Sources (Sec. 48-63)
8.10 : Advance Payment of Tax [Sec. 64 and 65]
8.11 : Refund of Tax
Questions

8.1: Introduction

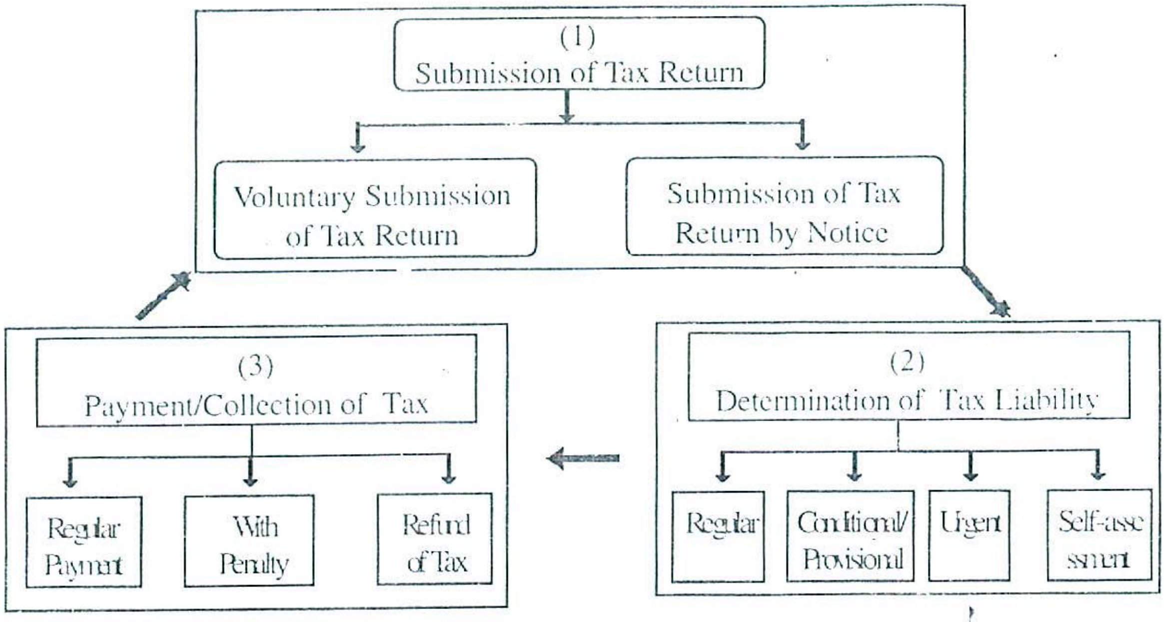
Tax assessment and collection are two important functions of tax authorities. Clarity and simplicity of tax assessment procedure and efficiency of tax collection ensure better performance of tax authority. Indirectly it can be said that sound assessment procedure and collection policy generate sufficient tax revenue for the Government. In this chapter different provisions of tax assessment and their collection have been elaborately discussed.

8.2: Assessment Procedure

The term 'assessment' is used to mean the determination of the amount of–

(i) total income of an assessee,
(ii) total tax payable by an assessee,
(iii) tax collection; and
(iv) refund due to him.

So the term embraces both tax determination and collection procedure followed by the assessor. It is a continuous process starting from the assessment and ends with the collection of tax. The steps of assessment are: (i) Submission of tax return, (ii) determination of tax liability; (iii) Collection/payment of tax and (iv) refund, if any. This assessment procedure is shown by the following chart :



The various steps of assessment are now discussed below :

Submission of Return

The first step in assessment is the submission of tax return. Deputy Commissioner of Taxes will determine tax as per Income Tax Ordinance, under the following situations :

(i) When the assessee submits the tax return voluntarily;

(ii) When the assessee submits the tax return in response to the notice issued by DCT for this purpose.

(iii) When the assessee fails to submit tax-return in response to the notice issued by DCT for this purpose, the latter can determine tax liability by his own initiative. Thus, infact, no assessment can be made unless any of the aforesaid conditions is fulfilled. In other words, no assessment can be made on a person who fails to make a return voluntarily or on whom no notice has been served by the Income Tax Officer. (C. I. T. vs. Express Newspapers Ltd.) Where, however, a person fails to make a return in response to a notice served on him a "best judgement assessment" may be made by the DCT on the ground of default in filing a return.

Now the provisions relevant to the submission of tax-return are cited.

8.3: Provisions Relevant to Submission of Tax Return

A Tax Return is an statement of income, earned by an assessee in income-year from his different sources of income, submitted to the Deputy Commissioner of Taxes for assessment purpose. The provisions in this regard are stated in Section-75 which includes the following points :

A) **Who should file the Return** [Sec. 75 (i)] :
The following person should file the tax-return.

(i) Any person whose income has exceeded the minimum taxable limit (at present Tk. 1,00,000) in the income year. From the asserment year, it has been raised to Tk. 1,20,000.

(ii) Any person who has been assessed to tax for any one of the three years immediately preceeding that income year.

(iii) Any person who acts as the respresentative of the assessee in his absence; and

(iv) Any person on whom notice has been served by the Income-tax authority to submit tax-return.

(v) Besides the above persons, filing of return is also compulsory in the case of the persons who resides within the limits of a City Corporation or of a Pourashava of a divisional head quarters or district headquarters but do not fall in the above category but any of the following conditions prevail in their cases at any time during the relevant income year :

(a) Owning a building which consists of more than one storey and the plinth area of which exceeds 1600 square feet;
(b) Owning a motor car;
(c) Subscribing a telephone; or
(d) Owning a membership of a club registered under VAT laws.

(vi) Optional Filing of Return : Any non-resident Bangladeshi may file his return of income along with bank draft equivalent to tax liability (determined on the basis of this return). A Bangladeshi Mission nearest to the assessee will issue a receipt of such return with official seal and send the return to the NBR.

Such returns are to be submitted in prescribed form and duly verified and signed by the authorised person. To test the authenticity of the income and expenses of the assessee, relevant documents are to be submitted. The partnership firms and companies having paid up capital above Tk. 10 lakhs, should submit accounts statements audited by Chartered Accountants.

(vii) Certificate in place of return : In case of an assessee having taxable income under the head "Salary" or other head from which full amount of tax payable has been deducted at source, such person may submit a certificate instead of filing a return. Such certificate is called 'Certificate in place of return'. Such certificate is to be submitted in prescribed form accompanied by a statement of assets and and liabilities where applicable under Sec. 75 (d) and Sec. 80.

B) **Time for Filing the Return :** Different assessees are required to file tax returns at different times. Now the time schedule for submission of return with other provisions is elaborated below :

(1) Individual assessee : He is to file return within 30th day of September next following the income year.

The return is to be verified and signed by the assessee himself. But when the assessee is absent from Bangladesh, it is to be signed and verified by some person duly authorised by him. If the assessee is mentally incapacited from attending to his affairs, the guardian or any other person competent to act on his behalf will sign and verify the return.

(2) Hindu Undivided Family : It is to submit return within 30th day of September next following the imcome year.

Such return is to be submitted by the 'Karta' (guardian) of the family duly verified and signed by him. If he is absent from Bangladesh or is mentally incapacitated from attending to his affairs, any other adult member of the family is to verify and sign the return before submission.

(3) Company : A company is to submit the return within 15th day of July next following the income year or before expiry of six months from the end of the income year which is later. It is to be mentioned here that in the Finance Act, 2001, submission of return for the company is made compulsory whether its income is taxable or not. But companies established in EPZ areas are not required to submit return during the period for which they are enjoying exemption from taxes under SRO No 289-L/89 dated 17-8-89.

The companies are required to submit audited accounts alongwith the tax return. For a company, the return is to be verified and signed by the principal officer.

(4) Firm : A firm is to file the return within 30th day of September next following the income year such return is to be verified and signed by any partner (not being a partner).

(5) Local Authority : A local authority is to file return within 30th day of September next following the income year. This return is to be signed and verified by the principal officer.

(6) Association of Persons : It is to submit the return within 30th day of September next following the income year. Any member of the association or the principal officer of the association is to verify and sign the return.

(7) Any Other Person : Any other assessee not falling with in the above category is to submit it within 30th day of September next following the income year. Such return is to be verified and signed by the person himself or by any person competent to act on his behalf.

C) Belated or Revised Return of Income :

If any person fails to furnish a return within specified time, or having so furnished discovers any omission or error in the return, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made. If the assessee submits a false return knowing it to be false, he can not revise the return (C. I. T. Vs. Badri Das Ramrai). The offence of filing a deliberately false return is not condoned by the filing of a revised return and a penalty may be imposed in respect of the previous false return not with standing the filing of a revised return. (C. I. T. vs. Aruna Chalam Chettiar).

D) Extension of Time :

Under Sec. 77, DCT can direct an assessee to submit return by issuing notice to him if he fails to submit the same in time. In such a situation, the assessee is given at least 21 days or as per provision of Finance Act for the submission of return from the date of issuance of the notice.

Under Sec. 75 (3), DCT can extend the time for submission of return to a company if it makes an apeal for such extension. This period of extension can be extended further for 3 months subject to the approval of respective Inspecting Joint Commissioner / Additional Commissioner of Taxes.

8.4.1: Filing of Statement of Assets and Liabilities

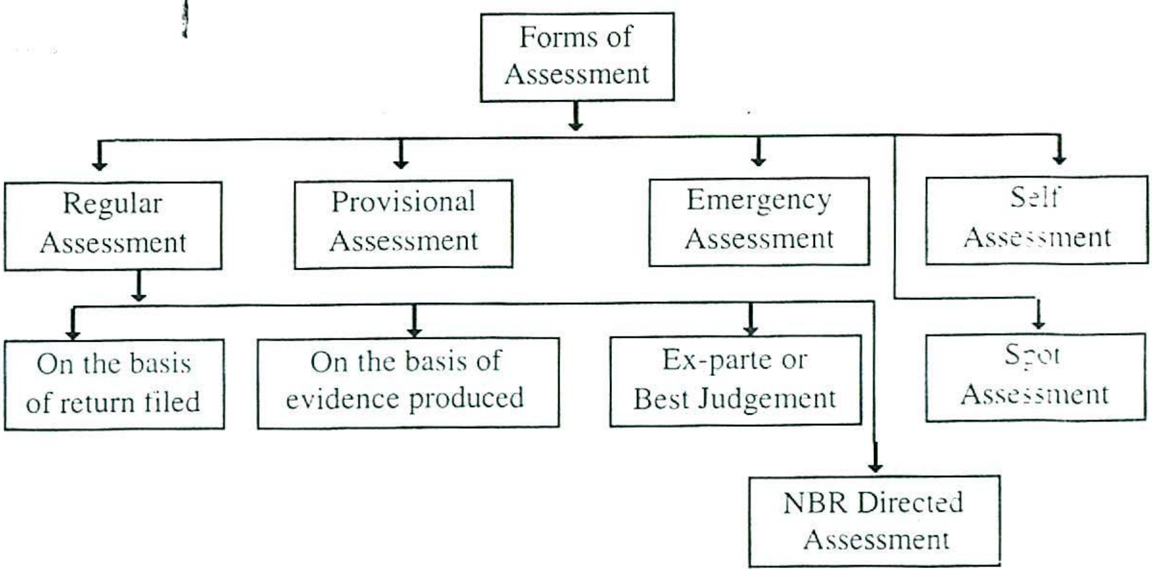
An individual who is required to file return should also file, a statement of assets and liabilities shall be filed along with the return of income. The statement shall be in the prescribed form and duly verified by the assessee. This rules also applies in the case of filing of certificate in place of return under Sec. 76 and filing of return in response to notice U/S 77. For both regular and self-assessment, this requirement is equally applicable.

8.4.2: Filing of life style statement

According to Finance Act 2004 on assessee along with his tax return shall also file a statement in the prescribed form as to the life style. This is also compulsory for assessees filing tax return under "self assessment scheme"

8.5: Different Types of Assessment

Determination of tax based on return may take various forms under various circumstances. Chart below shows such different types of assessment which is followed by descriptions of different forms of assessment :



(1) Regular Assessment :

This types of assessment may be of four kinds. They are:

(a) On the basis of return filed : When an assessee submits his return of income and the DCT is satisfied that the return is correct and complete, he assesses the total income and the amount of tax payable by the assessee on the basis of information available in the return without requiring the presence of the assessee and production of evidences.

The assessment orders under such cases should be communicated to the assessee within 30 days next following.

In the following cases, DCT is required to accept the return as correct :

if the returns filed is accompanied by a certified copy of the accounts audited by a Chartered Accountant and if a certificate as to the correctness of the total income of the assessee is to be signed and verified by Chartered Accountant, the return filed by the following types of companies will be taken as correct by DCT :

(i) Companies whose more than 50% of shares are owned by foreigners.
(ii) Companies which are public limited.
(iii) Anybody corporate established by or under any law for the time being in force.
(iv) Any nationalised Banking, Insurance or other financial Institutions.

However, NBR or any authority subordinate to the NBR if so authorised, may select a portion of such returns for the purpose of audit.

(b) On the basis of evidence produced : Where the DCT is not satisfied with the correctness and completeness of the return, he should serve a notice of hearing to that assessee.

On receipt of such notice, the assessee should appear before the DCT on the specified date and produce before him the the evidences in support of the return. The DCT will complete the assessment after the final hearing and communicate the decision within 30 days of assessment.

In this case, it may further be noted that the NBR may appoint a registered Chartered Accountant to examine the accounts of a company if it is believed by the NBR that the return or the revised return submitted by the company is incorrect or incomplete. On the basis of the report of the appointed Chartered Accountant, the DCT, after giving an opportunity to the company to be heard, will make the assessment. Such assessment will be made within 30 days of hearing and communicate the order to the assessee within 30 days next.

(c) 'Ex-parte' or 'Best-Judgement Assessment : If an assessee does not file return voluntarily or against notice issued, the DCT on his own accord take initiative to assess the tax. This assessment is based on judgement of the DCT. At the time of finalising such assessment, the DCT should be guided by justice and concepts of equity and good conscience. Under the following circumstances, the DCT can apply the system of best judgement assessment :

(i) If the assessee fails to file return as required under Sec. 77 or revised return as required under Sec. 78 before the assessment.

(ii) If the assessee fails to apear before the DCT and submit evidence in support to his return as required in the provisions of Sec. 79.

(iii) If the asssess fails to produce evidence in support to his return within specified date mentioned in the notice issued under Sec. 79.

(iv) If the assessee fails to submit the statement of assets in his own name, in the name of his wife and minor child as required by a notice issued under Sec. 80.

It is to be mentioned here that misuse of 'Best Judgement' power by the DCT, in the consideration of NBR, will be treated as professional misconduct. Inclusion of such provision in the Ordinance will have an influencing effect on the DCTs to be rational and unbiased in exercising their power.

(d) Assessment on the basis of Directive of NBR [Sec. 82 (B)]

The Deputy Commissioner of Taxes shall assess the total income of such class of assessees as the NBR may direct, from time to time, on the basis of the returns filed by such assessees and determine the tax payable. Such directed assessment is made by following the provisions of Sections 83 and 84.

(2) Provisional Assessment :

Under Sec. 81, Deputy Commissioner of Taxes, if he thinks it necessary, is empowered, before proceeding to make a regular assessment, to make a provisional assessment on the basis of the return and the accounts and documents, if any, accompanying it. If the assessee fails to file the return of income, such assessment can be made on the basis of last completed assessment--provisional or final. Deputy Commissioner of Taxes can proceed to make assessment under this section after the 1st day of July of the year for which assessment is to be made whether any return is filed or not. Provisional assessment is merely a provisional and does not affect the regular assessment to be made in due course. There is no right of appeal against a provisional assessment and the amount of tax determined by a provisional assessment must be paid within the times specified in the notice of demand. If the assessee fails to pay the tax in time, he will be liable for a penalty which may be as great as the amount of tax due from him. Any amount paid or deemed to have been paid towards the provisional assessment is deemed to have been paid towards the regular assessment. The assessee will be given credit for this in regular assessment and if any excess amount is paid; it will be refunded to him.

(3) Emergency Assessment :

General rule of assessment is that income of a year is assessed in the subsequent year known as the assessment year. But there may arise some situations when it is not possible to follow this system of assessment. In such situations, assessment of a person is made in the year of income. This type of assessment is called the emergency assessment. Now the situations when emergency assessments can be made are explained below :

(a) Discontinued Business (Sec. 89)

If an assessee discontinue a business or profession in a year, he is to inform it to the DCT by a notice within 15 days of such discontinuation. With such notice of discontinuation, a return of income covering the period between the end of the previous income year and the date of discontinuance should be filed. The DCT will make assessment of both the completed income year, if the assessment of the same is pending, and of the broken period.

(b) Persons Leaving the Country for good (Sec. 91)

When it appears to the DCT that an assessee will leave Bangladesh during the financial year and there is no possibility of his return in the next assessment year, he may take steps to assess the tax liability of the person seems to be leaving the country on emergency basis. For such an action, a notice explaining the intention of the DCT is to be given to the assessee at least 7 days before the assessment requiring him to submit return of his return of income to the date of assessment. The assessment would be made as per the rules stated :

(a) in respect of each completed income year at the rates applicables for the relevant assessment year; and

(b) in respect of the broken period, at the rate as in force during the financial year.

(c) Income of a Deceased Person (Sec. 92)

Where a person dies, his income upto the date of his death will be assessed by the DCT in the year of death. Here the legal representative of the deceased will be deemed to be the assessee and the legal representative will be liable to pay for any tax due from the deceased. However, the liability of the legal representative of the deceased shall be limited to the extent the estate of the deceased is capable of meeting the liability.

(d) Income of Non-resident :

Income of non-resident person carrying on occasional shipping business in Bangladesh is assessed for tax purpose from the date of his arrival to the date of departure. Such assessment is made on submission of income return by the assessee. A port clearance will not be granted to the ship to which the assessee belongs untill the Collector of Customs is satisfied that the tax as determined has been duly paid. (Sec. 102)

(4) Spot Assessment [Sec. 82 (B) and Rule 38]

This type of assessment was introduced by adding Sec. 82 (B) in the Income Tax Ordinance by the FA, 1999. According to this type of assessment, the DCT is empowered to impose tax on an assessee who carries on any business or profession in any shopping centre or commercial market but who has not been assessed to tax previously. A company can not be assessed by this system. The DCT may determine the tax payable by the assessee in such manner and at such rate as may be prescribed. For such type of assessment, DCT is required to get a 'return' filled and signed by the assessee (Return Form-B). DCT will supply this return to the assessee.

The rate of taxes in the case of spot assessment for the year 2002-3 are as under and shall be applicable for two years.

	Types of Assessee	Rate of Tax per annum (Taka)
(a)	Assessee carrying on business within the limits of any City Corporation :	
	(i) If the initial capital of the business does not exceed Tk. 5,00,000.	2,500
	(ii) If the initial capital of the business exceeds Tk. 5,00,000 but does not exceed Tk. 10,00,000.	3,500
(b)	Assessee carrying on business within the limits of any Pourasava of any Divisional Head Quarter or District Head Quarter :	
	(i) Where the initial capital does not exceeds Tk. 5 lakh.	1,500
	(ii) Where the initial capital exceeds Tk. 5 lakhs but does not exceed Tk. 10 lakh.	2,500
(c)	Assessee being a lawer or a doctor carrying on profession for a period exceeding 6 years but not exceeding 10 years :	
	(i) Where profession is carried on within the limits of any City Corporation.	2,500
	(ii) Where profession is carried on in any other area.	1,000

(**Note :** Regular assessment system will be followed for these assessees carrying on profession for more than 10 years.)

However, it is to be mentioned here that an assessee who claims adjustment of tax deducted or collected at source or having a wholesale business or having Initial Capital exceeding Tk. 10,00,000 will not be eligible for spot assessment.

(5) Self-Assessment [Sec. 83A and Rule 38]

The regular assessment system involves filing of a return of income by the assessee along with relevant documents to the DCT for the determination of total income and tax liability. He is also required to issue a demand notice for payment of tax. As this system is cumbersome, some categeries of assessees under certain conditions are allowed to make their assessment by themselves. So, the assessment made by the assessee himself is called 'Self-assessment'.

The DCT shall receive such return by himself or caused to be received by any other official authorised by him. The NBR or any other subordinate authority to the NBR may select any return submitted to the DCT for scrutiny. The DCT may proceed to make any audit of those returns if the return is selected for audit.

The provision with regard to self-assessment as per Rule. 38 are as follows :

(a) **Person eligible to file returns under self assessment :**

Every person other than the following are eligible to file the return under self assessment scheme :

(i) A Limited Company registered under thé Companies Act. 1913 and 1994;
(ii) A partnership firm which has applied for registration but yet to get it;
(iii) Any contractor or indentor; and
(iv) A director holding shares exceeding 10% of the paid up capital of a Limited Company.

(b) **Conditions for inclusion under the Scheme :**

Those who fulfil the following conditions can come under the orbit of the scheme :

(i) The portion of salary income of the assessee should be at least 80% of the total income.

(ii) For new assessee, the total income shown in the return under this scheme must be more than the income on which the assessee has been last assessed. For this purpose, the last assessed income of the assesses should be ascertained excluding capital gain, if there is any.

(iii) A person having income from old business and profession can submit return under this scheme if he pays minimum tax of Tk. 1,200.

(iv) The return is duly verified by the assessee to be correct and complete in all respects.

(c) **Conditions for self assessment of Private Limited Companies** (Sec. 83 AA) :

A Private Limited Company may also file return under this scheme if the following conditions are satisfied :

(i) The return shows at least 5% more income than the income last assessed; and

(ii) The minimum tax liability ascertained will be Tk. 50,000 or 10% more than the last year's tax - whichever is higher.

The DCT will accept the audited income statement of the Company as the basis for determining tax liability. To get the self-assessment facility, the assessee should pay the tax assessed along with tax return or before submission of the return.

d) Other Conditions relevant to self assessment :

By repealing the old conditions, the Finance Act, 2002 sets the following conditions under Income Tax Rules 38 as requirement for self-assessment :

i) Return must be submitted as per date fixed in section 75 of I. T. Ordinance,

ii) Income cannot be shown below taxable limit or that which was shown in the last assessment,

iii) Refund, gift taken or given cannot be shown in the return,

iv) Tax exempted income cannot be shown in the return,

v) For individual assessee, wealth statement be submitted along with the return,

vi) For business which keeps books of accounts must submit Profit and Loss Account/Income Statement and Balancesheet with the return,

vii) Those who donot maintain such books, must submit a statement of income and expenditure,

viii) Tax must be paid with return or before that,

ix) Those who are in business from 2002-2003 assessment year can show any amount of opening capital but they must show 15% of capital as profit.

x) Life style statement in prescribed form must be submitted with tax return.

8.6: Re-assessment in Case of Escaping Income [Sec. 93]

According to Sec. 93, the DCT can exercise the power of re-assessment under the following conditions :

(a) If an assessee fails to submit return of income under Sec. 75 or 77;

(b) If the assessee wilfully submits a false return of income or conceals any fact; and

(c) If in any year any source of income is excluded fully or partially from assessment or taxed at a rate lower than the actual rate applicable for that source of income.

For such re-assessment, DCT is to serve a notice on the assessee stating the reason or reasons behind such intention of re-assessment and he will ascertain the total and taxable income of the assessee.

For re-assessment of an assessee, prior permission of the Inspecting Joint-Commissioner of Taxes is required. Such re-assessment can not be made after the 5 years of normal assessment.

8.7: Time-Limit for Completing Assessment [Sec. 94 (1)]

No order of assessment cannot be made-

(i) after the expiry of 2 years from the end of the assessment year in which the income was first assessable; or

(ii) after the expiry of 9 months from the end of the mouth in which the return is submitted, whichever is earlier.

8.8: Rules for Payment and Collection of Taxes [Sec. 134-143]

Income-tax Ordinance provides the provisions of tax recovery. The provisions are as follows :

(1) Notice of Demand (Sec. 135) : The Deputy Commissioner of Taxes shall serve upon the assessee a notice of demand in the prescribed form specifying therein the sum payable and the time within which, and the manner in which, it is payable together with a copy of an assessment order.

(2) Penalty for Default in Payment of Tax [Sec. 137]

The DCT may impose a penalty on an assessee for his failure to pay tax within the specified time in the notice of demand. But the amount of penalty should not exceed the original amount of tax liability.

(3) Certificate for Recovery of Tax [Sec. 138]

The DCT may forward to the Tax Recovery Officer a certificate for recovery of tax, if the assessee is in default. Such certificate must specify the amount of arrear tax and it is to be signed by the DCT.

Such certificate may be forwarded to-

(a) the Tax Recovery Officer within whose jurisdiction the assessee carried on his business or the Principal place of business or profession of the assessee; or

(b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situated; or

(c) the Tax Recovery Officer who has jurisdiction in relation to the assessee & has determined the tax.

(4) Method of Recovery by Tax Recovery Officer [Sec. 139]

Upon receipt of a certificate forwarded to him by DCT for recovery of arrear tax, the Tax Recovery Officer may take any of the following modes, namely :

(i) attachment and sale, or sale without attachment, of any movable or immovable property of the assessee.

(ii) arrest of the assessee and his detention in Prison.

(iii) appointment of a receiver for the management of the movable and immovable properties of the assessee.

It is to be mentioned here that the Tax Recovery Officer may also recover any interest payable by the assessee under Sec. 136 and any cost or charge incurred for such recovery proceeding by following the above modes of recovery. A Tax Recovery Officer may also forward a certificate of recovery to another officer if the former fails to recover the full amount of arrear tax and if he believes that the default assessee has sources of income or movable or immovable property in the jurisdiction of the later.

(5) Recovery of Tax through the Collector of District [Sec. 142]

The DCT may forward to the Collector of District a certificate for collection of tax in which-

(i) the default assessee resides; or
(ii) owns property; or
(iii) carries on business or profession.

(6) Other Modes of Recovery [Sec. 143]

In addition to the above modes of recovery, the DCT may also take the following steps to recover tax :

(a) the DCT may require any person by notice in writing to pay the arrear tax to him :
(i) if any amount is due to the person, or if the person holds or controls the receipt or disposal of the fund of the assessee.
(ii) if he is responsible for payment of salary to the default– assessee.

(7) Deduction of Tax at Source and Advance Tax payment :

In addition to the regular assessment of tax, there are some sources of income from which tax is deducted by the payer at certain rates before payment to the payee. It is called deduction of tax at source. Similarly, some assessees having income above certain level are to pay tax before the end of income year. It is called advance payment of tax.

They are now discussed below :

8.9: Tax Deducted at Sources (Sec. 48-63) (PAYE)

Any person or organisation employing people having taxable income or provide services against income subject to tax than such person or organization is required to pay the amount of salary after deducting tax from the income of the assessee, This is called 'Tax deducted at sources' or "Pay as you earn". Under the following situations tax are deducted at sources :

(1) Deduction from Salary (Sec. 50)

An employer is required to deduct estimated tax that is payable by the employee (assessee) from his salary before the payment of the same. Such deduction is to be made at the average rate applicable to the estimated total income of the payee.

(2) Deduction from Interest on Securities (Sec. 51)

The person responsible for payment which constitutes income of the payee classified under the head 'Interest on Securities' shall deduct tax at the rate of 20 percent on the amount payable. But from the year 2006-2007 it will be deducted @ 10% and charged at the time of sale and not at the time of maturity of interest. However, the assessee can be exempted from such deduction of tax if he can produce a certificate from the DCT that the total income of the assessee will not exceed 25 percent. The deduction of tax may also be made at a lower rate if DCT issues a certificate to deduct tax at a lesser rate from a particular assessee.

(3) Deduction from payment to Contractors, etc (Sec. 52)

When any amount is paid to the following persons as advance for the stated purpose, the payer should deduct tax on the amount so payable at the rate specified. Deductions are to be made for the following :

(i) For indenting commission;

(ii) For supply of goods; or

(iii) For execution of contract or for services rendered.

The current rates of deduction from the above sources are :

	Description	Rate of Tax
(i)	Payment upto Tk. 3,00,000	00%
(ii)	Payment above Tk. 3,00,000 but below Tk. 25,00,000	2%
(iii)	Payment above Tk. 25,00,000	3%

(4) Fees for professional or technical services:

Tax at source will be deducted @ 5%.

(5) Licence for Brick Field:

Tax @ Tk. 7,500, 10,000 and 15,000 will be collected by D. C of the area at the time of issuing or renewal of license for one, two & three section Brick field respectively.

(6) Interest on Deposit received by Non Banking, Leasing & House Financing companies:

Such organizations at the time of paying interest to depositors will deduct tax @ 10% on interest.

(7) Collection of Tax from Resident Shipping Bussiness:

Tax @ 4% on shipping fare will be deducted at source.

(8) Collection of tax from export of knit wear & woven garments:

Tax on export price @ 25% will be deducted.

(9) Collection of Tax from Member of Stock Exchange:

Purchase or sale of Share, Debenture, Mutual Fund, Bond or Securites by member stock exchange will be subject to advance tax at source @ .015% & will be treated as final payment of tax for such transaction.

(10) Collection of tax from persons engaged in Real Estate:

Such person at the time of resgistration will pay tax:

(a) For Building or Appartment @ Tk. 175 per sq. meter.

(b) For land or plot @ 2.5% on registration value.

(11) Deductions from Importers and Exporters (Sec. 53)

The Collector of Customs shall make collection of tax payable by the importers and exporters @ 3% as advance payment of tax. The NBR will specify the importers and exporters from whom collections are to be made.

Any amount collected under this section, shall be deemed to be an advance payment of tax by the importer or exporter concerned and shall be given credit for in the final assessment of his tax.

(12) Export of Readymade Garments & Knit Wear:

Tax deducted at source for these will be treated as final tax payment from 1st July 2005 to 30th June 2010. The procedure will be as follows:

(a) Such export income as per section 19 or 30 will be exempted from final tax payment.

(b) Tax rate will be 10% on estimated income.

(c) Income will be determined as per regular procedure.

(d) Tax return will be submitted to DCT along with documents & if assessee has other income these will be computed as per section 28 & 29 and tax will be paid there on.

(13) Deduction from Dividend (Sec. 54)

The principal officer of a Company registered in Bangladesh, shall deduct tax from dividends payable to the following assessee at the specified rate :

(i) If the shareholder is a Company, at the rate applicable to a Company; and

(ii) If the shareholder is a person other than a Company, at the maximum rate.

The rate of withholding tax from different types of assessees are as given :

Types of Assessee	Rate of withholding
(i) Non-resident Company (ii) Non-resident Person	Rate applicable to Co., Maximum-25%
(iii) Resident Company (iv) Resident Person	Rate applicable to Co., 10%

If dividend is exempted, such deduction will not be applicable for those cases.

(14) Deduction for Transfer of Wealth [Sec. 54 (H)]

Deduction of tax on income from transfer of property accrued after five years of its acquisition is 10%.

(15) Deduction from Lottery Income (Sec. 55)

Income from this source is subject to deduction of tax at source @ 20% on the income.

(16) Deduction from Non-resident Assessee [Sec. 56]

Tax should be deducted at source from the income of any non-resident assessee by the payer at the time of payment. The rates of such deduction are-

(i) If the non-resident assessee is a Company, tax should be deducted at the rate applicable on the income of that Company.

(ii) If the non-resident assessee is not a Company, tax should be deducted at the maximum rate i. e. 25%. However, if the assessee obtains a certificate from DCT to deduct tax at a lower rate, tax at source will be deducted at that minimum rate.

(17) Deduction from House Rent :

If the tenent is a Government organisation, Autonomous body, Bank, Insurance or a Public Ltd. Company, it should deduct tax at the following rates from the rent paid to the assessee :

(i)	Monthly house rent upto Tk. 15,000	No tax.
(ii)	Monthly rent above Tk. 15,000 but below Tk. 35,000	2%
(iii)	For the payment of an amount above Tk. 35,000	3%

If the income of the assessee is below the taxable limit, he is entitled to a refund of the tax so deducted.

(18) Deduction from Export of Manpower :

Director of Manpower will grant licence to the manpower exporter, after deducting 10% of service revenue.

(19) Income of any actor or actress above Tk. 50,000 is subject to deduction of tax at source @ 5% of the revenue by the payer.

(20) Marketing and distribution fees given by any body corporate for marketing its products is subject to deduction of tax at source @ 5%.

(21) If any government organization, autonomous body, bank, public limited co. sells property or gold by auction, it is required to deduct tax @ $7\frac{1}{2}$% on the auction value.

(22) If any indenting commission or shipping charges are paid by Bangladesh Bank or any scheduled bank to any Air transport company or Shipping Co., the banks are to deduct tax at source @ 3.5% on the amount paid.

If the collection authority is a Govt. organization, the deducted amount is to be deposited in the day of collection and for other organization within seven days of collection to the tax authority.

(23) Proceeds from open or sealed auction by a Govt., autonomous or Semi-Government organisation is subject to deduction of tax at source @ 3%.

(24) The producer of bidi shall collect tax @ 3% on the value of bandrols sold as advance collection of tax.

(25) The compensation value given by any City Corporation, Pourashova or Cantonment Board for acquisition of any movable property to any assessee is subject to deduction of tax @ 6% on compensation value.

(26) The registration authority is required to collect 7.5% of documentary value any property transferred from the transferor of property at the time of registration.

(27) Professional and technical service fees is also subject to deduction of tax at source. General professional fees is subject to 5% and technical service fees is subject to 10% tax deduction.

(28) General Insurance surveyers income is subject to deduction of tax at source @ 5%.

(29) Technical Know how & Royalty:

(a) Fees payable to Doctors Working in Hospital under company registered in Bangladesh, NGOs registered with NGO Bureau & Trust registered under proper Act be subject to 5% tax deducted at source.

(b) Royalties or fees payable as technical fees by Goverment, Autonomous bodies, Local Govt, Company, NGO, Bank, Insurance & Co-operative societies be subject to 10% tax deduction at source.

(30) Tax Exemption for Private Hospital:

SRO 24 of 2005 provides that private hospital established between 1st July 2005 to 30th June 2008 shall be exempted from paying tax on its income for 5 years on the fulfillment of the following conditions:

(a) It will be established under the companes Act. 1913 or 1994.

(b) It will be established in its own land.

(c) It will have at least 500 beds if it is general hospital or 50 beds if it is specialized one like heartor kidney hospital,

(d) At least 10% bed will be kept reserved for poor i. e free.

8.10: Advance Payment of Tax [Sec. 64 and 65]

Generally, tax is paid on the income of a year to the subsequent financial year known as the assessment year. But in some cases, tax is required to be paid by the assessee in the year of income. This system is called the advance payment of tax.

According to See. 64 of the I. T. Ordinance, 1984, tax shall be payable in advance by an assessee in the income year if the total income of the assessee exceeds Tk. 2,00,000. To calculate the total income for this purpose, the agricultural income and capital gains are to be excluded as these sources of income are not subject to advance tax.

The relevant provisions of advance tax are as follows :

i) **Rates of Tax :** The rates of taxes that is in force in the financial year shall be the rates for computing the advance tax. (Sec. 5)

ii) **Instalment of Advance Tax :** Advance tax shall be payable in four equal instalments on the fifteenth day of September, December, March and June of financial year for which the tax is payable. (Sec. 66)

iii) **Estimate of Advance Tax :** Total income and tax thereof is to be computed by the assessee based on estimate of last year's income. However, if an assessee finds that the tax payable by him as per the latest income year, is more than current financial year, he may submit revised income statement to the DCT. On the basis of this revised estimate, his tax liability is re-assessed and the payment of last instalment of advance tax is adjusted accordingly. (Sec. 67)

iv) **Failure to pay Instalment of Advance Tax :** If an assessee fails to pay any instalment of advance tax, he shall be deemed to be an assessee in default in respect of such instalment. (Sec. 69)

(v) **Interest for Failure to Pay Advance Tax :** If the amount of tax paid as advance tax is less than 75% of the amount of tax payable by him, he will be required to pay interest on deficiency @ 10% p. a. at simple rate for the period from the first day of April of the year in which advance tax was payable to the date of regular assessment subject to the maximum period of two years. (Sec. 69, 70 and 73)

8.11: Refund of Tax

When, as a result of final assessment, any refund is due to the assessee, the claim for such refund should be made in prescribed form within two years from the date of service of the demand notice.

If the refund is not paid within two months of the date of claims for refund, the assessee will be entitled to an interest of 7.5% per annum on the refund amount from the month following the said two months.

Questions

1. Discuss the various procedures of assessment.
2. What do you mean by 'tax deducted at source'? For what income tax is deducted at source? How refund can be availed if excess tax is deducted?

[D. U. B. Com. (H), C. U. B. Com. (H), 1990]

3. (a) What are the rules regarding advance payment of tax?
(b) What sources are subject to deduction at source?
(c) Who will be liable for payment and deduction of tax of a non-resident?
[D. U. B. Com. (H)), 1989]

4. (a) What are the provisions for filing tax return?
(b) Under what circumstances the DCT can exercise his Best Judgement Assessment power?
(c) What can happen under the following circumstances :
(i) If tax return is not filed.
(ii) If incorrect return is filed.
(iii) If tax is not deducted at source by the employer. [C. U. B. B. A (H) 1994]

5. (a) Explain the various kinds of assessment.
(b) What are the rules regarding the submission of return?
(c) When and how should an assessee submit the statement of assets and liabilities?
[D. U. B. Com. (H), 1990]

6. (a) State the legal provisions in respect of filing income-tax return.
(b) Under what circumstances the DCT can make Best Judgement Assessment?
[D. U. B. Com. (H), 92]

7. What is tax return? Discuss different types of assessment. [C. U. B. Com. (P) 1992]

8. What is meant by self-assessment? Discuss various conditions & rules governing self assessment.

9. (a) What is meant by Best Judgement Assessment? Discuss the conditions and procedures of such assessment.
(b) What is emergency assessment? When and how can it be made?

10. Write short notes on :
(a) Self-assessment
(b) Best Judgement Assessment
(c) Recovery of Tax
(d) Refund of Tax

Chapter-9

Income from Salary (Section : 21 of ITO)

Chapter Synopsis/Contents:

9.1 : Introduction
9.2 : Definition of Salary Under I. T.
9.3 : Elements of Salary
9.4 : Exclusion from Salary Income
9.5 : Provident Fund
9.6 : Approvd Superannuation Fund (ASF)
9.7 : Worker's Participation Fund (WPF)
9.8 : Specimen Proforma for Computation of Total Income under Salary Head
9.9 : Illustrations
Questions
Exercises

9.1: Introduction

An individual may have income from as many as seven heads of which income from salary is one. Salary constitutes many elements and aggreate of which constitutes total salary for charge to income. Following section deals with elements of salary which will be followed by practical examples.

9.2: Definition of Salary Under I. T.

In general, salary means any payment received by an employee for physical and mental work from the employer for a definite time or work. In I. T. Ordinance, 1984 an inclusive definition is given in Sec. 2 (58) where it is said that salary includes :

(a) any wages, (b) any annuity, pension or gratuity, (c) any fees, commissions, allowances, perquisites or profits in lieu of or in addition to salary and wages; and (d) any advances of salary. Section 21 also provides that salary indicates payment to the assessee, whether paid or not and that any arrear salary not taxed earlier will also be included for computation of salary.

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7.3: Elements of Salary

Based on the above definition and practical situation elements of salary can be identified as follows :

i) **Basic salary :** It means the pay paid or payable monthly or otherwise.

ii) **Bonus :** It means the payment of extra salary based on monthly basic salary or otherwise for festivals or for productivity.

iii) **Dearness Allowance :** It means the payment made by the employer to the employee for inflation which, in general, is certain percentage of basic salary.

iv) **Commission :** It means the payment in lieu of salary or in addition to salary for services rendered.

v) **Annuity :** It means the annual grant paid by an employer to the employee (Assessee) for a definite years of life, voluntarily or under a contract of obligation.

vi) **Pension :** It is a reward for past services usually paid periodically to employees by the employer, voluntarily or under a contract of obligation. It will not be included in salary, if an assessee stays not less than 182 days in Bangladesh.

vii) **Gratuity :** It is a lump sum payment which is made at the time of leaving the job as a reward for past services.

viii) **Leave encashment :** In the Finance Act, 1999 this has been added to the definition of salary as an element, which means the payment received by an employee for his unenjoyed earned leave during his tenure of service.

ix) **Compensation for loss of service :** If an employee receives an amount for termination of service or for changing condition of service, it will be treated as salary.

x) **Perquisites :** It means any casual income attached to a post or position in service, in lieu of or in addition to salary whether convertible into money or not. It is defined in sec 2(45) as revised in Finance Act. 2005: any benefit received by an employee over and above basic salary, festival bonus, arrear and advanced salary, leave salary encashment and overtime allowance. Thus it includes (a) the value for the rent free accomodation or concession thereof, (b) any sum payable by the employer to effect an insurance on the life of or to effect a contract for an annuity for the benefit of the assessee or his spouse, or any of his dependant child. (c) the value of any benefit provided free of cost or at a concessional rate and (d) any sum paid by an employer in respect of any obligation of an employee

Maximum allowable ceiling is Tk. 1,92,000.

In fact, different types of perquisites are received by an employee, which constitutes element of salary. These are now discussed below :

1) **House Rent Allowance (HRA) :** An employee can receive cash house rent allowance or free quarter. The provisions for computation of the amount chargeable to tax are as follows:

(a) Where HRA paid in cash : Sum of HRA exceeding lower of Tk. 15,000 per month or 50% of basic Salary.

(b) Where rent free residential accomodation is provided : Lower of Annual Value of the house or 25% of basic salary.

(c) Where concessional rent residential accomodation is provided : Excess of annual value of the house as computed under (b) over the actual rent paid by the employee.

2) **Conveyance Allowance :** An employee may receive cash conveyance allowance or vehicle from his employer. Provisions for computation of allowance or inclusion in salary for this perquisite are as follows :

(a) Where conveyance allowance is paid in cash : Conveyance allowance upto Tk. 12,000 is exempted. If it exceeds Tk. 12,000, the exceeding amount will be added with salary.

(b) Where vehicle is provided for office and personal use : An amount of 7.5% of the basic salary of the employee will be added with salary.

(c) If additional allowance over and above the vehicle is received : Additional allowance plus 7.5% of basic salary will be added with salary.

3) **Entertainment Allowance :** Amount received by the employee in full will be added with salary.

4) **Medical Allowance :** Actual expenditure is exempted. But if the actual expense is less than allowance received, the difference will be added with salary.

5) **Contribution to Recognized Provident Fund :** In case of Recognized P. F., an equal amount as contributed by the employee is also given by the employer. Here the employer's contribution is added with the salary.

6) **Interest of Recognized P. F. :** Interest exceeding 14.5% rate or $\frac{1}{3}$rd of basic salary (lower one) is added with salary.

7) **Balance of Unrecognized P. F. :** Amount received by the employee at the end of service will be added with salary to the extent of employer's contribution and interest thereof.

9.4: Exclusion from Salary Income

Following items/amounts will be excluded from computation of total income under Salary Head :

i) Any payment received from Govt. Recognized Provident Fund.
ii) Duty allowance of an employee for the performance of official duties.
iii) Provision for entertainment expenses in the office premises during the course of work.
iv) Pension for an income year in which the assessee (employee) stays in Bangladesh for 182 days or more.
v) Any sum of gratuity income of an employee (Assessee).
vi) Salary income of an employee of a Foreign Diplomatic Mission in Bangladesh on reciprocal basis i.e. if the similar facility is allowed by concerned country in respect of employees of Bangladeshi Mission abroad.
vii) Insurance amount paid for personal accident.
viii) Amount spent by employer for providing residential telephone facility.
ix) Amount spent by employer for training of employee.

9.5: Provident Fund

There are three types of provident fund found in enterprises and offices viz,

a) Recognized Provident Fund (RPF), also called Contributory Provident Fund,
b) Govt. Provident Fund (GPF), also called Statutory Provident Fund under Provident Fund Act, 1925,
c) Un-recognized Provident Fund (URPF).

A brief description about these now follows :

i) **Recognised Provident Fund (RPF):** As defined U/S. 2(52) of ITO it means a provident fund which has been recognized by the Commissioner of Income Tax in accordance with the provision of part-B of the first schedule of ITO. In order to receive and retain recognized provident fund,it must satisfy some specific conditions such as,

a) All the employees of the enterprise must be employed in Bangladesh or its head office must be in Bangladesh.
b) Employer must deduct a certain percentage from the salary of employee and deposit the same to the fund.
c) Employer will contribute same amount as deducted from employee.
d) The fund will constitute taking the contribution of both the employer and employee.
e) The fund will be managed by trustee of two or more persons.
f) Employer will not be able to take any amount from the fund.
g) Employee will receive the amount deposited to his account at the time of leaving the job.

For tax purpose under the head salary following points need attention :

a) Employer's contribution to RPF and interest thereon are included in the total salary income of the employee. Thereafter, employer's and employee's contribution to RPF are dudcted from such income as exemption.

b) Similarly, interest on the accumulated balance of RPF is exempted as shown in the exemption schedule.

c) Accumulated balance at the credit of employee in the RPF, when received shall be excluded from total salary income under Para 21(b), Part-A of 6th Schedule to ITO.

2) **Government Provident Fund (GPF) or Statutory Provident Fund or General Provident Fund :** This type of Provident Fund is maintained by the Government offices for the employees. This is established under Provident Fund Act, 1925. Both employer and employee may contribute into this fund. But, in general, only employees contribute to this fund.

For tax purpose following points need attention :

a) When employer does not contribute to this fund, there is no question of its inclusion with salary.

b) Accumulated balance of GPF at the credit of the employees when received, is neither included in his total income nor taxed. It is excluded from total income under Para 21 (a), Part-A of 6th Schedule of ITO.

3) **Un-recognised Provident Fund (URPF) :** A provident fund which has not been recognised by the Commissioner of Income Tax under ITO/ITA is known as unrecognised provident fund.

For computing tax following points need to be kept in mind :

a) Employer may contribute to this fund but the periodic contributions of the employer is not taxable year after year in the hand of employee.

b) The accumulated balance of this fund minus the employee's contribution plus interest thereon is taxable. As such it shall be included with his salary income in the year of receipt.

Effect of Various types of Provident Fund on Tax assessment :

So far we have discussed various types of provident Fund. The effect of various types of P. F. on tax assessment can now be seen from the following two charts :

i) Effect on computing Total Salary Income :

Item	R. P. F.	Govt. P. F.	URPF
i) Employee's contribution	Remain with salary, no further addition in required.	Remain with salary, no further addition required.	Remain with salary, no further addition required.

ii) Employer's contribution	To be added with salary.	Irrelevant.	Not added with salary.
iii) Interest on P. F.	Exempted upto $\frac{1}{3}$ of B. S. or to the extent of interest @ 14.5%, whichever is less	Not to be added.	Not to be added.
iv) Accumulated Balance received at the end of service	Not to be added with salary.	Not to be added with salary.	Only the employees contribution and interest thereof need to be added.

ii) Effect on Tax Exemption :

Item	RPF	Govt. P. F.	URPF
i) Employee's contribution	Eligible for tax exemption.	Eligible for tax exemption.	Not exempted.
ii) Employer's contribution	Tax exempted.	Irrelevant.	Irrelevant.
iii) Interest on P. F.	Tax exempted.	Irrelevant.	Irrelevant.
iv) Accumalated Balance	As previously not added, so question of exemption does not arise.	Irrelevant.	Taxable.

9.6: Approvd Superannuation Fund (ASF)

It is one type of fund that may be created for granting pension and other benefit to an employee on retirement on account of past services,or after a specified age, or on becoming incapacitated prior to such age or his death. In order to receive the approval of a superannuation fund it is necessary to satisfy the conditions prescribed by the NBR under the provision of Part-A of the First Schedule to ITO.

When approved,this fund gets some tax benefit as follows :

For the purpose of income tax, employee's contribution to an ASF shall be included with his total income and then be deducted as exemption.Employer's ordinary contribution of ASF shall be treated as an expense and deductible from employer's profit and gains. Any payment received from ASF by the employee shall be excluded from his total income.under Para 21(c), Part-B of 6th Schedule to the Income Tax Ordinance.

9.7: Worker's Participation Fund (WPF)

It is established under the Companies Profit (workers participation) Act, 1968 (Act.XII of 1968). Any payment received by employee (assessee) from this fund, subject to prescribed condition and limits, shall be excluded from the total income as provided under Para 21(d), Part-A of 6th Schedule to the IT ordinance, 1984.

9.8: Specimen Proforma for computation of Total Income under Salary Head

Name of the Assessee

Income year ....

Assessment year ....

Income under Salary Head	Tk.	Tk.
1. Basic Salary	XXXX	
2. Bonus/Festival Allowance	XXXX	
3. Dearness Allowance	XXXX	
4. Commission	XXXX	
5. Technical pay (if any)	XXXX	XXXXX
6. Perquisities:-		
i) House rent allowance at prescribed limit (Sec. 7.3 XI)	XXXX	
ii) Conveyance allowance at prescribed limit (Sec. 7.3 XII)	XXXX	
iii) Travelling allowance (sum exceeding actual expenses)	XXXX	
iv) Medical allowance (sum exceeding actual expenses)	XXXX	
v) Entertainment allowance	XXXX	
vi) Annuity	XXXX	
vii) Pension, if the assessee stays in Bangladesh for less than 182 days.	XXXX	
Total perquisities	XXXX	XXXXX
7. Compensation for loss of service (if any)		XXXXX
8. Employer's contribution to Recognised Provident Fund (RPF)	XXXX	
9. Interest on Recognised Provident Fund (Exceeding prescribed limit)		XXXXX
Total income from salaries		XXXXX

Illustrations:

Illustration-1:

Mr. Rasel Amins is a service holder. Follwoing are the particulars of his income, investment and expenditure for the year 2004-2005. Compute income from salary, tax credit income and tax payable under the following situation:

i) The Provident Fund is Recognized.

ii) The Provident Fund is Govt. one

iii) The Provident Fund is Unrecognized.

1. Basic Salary Tk. 9,000 per month
2. Dearness allowance @ 20% on Basic salary
3. Bonus : Two Bonus @ one month basic salary for each.
4. Rent-free quarter (Annual value Tk. 30,000)
5. Conveyance allowance Tk. 200 per month
6. Medical allowance Tk. 300 per month (Actual expenses Tk. 2,500)

He contributes 10% of his basic pay to the Provident Fund. Interest on the Provident Fund balance for the year is Tk. 1,000 @ 9% interest. He paid life insurance premium Tk. 5,000 for the year and purchased share of a company for Tk. 4,000.

Solution:

Assessee: Mr. Rasel Amin

Income year : 2004-2005

Assessment year : 2005-2006

Computation of Income from Salary and Tax thereon

Particulars	Recog. P. F.	Govt. P. F.	U. R. P. E.
1. Basic Salary	1,08,000	1,08,000	1,08,000
2. Dearness Allowance	21,600	21,600	21,600
3. Bonus	18,000	18,000	18,000
Perquisities :			
4. House Rent Allowance : a) Annual value of the house = 30,000 b) 25% of B. S. = 27,000, whichever is lower	27,000	27,000	27,000
5. Conveyance Allowance Amount Received 2,400 Exempted upto Tk. 12,000	—	—	—
6. Medical Allowance : Amount Received = 3600 Less actual Exp. = 2,500	1,100	1,100	1,100
7. Contribution of the employer to the P. F.	10,800	—	—
8. Interest on P.F. Amount Received Tk. 1,000 @ 9% interest. Exempted up to 14.5% interest	—	—	—
Total Income from Salary:	1,86,500	1,75,700	1,75,700
Tax-credit Income :	Tk.	Tk.	Tk.
1. Contribution to Provident Fund	21,600	10,800	—
2. Life Insurance Premium	5,000	5,000	5,000
3. Purchase of share	4,000	4,000	4,000
	30,600	19,800	9,000
Tax Rebate on Tax credit Income :			
a) Actual Investment =	30,600	19,800	9,000
b) 20% of T. I. excluding employer's contribution to P. F = 35,140 c) Tk. 2,00,000, whichever is lower i. e. tax credit 15% on the lower one	4,590	2,970	1,350
Tax : on first Tk. 1,00,000 = nil on next Tk. 1,50,000 = 10% Here for Tk. 86,500 incase of case 1, Tk. 75,700 in case of case 2 and 3 =	8,650	7,500	7,500
Less tax rebate	4,590	2,970	1,350
Net tax payable	4,060	4,530	6,150

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Illustration-2:

Mr. Robin is the Manager of a Textile Mill. From the particulars given below for the year ended on 30th June, 2005 compute his income from salary and tax thereon :

i) Monthly basic salary Tk. 10,000.

ii) Two bonus equivalent to one month's basic salary each.

iii) House rent allowance @ 45% of basic salary.

iv) He has been provided with a car for office and private use.

v) He receives entertainment allowance @ Tk. 800 per month.

vi) He contributes 10% of his B. S. to a Recognized P. F. to which his employer also contributes the same amount.

vii) He received Tk. 1 lakh from Insurance Policy at maturity.

viii) He purchased ICB certificate of Tk. 15,000 and shares of a company Tk. 12,000. For purchase of share he used Tk. 10,000 from sale process of shares previously hold by him.

ix) He purchased books of Tk. 5,000 and deposited Tk. 100 p. m. to Group Insurance Fund.

x) He is married and has three children. He paid Tk. 15,000 as educational expenses and Tk. 4,000 and 3,000 as insurance premium for his two minor sons.

Solution:

Assessee : Mr. Robin
Income year : 2004-2005
Assessment year : 2005-2006
Computation of Income & tax thereon

Income from Salary (Sec. 21)	Tk.	Tk.
1) Basic Salary 12x10,000		1,20,000
2) Bonus 2x10,000		20,000
3) Perquisites :		
i) House Rent allowance :		
Amount received =	54,000	
Less : Exempted @ 15,000 P. M. =1,80,000		
or 50% of B. S. =	60,000	—
whichever is less		
ii) Conveyance allowance @ 7.5% of B. S.		9,000
iii) Entertainment allowance		9,600
4. Employer's contribution to R P F @ 10% of B. S.		12,000
5. Other income : (Sec. 33) :		
i) Amount Received from Life Insurance 1,00,000		
Exempted in full	—	—
Total Income		1,70,600

Tax-credit Income/Investment Allowance :

	Tk.
i) Contribution to Provident Fund : Employee and Employer	24,000
ii) Purchase of ICB certificates	15,000
iii) Purchase of share = 12,000	
Less Sale proceed of old share 10,000	2,000
iv) Contribution to Group Insurance	1,200
v) Insurance premium of his minor sons : 4,000+3,000	7,000
	49,200
Tax credit =	
Actual Investment = Tk. 49,200 or 20% of salary excluding employer's contribution to PF = 31,720 or Tk. 2,00,000; whichever is lowest one. Tax credit @ 15% on lowest one, so on Tax 720	4,758
	Tk.
on First Tk. 1,00,000 =	Nil
on Rest Tk. 1,50,000 @ 10%	
Here on (1,70,600-1,00,000) = 70,600	7,060
Less Tax credit	4,758
Tax payable	2,302

Note : i) Education allowance is not exempted now.
ii) Amount received from life insurance on maturity is exempted in full.

Questions

1. What is meant by Salary under Income Tax? State in brief the elements of salary.
2. What is meant by perquisities? State provisions of Income Tax Ordinance, 1984 relevant to the computation of perquisities for salary income purpose.
3. Explain different types of Provident Fund in the context of Income Tax. Explain the effects of different types of Provident Fund on computation of income and tax exemption.
4. (a) What is meant by Recognized Provident Fund? What conditions are required to be fulfilled for getting recognition of the fund under Income Tax?

   (b) Give a comparative picture of different types of provident fund as to their treatment in income tax in assessing tax.
5. What are the elements of salary? Discuss them in brief. State the provisions relevant to the calculation of perquisites for tax purpose.

Exercises

Ex.-1:

Mr. Ali Asgar is a manager of an organization. During the year 2004-2005 he had the following income from his salary :

i) Basic salary Tk. 8,000 p. m.
ii) Two bonus equivalant to one basic salary each.
iii) Dearness allowance @ 10% on B. S.
iv) House rent allowance Tk. 5000 per month.
v) Entertainment allowance Tk. 600 per month.
vi) Medical allowance @ Tk. 300 per month.
vii) He received 3 months' advance salary for certain family expenses.

He contributes 10% of his B. S. to the recognized provident fund. He purchase shares of a company for Tk. 10,000 and paid insurance premium Tk. 15,000 for the year. Policy value is Tk. 1,25,000.

Compute his income from salary and tax-credit income if the provident fund is recognized and if it is not recognized.

Ex-2:

Mr. Belal Bepari is the General Manager of a Mill. He had the following income for the year ended on 30-6-2005 :

i) Basic salary Tk. 10,000 per month.
ii) Two months bonus on two Eid festival each equivalent to respective month's B. S.
iii) He received medical allowance Tk. 3,600 for the year and his actual expenses were Tk. 5,000.
iv) He received conveyance allowance @ Tk. 500 per month.

He has been provided with a rent-free quarter for which employer deducts 7.5% of basic salary per month. The annual value of the house estimated Tk. 25,000. He contributes 10% of his basic salary to a recognized provident fund to which his employer also contributes the same amount.

During the year his investment were as follows :

i) Purchase of ICB certificates and shares of a company Tk. 5,000 & Tk. 10,000 respectively.
ii) Payment of life insurance premium Tk. 5,000 for himself and Tk. 4,000 for his wife.
iii) Contribution to Group Insurance and Benevolent Fund Tk. 150 and Tk 50 respectively.

Compute taxable income and tax on the same.

Ex-3:

Mr. Humayan Ahmed has filed his Income Tax Return for the year ending on 30-6-2005 showing the following :

			Taka
a)	Salary		60,000
b)	Bonus : 2 months' basic salary		10,000
c)	Advance salary on account of daughter's marriage		30,000
d)	Cash entertainment allowance		6,500
e)	Contribution to Recognised P. F. (Equal amount is contributed by employer)		6,000
f)	Conveyance allowance received in cash		6,000
g)	Dividend from a Company		8,500
h)	Interest from saving account		5,000
i)	Casual income from bridge competition		3,000
j)	Birth day presentation		4,000

A motor car registered in his name is maintained for which expense of Tk. 4,200 is claimed. He has invested Tk. 30,000 in the purchase of Sanchaya Patra and paid Tk. 8,000 as life insurance premium on the life of his minor child.

Please compute the total and taxable income and tax of the assessee for the assessment year. 2005-2006.

[C. A. Inter May, 1982 (Modified)]

Chapter-10

Income from Securities (Section : 22-23)

Chapter Synopsis/Contents:

10.1 : Introduction
10.2 : Definition of Interest on Securities
10.3 : Basis of Taxation
10.4 : Classification of Securities
10.5 : Deduction of Tax at Source
10.6 : Grossing–up of Interest
10.7 : Ex-dividend and Cum-dividend Transaction
10.8 : Bond Washing
10.9 : Exclusion from computation Total Income under Interest on Securities
10.10 : Permissible Deductions
10.11 : Specimen Proforma for computation of Interest on Securities
10.12 : Illustrations
Questions
Exercises

10.1: Introduction

Tax is payable by an assessee under the head "Interest on Securities" in respect of the interest received by him on Government securities or securities approved by Government and on debentures or other securities issued by or on behalf of any other organisation subject to the deductions and exemptions provided for in the Act. But the following will not come under the orbit of this section :

i) Interest payable on debentures issued by firms, associations, clubs etc., is not assessable under this head, but chargeable under Section 33 (Other income).

ii) Shares of a company cannot also be called "Securities" under this section. So dividend received from ordinary shares or from preference shares shall not fall under this section.

10.2: Definition of Interest on Securities

Section 2 (38) of the Income Tax Ordinance, 1984 defines interest as any sum payable in any manner in respect of any money borrowed, debt incurred or any credit facility availed. In such a context interest on securities can be defined as the sum of interest paid or payable for securities issued by Govt. organisations or securities approved by Govt. or companies or other organisations.

10.3: Basis of Taxation

Interest under this head is taxed on receipt basis. Some case references can be cited in this regard :

In the case of *Lalbhai Dalpatbhai vs CIT* the Bombay High Court hold that the word "receivable" has reference to the quantum of interest taxable and not to the date of taxability, and that if interest is actually received some time after it becomes due and "receivable," the date of taxability is the date when it is received and not the date when it becomes due. Chagla, C. J. said; "Interest on Securities becomes income when it is actually received and not when it is due or capable of being received by the assessee. The Madras High Court has taken the same view that interest on securities becomes income when it is actually received.

10.4: Classification of Securities

Securities may be classified into two categories :

i) Government Securities.

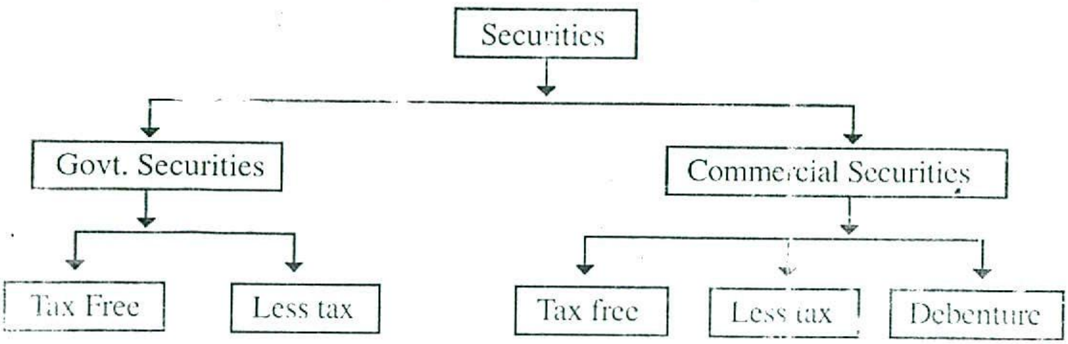
ii) Commercial Securities.

This may again be classified into two sub-groups :

i) Tax free Securities

ii) Less tax Securities

Following chart shows the picture of classification clearly :



A description about these now follows :

1. Tax-free Govt. Securities : Securities issued by the Government and declared as tax-free is called Tax-free Govt. Securities. Security holders are not required to pay tax on it. Previously such interest would be added with total income and tax rebate have been allowed at average rate. Now, from 1992 it has been declared as non-assessable and from Schedule B of I. T. Ordinance it has been transfered to Schedule A. Thus it has directly been made non-assessable.

2. Less-tax Govt. Securities : Both Commercial and Government securities become usually "less-tax" unless they are declared as "tax-free" by the concerned authorities. It become "less-tax" because its tax has been deducted at the point of payment by the payer of such interest to the assessee. For the purpose of income tax and to calculate the income of the assessee it is necessary to gross-up the interest received by him. As per prevailing rules. Taka 5,000 is exempted from such interest.

3. Tax-free Commercial Securities : Securities issued by commercial enterprises and declared as tax-free is called tax-free commercial securities. Here the income therefrom is not actually tax-free rather the tax is paid by the company issuing such securities on behalf of the security holders. The amount of interest thus received by the security holder is net one and is to be grossed-up for assessment. However, in practice, such type of securities are not found in Bangladesh.

4. Less-tax Commercial Securities : Securities on which the issuing company deducts tax at source and pays net amount to the security holders is called less-tax commercial securities. The interest received thus need to be grossed up for assessment purpose.

5. Interest on Debunture : Interest paid or payable on debenture is called debenture interest. Such interest is exempted up to Tk. 20,000 if such debenture is approved by the Security & Exchange Commission or such other authorised agency.

It is to be noted that interest on securities whether received form Govt. or commercial firms or from debenture, exemption will not exced Tk. 20,000 in total.

10.5: Deduction of Tax at Source

Securities are usually less tax i. e. tax is to be deducted at source. The person responsible for paying any income chargeable under the head interest on securities must deduct income-tax, but not super-tax, at the maximum rate. But if the owner of the securities obtains a certificate from the Income-tax Officer to the effect that this income is less than the minimum amount liable to income-tax or is liable to a lower rate, the person paying interest shall pay it without deduction of income-tax or shall deduct income tax at a lower rate.

As income tax is deducted at source from such income from interest on securities it should be calculated at the rates operative in the accounting year.

Exam

10.6: Grossing up of Interest

Interest taxable under this head must be gross receipt and not the net receipt. Thus net interest when received from less-tax securities where tax is deducted at source need to be grossed up to determine gross interest :

Formula for Grossing-up of Interest :
(In case of less-tax securities)

$$\text{Gross Interest} = \text{Net Interest} \times \frac{100}{100 \text{ minus tax at maximum rate}}$$

(Maximum rate of tax is 25 percent at present)

$$\text{Gross interest} = \text{Net Interest} \times \frac{100}{100\text{-}25} = \text{N. I.} \times \frac{100}{75}$$

Guideline for the determination as to where grossing up is necessary :

(a) Tax-free Govt. Securities–Not to be grossed-up.
(b) Tax free Commercial Securities–To be grossed-up.
(c) Other Govt. and Commercial Securities -
  (i) Less tax securities (Net amount received) : To be grossed-up.
  (ii) Interest accrued or payable not to be grossed-up.

From practical wiew point students can remember the Grossing up cases from the following chart:

Types of Securities	Not to be grossed up	To be grossed up
1. Tax free Govt. Securities.	√	
2. Tax free Govt. Securities (% given for int. computation.)	√	
3. Less tax Govt. securities.		√
4. Less tax Govt. securities (% given for int. computation.)	√	
5. Tax free commercial securities.		√
6. Tax free commercial securities (% given for int. computation.)		√
7. Less tax commercial securities.		√
8. Less Tax commercial securities (% given for int. computation.)	√	

10.7: Ex-dividend & Cum-dividend Transaction

Securities may be sold and purchased ex-interest or cum-interest. Interest on securities does not arise from day to day but on certain fixed days, i. e., it is deemed to arise on the day when it is due for payment. Where securities are purchased at a price expressed as a capital sum plus interest computed from the last day of payment of interest to the date of sale, it is called cum-dividend transaction. On the other hand, when it is purchased on capital value only and not along with interest accrued till the date of purchase, it is called ex-dividend transaction.

In case of cum-dividend, the purchaser is assessable on the whole amount of interest received by him on the next due date and he is not entitled to any deduction in respect of the interest paid by him to the vender.

For the same reason, the seller of securities cum-interest is not assessable on the amount he receives in respect of interest from the purchaser. The reverse is the case for ex-dividend transaction. Here the seller and purchaser will be assessed for interest with reference to the period for which the securities are held by the seller and the purchaser.

10.8: Bond Washing

This term is referred to a type of transaction of securities where tax avoidance is aimed at. It is some times seen that securities are sold cum-dividend with an agreement to re-sell or re-transfer the securities with a view to avoiding tax. The transferer by selling cum-dividend securities might get extra sale price which would be capital profit in his hands, not liable to tax. On the other hand, the interest from securities might be exempted from tax wholly or partly in the hands of the transferee by reason of his having little or no income otherwise. Thus both purchaser and seller can get undue tax benefit which is unethetical. The transactions are so arranged that after the due date of interest when the interest is received by the transferee the transferer can get his securities back by re-transfer without having any tax-liabiality. This kind of systematic transaction to avoid tax is called 'Bond Washing' transaction.

To prevent this type of tax avoidance, Section 106 of Income Tax Ordinance, 1984 taken measures to nullify this effect. It provides that if sale or purchase of shares & securities result in avoidance of tax more than 10% of the amount of income tax, the income from the shares or securities should be deemed to accrue from day to day and should deemed to have been received by the assessee as and when it has been deemed to have been accrued. Thus the income be determined on day to day basis & the assessee would be assessed thereby.

10.9: Exclusion from Computation of Total Income under Interest on Securities

The following items are excluded from computation of Total Income under Interest on Securities :

(i) Tax-free Govt. Securities as it is now treated as non-assessable.

(ii) Being individual, interest on Government less-tax securities received by an assessee up to Tk. 5,000 shall not be included in the computation of income under this head.

(iii) Any interest on debenture approved by the securities & Exchange commission received by the assessee upto Tk. 20,000 shall not be included in the computation of income under this head. This exclusion is not allowed to a company as assessee.

Restrictions as to exclusion :

Total exclusion shall not exceed Tk. 20,000 in respect of the following under Part–A of 6th Schedule to ITO :–

Interest on securities under para 12	Tk. 5,000.00
Interest on debenture under para 13	20,000.00
Total ceiling of exclusion =	Tk. 20,000

10.10: Permissible Deductions from interest on securities (Sec-23)

In computing the income of an assessee under this head, the following deductions are allowable :–

(i) **Bank commission for collecting interest :** Bank commission is an admissible allowance, but bank commission for collecting interest on Government securities is not an allowable deduction.

(ii) **Interest on borrowed capital for investment :** Interest on loan taken specifically for the purpose of investment in securities subject to the condition that the interest chargeable to tax under I. T. O. is payable within the taxable territories.

10.11 : Specimen Proforma for Computation of Interest on Securities

Name of the assessee ....

Income year ....

Assessment year ....

Income under Securities U/S 22 & 23	Tk.	Tk.
i) Interest on Government securities, Bond etc.	xx	
ii) Interest on Debenture or other securities of companies or local authorities	xx	
iii) Trust debenture interest	xx	xx
Less allowable deductions :-		
i) Bank Commission and Bank charges to realise the interest	xx	
ii) Interest on loan for investment in securities	xx	xx
Income from interest on securities		xx

Notes : Bank commission for buying and selling securities is capital expenditure, so it will not be deducted here.

10.12: Illustrations

Illustration-1:

From the following information determine the income chargeable under the head Interest on Securities for Mr. Bidhan Barua :

		Taka
(i)	Income from tax-free Govt. securities	10,000
(ii)	Income from tax-free commercial securities	25,000
(iii)	5% tax-free Govt. securities to the extent of	15,000
(iv)	5% tax-free commercial securities to the extent of	35,000
(v)	Income from less-tax Govt. securities	12,000
(vi)	Income from less-tax commercial securities	14,000
(vii)	5% less-tax Govt. securities to the extent of	18,000
(viii)	5% less-tax commercial securities to the extent of	30,000
(ix)	Debenture Interest	30,000

Solution:

Assessee : Mr. Bidhan Barua

Income year ....

Assessment year ....

Computation of Income under the head Int. on Securities

Interest Income U/S 22-23	Net Income Tk.	Gross Income Tk.
i) Income from Tax-free Govt. securities Tk. 10,000 Less : Non assessable in full 10,000	—	—
ii) Income from Tax-free Commercial securities	$\frac{25{,}000 \times 10}{7.5}$	33,333
iii) 5% Tax-free Govt. Securities = Tk. 750 Less : non-assessable in full = 750	—	—
iv) 5% Tax-free commercial securities $\frac{1750 \times 10}{7.5}$		2,333
v) Income from less-tax Govt. Securities $\frac{12{,}000 \times 10}{7.5}$	16,000	
Less exempted upto Tk. 5,000	5,000	11,000
vi) Income from less-tax commercial securities	$\frac{14{,}000 \times 10}{7.5}$	18,667
vii) 5% Less-tax Govt. Securities	—	900
viii) 5% Less-tax com securities	—	1,500
ix) Debenture Interest assuming it to be approved.	30,000	
Less exempted upto 20,000 less Tk. 5,000	15,000	15,000
Total Income under the Head Interest on securities		82,733

Notes :

i) Interest on Tax-free Govt. securities is non-assessable, so interest on this item will not be added with taxable amount.

ii) Interests which have been calculated based on principal amount need not be grossed up as the amount so calculated is the gross amount and not net amount after deduction of tax at source.

iii) As the maximum tax rate is 25% at present net interest has been grossed up as follows: $NI \times \frac{100}{100 - \text{Maximum tax rate}}$

iv) Total exemption limit for interest from securities must not exceed Tk. 20,000 i.e. receipt either from Govt. securities or commercial securities or from debenture, exemption will be Tk. 20,000 in total.

Illustration–2:

On 30th June, 2005 Mr. Solmon has the following investments :

(i) Taka 80,000, 10% Company Debenture

(ii) Taka 50,000, 8% Treasury Bond, tax free

(iii) Taka 25,000, 12% Port Trust Debenture

(iv) Taka 40,000, 12% Commercial securities

(v) Less tax Government security 30,000 @ 8% interest.

On 1st January, 2005, Mr. Solmon sold Tk. 40,000, 10% Company debenture with which he purchased 12% Commercial securities. He also took a loan of Taka 20,000 from a bank to purchase commercial securities at the rate of 10% interest. The bank commission for the purchase and sale of securities amounted to Taka 100. He also paid Taka 200 as bank charge for collecting interest.

Calculate income from securities of Mr. Solmon.

Solution :

Mr. Solmon

Assessment year : 2005-2006

Income year : 2004-2005

Computation of Income from Securities

Interest on Securities : Section (22-23)	Taka	Taka
Int. on Govt. Securities :		
i) Int. on Tax–free Govt. Securities (Treasury Bond)	4,000	
Less exempted in full as this is a non-assessable income	4,000	---
ii) Int. on less tax Govt. Security	2,400	
Less exempted upto Tk. 5,000	2,400	—
Commercial Securities:		
iii) Int. on Port Trust Debenture		3,000
iv) Int. on Commercial Security on Tk. 40,000 @ 12% for 6 month		2,400
v) Int. on Company Debenture:		
a) on Tk. 80,000 @ 10% for 6 month	4,000	
b) on Tk. 40,000 @ 10% for 6 month	2,000	
	6,000	---
Less exempted up to (20,000-2,400)	17,600	
Total Interest		5,400
Less allowable expenses U/S-23 :		
i) Bank charge	200	
ii) Interest on loan on Tk. 20,000 @ 10% for 6 month	1,000	1,200
Income from Security Interest		4,20 0

Notes :

i) Interest on commercial securities were purchased on 1st Junuary, 2004. Here interest on it has been computed for six months. Further, company debenture amounting to Tk. 40,000 were sold on 1st Jan. 2004. Hence interest on this has been calculated for 6 months.

ii) Bank Commission for purchase of securities is a capital expenditure and hence not an allowable expense.

iii) Int. on Bank loan has been computed for 6 month as the loan was taken on 1st January, 2004.

iv) Port-trust debenture assumed to be less tax. But it was not grossed up as the interest has been computed on principal amount based on interest rate.

Illustration–3:

From the following particular compute Income from Securities for Mr. Ali Ashraf for the year ending on 30-6-2005 :

i)	Income from taxable commercial securities	Tk. 5,500
ii)	Interest on 7% tax free commercial securities	Tk. 25,000.
iii)	Income from less-tax Govt. securities (Gross)	Tk. 20,000
iv)	Int. on 8% commercial securities	Tk. 30,000
v)	Int. on less tax commercial securities	Tk. 15,000
vi)	Int. on less tax municipal debenture	Tk. 25,000
vii)	Int. on company debenture (Gross)	Tk. 35,000

Bank charges amounting to Tk. 1,000 was paid for collecting interest on 7% tax free Govt. securities and Company and Municipal Debenture. Company debenture was purchased by taking a bank loan of Tk. 1,00,000 @ 8% interest.

Solution:

Assessee : Mr. Ali Ashraf
Income Year : 2004-2005
Assessment Year : 2005-2006
Computation of Int. Income under Security Head

Interest on Securities (Sec. 22-23)	Taka	Taka
Govt. Securities:		
i) Int. on Tax-free Govt. security on Tk. 25,000 @ 7%	1,750	
Less : non-assessable infull	1,750	—
ii) Int. on less tax Govt. security (Gross)	20,000	
Less : exempted upto Tk. 5,000	5,000	15,000
iii) Income from commercial securities	$\frac{5500 \times 10}{7.5}$	7,334
iv) Int. on commercial security on Tk. 30,000 @ 8%		2,400
v) Int. on less tax commercial security	$\frac{15000 \times 10}{7.5}$	20,000
vi) Int. on less tax municipal security	$\frac{25000 \times 10}{7.5}$	33,334
vii) Int. on company debenture	35,000	
Less : exempted upto	20,000	15,000
Total Int. income		93,068
Less allowable expenses :		
i) Bank charge (Note: 1)	972	
ii) Int. on Bank loan	8,000	8,972
Taxable Int. Income		84,096

Notes :

i) As bank charge has been paid for collection of interest on Tax-free Govt. securities and Municipal and Commercial debenture, it has been proportionately allowed for those income which came under the orbit of Tax. Int. on Govt. tax free security has not been added with total income. Thus the share of Bank charge thereof has not been allowed.

$(1,750+25,000+35,000 = \frac{1000 \times 60000}{61750})$

ii) Int. on commercial securities are generally less tax unless it is expressly declared as tax-free.

Questions

1. What is meant by Interest on Securities under Income Tax Ordinance? Discuss different classes of Securities.

2. a) What is meant by Security Interest?
   b) What is meant by tax-free and less tax security. Distinguish between them
   c) What is cum-dividend and ex-dividend transaction? What are their impact on tax?
   d) What is Bond washing? How is it dealt with in the income tax to protect tax avoidance?

3. a) What is meant by grossing up of interest? State the procedure of grossing up.
   b) What deductions are allowable for computing taxable income under the head interest on security?
   c) Write notes on Bond Washing.

4. What are the conditions of chargeability to tax of the income from interest on securities? What are the expenses that are deductible from this income for tax computation? What is meant by Bond washing- Explain. Under which cases grossing up of interest is applicable? State the procedure of grossing up.

[N. U. B. Com. (H) 2002]

Exercises

Ex. 1:

Mr. Fardin had the following income from securities for the year ended on 30-6-2004 :

i)	Income from tax-free Govt. securities	Tk. 15,000
ii)	Income from less tax Govt. security	Tk. 10,000
iii)	Income from tax free commercial security	Tk. 12,000
iv)	Income from less tax commercial securities	Tk. 18,000
v)	Income from Debenture interest	Tk. 28,000
vi)	8% less tax Govt. security	Tk. 40,000
vii)	10% less tax commercial security of	Tk. 42,000
viii)	Tk. 15,000, 7% tax-free Govt. security.	

He incurred Tk. 500 as bank charge for interest on security and Tk. 600 as commission for purchase of commercial securities and debenture.

Compute income from securities of Mr. Abdul Awal.

Ex. 2:

Investments of Mr. Fiaz during the year ended 30th June, 2005 are as follows:

a) Tk. 50,000 8% Government Loan.

b) Tk. 25,000 10% Municipal Debentures.

c) Tk. 40,000 $7\frac{1}{2}$% Port Trust Debentures.

d) Tk. 30,000 16% Company Debentures.

e) Tk. 50,000 6% Treasury Bills.

His bank charged Tk. 200 as commission for collecting interest. He paid Tk. 900 as interest on loan which he took for the purpose of purchasing Port Trust Debentures.

Calculate the taxable income of Mr. Chowdhury under Section 22 & 23 of the Income Tax Ordinance, 1984.

Ex. 3:

Mr. Nasir Uddin had the following income from securities for the year 2004-2005 :

i)	Interest on tax-free Govt. Security	Tk.	8,000
ii)	Income from 8% Commercial Security (net)	Tk.	7,000
iii)	Tk. 25,000 5% Treasury Bond		
iv)	Int. on Commercial Debenture	Tk.	30,000
v)	8% Tk. 28,000 Port Trust Debenture		
vi)	Int. on less tax Municipal Debenture	Tk.	10,000
vii)	Interest on less tax Commercial Security	Tk.	15,000
viii)	Int. on tax-free Commercial Security	Tk.	10,000

On 1st Jan., 2005, Nasiruddin sold port trust debenture of Tk. 18,000 by which on the same date he purchased less tax municipal security of Tk. 10,000. His bank charge for collection of interest amounted to Tk. 400.

Compute taxable income under the Head Int. on Security of Mr. Nasiruddin.