NOTES

Tax Law: Quick Revision Notes for CLAT PG

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Mastering commercial laws can be a game-changer for your LLM entrance, which is why having high-yield tax law quick revision notes for CLAT PG is essential to secure those definitive marks. While the syllabus spans intricate statutory provisions and recent judicial overrides, a structured summary can help you cut through the clutter.

In this article, we break down the core constitutional frameworks, direct tax concepts, and landmark GST judgments you need to know before exam day.

Let's Look into some important aspects of Tax Law for CLAT PG

1. Tax, Fee, and Cess

Tax can be defined as a sum of money paid for public purposes without guarantee of any benefit. In Commissioner, ***Hindu Religious Endowments, Madras v. Shirur Mutt (1954)***, the Supreme Court explained the difference between tax and fee, the latter being a charge for providing a service. Cess occurs when tax is charged for a specific activity.

In ***Hingir-Rampur Coal Co. v. State of Orissa***, the Supreme Court held that **while a fee requires a special benefit to be conferred on the payer, it does not require a direct, mathematically exact correlation (*quid pro quo*)** between the amount collected and the services rendered.

2. Direct and Indirect Taxes

Basis	**Direct tax**	**Indirect tax**
Incidence and impact	Fall on the same person	Impact on the supplier, incidence on the consumer
Shifting	The burden cannot be passed on	The burden is passed along the chain

Nature	Generally progressive, linked to ability to pay	Generally regressive, as everyone pays the same rate
Examples	Income tax, corporation tax	GST, customs duty, excise on specified goods
Evasion risk	Higher, since the assessee reports income	Lower, as tax is collected at the transaction

***Adam Smith's four canons of taxation**, namely equity, certainty, convenience, and economy, still frame the policy debate on both types.*

3. Constitutional Taxation Provisions

Article 265 says that no tax can be levied or collected without authority of law, so an executive order cannot impose a tax. **Article 246** and the Seventh Schedule divide the taxing power.

The **Union List includes tax on anything** *except agricultural income* (Entry 82), *customs duties* (Entry 83), *corporation tax* (Entry 85), and *excise duties on some goods such as oil and tobacco* (Entry 84).

The **State List includes tax** on *agricultural income* (Entry 46), *property* and *land tax* (Entry 49), *minerals and mining rights* (Entry 50), *excise on alcohol* (Entry 51), and *sales tax on different items* (Entry 54).

The **State List also includes vehicles** (Entry 57), **taxation on profession and jobs** (Entry 60), **entertainment and luxuries** (Entry 62), and **stamp rates** (Entry 63). **Parliament gets power under Article 248** and Entry 97 **to be able to make any new law on taxation.**

In 2016, the 101st Amendment included the Article 246A which helps Parliament and State Assemblies in making laws for GST and provides for exclusive power for regulating taxation.

Article 366(12A) defines GST as a tax on supply of goods and services **but excluding alcoholic drinks.** Article 269A defined GST on inter-state supplies which are collected by the Union and later distributed to the individual states.

Distribution of revenue. Article 268 covers stamp duties that the Union levies but the States collect and keep. Article 270 makes the other Union taxes divisible between the Union and States

on the Finance Commission's recommendations, but surcharges and cesses stay with the Union under Article 271.

Article 275 provides grants-in-aid, and Article 280 creates the Finance Commission.

Limits on taxing power. Article 276 caps the State tax on professions and trades at ₹2,500 per person per year.

Articles 285 and 289 protect Union property from State tax and State property from Union tax, but the Union may tax a State's trade or business.

Article 286 stops States from taxing supplies that take place outside the State or in the course of import or export. Article 274 requires the President's prior recommendation for Bills that affect taxes in which States have an interest.

GST Council (Article 279A). The Union Finance Minister chairs the Council, and its members include the Union Minister of State for Revenue and each State's finance or nominated minister.

The **Union has one-third of the weighted votes and the States together have two-thirds, and a decision needs three-fourths of the votes cast.**

- ***Indian Cement Ltd. vs. State of Tamil Nadu* (1990)** ruled that royalty is a tax, and hence a State is not allowed to impose any cess on it.
- However, the nine-judge bench in ***Mineral Area Development Authority v. Steel Authority of India* (2024)** has rejected this opinion. It ruled that **royalty is not a tax, and therefore States can levy tax on mineral rights, as per the restrictions imposed by Parliament under Entry 54 of the Union List.**
- In **Union of India v. Mohit Minerals Pvt. Ltd. (2022)**, it is held that the *recommendations of GST Council are advisory, and not mandatory, thus upholding the idea of co-operative federalism.*
- ***Mafatlal Industries Ltd. v. Union of India* (1997)** introduced the principle of *unjust enrichment in giving indirect tax refunds.*

4. Income-Tax Fundamentals

Tax provisions: The provisions of the Act imply the application of tax on an income of an individual for taxation of that person. The term **'person' includes individuals, Hindu Undivided Family, firm, companies, body of individuals, local authority, association of persons, etc.**

Income derived from agriculture is excluded due to the provision of Entry 46 of State List given to the state only.

Residence of an individual: It is to be remembered that given the provisions, a person is said to be a resident in case of being available at India for the period of 182 days or more in that year or for the period of 60 days or more in that particular year and being in India for 365 days or more in the period of 4 years preceding that year.

A resident who is able to fulfill the additional requirement of having lived in the residence for long duration is an ordinarily resident.

Income head: The Act **offers 5 heads of income:** *salary from employment, income from house property, income from business, capital gains, and the residual income.*

Capital gains are short-term or long-term depending on how long the asset was held. *After computing each head, the assessee applies clubbing, set-off and carry forward of losses, and deductions to arrive at total income.*

CIT v. Sitaldas Tirathdas, separated the diversion of income by an overriding obligation, which is not taxed, from the application of income after receipt, which is taxed. The real income principle looks to actual receipt and accrual and not to hypothetical income.

Procedure.

- A person obtains a Permanent Account Number and files a return.
- Tax is paid through TDS and advance tax.
- The department may scrutinise, reassess, or complete the assessment on a best-judgment basis.
- Faceless assessment is now written into the 2025 Act.
- An appeal goes to the Commissioner (Appeals), then to the Income Tax Appellate Tribunal, then to the High Court on a substantial question of law, and finally to the Supreme Court.

Rates: The annual Finance Act sets the slabs, and the new regime is the default with an optional old regime. Check the current slabs before the exam.

5. Goods and Services Tax

The 101st Amendment came with the concept of GST which was introduced from 1st July 2017 as a consumption tax. **Excise duty (for specified goods), service tax, value-added tax, entry tax, luxury tax, and octroi are all absorbed under GST**. *Customs duty, stamp duty, property tax, and electricity duty are excluded.*

Structure: GST is described as dual. **CGST is levied by the Central government on intra-State transactions and SGST is levied by the concerned state.**

Also, IGST is charged on inter-State and import transactions while UTGST is levied in Union Territories not having a legislature. The *CGST and SGST rates have been capped by the Acts of 2017 at 20 percent each and 40 percent on IGST.*

Rates: The rates have been restructured *as 5 percent for merit goods, 18 percent for standard goods* and *40 percent for luxury goods* **after the 56th meeting of the Council held on 9th September 2025.**

Alcohol for human consumption is excluded from GST and so are petroleum crude, HSD, petrol, natural gas, and air turbine fuel till the Council takes its decision otherwise.

Concepts

Supply (Section 7 of the CGST Act) refers to the taxable event which is inclusive of sale, transfer, barter, exchange, license, rent, lease, or other properties in return for consideration in the course of business or any of its advancement along with the import of services and specified supplies made without any consideration.

Registration is compulsory as per the prescribed limit of turnover, which is ₹20 lakh for services and ₹40 lakh for goods.

The input tax credit (Section 16) requires a tax invoice, entry of goods or services, taxes paid to the government, and return filed. Section 17(5) prohibits credit on certain items.

In certain cases, **reverse charge means that the responsibility is transferred to the receiver.**

Composition scheme (Section 10) allows small taxpayers to pay tax at a fixed rate. The process of appeal goes to the Appellate Authority (Section 107), then to the GST Appellate Tribunal (Sections 109 and 112), then to High Court for important questions of law (Section 117) and then to Supreme Court (Section 118).

6. Avoidance and Evasion

Evasion is defined as hiding income illegally, whereas avoidance means being able to organize financial matters in such a way as to make use of the possibilities that exist in tax law.

The case of ***McDowell & Co. v. Commercial Tax Officer*** ***(1985)*** put into doubt the use of so-called colorable devices, while ***Union of India v. Azadi Bachao Andolan*** ***(2003)*** stipulated that the use of a double tax avoidance treaty with Mauritius is legal.

In the case of ***Vodafone International Holdings B.V. v. Union of India*** ***(2012)***, the Court claimed that a transfer of shares outside of the country would not be subject to income tax in India, and after that Parliament enacted legislation that was sanctioned retroactively and later repealed according to the Act on Taxation Laws Amendment 2021.

General Anti-avoidance Rules now authorize the taxation of such avoidance schemes, while ***CIT v. Vatika Township*** ***(2014)*** clarified that amendments to tax legislation that create a new kind of tax change apply only in the future. Refer to our notes on landmark judgments on tax law (Part 1) and landmark judgments on tax law (Part 2), which contain more information about the cases mentioned above.

The above note contains some important concepts on Tax Law for CLAT PG. This can be supplemented with exhaustive tax law notes which can be found here.