

Unit III

Assessment of Companies

Meaning of Company

(i) any Indian company; or

(ii) body corporate incorporated outside India under the laws of a foreign country; or

(iii) any institution, association or a body which is assessed or was assessable/assessed as a company for any Assessment Year commencing on or before 1.4.1970; or

(iv) any institution, association or body whether incorporated or not and whether Indian or non-Indian

which is declared by general or special order of the Central Board of Direct Taxes to be a company.

[Sec. 2(17)]

In computing tax incidence companies are classified as follows

(i) Domestic Company

(ii) Foreign Company

‘Domestic Company’ means —

(i) an Indian company; or

(ii) any other company which, in respect of its income liable to tax under the Act, has made the following prescribed arrangements for the declaration and payment of dividends within India in accordance with Sec. 194 read with Rule 27 of the Rules:

- (a) The share register of the company for all shareholders should be regularly maintained at its principal place of business in India, in respect of any Assessment Year, from 1st April of the relevant Assessment Year.
- (b) The general meeting for passing of accounts of the relevant Previous Year and for declaring dividends in respect thereof should be held only at a place within India.
- (c) The dividends declared, if any, should be payable only within India to all shareholders. [Sec. 2(22A)]

Foreign Company' means company which is not a domestic company.
[Sec. 2(23A)]

'Indian Company' means

A company formed and registered under the Companies Act, 1956 or Companies Act, 2013. Besides, it includes the following:-

- (a) a company formed and registered under any law relating to companies formerly in force in any part of India;
- (b) a corporation established by or under a Central, State or Provincial Act;
- (c) any institution, association or body which is declared by the Board to be a company u/s. 2(17).
- (d) a company formed and registered under any law in force in the State of Jammu and Kashmir;
- (e) a company formed and registered under any law for the time being in force in the Union territories

of Dadra and Nagar Haveli, Daman and Diu, Pondicherry and State of Goa.

In the aforesaid cases, a company, corporation, institution, association or body will be treated as an Indian company only if its registered or principal office is in India. [Sec. 2(26)]

Rate of Tax

For Domestic Company, income will be taxed @ 30% subject to increase by surcharge @ 7% if the total income exceeds ` 1 crore and @ 12% if the total income exceeds ` 10 crore, Education Cess @ 2% and Secondary and Higher Education Cess @ 1%.

In case of Foreign Companies

Royalty received from Indian Government or an Indian Concern in pursuance of an agreement made by it with the Indian concern after March 31, 1961 but before April 1, 1976 or fees for rendering technical services in pursuance of an agreement made by it after February 29, 1964 and where such agreement has, in either case been approved by the Central Government, will be taxed @ 50% subject to increase by surcharge @ 2% if the total income exceeds ` 1 crore and @ 5% if the total income exceeds ` 10 crore, Education Cess @ 2% and Secondary and Higher Education Cess @ 1%.

Other income will be taxed @ 40% subject to increase by surcharge @ 2% if the total income exceeds ` 1 crore and @ 5% if the total income exceeds ` 10 crore, Education cess @ 2% and Secondary and Higher Education Cess @ 1%

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However, the total amount payable as income tax and surcharge on total income exceeding ` 1 crore but not exceeding ` 10 crore, shall not exceed the total amount payable as income tax on a total income of ` 1 crore, by more than the amount total income exceeds ` 1 crore. In case, the total income exceeds ` 10 crore, the amount payable as income tax and surcharge shall not exceed the total amount payable as income tax and surcharge on total income of ` 10 crore by more than the amount of income that exceeds ` 10 crore.

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- In case an Indian Company dividend from a specified foreign company for the previous year relevant to the assessment year beginning on the 1st day of April, 2013 or beginning on the 1st day of April, 2014 or beginning on the 1st day of April, 2015, the amount of dividend will be taxed at the special rate of 15%.