

NOTES

Taxation Law

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Taxation Law for CLAT PG is a compact but scoring topic that joins constitutional law, federalism and everyday economic rules.

Questions usually test concepts like tax vs fee, Article 265, GST and income tax basics, and how courts read taxing statutes. *These notes cover the essentials in simple language, with links to the related case laws so you can revise both together.*

1. Meaning and Nature of Tax

A tax is a compulsory payment imposed by the State under authority of law, for public purposes, without any direct return benefit to the payer. It rests on sovereign power and not on contract.

Article 366(28) says “*taxation*” includes the imposition of any tax or impost.

2. Tax, Fee, Cess and Surcharge

A **fee** needs a quid pro quo, meaning a service rendered to the payer, though the match need not be exact. A **cess** is a tax earmarked for a stated purpose. A **surcharge** is an extra levy added on a tax already payable. A levy’s name does not decide its nature; its real character does.

3. Constitutional Foundation

Article 265: no tax can be levied or collected except by authority of law. This is the basis for challenging any levy made without a valid law.

Article 246 and the Seventh Schedule: the Union List, State List and Concurrent List divide legislative power over taxes. *Income tax other than on agricultural income is a Union subject. Agricultural income tax is a State subject.*

Article 246A: after the **101st Amendment**, **Parliament and State legislatures can both make laws on GST, with Parliament having exclusive power over inter-State supply.**

4. Distribution of Revenue and Federal Safeguards

Articles 268 to 271 deal with how tax proceeds are levied, collected and shared between the Union and States, and the Finance Commission under Article 280 recommends the distribution.

Article 269A provides that IGST on inter-State supply is levied by the Union and apportioned.

Article 276 caps professional tax at ₹2,500 a year.

Articles 285 and 289 give mutual immunity of Union and State property from each other's taxes.

5. Freedom of Trade and Taxation (Articles 301 to 304)

Trade across India is free, but taxes are not automatically barred. Compensatory taxes that do not hamper movement are valid. Article 304(a) bars taxes that discriminate against goods from other States. This is a common passage topic because it joins federalism, trade and tax.

6. Direct and Indirect Taxes

In a direct tax, **the legal liability and the burden are on the same person, as with income tax.** In an indirect tax, the seller or importer pays the government but passes the burden to the consumer, as with GST and customs duty. *Questions often ask you to classify a levy or to identify its taxable event.*

7. Income Tax Concepts

Income tax is charged on the total income of a person for the relevant year. ***The five heads of income are salary, house property, business or profession, capital gains, and other sources.*** Residential status decides the scope of taxation: a resident is taxed on global income, while a non-resident is taxed mainly on India-sourced income.

Agricultural income is outside the Union's income tax. **Capital gains are classified as short-term or long-term based on the holding period. TDS is tax deducted at source by the payer.**

Update for 2026

The Income-tax Act, 2025 replaced the 1961 Act from 1 April 2026. **It uses one “Tax Year” in place of “previous year” and “assessment year”.** It is described as policy-neutral, with no new taxes and no change to rates or slabs. *Matters relating to earlier years continue under the old law, so note which Act a question refers to.*

- **The Cut-off Line:** *Income earned during FY 2025-26 will still be filed and processed under the old Income-tax Act, 1961 terminology as **Assessment Year (AY) 2026-27.***
- **The New Era:** *Income generated from April 1, 2026, onward moves fully into the 2025 Act framework and is referenced simply as **Tax Year 2026-27.***

8. Tax Planning, Avoidance and Evasion

Tax planning is using legal options to reduce liability. Tax avoidance is arranging affairs to cut tax technically within the law but against its spirit. Tax evasion is illegal concealment or falsification. GAAR (the General Anti-Avoidance Rule) allows tax authorities to disregard arrangements whose main purpose is a tax benefit.

9. Double Taxation

The same income may be taxed in two countries, once on residence and once on source. India has tax treaties (DTAA) that allocate taxing rights and give relief by exemption or credit. Treaty benefits depend on residency and on the treaty’s wording.

10. GST: Structure and Core Concepts

GST is a destination-based, multi-stage consumption tax on supply of goods and services. [Article 366\(12A\)](#) defines it, and it excludes alcohol for human consumption. The main components are CGST and SGST on intra-State supply and IGST on inter-State supply.

Important ideas are **supply** (the taxable event, [Section 7 of the CGST Act](#)), **taxable person**, **composite and mixed supply**, **input tax credit** ([Section 16](#)), **place of supply** and **reverse charge**. Reverse charge means the recipient pays tax instead of the supplier. The composition scheme offers simpler compliance for small taxpayers.

11. GST Council ([Article 279A](#))

The **Council is chaired by the Union Finance Minister and includes State finance or taxation ministers**. It recommends rates, exemptions and the model law. Decisions need a **three-fourths majority, with the Union holding one-third of the weight and States two-thirds**. Its **recommendations are persuasive and do not bind Parliament or State legislatures**.

12. Customs Duty

Customs duty is levied under the Customs Act, 1962 on goods imported into or exported from India. **Union power comes from the Union List**. The taxable event for import is generally the crossing of the customs barrier. **Valuation, classification and exemptions are the main areas of dispute**. IGST is also charged on imports.

13. Interpretation of Taxing Statutes

Taxing laws are strictly construed. There is no equity or presumption in tax law, and a tax can be imposed only if the charging provision clearly says so. ***If two reasonable readings are possible, the one favouring the taxpayer is preferred***. Machinery provisions are read to make the charge workable.

14. Appeals and Remedies

In income tax, the usual route is the **first appellate authority**, then the **Appellate Tribunal**, then the **High Court** and the **Supreme Court** on questions of law. Similar tiers exist under GST. **Article 226** writs are available where a levy is without authority of law or a provision is unconstitutional.

You may read the hyperlinked articles to revise the landmark judgments and strengthen your understanding of the case laws on Taxation Law.

Taxation Law - CLAT PG

Constitution | Federalism | Economy | Real World Impact



1 Meaning and Nature of Tax

- Compulsory payment by the State, for public purposes, without any direct return.
- Rests on sovereign power, not on contract.
- Art. 366(28): "taxation" includes any tax or impost.



2 Tax, Fee, Cess and Surcharge

- Fee → quid pro quo (service).
- Cess → tax for a specific purpose.
- Surcharge → extra levy on a tax.
- Name doesn't decide nature; real character does.



3 Constitutional Foundation

- Art. 265: No tax without authority of law.
- Art. 246 & 7th Schedule: Union, State, Concurrent Lists.
- Income tax (except agri.) → Union.
- Agri. income tax → State.
- Art. 246A: GST – both can legislate; Parliament has exclusive power on inter-State supply.



4 Distribution of Revenue & Federal Safeguards

- Arts. 268–271: levying, collection & sharing of tax proceeds.
- Art. 280: Finance Commission.
- Art. 269A: IGST by Union, apportioned.
- Art. 276: Professional tax (₹2,500 cap).
- Arts. 285 & 289: Mutual immunity of Union & State property.



5 Freedom of Trade & Taxation (Arts. 301 to 304)

- Trade across India is free, but taxes aren't automatically barred.
- Compensatory taxes are valid if they don't hamper movement.
- Art. 304(a): no discrimination against other States' goods.



6 Direct and Indirect Taxes

- Direct tax → same person pays and bears (e.g. income tax).
- Indirect tax → seller/importer pays, passed to consumer (e.g. GST, customs).
- Questions often ask to classify a levy or its taxable event.



7 Income Tax Concepts

- 5 heads: salary, house property, business/profession, capital gains, other sources.
- Residential status: resident → global income; non-resident → India-sourced.
- Agri. income outside Union tax.
- Capital gains: short/long term.
- TDS: tax deducted at source.



2026 Update: Income-tax Act, 2025 (from 1 Apr 2026) → one "Tax Year"; no new taxes, no rate change.

8 Tax Planning, Avoidance and Evasion

- Planning: legal options to reduce tax.
- Avoidance: within law, against spirit.
- Evasion: illegal concealment.
- GAAR: lets authorities ignore beneficial arrangements.



9 Double Taxation

- Same income taxed in two countries (residence & source).
- India has DTAA (tax treaties).
- Provides relief by exemption or credit.
- Depends on residency and treaty terms.



10 GST: Structure & Core Concepts

- Destination-based, multi-stage consumption tax.
- Excludes alcohol for human consumption.
- CGST + SGST (intra-State), IGST (inter-State).
- Key ideas: supply (taxable event), taxable person, composite/mixed supply, input tax credit, place of supply, reverse charge.
- Composition scheme for small taxpayers.



11 GST Council (Art. 279A)

- Chaired by Union Finance Minister.
- Includes State finance/taxation ministers.
- Recommends rates, exemptions & model law.
- 3/4th majority (Union 1/3, States 2/3).
- Recommendations are persuasive, not binding.



12 Customs Duty

- Under Customs Act, 1962.
- Levy on imports/exports.
- Union List power.
- Taxable event: crossing customs barrier.
- Key disputes: valuation, classification, exemptions.
- GST also charged on imports.



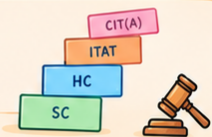
13 Interpretation of Taxing Statutes

- Strict construction.
- No equity or presumption.
- Tax only if charging provision is clear.
- If two views possible → favour the taxpayer.
- Machinery provisions read to make the charge workable.



14 Appeals and Remedies

- Income tax: First Appellate Authority → ITAT → High Court → Supreme Court (on questions of law).
- Similar tiers under GST.
- Article 226 writs available if levy without authority or unconstitutional.



Taxation shapes the economy, and the Constitution keeps it fair.