



SCOPE FOR UPDATING TAX LAWS IN INDIA

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ABSTRACT

The expense of running a whole country, particularly one that is pretty much as enormous and populated as our own, is humongous. With the help of the taxes, we pay that the Government can perform civil tasks. As such, without taxes, it would not be possible for the government to run the country. India has a well-defined taxation system and taxes can be broadly categorised into two categories - Direct taxes and Indirect taxes. Payment of taxes is necessary for the growth and development of every country. Our taxation laws were written almost 50 years earlier and thus are not complying with the present economic environment. People are reluctant to pay taxes due to a decrease in profit earning, social disparity, lack of clarity, and many other factors. Thus, our government must make an efficient and effective taxation system and make people willing to pay taxes.

Keywords: Taxation, Tax Laws, Direct Taxes , Tax Reforms, Corporate Tax.

INTRODUCTION

Economic growth, as defined by the “Gross Domestic Product”¹ and the “Rate of Unemployment,” is the most essential metric for every nation to carefully monitor. Taxation is the primary source of income for every government to provide enough services to its people. To meet society's requirements, such as hospitals, infrastructure, schools, and other fundamental services, a significant amount of money is needed. In other words, it is correct to conclude that there is a direct relationship between tax collection and economic development. The issue now is how tax collection can be increased such that a significant boost in economic development can be seen over time. There is a need to foster a culture in which people prioritise tax compliance above tax

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¹ Tim Callen, 'Gross Domestic Product: An Economy'S All' (*International Monetary Fund*, 2021)
<https://www.imf.org/external/pubs/ft/fandd/basics/gdp.htm> accessed 18 July 2021.

evasion methods. Once this criterion is met, the tax authorities will no longer be concerned about impediments to tax collection.

INDIA'S TAXATION SYSTEM

It is important to note that India has a well-structured tax system, and the significance of taxes is characterised by two characteristics: progressive and proportionate.² It is progressive in the sense that the tax is imposed at rising rates to increasing income and revenue brackets as the income and revenue brackets increase. The taxation system, in contrast, is proportional, meaning that the rate of the taxation imposed is proportionate to the quantity of income or revenue that is subject to taxation.

Any changes in tax rates, brackets, and slabs are mainly decided by the federal and state governments, and any such changes must be accompanied by legislation approved by the Parliament or the state legislature. There are several taxes that Indian people are subject to as part of the country's taxation system, ranging from income tax to custom duty. However, virtually all taxes levied under the Indian taxation system may be divided into two categories: direct taxes and indirect taxes.³ Direct taxes are the most common kind of tax in India.

The term "direct taxes" refers to taxes that are imposed directly on the taxable income produced by people or businesses. Since these taxes are paid directly to the government and account for a substantial part of India's total tax income, they are of major significance. It is essential to note that, even though these taxes are referred to as 'direct' taxes, the obligation for filing the required tax amounts falls on the shoulders of the taxpayers themselves.

Income tax, corporation tax, capital gains tax, property tax, entitlement tax, and other direct taxes are some of the most significant types of direct taxes.

Indirect taxes are those that are not imposed directly on a taxpayer's income, but rather are levied indirectly when a taxpayer avails or purchases goods and services, such as transportation. These taxes are included in the price of the service or the purchase of the products and are paid by the customer to the service provider or retailer. As a result, these political parties pay the same amount to the government, thereby earning the name indirectly. "One of the most significant indirect taxes

² 'What Is The Importance Of Taxes In India?' (*Canarabsbelife.com*, 2021) <https://www.canarabsbelife.com/knowledge-centre/blog/What-is-the-importance-of-taxes-in-india.html> accessed 18 July 2021.

³ 'Direct Indirect Taxes India' (*Clartax.in*, 2021) <https://clartax.in/s/direct-indirect-taxation-india-explained> accessed 18 July 2021.

is the Goods and Services Tax (GST), which has absorbed a huge number of indirect taxes that existed before 2017. The GST is one of the most important indirect taxes in the world. Aside from the Goods and Services Tax, there are other taxes such as Dividend Distribution Tax, Customs Duty, Securities Transaction Tax, and others.”

Direct taxes demonstrate the significance of taxes by decreasing income disparities via the use of a progressive tax system. Citizens are taxed following their economic conditions, promoting social and economic equality in the process. Furthermore, with direct taxes, taxpayers are always aware of the amount of tax they may anticipate to pay in a given fiscal year and can plan accordingly well in advance. Direct taxes are also helpful in managing inflation since any change in their rates may aid in regulating demand and supply in the economy, which in turn helps to keep prices stable.

When it comes to indirect taxation, taxes are very important to the government since they are a built-in function that occurs automatically when products and services are purchased and sold throughout the nation, regardless of where they are purchased or sold. As a result, they are simple to collect and convenient for both taxpayers and tax collecting agencies. They also contribute to the expansion of the country's net of tax liabilities by collecting contributions from those sectors of society that are normally exempt from direct taxation (e.g., the unemployed).

WHY DOES TAX MATTER?⁴

Taxation is important not just for the government, but it is also important for the individuals who are ultimately responsible for tax compliance. While developing taxes policies and legislation, it is critical to consider problems that affect both the party responsible for the taxation system, i.e. government, as well as the general public. This is especially important in light of recent events. Through achieve overall success, a comprehensive set of tax procedures must be in place from the moment that individuals pay their taxes to the point at which they are administered and collected by the government's tax collecting agencies.

Any country's rate of production, employment rate, paying capacity of its people, and overall high quality of living are all critical factors in the country's ability to expand enormously. In all of this, taxation plays a significant role as one of the determining factors for individuals when choosing whether or not to make a certain investment, whether locally or internationally. Fast growth in investment, on the other hand, is essential for any economy to achieve rapid growth. Such an

⁴ 'Why Tax Matters' (*Taxjusticetoolkit.org*, 2021) <https://taxjusticetoolkit.org/why-bother-with-tax/why-tax-matters/#top> accessed 18 July 2021.

investment also contains the component of enticing worldwide investors to put their money in a secure manner, which will eventually aid in the generation of huge amounts of income, which will allow the economy to expand at an exponential rate.

ISSUES WITH PRESENT TAXATION LAWS IN INDIA⁵

THE HIGH CORPORATE RATE TAX

When conducting a feasibility study in the pre-implementation phase, the rate of tax has a direct impact on the business choices that are made by the company. The higher the rate of taxation, the lower the amount of profit that may be taken away by the business owner. This becomes the direct cause of the taxpayer's apathetic attitude toward tax payment and his or her more determined desire to devise strategies to avoid the tax as far as is reasonably feasible, as described above.

SOCIAL DISPARITY

In the current economic climate, there is no obvious distinction between the high-earning society and the low-earning society in terms of income. Individuals from lower-income households are unable to grow continuously as a consequence of this, and over time acquire a negative attitude about complying with tax regulations.

CHANGING SCENARIO

In an age of globalisation when there are no geographical borders for doing business, there are many difficulties when it comes to tax compliance since tax rules were drafted with the current economic climate in mind when they were drafted. In the meanwhile, the whole situation has altered, and current tax rules are no longer serving society as effectively and efficiently, as they should be doing.

LACK OF CLARITY

There is still a need for improvement in the current tax rules to close the gaps of uncertainty and clarity in interpretation of the law, particularly from the viewpoint of non-residents who want to conduct their companies in India. Adding a layer of complexity to a transaction lowers people's motivation to complete it, regardless of the form.

⁵ "Tax Laws And Rules" (*Incometaxindia.gov.in*, 2021) <https://www.incometaxindia.gov.in/pages/tax-laws-rules.aspx> accessed 18 July 2021.

PENDING TAX LITIGATION

The present tax lawsuit is expected to take at least 12-13 years to be settled in the majority of cases. At the moment, there are approximately Rs 4.96 lakh crore worth of income tax claims waiting in court, with 92,338 pending cases before the Income Tax Appellate Tribunal (ITAT)⁶, 38,481 ongoing cases before the High Courts, and 6,357 pending cases before the Supreme Court of India.⁷ The fact that there is such a high volume of tax litigation is solely due to flaws in current legislation, which does not specify the time frame within which disputes should be resolved. Such a lengthy cycle of litigation is burdensome not only for the taxpayer but also for the tax authorities since a significant amount of money is diverted away from the government in addition to the cost of employing senior lawyers to defend the government before the relevant court.

EASE OF DOING BUSINESS

Because of the uncertainty and complexity that surrounds the current regulations, corporations have significant problems in conducting their operations smoothly and efficiently. The majority of them, discouraged by the system, prefer to concentrate their efforts on structuring their income in such a manner as to avoid paying taxes.

NEED FOR TAX REFORM

Since income tax legislation has been in place for more than 50 years, it is now imperative that tax legislation be updated to reflect the most recent developments in the global economy. This will not only bring the tax laws up to date, but it will also aid in the creation of a society in which taxpayers see the payment of taxes as a moral duty rather than an unwelcome burden.

EVOLUTION OF DIRECT TAX CODE

Taking all of these factors into account, the first draught of the "direct tax law" was published on August 12, 2009,⁸ and the Revised discussion paper was produced in the following year, 2010.⁹ Finally, in 2010, the Direct Tax Law was presented to the parliament, and the government established the Standing Committee on Finance to examine the code in more depth. Direct tax

⁶ (*Income Tax Appellate Tribunal*, 2021) <https://itat.gov.in/> accessed 18 July 2021.

⁷ Sachin Dave, 'Trillions Of Rupee Stuck In Pending Income Tax Litigation, Fresh Measures Needed: Report' (*The Economic Times*, 2021) <https://economictimes.indiatimes.com/news/economy/finance/trillions-of-rupee-stuck-in-pending-income-tax-litigation-fresh-measures-needed-report/articleshow/79706066.cms?from=mdr> accessed 18 July 2021.

⁸ The Draft Direct Taxes Code Bill, 2009.

⁹ The Direct Taxes Code, 2010 (Bill No. 110 of 2010).

rules are intended to completely replace the Income-tax Act 1961 with the new one to consolidate all of the laws in one place and make them more simple. This will also make it possible to create a more favourable tax environment.

PROPOSED CHANGES IN DIRECT TAX CODE

“The classification of income under the two heads i.e. ordinary source and special source. In ordinary sources, income is further classified into five sub-head such as:

- Income from employment.
- Income from business/profession.
- Income from capital gain.
- Income from house property.
- Income from residuary sources.

The idea of Previous year and Assessment year, which causes a considerable amount of confusion, has been suggested to be replaced with a single concept, namely Financial Year. There should be an increase in the slab rate so that there exists a less burden on small taxpayers. Such as:

- Till Rs 2.5 Lakh– NIL.
- Rs 2.5 lakh – 10 Lakh = 10% [with full rebate till Rs 5 Lakh].
- Rs 10 Lakh – 20 Lakh = 20%.
- Rs 20 Lakh- 2 Crore = 30%.
- Rs 2 Crore and above = 35%.

Adequate modifications must be made to the existing residency laws, which state that a person is deemed to be a resident if he stays for a period of 182 days or more and are currently being abused by both residents and non-residents. Specific rules should be developed to indicate the degree to which treaties take precedence over the Income Tax Act, when the application of the Income Tax Act is required in certain circumstances. Specific instructions on the application of the General Anti-Avoidance Rule and how the disagreement should be addressed.

CONCLUSION

As our honourable prime leader “Mr. Narendra Modi” has said, “Transparent Taxation and honouring the honest is the pinnacle of success,” which can be accomplished by enacting the appropriate tax legislation and repealing the antiquated legislation. With the introduction of the "Faceless assessment, Faceless appeal, and tax charter,"¹⁰ it is obvious that the need for reform of the existing tax legislation has become critical. The extent to which corruption may be reduced as a consequence of such change is beyond anyone's wildest dreams. This kind of change is beneficial not only for tax authorities but also for the taxpayer to a significant degree in an era of technology and unexpected periods such as a pandemic scenario (COVID-19). As a result of the repeal of the dividend distribution tax, which was included in the Finance Bill 2020, the government has given relief to corporations that were previously obliged to pay the tax on dividend distributions.

In the example of Brazil, it is possible to observe how tax rules, growth, and taxpayers are all intertwined. For small and medium-sized businesses, the Brazilian government has implemented “Simple Nacional,” which aims to minimise administrative burdens and streamline the tax collecting process by streamlining the tax collection process. “In addition to increasing total tax expenses by 8%, this has resulted in an increase in the business licence rate by 11.6 percent, an increase in the registration of micro-enterprises by 6.3 percent, and an increase in the number of companies registered with tax authorities by 7.2 percent.”

Making the intention to build a society of taxpayers who are prepared to give their time to contribute to the collection of tax revenue must be done in tandem with making the necessary adjustments to tax legislation. The incorporation of tax laws is just one half of the equation; the other part is the compliance of taxpayers with tax laws, which, taken together, results in the tax mechanism being an efficient system for the nation.

¹⁰ Balwant Jain, 'Faceless Assessment & Taxpayers' Charter: All You Need To Know About Them And Their Impact On The System' (*The Financial Express*, 2021) <https://www.financialexpress.com/money/income-tax/faceless-assessment-taxpayers-charter-all-you-need-to-know-about-them-and-their-impact-on-the-system/2062887/> accessed 18 July 2021.