

CONCEPTS OF TAXES IN INDIA – A SNAPSHOT

Introduction

The Government takes primary responsibilities for the welfare of its citizens, as in the matters of health, education, employment, infrastructure, social security and other developmental needs. To facilitate these, Government needs revenue. Taxation is the primary source of revenue for the government for incurring such public welfare expenditures. Therefore, Government takes taxes from the public and incurs welfare expenditure for public at large. However, no one likes to pay his hard earned money in the form of taxes. Therefore, taxes are made compulsory and are the enforced contribution to the government revenue by the public. The Government levies taxes on income, business profit, cost of goods, services and transactions.

In short, Tax is a compulsory levy by the government on income, commodity, services, activities or transactions.

Basic reasons to impose taxation

1. To provide basic facilities for every citizens of the country;
2. To provide protection of life and wealth
3. To finance multiple government bodies

Types of Taxes in India

- There are two types of taxes. Direct Tax and indirect tax
- Tax, of which incidence and impact fall on the same person, is known as Direct tax, such as Income tax, wealth tax etc. Direct tax is directly recovered from the assessee, who ultimately bear such tax.
- On the other hand, tax, of which incidence and impact fall on two different persons, is known as indirect tax, such as Goods and services tax (GST), Customs Act etc. Indirect tax is recovered from the assessee, who passes such burden to another person and is ultimately born by the consumers of goods and services.

Difference between Direct Taxes and Indirect Taxes

S.NO	DIRECT TAX	INDIRECT TAX
1.	Incidence and impact fall on the same person.	Incidence and impact fall on two different persons.
2.	Assesse himself bear such taxes.	Tax is recovered from assessee who pass such burden to another person.
3.	Levied on income	Levied on goods and services
4.	Eg. Income Tax and wealth tax	Eg. GST and Custom Duty

5.	Progressive in nature: Higher income, higher tax and lower income, lower or no tax.	Regressive in nature: all persons will bear equal wrath of tax on goods and services on consumption of goods and services irrespective of their income ability.
6.	Tax evasion is possible.	Tax evasion is hardly possible because it includes in the price of goods and services.
7.	Imposed and collected from the same person.	Imposed and collected from the consumer of goods and services; and deposited by the assessee.
8.	Tax burden cannot be shifted.	Tax burden is shifted.

Concepts and Features of Indirect Taxes:

- Tax on good and services: Indirect tax is levied at the time of manufacture, purchase, sale, supply, import or export of goods and services;
- Burden: Indirect Tax is paid by the seller or service provider and is recovered from the consumer or buyer of such goods or services. Thus burden of indirect taxes is shifted from seller to buyer and ultimately borne by the consumer of such goods and service;
- Inflationary in nature: Cost of goods and services is increased due to levy of indirect taxes. Thus indirect taxes are inflationary in nature;
- Social welfare: This tax also act as a useful tool to promote social welfare by levying higher rate of tax on harmful or sin goods;
- Wider tax base: Almost majority of goods or services are liable to indirect tax with very low threshold limit. Hence, tax base is much wider in indirect taxes as compared to direct taxes;
- Regressive in nature: all persons be it rich or poor, will bear equal wrath of tax on goods or services consumed by them irrespective of their ability. Indirect tax does not create any difference between rich and poor. If consuming the goods or services, poor persons are also required to pay same and equal indirect tax as to be paid by rich people. Hence it may increase disparities.

Constitutional validity of taxes:

The Constitution of India is the supreme law of India. Any law or tax law which is not in conformity with the Constitution, is called ultra vires the Constitution and held as illegal and void. Article 265 of the Constitution lays down that no tax shall be levied or collected except the authority of law. Article 246 read with Schedule VII divides subject matter of law made by legislature into three categories:

1. List I: Union List (Only Central Government has the power of legislations on the matters listed in the union list.

2. List II: State List (Only State Government has the power of legislations on the matters listed in state list.
3. List III: Concurrent List (Both Central and State Government can pass legislations on the matters listed in concurrent list)

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

Following major entries in the respective list enable legislature to make tax laws:

Union List (List I)	State List (List II)
Entry 82: Taxes on Income other than agriculture income i.e. Income tax	Entry 46: Taxes on Agriculture Income
Entry 83: Duties on Customs including export duties (i.e. Custom Duty)	Entry 51: Duties of Excise on the following goods manufactures or produced in the state and countervailing duties at the same or lower rate on similar goods manufactured or produced anywhere in India: <ol style="list-style-type: none"> 1. Alcoholic liquor on human consumption; 2. Opium, Indian hemp and other narcotic drugs, but not including medicinal and toilet preparations containing alcohol, opium, Indian hemp, narcotic drugs.
Entry 84: Duties on excise on Tobacco and other goods manufactured or produced in India except: <ol style="list-style-type: none"> 1. Alcoholic liquors for human consumptions; 2. Opium, Indian hemp, and other narcotic drugs, but including medicinal and toilet preparations containing alcohol / opium / Indian hemp /narcotic drugs/narcotics i.e. Central Excise Duty	Entry 54: Taxes on sales or purchase of goods other than newspapers, subject to the provisions of Entry 92 A i.e. State VAT.
Entry 86: Taxes on the capital value of	Entry 60: Taxes on professions, trade,

assets, exclusive of agricultural land, of individual and companies; taxes on capital of companies i.e. Wealth Tax	callings, and employment, i.e. Professional Tax
Entry 92A: Taxes on sale and purchase of goods other than newspapers, where such sale and purchase takes place in the course of inter state trade or commerce i.e. Central Sales Tax	
Entry 92C: Service Tax	
Entry 97: Any other matter not enumerated in the List II or List II including any tax not mentioned in either of those lists.	