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Origination Of Direct Tax In India And Its Present Day Structure With Special Reference To Budget 2019

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Abstract
Tax is a compulsory extraction made by the central government and state government from the general public. It goes to the government treasure which is then channelized for various developmental activities of an economy. Tax forms an important part of economic policies of any country. Indian taxation system is one of the largest taxation systems in terms of its wide application on large number of people and other business entities. Tax structure in India can be broadly divided into direct taxes and indirect taxes. Direct taxes are levied directly on the assesse upon his taxable income. Whereas, indirect taxes are those which are collected during the sale of goods and services by the seller and then deposited to the government on behalf of the final customers. However, this paper mainly discuss about the direct taxes only. It makes a brief outline of the historical background of direct taxes in India, its present day structure and the recent changes introduced in Budget 2019.

Keywords: Direct tax, Incidence of tax, Impact of tax, Manusmriti, Arthasastra, Income Tax, Wealth tax, Corporate Tax, Capital Gains Tax.

Introduction
Direct Tax is collected directly from the person who actually earns it. Tax in India was levied from the times it was ruled by kings and their respective dynasties. The present day structure of direct tax in our country has evolved in different phases year by year. Direct taxes are mainly governed by the provisions of Income Tax Act, 1961 in India. It can be further categorised into income tax, wealth tax, corporate tax and capital gains tax. However, wealth tax has been abolished in 2015. Direct tax was first started in India during the colonial period by Sir James Wilson, finance minister, in the year 1860. However, every year some amendments and revisions take place due to which the structure of direct tax has been modified to a great extent. All these have been discussed below. Also the rates of different direct taxes have been mentioned too with special reference to the Budget 2019.

Review of Literature
Ghuge and Katdare (2015), in their article "*Indian Tax Structure- An Analytical Perspective*", have discussed about the amount raised from direct and indirect taxes by the government of India for a period of 2010 to 2014. The advantages and disadvantages of both direct and indirect taxes have also been stated. **Pandey (2017)** have analysed in his article about the effects of the country's tax system on its economic health. He also recommended making the tax laws more simplified. He also suggested that the burden of indirect taxes should be reduced over the poor class; rather these should be levied more on rich class. **Jain & Jain (2017)** wrote a paper on " *A study of corporate taxation in India*", where they have discussed about various reforms that took place in India with regards to corporate tax for promoting ease of doing business.

Objectives-
1. To delineate brief history of direct taxes in India.
2. To understand present structure of direct taxation in India.
3. To know the latest changes proposed regarding different direct taxes as per Budget 2019.

Research Methodology
The present study is descriptive and analytical in nature. It is majorly based on secondary data collected from different articles available in internet and newspapers, journals, etc. The official website of Income Tax Department have also been consulted to collect data on various provisions on Income Tax Act and to know about the recent tax rates.

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Limitations of the study

This study could be further extended to include the rates of indirect taxes also. Also, primary data could have been collected to know about the awareness level about various rebates provided by the government in charging direct taxes from local people. Moreover, tax management and tax planning could have been included for better inferences.

What is Direct Tax?

The tax in case of which the incidence to pay it and its impact falls on the same entity is known as Direct Tax. Here, two important terms can be noticed; one is the *incidence* of tax and other is the *impact* of tax. Impact means the immediate payment burden. In other words, impact of tax falls on the person who is responsible to pay the tax to the concerned authority of the Government. Whereas, incidence of tax falls on the person who is actually responsible to bear directly the money burden of the tax and who cannot shift it further. Thus, incidence means the final burden of tax and impact means the primary or initial burden of tax. So, direct tax includes those where it is paid by the same person who is considered to be the ultimate bearer of the payment burden. For example, income tax is one of the types of direct tax where individuals or organisations pay tax on the income they earned. Here the individual or organisation itself is the tax payer as well as the bearer of the ultimate burden as it is deducted from income of the individual or the organisation only. On contrary, in case of indirect tax, say VAT, that is included along with the price of the goods we buy, the tax is primarily paid by the manufacturers but they then shift the tax burden on the shoulder of the consumers in the form of higher prices. Thus more simply it can be said that direct tax is one which is paid directly to the government and it cannot be paid by any other entity.

History of Direct Tax in India

The term “tax” has been derived ‘taxation’ which means an estimate. It can be broadly divided into two categories- Direct Tax and Indirect Tax. In India economy, tax has been discussed in both Manusmriti and Arthasastra. Manusmriti is an ancient legal text in Sanskrit which has been translated by Sir William Jones and it forms the basis of Hindu law by the colonial government. It is considered that its real originator was Brahma, who then passes it to the first human known as Manu, one of the ancient sage and law giver. From him it went to the first teacher, Bhrigu, and as such it continues to pass on other sages. According to Manu, taxes should be levied on income and expenditure. At the same time he advised the king about the outcomes of excessive taxation. He also cautioned that two situations should always be avoided, i.e., full abolition of taxes as well as unreasonably high taxation. The king should try to collect the taxes in such a way that the payers do not feel the pain of paying taxes. Manu have developed a well organised system of taxation which states the artisans and traders are required to pay one-fifth of their profit in the form of silver and gold, and one-sixth, one-eighth and one-tenth of the produce by the agriculturist as per the situation. Not only this, even different classes of people engaged in different profession including actors , singers, dancers have to pay taxes in the form of cattle, grains, raw materials, or by providing certain services.

Arthasastra written by Kautilya was developed during 300 B.C. and it mainly dealt with financial management and administration of Mauryan dynasty. The state used to collect land revenue from the agriculturists and these occupied a major portion of Mauryan treasure. Forest produce as well as that from mining of metals were also sufficiently taxed. Taxes were also charged on water and salt. Octroi duties, tolls and custom duties were also common at that time. According to Kautilya, Mauryans used to have foreign trade with countries like China, Ceylon etc. and a charge called “vartanam” were levied on foreign goods imported in the country. Moreover, another tax known as “dvarodaya” was charged on those businessmen who used to import various commodities from outside nations. This clearly proved the existence of taxation since the time period India was ruled by different kings and their respective dynasties.

However the evolution of direct tax in India can be discussed in following phases:

Pre – independence phase:

- It was Sir James Wilson, finance minister of pre-independent India, who introduced Indian Income Tax Act for the first time on 7th April, 1860. It was enacted to cover up the losses incurred by the Government due to Military Mutiny of 1857.

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- In 1886, a separate Income Tax Act was passed. It divided income into 4 heads viz. (1) salaries, pension, or gratuities; (2) net profits of companies; (3) interests on securities of the Government of India; (4) other sources of India.
- Income Tax Act, 1918 came into force which repealed the previous Act of 1886.
- The Department of Income Tax started its journey from the year 1922. The year had been marked by the introduction of Income Tax Act, 1922. This act provided with a definite nomenclature to various IT authorities.
- The Act of 1922 was subject to a lot of amendments and as such it got too complicated to be handled. The law commission was consulted in 1956 to make it simple. As such, came up the Income Tax Act 1961. It is applicable to whole India. This provided us with 5 heads of income:
    1. Income from salary
    2. Income from house property
    3. Income from Profits and Gains of Business or Profession
    4. Income from Capital Gains
    5. Income from Other Sources
- For proper administration of Income tax Act, Central Board of Revenue Act, 1924 came into force and it created Central Board of Revenue.
- During 1939-1947, businessmen started earning abnormal profits due to World War II, and hence the department enacted Excess Profit Tax 1st September, 1939. It was later repealed on 1946 and instead came another tax known as Business Profit Tax (1st April, 1946 to 31st March, 1949).

Post- Independence Phase-

- In 1951, Voluntary Disclosure Scheme was introduced.
- Estate Duty Act, 1953 became effective from 1st October, 1953.
- From 1st April, 1957, the well famous Wealth Tax Act, 1957, came into force.
- The Gift Tax Act was enacted on 1958.
- Finally, the Income Tax Act, 1961 was enacted on 1st of April, 1962 to replace the Income Tax Act, 1922.
- The Central Board of Revenue was bifurcated in 1964 to form two new boards to handle the matters of Direct Tax and Indirect Tax separately. For direct taxation, Central Board of Direct Taxes (CBDT) and for indirect Taxes, Central Board of Excise & Customs (CBEC) [CBEC has been recently renamed as Central Board of Indirect Taxes and Customs (CBIC)]. These were constituted under the provisions of Central Board of Revenue Act, 1963.
- In the year 1972, the system of Permanent Account Number was introduced by IT Department.
- In 1974, Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 came into being. It was discontinued from 1st April, 1985.
- In 1988, Benami Transactions Prohibition Act was enacted.
- Filling of income returns through computerised means was introduced in India from 2002.
- In 2005, Tonnage Tax for shipping companies & Banking Cash Transaction Tax (BCTT) were enacted.

Present Structure of Direct Tax in India

India follows a three tier federal tax structure where the ultimate authority to collect tax lies only with Central Government, State Government and Local municipal bodies. It has been clearly stated in Article 256 of Indian Constitution. Following are the direct taxes that prevail in India:

Income Tax: It is an annual tax charged by Central Government on Income, gains or profits of an individual and entities (tax payers). The government does so with the help of Income Tax Department. As it varies with the income of persons, it is a progressive tax.

Wealth tax: Wealth tax is a charge for every assessment year starting from 1-04-1957 on the net wealth of an individual, HUF and Company at rate(s) prescribed in schedule I of Wealth Tax Act, 1957. It was paid at the rate of 1% on net assets exceeding Rs.30, 00,000 p.a. net wealth refers to the net assets which means excess of aggregate assets over aggregate liabilities of an individuals. The very purpose of this tax was to collect more amounts in the form of direct tax from wealth and rich people so that income inequality can be reduced in India. However it was abolished in 2015 Union Budget and was replaced by 12% surcharge on the income of persons (individuals, HUF & corporates) with high net worth.

Corporate tax: It is also known as company tax and it is levied on the net profit of the company which is registered under the company law in India. Both domestic and the foreign companies are required to pay the tax under the provisions of Income Tax Act. Thus, corporate tax is governed by Income Tax Act only. Corporate tax can be classified into 4 categories:

1. **Minimum Alternative Tax**: This act was enacted in India vide Section 115J of the IT Act, 1961. It is charged to those companies which reflect zero or negligible income on account of tax avoidance. Such companies are required to pay a percentage of tax on their book profit (i.e. the net profit in the profit and loss account prepared as per Companies Act, 1956, subject to certain adjustments).
2. **Fringe Benefit Tax**: It is a tax which is paid by the employer for the benefits provided to his employees.
3. **Dividend Distribution Tax**: DDT is a tax which is paid by the domestic companies at the rates prescribed on the gross amount of dividend declared, distributed or paid. However it is tax free at the hands of the investors. It is governed by section 115O of IT Act, 1961.
4. **Security Transaction Tax (STT):** STT is a tax which is charged on every transaction, whether purchase or sale, of securities listed in Indian Stock Exchanges (recognised). It is under the provisions of Securities Transaction Tax Act.

Capital Gains Tax: it is charged on the profit earned upon sale of non-inventory assets (capital assets). It is paid in the year in which the transfer of asset took place. However, it is not levied in case of inherited property as there is no transaction of purchase and sale; rather it's just a mere transfer of ownership. But if the inherited property is decided to be sold out to some outsiders, then in that case CGT will be charged. It is governed by IT Act.

1. **Short Term Capital Gain (STCG):** Short term capital assets are those which are held for a period equal to or less than 36months immediately preceding the date of transfer. But in case of security listed in recognised stock exchange, a unit of an equity oriented fund or a zero coupon bond, they are to be treated as short term capital assets if the holding period is not more than 12 months. Whereas, unlisted shares and immovable property, the period of holding must be less than 24 months. Any gains arising out of sale of such assets are included in gross income chargeable to tax.
2. **Long Term Capital Gain (LTCG):** assets which are held by the assesse for a period more than 12/24/36 months as the case may be are called long term capital assets. Long term capital gains are also added with total taxable income.

Rates of direct taxes as per Union Budget 2019-20

Income tax rates:

For Individuals:

Income Range	**Tax rate for below 60 years**	**Income Range**	**Tax rate for 60 -80 years**	**Income Range**	**Tax rate for above 80 years**

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Up to Rs.250000	Nil	Up to Rs.300000	Nil	Up to Rs.500000	Nil
Rs.250001 to Rs.500000	5% of income exceeding Rs.250000	Rs.300001 to Rs.500000	5% of income exceeding Rs.300000	Rs.500001 to Rs.1000000	20% of income exceeding Rs.500000
Rs.500001 to Rs.1000000	Rs.12500 +20% of total income exceeding Rs.500000	Rs.500001 to Rs.1000000	Rs.10000 + 20% of total income exceeding Rs.500000	Above Rs.1000000	Rs.100000 +30% of total income exceeding Rs.1000000
Above Rs.1000000	Rs.112500 +30% of total income exceeding Rs.1000000	Above Rs.1000000	Rs.110000 +30% of total income exceeding Rs.1000000		

These rates are applicable for all individuals (both male and female), HUF, AOP, BOI and Artificial Person. Along with above rates, following surcharge and cess shall also be paid as per latest budget:

- Surcharge at 10% of tax is levied if total income exceeds Rs.50lacs, at 15% if total income exceeds Rs.1crore, 25% if total income exceeds Rs.2crore and 37% if it exceeds Rs.5crore.
- Health & Education Cess at 4% on total of income tax so calculated including surcharge.

Rebate u/s 87A-
All *individuals* having total income less than Rs.5lacs are subject to full tax rebate u/s87A (as per the revision made in interim budget 2019).

*Note: Tax free withdrawal from NPS-
At the time of maturity of National Pension Scheme (NPS), investors are allowed to withdraw 60% of the corpus and the rest 40% has to be compulsorily invested in annuity plan. According to budget 2019, out of this 60% of withdrawal, 40% is completely tax free.

For Partnership Firms & Local Authority*:* For A.Y 2019-20 & 2020-21, 30% is levied for the income of partnership firms that includes Limited Liability Partnership (LLP). Also, surcharge at the rate of 12% is charged on total income exceeding Rs.1crore. The total of income tax and surcharge is further increased by 4% of Health and Education Cess.

Wealth Tax rate:
It was abolished by the Budget 2015.

Corporate Tax Rates:
For Domestic Companies-

Income	Tax Rate
Up to Rs.250crore gross turnover/gross receipt	25%
Gross turnover is more Rs.250crore	30%

Source: Website of Income Tax Department

*Corporate tax is charged on the revenue earned by the company subject to certain deductions which include depreciation, cost of goods sold, etc.

Note: as per budget 2019, for the assessment year 2020-21, a domestic company shall pay 30% tax if turnover or gross receipt exceeds Rs.400crore for the previous year 2017-2018. If the turnover is less than Rs.400crore, then 25% tax shall be charged. In other words the limit of Rs.250crore will be increased to Rs.400crore.

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For Foreign companies-

Type of Income	Tax Rate
Royalty or fees received under agreements made before April 1, 1976, which is approved by the Central Government	50%
Any other income	40%

Source: Website of Income Tax Department

Surcharge rates (for domestic and foreign companies):

Income Range	Rates for domestic companies	Rates for foreign companies
Total income is between Rs.1crore and Rs.10crore	7%	2%
Total income is more than Rs.10crore	12%	5%

Source: Website of Income Tax Department

Health and Education Cess (applicable for both domestic and foreign companies):
It is charged at the rate of 4% of total tax liability so calculated including surcharge.

a) Minimum Alternative Tax Rate:
18.5% of book profits + 4% for education cess and surcharge.

b) Fringe Benefit Tax Rate:
It is charged at the rate of 30% on the value of fringe benefits provided to the employee, calculated as per Section 115WC of Income Tax Act, 1961. It has to be paid in addition to Income-Tax so Charged.

c) Dividend Distribution Tax Rate:
It is levied at 15% of aggregate dividend declared, distributed or paid. It is followed by 12% surcharge and 3% cess.

d) **Security Transaction Tax Rates**:

Transactions	Rate (%)	Payable By
Purchase of an equity share in a company	0.1	Purchaser
Sale of an equity share in a company	0.1	Seller
Sale of a unit of an equity oriented fund	0.001	Seller
Sale of an equity share in a company or a unit of an equity oriented fund	0.025	Seller
Sale of an option in securities	0.017	Seller
Sale of an option in securities (exercised)	0.125	Purchaser
Sale of future in securities	0.01	Seller
Sale of a unit of equity oriented fund to Mutual Fund	0.001	Seller
Sale of unlisted equity shares under an offer for sale	0.2	Seller
Sale of unlisted units of a business trust under an offer for sale	0.2	Seller

Source: Website of Income Tax Department

Capital Gains Tax Rate:

a) Short-term capital gains tax:

➢ When securities transaction tax is not applicable-

The short-term capital gain is added to the income tax return and it is taxed as per suitable income tax slab.

➢ When securities transaction tax is applicable-

It is charged at the rate of 15%.

b) Long-term capital gains tax:

➢ On sale of equity shares or unit(s) of equity oriented funds-
Tax rate is 10% if the gain exceeds Rs.1lakh.

➢ Other than sale of equity shares or unit(s) of equity oriented funds-
Tax rate is 20%.

Some additional changes introduced by Budget 2019-

- ❖ ***Special deduction on loan taken for house property-*** An individual who have taken home loan under section 80EEA, is eligible to get additional deduction of Rs.1.5 lakh on the interest amount, subject to following conditions:

i. Loan has been taken between 1-04-2019 to 31-03-2020

ii. Value of house doesn't exceed Rs.45 lakh

iii. Individual should not be the owner of any other house on the date loan is sanctioned.

- ❖ ***Cash withdrawals are subject to TDS-*** It has been proposed to impose TDS at 2% on cash withdrawal exceeding Rs.1crore from a bank, during a financial year. This is done to encourage digital payments. It came to effect since 1st September, 2019.
- ❖ ***Increase in Standard Deduction-*** Standard deduction has been increased to Rs.50,000 from Rs.10,000 to provide some relief to the salaried class.
- ❖ ***Savings on LTCG tax on house property-*** In case of sale of house, tax can be saved by investing LTCG so earned in two houses, instead of one as prescribed earlier. It can be availed once in a lifetime and also if the capital gains don't exceed Rs.2crore.

Suggestions and Conclusion

In India, people are very ignorant about payment of taxes and have an intension to avoid them, especially the income tax. One of the major reasons behind this is lack of awareness about the various rates of the taxes, and more importantly the rebates proposed by the government from time to time. As such an attempt has been made through this research paper to make the readers know about direct taxes and discuss the recommendations prescribed in Union Budget 2019. However, this study can be further extended to include various indirect taxes, tax planning and tax management.

Bibliography

- ✓ Chanda, S. (2011). Taxation of Softwares in India: A Direct Tax Perspective. SSRN Electronic Journal. doi: 10.2139/ssrn.1931854
- ✓ Saravanan, K., & Muthulakshmi, D. (2017). Tax Saving Instruments of Income Tax in India: A Study on Tax Assessee in Trichy City. International Journal of Trend in Scientific Research and Development, Volume-1(Issue-5), 1259–1266. doi: 10.31142/ijtsrd2469
- ✓ Jaiswal, K. (2018). A Progressive Evaluation of Direct Tax Revenue in India. International Journal of Emerging Research in Management and Technology, 6(11), 48. doi: 10.23956/ijermt.v6i11.46
- ✓ The share of direct taxes in total tax revenues is relatively higher. (2016). doi: 10.1787/growth-2016-graph17-en
- ✓ Kiran, U., & Makkar, K. (2011). Minimum Alternate Tax in India - A Comparative Analysis of Provisions Under Income Tax Act and Direct Tax Code. SSRN Electronic Journal. doi: 10.2139/ssrn.1965588
- ✓ Vashisht, D. N. (2011). Economic Inequalities vis-à-vis Social Justice: Tax Structure in India. Indian Journal of Applied Research, 4(7), 111–113. doi: 10.15373/2249555x/july2014/33
- ✓ Ghuge, N. R., &Katdare Dr. V. V. (2015). Indian Tax Structure- An Analytical Perspective. International Journal in Management and Social Science, 3(9).
- ✓ https://www.incometaxindia.gov.in
- ✓ https://cleartax.in/