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TAXATION LAWS IN INDIA

-Vishakha Soni

ABSTRACT

This abstract provides a snapshot of taxation laws in India that how these taxation laws were evolved from ancient taxation laws to the modern time taxation laws of India. With this, the article provides us that how the taxation laws have a constitutional base which supports and evolved the taxation laws by providing the constitutional directions onto the cases which results in betterment and more effectiveness of the laws of taxation. This article further discusses about the value of the taxation laws in the country, in how many types the taxes are being collected and how the taxes are being collected and by whom this tax collecting system is governs by? Also, the article provides the accurate information regarding the amendments, articles and embodies the principle of taxation laws. At last, this article tells us how the individuals, firms, government, organizations and businesses get effected at present by the taxation laws and what are the practical implications and the challenges still present there which are faced by them even today.

INTRODUCTION

Taxation is both a civic duty and a redistributive mechanism, rooted in ethical traditions of fairness and accountability said ‘Indian Scholars (Dr. Anirban Ghosh, Netaji Subhas Open University)’¹. Taxation is non-negotiable and mandatory for all to pay the taxes and payment of tax is not voluntary and it is not called as the clarity made to the government or the country. Taxation is mandatory in a country to raise government funds and these funds are used by

¹ Anirban Ghosh, Taxation as Civic Duty and Redistributive Mechanism, Netaji Subhas Open Univ. (n.d.).

government for the welfare of the country as well as for the people of the country in several ways like:

1. Providing free or reasonable medical facilities or medicines,
2. Providing pensions to the widows, elderly, below poverty line and under other schemes for the needy one,
3. Building the infrastructure such as bridges, railways, airports, roads etc,
4. Building school, hospitals for the social welfare,
5. Funds for the military equipment and country's security.

The taxation laws in India are managed by both the state and the central government and this management based on the three lists, union list, state list and the concurrent list which divides the work load of the union and provides more efficient working to the taxation laws. And the government collects these taxes by the citizens through direct and the indirect taxes.

CONSTITUTIONAL BASIS AND LEGISLATIVE FRAMEWORKS

The Constitution of India gives the backbone to the Laws of Taxation in India. The fundamental article is *Article 265*² which state that 'No tax shall be levied or collected except by authority of law', this ensures that tax would be collected by statutory authority only. *Article 246*³ and the *Seventh Schedule*⁴ of the Constitution provides provision for the distribution of power for taxing. *Articles 268 to 270*⁵ are articles which deal with the levy of duties and taxes, including customs and excise duties, and outline how the proceeds are shared between the Union and the States. *Article 286*⁶ restricts States from taxing goods and services that are in transit between States, ensuring a uniform tax structure across the country⁷. *Article 271*⁸ deals with 'Surcharges on Union taxes'. *Article 279A*⁹ deals with the establishment of GST Council. *Article 366(28)*¹⁰ defines 'Taxation'. The Supreme Court of India has played a crucial role in interpreting these

² India Const. art. 265.

³ India Const. art. 246.

⁴ India Const. Seventh Schedule.

⁵ India Const. arts. 268–270.

⁶ India Const. art. 286.

⁷ Constitutional Provisions Relating to Taxation in India, LawBhoomi, <https://lawbhoomi.com/constitutional-provisions-relating-to-taxation-in-india/> (last visited July 24, 2026).

⁸ India Const. art. 271.

⁹ India Const. art. 279A.

¹⁰ India Const. art. 366(28).

provisions. For instance, in the case of *A.V. Fernandez v. State of Kerala*¹¹, the Court emphasized that taxation statutes must be explicit and cannot be derived from implied authority. This reinforces the need for clarity in tax laws to protect taxpayers' rights¹².

BACKGROUND

In ancient India, the taxation laws were inspired by Arthashastra and Manusmriti and thus believed that taxes should not be collected by overburdening the citizens and paying taxes is a moral duty and a mechanism for the welfare and they also had the exemptions for the poor, sick, and students which shows concern for equity.¹³

In Medieval Taxation, under the ruling of Mauryan and the Gupta period, the taxes named as *Bali*, *Bhaga*, and *Kara* which were tied to agrarian production.

In Delhi Sultanate and Mughal Period, *Kharaj* (land tax), *Jizya* (religious tax), and *Zabt* (agrarian revenue system).

In Colonial Taxation, there were fixed land revenue taxes which burdening peasants and the direct taxation on the cultivators named as *Ryotwari & Mahalwari Systems*, also there were Highly extractive, fueling famines and nationalist resistance taxes called as the Salt Tax & Excise Duties.¹⁴

In Post-Independence Reforms, there are several taxes under direct and indirect taxes such as Goods and Services Tax (GST, 2017), Income Tax Act, 1961 etc.

Hence, this chain of taxation in India shows that taxation in India is not something which come in recent years but taxation is rooted since the ancient period in the country which influences and helps today's laws to become more effective and providing a realistic approach to the law makers.

TYPES

¹¹ *A.V. Fernandez v. State of Kerala*, AIR 1957 SC 657 (India).

¹² Constitutional Basis of Taxation in India, LexiBal, <https://lexibal.com/constitutional-basis-of-taxation-in-india/> (last visited July 24, 2026).

¹³ Central Board of Direct Taxes, History of Direct Taxation, Income Tax Dep't, Gov't of India, <https://www.incometaxindia.gov.in/history-of-direct-taxation> (last visited July 22, 2026).

¹⁴ Historical Study of Taxation in India: Economic and Political Perspectives, Int'l J. Res. & Rev., https://www.ijrrjournal.com/IJRR_Vol12_Issue.9_September_2025.pdf (last visited July 22, 2026).

Taxation laws in India are divided into two categories- direct taxes are those which are directly levied on the individuals, businesses and organization and on the other side, the indirect taxes are those which are levied on the goods and services. These two types of taxes have further classifications under them that how these taxes are levied under which taxation law.

1. DIRECT TAX

These taxes are directly levied on an individual, firm, business, company and organization. This burden of such kind of tax cannot be transferred to the other person. Direct taxes includes:

I. INCOME TAX

Income tax is a mandatory payment to the government on the income you earn during a financial year. income tax is governed by the Income Tax Act, 1961¹⁵, which will transition to the Income Tax Act, 2025¹⁶ from FY 2025-26, and is administered by the Central Board of Direct Taxes (CBDT) under the Ministry of Finance.¹⁷

II. CORPORATE TAX

As per the Section 9 of The Company Act, 2013¹⁸, the corporate is a separate entity and separate independent entity from its directors, shareholders. The types of company divided into 2 types as:

- ❖ ‘*Domestic Company* includes both private and public sector companies whether located in India or located outside India but the management and control is situated in India are registered under Companies Act of India’.
- ❖ And the other type is ‘*Foreign Company* is the category in which the company incorporated from foreign but is located in India either physically or digitally.’ Types of income which a company earns. Here it is:
 - Profits earned from the business,
 - Capital Gains,
 - Income from renting property,
 - Income from other sources like dividends, interest etc.¹⁹

III. CAPITAL GAINS TAX

¹⁵ Income Tax Act, 1961 (India).

¹⁶ Income Tax Act, 2025 (India).

¹⁷ Income Tax, ClearTax, <https://cleartax.in/s/income-tax> (last visited July 23, 2026).

¹⁸ Companies Act, 2013, § 9 (India).

¹⁹ Income Tax, ClearTax, <https://cleartax.in/s/income-tax> (last visited July 23, 2026).

A capital gain arises when you sell or transfer a capital asset at a price higher than what you paid for it. The profit — that is, the excess of sale price over cost of acquisition (and improvement, if any) — is called a capital gain, and it is taxable under the Income Tax Act under the head “Capital Gains” (Section 45)^{20, 21}.

IV. SECURITIES TRANSACTION TAX

Securities Transaction Tax (STT), governed by STT Act, 2004²² is a tax levied on the purchase or sale of securities listed on recognised stock exchanges in India. Unlike income tax, STT is collected at the point of transaction — deducted by the stock broker and remitted to the government. However, it has significant interaction with income tax — particularly for capital gains.²³

V. GIFT TAX

Under the Section 56(2)(x) of The Income Tax Act, 1961²⁴, the Gift Tax is mentioned. It depends on who is giving the gift, the gift received by relatives, inheritance gift, wedding gifts are free from gift tax but the gift received from ‘Income from Other Source’ are bound to be taxed under gift tax if above the acceptable gift limit which is ₹50,000.

- Central Board of Direct Taxes (CBDT) is under the Minister of Finance which is the statutory board which administers all the direct taxes in the country constituted under the Central Board of Revenue Act, 1963.²⁵
- *A.V. Fernandez v. State of Kerala*, AIR 1957 SC 657, reinforces the Article 265 of this law.
- *Union of India v. Azadi Bachao Andolan*, (2004) 10 SCC 1²⁶, widen the power of parliament under Article 246 on direct taxes and validate the Double Taxation Avoidance Agreements (DTAAs).

²⁰ Income Tax Act, 1961, § 45 (India).

²¹ Capital Gains Tax in India, ClearTax Advisors, <https://cleartaxadvisors.in/capital-gains-tax-in-india/> (last visited July 23, 2026).

²² Securities Transaction Tax Act, 2004 (India).

²³ Securities Transaction Tax (STT) in India, TaxClue, <https://taxclue.in/blog/stt-securities-transaction-tax-india-2025> (last visited July 23, 2026).

²⁴ Income Tax Act, 1961, § 56(2)(x) (India).

²⁵ Central Board of Revenue Act, 1963 (India).

²⁶ Union of India v. Azadi Bachao Andolan, (2004) 10 SCC 1 (India).

2. INDIRECT TAX

These taxes are levied upon the goods and services and can be transferred to the other people from one person. Major types are:

I. GOODS AND SERVICES TAX (GST)

Introduced on the 1 July, 2017 and based on 'One Nation, One Tax' which is levied on goods and services. The value of the tax add to the price of good which is final.

II. EXCISE DUTY

A tax imposed on the licensing, sale, or production of certain goods produced within the country.²⁷

III. VALUE ADDED TAX (VAT)

Collected on the value of goods or services added at each stage of their manufacture or distribution²⁸.

- Central Board of Indirect Taxes and Customs (CBIC) is under the Minister of Finance which is the statutory board which administers all the indirect taxes in the country constituted under the Central Board of Revenue Act, 1963.
- *Mohit Minerals Pvt. Ltd. v. Union of India*, (2022) 4 SCC 481²⁹, landmark case on the GST, SC held that the recommendations on council of GST are not binding instead they have persuasive value.
- *R.C. Jall v. Union of India*, AIR 1962 SC 1281³⁰, clarified that the tax on production and manufacturing is excise tax and not the tax on sale.

PRACTICAL IMPLICATIONS AND CHALLENGES

Taxation laws in India gives higher exemptions to individuals by introducing New Income Tax Act, 2005 which relief individuals in saving more and more the consumption which make the lifestyle better of individuals with better education and advance technologies usage. Businesses

²⁷ Types of Taxes in India – Direct and Indirect Tax, ClearTax, <https://cleartax.in/s/types-of-taxes-in-india-direct-and-indirect-tax> (last visited July 23, 2026).

²⁸ Direct and Indirect Taxation in India Explained, ClearTax, <https://cleartax.in/s/direct-indirect-taxation-india-explained> (last visited July 23, 2026).

²⁹ *Mohit Minerals Pvt. Ltd. v. Union of India*, (2022) 4 SCC 481 (India).

³⁰ *R.C. Jall v. Union of India*, AIR 1962 SC 1281 (India).

have lesser compliance burden than before and simplified GST (Goods and Services Tax) and MSME (Micro, Small and Medium Enterprises) support with better ease of running and sustaining the business. Government has more fiscal stability and stronger revenues with this evolved taxation and this contributes to the better infrastructure, medical facilities, opportunities and schemes for citizens.

Along with this today's taxation laws which are made after inspiration from ancient to colonial and post-independence reforms and even providing more efficiency, transparency, fairness and equity to individuals, businesses, firm, government, organizations, there are also have some challenges such as complex filings of compliance and frequent changes in filing. Although there is tax evasion such as black money and informal economy and exploit loopholes despite aggressive tax planning. Hence, results in litigation overload, Centre-State GST disputes.

CONCLUSION

Taxation laws in India are not just tools but a constitutional and legislative framework which sustains social welfare and governance in the country. Today's taxation laws are inspired from its rooted ancient taxation laws till the colonial periods taxation laws and post-independence reforms that make present day taxation laws stable for individual's welfare, business growth and government needs. Government divided the taxes as direct and indirect tax, this duality system is for the wider revenue collection and equity. The constitutional basis particularly the Seventh Schedule, Article 246, Article 256, Article 268-271, Article 279A, Article 286, Article 366(28) which ensure fair tax collection with statutory authority of law, promotes transparency and equality and defines the Centre-State shared powers onto taxation laws. Also, the New Income Tax Act, 2005 has simplified compliance, individual's relief, business growth and MSME support to businesses. Yet there are still some challenges such as informal economy, black money, complex filings of compliance. Indian taxation laws embody the principle of "*No Tax Without Authority of Law*" which reflects civic duty with justice. Taxation is the cornerstone of the democracy and provides the accountability. At last, the evolution shows that taxation laws is evolving and requires reforms as needed to ensure fairness, transparency, socio-economic development for businesses, individuals, organizations and the country at large.