‘INDIA TAXES’- A NARRATIVE REVIEW.

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ABSTRACT

Direct and indirect taxes make up India's tax structure, which is regulated by clear laws and regulations. The Income Tax Act of 1961 governs the imposition of direct taxes, such as corporate tax and income tax, on both individuals and corporations. Their compliance and collection are overseen by the Central Board of Direct Taxes (CBDT). Conversely, goods and services are subject to indirect taxes, the most notable of which is the Goods and Services Tax (GST), which went into effect in 2017. A dual system consisting of Central GST (CGST), State GST (SGST), and Integrated GST (IGST) simplified the tax structure by replacing several indirect taxes such as VAT, excise duty, and service tax. GST and other indirect taxes, including excise and customs duties on specific goods, are governed by the Central Board of Indirect Taxes and Customs (CBIC).

India also uses tax-sharing arrangements, in which the Central and State Governments split revenues in accordance with the suggestions made by the Finance Commission. Furthermore, tax laws are updated often to increase effectiveness, lower tax evasion, and conform to international norms. While GST continues to develop through reforms and amendments, the proposed Direct Tax Code (DTC) seeks to further streamline direct tax laws. Taxation is an essential component of India's financial system since its tax laws guarantee adherence, openness, and economic expansion.

KEY WORDS*: Income Tax; Goods and Services Tax (GST); Central Board of Direct Taxes (CBDT); Central Board of Indirect Taxes and Customs (CBIC).*

INTRODUCTION

In India, the taxation system is structured into two primary categories: Direct Taxes and Indirect Taxes. Each type has distinct characteristics and is governed by specific codes and regulations. The authority to levy taxes in India is derived from the Constitution, which allocates the power between the Central and State Governments:

Union List: Empowers the Central Government to levy taxes like income tax (except on agricultural income), customs duties, and excise duties on certain products.

State List: Empowers State Governments to levy taxes such as on agricultural income, land and buildings, and excise duties on alcoholic liquors.

CLASSIFICATION OF INDIAN TAXES

Indian taxes are **classified** into Direct Taxes and Indirect Taxes based on who bears the burden of taxation. Below is a detailed classification:

I. Direct Taxes

Direct taxes are levied directly on individuals and organizations, and the burden cannot be shifted.

A. Income-based Taxes

Income Tax – Levied on individuals, Hindu Undivided Families (HUFs), and other entities as per the Income Tax Act, 1961. [1]

i).Corporate Tax – Levied on domestic and foreign companies based on their income.[2]

ii).Minimum Alternate Tax (MAT) – Levied on companies that declare zero or low tax despite high book profits. [3]

iii).Dividend Distribution Tax (DDT) (Abolished in 2020) – Earlier levied on companies distributing dividends to shareholders.[4]

B. Wealth-based Taxes

i).Capital Gains Tax – Tax on profits earned from the sale of capital assets like property, stocks, and gold. [5]

ii).Securities Transaction Tax (STT) – Levied on transactions of securities on recognized stock exchanges. [6].

iii). Gift Tax – Tax on gifts received above a specified limit.[7]

II. Indirect Taxes

Indirect taxes are levied on goods and services and can be passed on to consumers.

A. Goods and Services-based Taxes

i).Goods and Services Tax (GST) – A comprehensive tax that replaced multiple indirect taxes.

ii).Central GST (CGST) – Collected by the Central Government.

iii).State GST (SGST) – Collected by State Governments.

iv).Integrated GST (IGST) – Collected on inter-state transactions.[8]

v).Customs Duty – Levied on imports and exports of goods.[9]

B. Cess and Other Taxes

Excise Duty (Abolished under GST, except for petroleum, alcohol, and tobacco). Central Excise Act, 1944

i).Stamp Duty – Levied on property transactions, agreements, and legal documents. [10]

ii).Road Tax and Toll Tax – Levied on vehicles for infrastructure maintenance. [11]

iii).Professional Tax – Levied by state governments on professionals and salaried individuals. [12]

Recent Developments

*Abolition of Wealth Tax (2015) – Replaced by a higher surcharge on super-rich taxpayers.

*Reduction in Corporate Tax Rate (2019) – Lower tax rates for new manufacturing firms.

*Introduction of Faceless Assessment – For greater transparency in tax collection.

Important case laws and government reports related to taxation in India

1. Landmark Case Laws in Indian Taxation

A. Income Tax Cases

1. Kesoram Industries & Cotton Mills Ltd. v. CWT (1966 AIR 1370)

Issue: Whether wealth tax is a direct tax or an indirect tax.

Judgment: The Supreme Court held that wealth tax is a direct tax since it is levied on the owner of wealth and cannot be passed on. [13]

2. McDowell & Co. Ltd. v. CTO (1985 AIR 809)

Issue: Tax avoidance vs. tax evasion.

Judgment: The Supreme Court ruled that tax planning is legitimate, but tax evasion through artificial transactions is illegal. This case strengthened the doctrine against tax avoidance. [14]

3. Vodafone International Holdings B.V. v. Union of India (2012)

Issue: Whether indirect transfer of Indian assets by a foreign company is taxable in India.

Judgment: The Supreme Court ruled in favor of Vodafone, stating that indirect transfer was not taxable in India under the existing laws. This led to retrospective tax amendments in the Income Tax Act.[15]

4. CIT v. B.C. Srinivasa Shetty (1981)

Issue: Capital gains tax on goodwill.

Judgment: The Supreme Court held that capital gains tax cannot be charged on goodwill unless the cost of acquisition is determinable. [16]

B. GST and Indirect Tax Cases

5. Mohit Minerals Pvt. Ltd. v. Union of India (2022)

Issue: Validity of IGST on ocean freight.

Judgment: The Supreme Court struck down the imposition of IGST on ocean freight, stating it violated the principles of GST.[17]

6. E-commerce GST Case: Flipkart Internet Pvt. Ltd. v. State of Karnataka (2019)

Issue: Whether state governments can impose entry tax on e-commerce companies.

Judgment: Karnataka High Court ruled in favor of Flipkart, stating that imposing entry tax selectively on e-commerce companies was unconstitutional. [18]

7. Union of India v. Bengal Immunity Co. Ltd. (1955)

Issue: Inter-state sales tax dispute under Article 286 of the Constitution.

Judgment: The Supreme Court ruled that state governments cannot impose sales tax on inter-state transactions without Parliament’s approval. [19]

2. Government Reports on Taxation

A. Reports by Tax Committees and Commissions

1. Kelkar Committee Report (2002)

Focus: Suggested tax simplification, reduction in exemptions, and digitization of income tax filing.[20]

2. Direct Tax Code (DTC) Report (2010)

Focus: Proposed replacement of the Income Tax Act, 1961, with a simplified Direct Tax Code.[21]

3. Shome Committee Report (2012)

Focus: Recommendations on General Anti-Avoidance Rules (GAAR) and retrospective taxation. [22]

B. Reports by Government Agencies

4. Economic Survey of India (Annual Report)

Focus: Analysis of tax revenue trends, tax-GDP ratio, and direct vs. indirect tax collection. [20]

5. Report on Revenue Neutral Rate (RNR) for GST (2015)

Focus: Suggested a suitable revenue-neutral GST rate for India's transition to GST. [23]

6. Task Force on Direct Taxes (2019)

Focus: Recommendations to revise direct tax laws and improve tax compliance. [24]

Detailed Explanation of Direct Taxes in India

Direct taxes are those that are paid directly by individuals or entities to the government. These taxes cannot be transferred to another person and are primarily managed by the Central Board of Direct Taxes (CBDT), which operates under the Department of Revenue, Ministry of Finance.

1. Direct Taxes in India

A. Income Tax

Levied on the income earned by individuals, Hindu Undivided Families (HUFs), firms, LLPs, and companies. Governed by the Income Tax Act, 1961.

The Income Tax Department (ITD), under the CBDT, is responsible for tax collection.

B. Corporate Tax

Levied on the income of companies registered in India.

Corporate Tax Rates: Domestic Companies: 22% (if availing concessional tax rate) or 30% (standard rate).

Foreign Companies: 40%. Minimum Alternate Tax (MAT): 15% on book profits.

C. Capital Gains Tax

Imposed on the sale of capital assets (e.g., real estate, stocks, mutual funds).

Types:

Short-Term Capital Gains (STCG): If assets are held for less than 1 year, taxed at 15%.

Long-Term Capital Gains (LTCG): If assets are held for more than 1 year, taxed at 10% (for gains exceeding ₹1 lakh in case of stocks).

D. Securities Transaction Tax (STT)

Levied on stock market transactions (buying/selling equity shares and derivatives).

Collected by stock exchanges and passed to the government.

E. Dividend Distribution Tax (DDT)

Abolished in 2020. Now, dividends received by shareholders are taxed as per individual tax slabs.

2. Collection of Direct Taxes

The Income Tax Department (ITD) collects taxes via:

Advance Tax: Paid in installments by taxpayers with large incomes.

Tax Deducted at Source (TDS): Employers and businesses deduct tax at source before making payments.

Self-Assessment Tax: Individuals pay directly based on their annual returns.

Regular Assessment Tax: Paid if additional tax liability arises after scrutiny.

3. Distribution of Direct Taxes Between Centre & States

Since most direct taxes are collected by the central government, the Finance Commission of India decides the distribution of revenues.

Central Government Retains: Corporation Tax; Custom Duties; Taxes on interstate trade and commerce

Shared Between Centre & States:

Personal Income Tax; Union Excise Duties; Goods and Services Tax (GST) Compensation;

Formula for Distribution

The 15th Finance Commission (2021-2026) recommended:

41% of net tax proceeds should be devolved to states. Distribution among states is based on: Income Distance (45%): Poorer states get more.

Population (15%): Based on 2011 Census.

Forest & Ecology (10%): States with more forests get extra funds.

Tax Effort (2.5%): More efficient tax collection states are rewarded.

Example: If ₹100 is collected from Income Tax: ₹41 goes to States and ₹59 remains with the Centre

4. Distribution Among Government Departments

The remaining 59% retained by the Central Government is allocated among various departments and ministries based on the Union Budget.

Key Spending Areas:

Infrastructure (Roads, Railways, Ports): Ministry of Road Transport & Highways, Ministry of Railways.

Defence: Ministry of Defence gets a significant share.

Education & Healthcare: Ministry of Health and Family Welfare, Ministry of Education.

Welfare Schemes: MNREGA, PM-Kisan, etc.;Subsidies: Agriculture, fuel, and food subsidies.

State Grants & Loans: States receive additional financial aid.

A significant portion of government revenue comes from direct taxes. After being collected by the Income Tax Department (CBDT), taxes are disbursed in accordance with the Finance Commission's recommendations. The Union Budget divides the portion that the Center keeps among the various ministries. This guarantees adequate financing for development, welfare, defense, and infrastructure projects. [24,25]

Criteria for collection of direct taxes

In India, a systematic framework based on tax liability, business type, and income levels governs the collection of direct taxes. The Central Board of Direct Taxes (CBDT), a division of the Ministry of Finance's Department of Revenue, is in charge of administering these taxes.

1. Criteria for Collection of Direct Taxes

The collection process is guided by the Income Tax Act, 1961, which sets out who needs to pay taxes, how they should pay, and under what conditions.

A. Who Needs to Pay Direct Taxes?

The following categories of taxpayers are liable for direct tax payments:

Individuals:Indian residents earning more than ₹2.5 lakh annually (old tax regime).Non-residents earning income in India (e.g., salary, business profits, rent, etc.).

Hindu Undivided Families (HUFs): Joint families earning taxable income.

Businesses & Corporations: Partnership Firms & LLPs - Taxed at 30% flat.

Private Limited & Public Limited Companies - Taxed at 22% (new tax regime).

Freelancers & Professionals: Individuals earning from consulting, freelancing, etc., must pay taxes based on slabs.

Investors: Gains from stock trading, real estate, and other capital assets are taxable under Capital Gains Tax.

B. Methods of Collection of Direct Taxes

Direct taxes are collected through multiple mechanisms:

Tax Deducted at Source (TDS): Employers deduct tax on salaries before paying employees.

Businesses deduct tax on payments to vendors, professionals, or rent.

Banks deduct TDS on interest earned. [26]

Advance Tax (Pay-as-you-earn system): Applicable if total tax liability exceeds ₹10,000 in a year.

Paid in four installments: 15% by June 15; 45% by September 15; 75% by December 15; 100% by March 15 [27]

Self-Assessment Tax (SAT): Paid by individuals before filing their Income Tax Returns (ITR). [28]

Regular Assessment Tax: Paid after scrutiny assessment by the Income Tax Department. [29]

2. Who Supervises Direct Tax Collection?

The direct tax system is supervised by the Central Board of Direct Taxes (CBDT) under the Department of Revenue, Ministry of Finance.

A. Central Board of Direct Taxes (CBDT)-The CBDT is the policymaking body responsible for tax administration. It operates under the Ministry of Finance, Government of India.

CBDT Responsibilities: Policy formulation for direct taxes.Supervision of Income Tax Department (ITD). Issuing tax rules, exemptions, and clarifications. Handling tax evasion cases. Implementing international taxation laws. [30]

B. Income Tax Department (ITD)- Under CBDT, responsible for direct tax collection and enforcement.

ITD Functions: Collecting income tax, corporate tax, and capital gains tax. Conducting audits and scrutinies.

Preventing tax evasion. Managing taxpayer grievances. Processing tax refunds.

The collection of direct taxes follows a structured system where taxpayers are classified based on their income and profession. The CBDT supervises the entire process, with the Income Tax Department enforcing tax laws. Revenue collected is shared between the Centre and States, and allocated to various government programs to fund national development.

Direct Taxe Codes

Certain legislative codes regulate direct taxes in India. The main piece of law governing direct taxes in India has historically been the Income Tax Act of 1961. However, the government has introduced the Direct Tax Code (DTC) 2025, which will replace the previous act, in an effort to modernize and streamline the tax system.

Key Features of the Direct Tax Code 2025:

Simplification of Tax Laws: The DTC aims to consolidate and streamline existing tax provisions, eliminating ambiguities and redundancies to make copliance easier for taxpayers.

Widening the Tax Base: One objective is to increase the percentage of income taxpayers in India, addressing the low taxpayer base compared to developed countries.

Alignment with International Practices:

The DTC seeks to align India's tax regulations with global standards, promoting transparency and reducing tax disputes.

Implementation Timeline:

The Direct Tax Code 2025 is expected to be implemented starting from the financial year 2025-26, following its introduction in the Union Budget of 2025. [17]

Impact on Taxpayers:

The DTC is designed to simplify tax compliance, reduce litigation, and create a more taxpayer-friendly

Detailed Explanation of Indirect Taxes in India

Indirect taxes are imposed on goods and services rather than being paid directly by individuals. Businesses, manufacturers, or service providers collect these taxes, which they subsequently give to the government.

The Goods and Services Tax (GST), which is levied by both the Central Government and the State Governments, has supplanted the majority of indirect taxes in India since 2017.

1. Types of Indirect Taxes in India

A. Goods and Services Tax (GST)

GST is the biggest indirect tax in India, replacing multiple taxes such as VAT, Service Tax, Excise Duty, etc.

It follows a multi-stage, destination-based taxation system, meaning the tax is collected at each stage of value addition but is ultimately paid by the consumer. [8]

Types of GST:

CGST (Central GST): Collected by the Central Government on intra-state sales. Example: If a shop in Delhi sells a product to a consumer in Delhi, CGST is collected by the Centre.

SGST (State GST): Collected by the State Government on intra-state sales. Example: The same Delhi shop collects SGST for the Delhi government.

IGST (Integrated GST): Collected by the Central Government on inter-state sales.

Example: If goods are sold from Delhi to Maharashtra, IGST is collected by the Centre and later shared with Maharashtra.

UTGST (Union Territory GST): Applied in Union Territories like Chandigarh, Lakshadweep, and Andaman & Nicobar Islands.[13]

GST Tax Rates (as of 2024)

GST Slab	Applicable Items
0%	Basic food items, healthcare, education services
5%	Essential goods like packaged food, cab services
12%	Processed food, electronics, restaurant services
18%	Most consumer goods, telecom, software services
28%	Luxury goods, tobacco, automobiles

B. Custom Duty

Collected by the Central Government on imported and exported goods. Encourages local production and controls international trade. Example: Importing an iPhone from the USA attracts custom duty.

C. Excise Duty (Limited Scope after GST)- Previously levied on manufactured goods in India, now only applicable on alcohol, petroleum, and tobacco products (which are outside GST).

D. Stamp Duty- Levied by State Governments on property transactions and legal documents. Example: If you buy land in Mumbai, Maharashtra Government collects Stamp Duty.

E. Road Tax & Vehicle Registration -Collected by State Governments on vehicle purchases.

Varies across states.[22]

2. Who Collects Indirect Taxes?

A. Goods and Services Tax (GST) Collection

GST is collected by both Central and State Governments via the GST Network (GSTN).

Businesses with annual turnover above ₹40 lakh (for goods) or ₹20 lakh (for services) must register under GST. GST Returns are filed monthly/quarterly by businesses, and taxes are automatically allocated between Centre and State.

B. Customs Duty Collection- Collected by the Central Board of Indirect Taxes and Customs (CBIC) at ports, airports, and land borders.

C. State-Level Indirect Taxes- Stamp Duty & Vehicle Tax are collected by the respective State Governments. [11]

3. Distribution of Indirect Taxes Between Centre & States

A. Distribution of GST Revenues- GST is a dual tax, so the revenue-sharing is predefined:

CGST (Central GST) → 100% to Central Government

SGST (State GST) → 100% to State Government

IGST (Integrated GST) → Shared between Centre and Destination State [6]

CONCLUSION

The well-organized framework of India's tax system guarantees economic stability, revenue generation, and the fair allocation of financial resources between the federal government and state governments. The system ensures that businesses and consumers contribute to the economy while enabling progressive taxation through a combination of direct and indirect taxes. Direct taxes are governed by the Income Tax Act of 1961, and the CBDT is in charge of enforcing tax compliance and policy implementation. In the meantime, indirect taxes—mainly those imposed under the Goods and Services Tax (GST) framework—have greatly streamlined tax collection, lowering barriers to doing business and making it easier.

Indirect tax laws are administered by the CBIC, guaranteeing consistency throughout the country. India's tax laws are constantly being changed to improve openness, reduce tax evasion, and conform to global best practices. A dynamic shift toward a more straightforward, effective, and taxpayer-friendly system is indicated by the proposed Direct Tax Code (DTC) and recurring GST amendments. All things considered, taxation is a major pillar of economic growth and financial sustainability in India since it helps finance infrastructure, welfare programs, governance, and nation-building.

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