



Revisionary Test Paper
December 2011
Paper 7 - Applied Direct Taxation

Question No. 1: Answer the followings:

(a) Under what circumstances is the income of a previous year is assessed to tax during that previous year?

Answer: Previous year & Assessment year will be same in the following cases:

- (i) Shipping business of nonresident [Section 172]
- (ii) Persons leaving India [Section 174]
- (iii) AOP or BOI or Artificial Juridical Person formed for a particular event or purpose [Sec. 174A]
- (iv) Persons likely to transfer property to avoid tax [Section 175]
- (v) Discontinued business [Section 176]

(b) What are the undisclosed sources of income?

Answer: The undisclosed sources of income are:

- (i) Unexplained Cash Credits u/s 68
- (ii) Unexplained investments u/s 69
- (iii) Unexplained money, bullion or jewel or valuable article u/s 69A
- (iv) Undisclosed investments u/s 69B
- (v) Unexplained expenditure u/s 69C
- (vi) Amount borrowed or repaid on hundi, other than by way of account payee cheque u/s 69D.

(c) Define application of income and diversion of income.

Answer: Application of Income – is an obligation to apply income, which has accrued or has arisen or has been received amounts to merely the apportionment of income. Therefore the essentials of the concept of application of income under the provisions of the Income Tax Act are:

- (i) Income accrues to the assessee
- (ii) Income reaches the assessee
- (iii) Income is applied to discharge an obligation, whether self-imposed or gratuitous.

Diversion of Income – is an obligation to apply the income in a particular way before it is received by the assessee or before it has arisen or accrued to the assessee results in diversion of income. The source is charged with an overriding title, which diverts the income. Therefore the essentials are the following:

- (i) Income is diverted at source,
- (ii) There is an overriding charge or title for such diversion, and
- (iii) The charge / obligation is on the source of income and not on the receiver.

Examples of diversion by overriding title are -

- (i) Right of maintenance of dependants or of coparceners on partition
- (ii) Right under a statutory provision
- (iii) A charge created by a decree of a Court of law.



(d) What are the factors to be considered for ascertaining substantial interest of a person in an organisation?

Answer: Sec.2 (32) defines substantial interest. Person who has a substantial interest in the company, in relation to a company, means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than twenty per cent of the voting power. In the case of a non-corporate entity, a person can be said to have substantial interest if 20% or more share of profit is held.

(e) Define an Infrastructural Capital Company.

Answer: An Infrastructural capital company as defined in Sec.2(26A) of the Income Tax Act,1961, means such company which makes investments by way of acquiring shares or providing long-term finance to any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80 –IA or sub-section (1) of section 80-IAB or an undertaking developing and building a housing project referred to in sub-section (10) of section 80- IB or a project for constructing a hospital with at least one hundred beds for patients.[Sec. 2(26A)].

(f) Who is a specified Employee?

Answer: Specified Employee refers to an Individual if:

- ❖ He is a director of a company, or
- ❖ He holds 20% or more of equity voting power in the company,
- ❖ Monetary salary in excess of ₹ 50,000: His income under the head salaries, (from any employer including a company) excluding non-monetary payments exceeds ₹ 50,000. For the above purpose, salary, should be arrived at after making the following deductions:
 - (i) Entertainment Allowance
 - (ii) Professional Tax

Example: Mr. M is an employee of Z Ltd. His basic pay is ₹24,000 p.a., Dearness Allowance ₹12,000 p.a; Medical Allowance (fixed) ₹10,000 p.a.; Conveyance Allowance ₹6,000 p.a.; Professional Tax deducted from his salary ₹1,000 p.a.; Free lunch provided during office hours valued at ₹12,000 for a 300-working day year; free education for two children in a school owned and maintained by the employer – school tuition fee for both the children is estimated at ₹18,000 p.a. Is Mr. M a specified or non-specified employee?

Computation of Monetary Salary for the purpose of determining Specified/Non-specified Employee

Particulars	Amount (₹)
Basic Salary	24,000
Dearness Allowance	12,000
Medical Allowance (fixed)	10,000
Conveyance Allowance	6,000
Free – lunch provided during office hours – non-monetary benefits not considered for determining specified employee	n.a.
free education to two children in school owned and maintained by employer - non-monetary benefits not considered for determining specified employee	n.a.
Less: Professional Tax paid	(1,000)
Net Income from Salary (excluding non-monetary benefits)	51,000

Hence, Mr. M is a “specified employee”. However, if his Net Income from Salary was equal to ₹50,000 or less, then, he would be assessed as a “non-specified employee”.



(g) State the factors to be considered for assessing an income under Income from House property.

Answer: The following factors are considered for assessing an income under Income from House Property vide [Section 22]:

- (i) The basis of chargeability under the head income from house property is Annual Value.
- (ii) The property must consist of Building or Lands Appurtenant thereto.
- (iii) The assessee must be the owner of such property.
- (iv) The property may be used for any purpose other than the assessee's business or profession.

(h) State the persons who can be assessed to tax as a Deemed owner [Section 27]

Answer: A person shall be considered as an owner of a property when the document of title to the property is registered in his name.

The person can be considered as a Deemed Owner, under the following circumstances, Income from House Property is taxable in the hands of the Individual, even if the property is not registered in his name —

- (i) Where the Property has been transferred to spouse for inadequate consideration other than in pursuance of an agreement to live apart.
- (ii) Where the Property is transferred to a minor child for inadequate consideration (except a transfer to minor married daughter)
- (iii) Where the Individual holds an impartible estate.
- (iv) Where the Individual is a member of Co-operative Society, Company, or other Association and has been allotted a house property by virtue of his being a member, even though the property is registered in the name of the Society / Company / Association.
- (v) Where the property has been transferred to the individual's name as part-performance of a contract u/s 53A of the Transfer of Property Act, 1882. (i.e. Possession of the Property has been transferred to Individual, but the Title Deeds have not yet been transferred).
- (vi) Where the Individual is a holder of a Power of Attorney enabling the right of possession or enjoyment of the property.
- (vii) Where the property has been constructed on a leasehold land.
- (viii) Where the ownership of the Property is under dispute.
- (ix) Where the property is taken on a lease for a period of not less than 12 years, then the lessee shall be deemed as the owner of the property.

(i) Under what circumstances - Hotel accommodation provided to an employee is assessed to tax as a perquisite?

Answer: Accommodation provided to an employee, in a hotel, will be a taxable perquisite if the following two conditions are fulfilled:

- ❖ The period of such accommodation exceeds 15 days;
- ❖ Such accommodation has not been provided on the transfer of the employees from one place to another.

(j) State the taxability of the value of accommodations provided to an employee on transfer.

Answer: This refers to a situation where an employee is already in possession of an accommodation provided by the employer in one state/city and is also will be in possession of another accommodation provided by the same employer in some other state/city, arising due to transfer of such employee.



The taxability as a perquisite based on valuation of accommodation in case of Employees on transfer will be as follows:

- (i) For the first 90 days of transfer: Where accommodation is provided both at existing place of work and in new place, the accommodation, which has lower value, shall be taxable.
- (ii) After 90 days: if the employee-assesses is in possession of both the accommodations, then value of both the accommodations shall be taxable.

(k) Define Resulting Company.

Answer: Resulting Company vide Sec 2(41A) of the Income Tax Act, 1961, means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger.

Question No.2

(a) Define Capital Asset u/s 2(14).

Answer: Capital Asset u/s 2(14) includes property of any kind, whether or not connected with business or profession, but excludes:

- (i) Stock in trade
- (ii) Personal Effects
- (iii) Rural Agricultural Lands in India
- (iv) 6 ½ % Gold Bonds 1977; 7% Gold Bonds 1980 & National Defence Gold Bonds, 1980.
- (v) Special Bearer Bonds, 1991
- (vi) Gold Deposit Bonds issued under Gold Deposit Scheme, 1999

where,

- (i) **Stock in Trade means:** Raw material or Consumable stores used by the assessee In his business or profession.
- (ii) **W.e.f. A.Y. 2008-09, Personal effect means** Movable property Including wearing apparel and furniture held for personal use by the assessee or any member of his family dependent on him but excludes:

- | | | |
|---------------|--------------------------------|----------------------|
| (a) Jewellery | (b) Archaeological collections | (c) Drawings |
| (d) Paintings | (e) Sculptures or | (f) Any work of art. |

(b) Define Accumulated profits for a company under liquidation.

Answer: Accumulated profits for a company in liquidation includes all profits of the company upto the date of liquidation.

Accumulated profits should include the credit balance of profit and loss account, general reserves, investment allowance, capitalized profits and profits of the year upto the date of distribution/liquidation.

However, provisions and reserves meant for specific liability, to the extent of the liability shall not be included. Provision for income tax, provision for dividend, reserve for depreciation do not form part of the accumulated profits.

- ❖ Securities premium is not accumulated profits.
- ❖ It may consist of exempted incomes, like agricultural income.



- ❖ It will include current profits and all profits of the company till the date of liquidation, subject to the exception provided therein.

(c) State the circumstances on which an Assessing officer refers to the Valuation Officer for determining the valuation of a capital asset.

Answer: An Assessing Officer, vide Sec.55A, shall have to refer to a Valuation Officer, to determine the valuation of a capital asset, under the following circumstances, and his valuation report shall be binding on the Assessing Officer:

- (i) Where the value of the asset is estimated by the registered valuer but the Assessing Officer is of the opinion that the value so determined is less than its fair market value.
- (ii) In any other case, the Assessing Officer is of the opinion that
 - (a) The fair market value of the asset exceeds the value of the 'assets declared by the assessee either by more than 15% or by ₹ 25,000 (Rule 11AA); or
 - (b) The nature of the asset and other relevant circumstances are such that, it is necessary to do so.

(d) State the forms prescribed for submission of return of income under Income Tax Act, 1961

Answer: The relevant forms as prescribed for submission of return of income and their applicability are:

Form	Applicability
ITR -1	Return of Income for Individuals having salary and interest income and no other Income
ITR-2	Return of income for Individuals and HUFs having income from any source except from business or profession
ITR-3	Return of income for Individuals and HUFs being partners in Firms and not having Proprietary business or profession
ITR-4	Return of Income for Individuals and HUFs having Proprietary business or profession
ITR-5	Combined form of Return of Income and Fringe Benefits for Firms/AOP/BOI.
ITR-6	Combined Form for Return of Income and Fringe Benefits for Companies
ITR-7	Combined Form For Return of Income and Fringe Benefits For Charitable/Religious Trusts, Political parties and other Non-Profit Organisations
ITR-8	Stand alone form for Return of Fringe Benefits for persons who are not liable to file Return of income but are liable to file Return of Fringe-Benefits
ITR-V	Return of Income/Fringe Benefits transmitted electronically without digital signatures

(e) What is a 'Foreign Exchange Asset'?

Answer: Foreign Exchange Asset- means those "specified asset" which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange.

The following are the "specified assets":



- (i) shares in an Indian Company (public or private)
- (ii) debentures issued by an Indian Company which is not a private company ;
- (iii) deposits with an Indian Company which is not a private Company, it may be even deposit with SBI or any other banking company;
- (iv) any security of the Central Government ; and
- (v) such other asset as the Central Government may specify in this behalf by notification in the Official Gazette.

(f) What are an Association of Persons (AOP) and Body of Individuals (BOI)? State their differences

Answer: Where two or more persons voluntarily joint together in a common purpose or action with the object of producing income, Profits and gains they are said to have formed an **Association of Persons (AOP)**.

Body of Individuals (BOI) is a conglomerate of individuals who happen to have come together to carry on sum activity with a view to earn income i.e. co-heirs inheriting shares or securities.

Distinction between AOP & BOI:

- (i) AOP may consist of non-individuals but BOI has to consist of individuals only
- (ii) An AOP is a voluntary combination of persons in a joint enterprise or common action to produce income whereas in case of BOI will only consist of two or more persons, may or may not have any common object.
- (iii) A BOI may become an AOP, but not *vice versa*.

(g) Define Company.

Answer: 'Company' as per Income Tax Act, 1961, means:

- (i) any Indian company; or
- (ii) body corporate incorporated outside India under the laws of a foreign country; or
- (iii) any institution, association or a body which is assessed or was assessable/assessed as a company for any assessment year commencing on or before 1.4.1970; or
- (iv) any institution, association or body whether incorporated or not and whether Indian or non-Indian which is declared by general or special order of the Central Board of Direct Taxes to be a company. [Sec. 2(17)]

(h) Define a Domestic Company.

Answer: A 'Domestic Company' means —

- (i) an Indian company; or
- (ii) any other company which, in respect of its income liable to tax under the Act, has made the following prescribed arrangements for the declaration and pay ment of dividends within India in accordance with Sec. 194 read with Rule 27 of the Rules:
 - (a) The share register of the company for all shareholders should be regularly maintained at its principal place of business in India, in respect of any assessment year, from 1st April of the relevant assessment year.



- (b) The general meeting for passing of accounts of the relevant previous year and for declaring dividends in respect thereof should be held only at a place within India.
- (c) The dividends declared, if any, should be payable only within India to all shareholders [Sec. 2(22A)]

(i) Define an Indian Company.

Answer: 'Indian Company' means a company formed and registered under the Companies Act, 1956. Besides, it includes the following:-

- (a) A company formed and registered under any law relating to companies formerly in force in any part of India;
- (b) A corporation established by or under a Central, State or Provincial Act;
- (c) Any institution, association or body which is declared by the Board to be a company u/s. 2(17).
- (d) A company formed and registered under any law in force in the State of Jammu and Kashmir;
- (e) A company formed and registered under any law for the time being in force in the Union territories of Dadra and Nagar Haveli, Daman and Diu, Pondicherry and State of Goa.

In the aforesaid cases, a company, corporation, institution, association or body will be treated as an Indian company only if its registered or principal office is in India. [Sec. 2(26)]

(j) Define a Company in which public are substantially interested.

Answer: A "Company" is said to be a company in which the public are substantially interested, if-

- (i) a company owned by Government or Reserve Bank of India or in which not less than 40% shares are held singly or taken together by the Government or the Reserve Bank or a corporation owned by the Reserve Bank; or
- (ii) it is a company registered u/s. 25 of the Companies Act, 1956, i.e., companies incorporated for promotion of Commerce, Arts, Science, Religion, Charity and prohibiting the payment of any dividends to its members; or
- (iii) it is a company having no share capital and it is declared by the CBDT to be a company in which the public are substantially interested; or
- (iv) it is a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government u/s. 620A of the Companies Act to be a Nidhi or Mutual Benefit Society; or
- (v) it is a company which is not a private company and its equity shares are, as on the last day of previous year, listed in a recognised stock exchange in India; or
- (vi) it is a company which is not a private company and its shares carrying not less than 50% of the voting power (40% in the case of Indian companies whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power) have been allotted unconditionally to or acquired unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by-
 - (a) the Government; or
 - (b) a statutory corporation; or
 - (c) a company in which the public are substantially interested or any wholly owned subsidiary of such company.



- (vii) it is a company, wherein equity shares carrying not less than 50% of the voting power have been unconditionally allotted to or acquired by and were throughout the relevant previous year beneficially held by, one or more cooperative societies. [Sec. 2(18)]

(k) What is arm's length price? State the methods of computation of arm's length price.

Answer: Arm's length price means a price which is applied or proposed to be applied in a transaction -

- (i) Between persons other than associated enterprises,
- (ii) In uncontrolled conditions.

The arm's length price in relation to an international transaction shall be determined by any of the following methods as stated u/s 92C are :-

- (i) Comparable Uncontrolled Price Method;
- (ii) Resale Price Method;
- (iii) Cost plus Method;
- (iv) Profit Split Method;
- (v) Transactional Net Margin Method;
- (vi) Such other method as may be prescribed by the Board.

Question No.3

State True or False with reasons:

Sl.No.	Subject Matter	Opinion	Justification/Reason
(a)	A Ltd. Started business on 17.09.10. So for A Ltd. Previous year will be considered as 17.09.10 to 31.3.11.	True	Previous Year for Newly established business From the date of setting up of the business to the end of the financial year in which business was set up.
(b)	The onus of responsibility to prove the residential status is on the Assessing Officer.	False	The onus of responsibility to prove the residential status is on the Assessee and not on the Assessing Officer.
(c)	Aamir left India on 26 th September, 2010 at 00.05 hours and came back on 29 th March, 2011 at 23.45 hours. (Evidenced from the Passport and travel details). During the previous year 2010-11, Aamir claims that he was physically present in India for 180 clear days, and hence a Non-Resident.	False	The day on which an assessee enters India as well as the day on which he leaves India shall be taken into account as the stay of the Individual in India. Hence, no. of days physically present in India would be 182 days (=30+31+30+31+31+26+3). He is a Resident.
(d)	Salary due for the month of March, 2011 was received on 4 th April, 2011. Hence, the assessee claims this income to be assessed during the previous year 2011-12 and not for the year 2010-11.	False	Salary due in a previous year is taxable, even if it not received. Salary is taxable on due basis or on receipt basis, whichever is earlier.
(e)	Mr. Z, after his retirement, now resides in UK. He is in receipt of monthly Pension from his Indian Employer. Mr. Z claims that such income from pension should not be assessed to tax as an Indian income as it has neither received nor generated in India.	False	If an employee gets pension paid abroad in respect of services in India, the same will be deemed to accrue or arise in India. Hence, pension paid to Mr. Z is to be taxed as an Indian income.
(f)	Mr. B, an Indian citizen, is an employee at	True	Any allowance or perquisites paid or



	the Indian embassy in USA, is in receipt of salary including perquisites and allowances. He claims that his allowance or perquisites should be exempted from tax.		allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempted.
(g)	An employee is in receipt of House Rent Allowance from his employer for the entire previous year, i.e. 12 months. He was actually residing in rented accommodation for 5 months. He claims exemption of HRA for 12 months.	False	Exemption should be calculated in respect of the period during which rental accommodation is occupied by the employee during the previous year. Hence, the employee is not justified in his action.
(h)	Un-commuted pension is <u>not taxable</u> for a Government employee	False	Un-commuted pension is <u>taxable</u> for both government and non-government retired employees as income from salaries
(i)	Rohit, has taken voluntary retirement from X Ltd and received VRS compensation. After a month, he has again joined Y Ltd. Which is under the control and supervision of <u>same management</u> , controlling X Ltd. He is justified in claiming exemption u/s 10(10C).	False	An individual, who has retired under the Voluntary Retirement scheme, should not be employed in another company of the <u>same management</u> . Hence, Rohit is not eligible to claim exemption u/s 10(10C).
(j)	Zero Coupon Bond means a bond issued on or after <u>01.04.2004</u> , by: (I) Any Infrastructure Capital Company, or (ii) Infrastructure Capital Fund, or (iii) <u>Private sector Company</u> .	False	Zero Coupon Bond means a bond issued on or after <u>01.06.2006</u> , by: (I) Any Infrastructure Capital Company, or (ii) Infrastructure Capital Fund, or (iii) <u>Public Sector Company</u> .
(k)	A Ltd., an Indian Company, in a scheme of demerger, demerged and transferred assets to the <u>resulting company, which is French Company</u> . This is an exception to Transfer as defined u/s 2(47) of the Income Tax Act, 1961.	False	Vide Sec. 47(vib) Transfer of a capital asset by the Demerged Company to the Resulting Indian company, subject to : the fulfillment of the following conditions : (a) Transfer of capital asset should be from demerged company to a resulting company; (b) <u>Resulting company should be an Indian company</u> ; (c) Transfer of capital asset should be made in a scheme of demerger.
(l)	X Ltd., is a 100% Indian subsidiary Company of B Ltd. (i.e. holding company of X Ltd.) Now, X Ltd. has transferred capital assets to B Ltd., which <u>shall be exempted</u> from being assessed under Capital Gains	False	Vide Sec.47 (v) When a transfer has been made by a 100% subsidiary to its Indian holding company shall continue to be exempted if: (a) If within the course of 8 years from the date of transfer, holding company loses its 100% stake on the subsidiary company. (b) If the transferee company transfers this capital asset as their stock-in-trade within 8 Years In both the above cases, the earlier exemption so granted shall be withdrawn and there would arise incidence of capital gains, in the original year of transfer, which would be initiated as per Sec.155 (7B) amendment proceedings.
(m)	Gain or loss from transfer of depreciable	False	Gains or losses from transfer of



	assets is assessed to tax as <u>Long term capital gains or long term capital loss</u>		depreciable asset results in <u>short-term capital gain or loss u/s 50.</u>
(n)	Interest earned on enhanced compensation received pursuant to compulsory acquisition of property <u>is also chargeable</u> under the head " <u>Income from capital gains</u> ".	False	Interest on enhanced compensation received pursuant to compulsory acquisition of property <u>is chargeable</u> under the head " <u>Income from other sources</u> ".
(o)	Loss from owning and maintaining race horses can be set off <u>against any other head of income.</u>	False	Loss from owning and maintaining race horses can be set off <u>only against income of that activity.</u>
(p)	U/s 80CCF-for purchase of fixed deposits, a <u>senior citizen</u> can claim a deduction of <u>₹25,000</u> and <u>other than senior citizen</u> can claim a deduction of <u>₹20,000.</u>	False	U/s 80CCF, deduction is available for <u>investment/subscription to long-term infrastructure bonds</u> and <u>maximum deduction of ₹20,000/-</u> is available to a HUF or an individual, irrespective of age.
(q)	Sec. 80IB, specifies, deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone.	False	Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone is specified in Sec. 80IAB.
(r)	Deduction in respect of royalty of authors [Sec. 80QQB] is allowable <u>to any individual</u> , being an author/joint author, in respect of any income by way of Lump sum consideration or royalty or copyright fees for assignment or grant of any of his Interests in the copyright of any book.	False	Deduction in respect of royalty of authors [Sec. 80QQB] is allowable <u>to any resident individual</u> , being an author/joint author, in respect of any income by way of Lump sum consideration or royalty or copyright fees for assignment or grant of any of his Interests in the copyright of any book.
(s)	"venture capital company" <u>means a domestic company</u> as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines;	False	"venture capital company" <u>means such company</u> as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines;
(t)	Commission earned by a broker for selling agricultural produce of an agriculturist <u>is an agricultural income.</u>	False	For considering an income as an agricultural income, such Revenue should be derived from land. Hence, Commission earned by a broker for selling agricultural produce of an agriculturist, since not derived from land, <u>is not an agricultural income.</u>
(u)	Thumb impression appended by an assessee is <u>not valid</u> for furnishing the Return of Income	False	Thumb impression appended by an assessee <u>is valid</u> for furnishing the Return of Income. The General Clauses Act accepts the thumb impression, as one of the modes of signing, valid and binding. [CIT vs. Kanhaiya Lal And Sons (2005) 273 ITR 425 (All.)]
(v)	A person shall be deemed to be of Indian origin if he or either of his parents or any of his grandparents, was born <u>in India.</u>	False	A person shall be deemed to be of Indian origin if he or either of his parents or any of his grandparents, was born <u>in an undivided India.</u>
(w)	A 'Hindu Undivided Family' is a creation of law and hence not a contract or status.	False	A 'Hindu Undivided Family' is neither the creation of law nor of a contract but arises from status.
(x)	Tax payable on Assessed Income: ₹15,000. Assessing Officer imposed a penalty of	False	The total amount of penalty does not exceed the amount of in arrear ₹ Hence,



	₹20,000. Hence, total amount payable by the assessee is ₹35,000.		total amount payable can be a maximum of ₹30,000. (including tax payable and penalty).
(y)	Mr. Gomes, transferred a property of ₹50 lakhs, in the name of his wife, on her birthday. Income earned from that property is ₹4 lakhs. The Assessing Officer has assessed such income in the hands of Mrs. Gomes, considering her the owner of the property. He claims to be justified in his action.	False	Mrs. Gomes is the legal owner of the property. Property transferred by Mr. Gomes to his wife on her birthday, is out of love and affection and not against adequate consideration. Hence, Mr. Gomes is the 'Deemed Owner' of the property vide Sec.4 (1) (a) (i) of the Wealth Tax Act. Further, income from that property shall be clubbed and assessed to tax in the hands of Mr. Gomes u/s 64(1)(iv).
(z)	Mr. A, transferred an asset of ₹30 lakhs, to Ms. B on 15 th May, 2010. They got married on 20 th May, 2010. The Assessing Officer, claims that his action of considering Mr.A as the Deemed owner of the property u/s 4(1)(a)(i) and income earned from that property which is also clubbed with income of Mr. A and assessed to tax, is justified as per law.	False	Sec.64(1)(iv) is not applicable if assets are transferred before marriage, as on the date of transfer, husband-wife relationship does not exist. Hence, action of the Assessing Officer is not justified and bad in law.

Question No. 4:

- (a) B, is employed at Mumbai as a Manager of R Ltd. The particulars of his salary for the previous year 2010-11 are as under: Basic Salary ₹ 26,000 p.m. Dearness allowance ₹ 15,000 p.m. Conveyance Allowance for personal purpose ₹ 6,000p.m.; Commission @0.5% of the turnover achieved which was ₹ 90,00,000 during the previous year and the same was evenly spread. HRA ₹10,000 pm. The actual rent paid by him ₹ 15,000 pm for an accommodation at till 31.12.10. From 1.1.11 the rent was increased to ₹ 17,000 pm. Compute taxable HRA.

Note: If there is an increase in rent paid, it is advisable to calculate the exemptions separately based on the time period. Rent before and after increase.

Solution:

Salary for HRA (for 9 months) = Basic Pay + DA (considered for retirement benefits) + Commission (if received as a fixed percentage on turnover as per terms of employment)

$$= (26,000 \times 9) + (15,000 \times 9) + (0.5\% \text{ of } 90,00,000 \times 9/12) = 4,02,750$$

Computation of Taxable House Rent Allowance (for 9 months: 1st April, 2010 to 31st December, 2010)

Particulars	₹	₹
Amount received during this 9 month on account of HRA (₹ 10,000 x 9)		90,000
Less: Exemption u/s 10 (13A) Rule 2A.		
Least of the followings:		



(a) Actual amount received	90,000	
(b) 50% of Salary	2,01,375	
(c) Rent paid less 10% of Salary	94,725	<u>90,000</u>
[15,000 × 9 – 10% of 4,02,750]		
Taxable HRA		<u>NIL</u>

Salary for HRA (for 3 months) = Basic Pay + DA (considered for retirement benefits) + Commission (if received as a fixed percentage on turnover as per terms of employment)

$$= (26,000 \times 3) + (15,000 \times 3) + (0.5\% \text{ of } 90,00,000 \times 3/12) = 1,34,500$$

Computation of Taxable House Rent Allowance (for 3 months: 1st January 2011 to 31st March, 2011)

Particulars	Rs	Rs
Amount received during this 3month on account of HRA (₹ 10,000 × 3)		30,000
Less: Exemption u/s 10(13A) Rule 2A		
Least of the followings:		
(a) Actual amount received	30,000	
(b) 50% of Salary	67,125	
(c) Rent paid less 10% of Salary		
[17,000 × 3 – 10% of 1,34,500]	37,550	<u>30,000</u>
Taxable HRA		<u>NIL</u>

Therefore, Total Taxable HRA for Mr.B for the previous year 2010-11 is NIL.

(b) Z is employed in A Ltd. As on 31.3.11, his basic salary ₹ 16,000 p.m. He is also entitled to a dearness allowance of 50% of basic salary. 70% of the dearness allowance is considered for retirement benefits. The company gives him HRA ₹ 8,000pm. With effect from 1.12.10 he receives an increment of ₹ 2,500 in his basic salary. He was staying with his parents till 31.10.2010. From 1.11.10 he takes an accommodation on rent in Delhi and pays ₹ 9,500 pm as rent for the accommodation. Compute taxable HRA for the assessment year 2011-12.

Solution :

Salary for the purpose of HRA shall cover the time period for which the assessee, who is in receipt of HRA, resided in a rented accommodation and the rent paid by such assessee, is more than 10% of salary.

Salary for HRA (for 5 months) (i.e. from November, 2010 till March, 2011) = Basic Pay + DA (considered for retirement benefits) + Commission (if received as a fixed percentage on turnover as per terms of employment)

$$\text{Basic Pay} = (13,500 \times 1) + (16,000 \times 4) = 77,500$$

[Z had an increment of ₹2,500 in his basic pay from 1st December,2010. This means, that his basic pay upto November, 2010 was ₹13,500 (=₹16,000 – 2,500)]

Add: DA = 50% of Basic Pay × 70% forming part of retirement benefits

$$[50\% \times 77,500 \times 70\%] = \underline{27,125}$$

Total Salary for HRA **1,04,625**



Computation of Taxable House Rent Allowance for the Previous Year 2010-11

Particulars	₹	₹
Amount received during the financial year for HRA (₹ 8,000 × 12)		96,000
Less: Exemption u/s 10(13A) Rule 2A.		
Least of the followings:		
(d) Actual amount received	96,000	
(e) 50% of Salary (i.e. 50% of ₹1,04,625)	52,313	
(f) Rent paid less 10% of Salary [9,500x 5 – 10% of 1,04,625]	37,037	<u>37,037</u>
Taxable HRA		<u>58,963</u>

(c) Mr. Hari retires on 15th October 2010, after serving 30 years and 7 months. He gets ₹ 5,80,000 as gratuity. His salary details are given below:

FY 2010-11:-Salary ₹ 26,000 pm. D.A. 50% of salary, of which, 50% forms part of retirement benefits.

FY 2009-10:-Salary ₹ 24,000 pm. D.A. 50% of salary, of which 50% forms part of retirement benefits.

Determine his gross salary in the following cases:

- (i) He retires from government service
- (ii) He retires from seasonal factory in a private sector, covered under Payment of Gratuity Act, 1972.
- (iii) He retires from non-seasonal factory, covered by Payment of Gratuity Act, 1972
- (iv) He retires from private sector, not covered by payment of Gratuity Act

Solution :

(i)The amount of gratuity received as a Government employee is fully exempt from tax u/s 10(10)(i)

(ii)As an employee of a seasonal factory, in a private sector, covered under the Payment of Gratuity Act, 1972

Computation of Taxable Gratuity

Particulars	₹	₹
Amount received as Gratuity		5,80,000
Less: Exemption u/s 10(10)(ii)		
Least of the followings:		
(i) Actual amount received	5,80,000	
(ii) 7/26 x Last drawn salary × No. of years of completed service or part thereof in excess of 6 months [31 × 7/26 × 31,500]	2,62,903	
(iii) Maximum Limit	10,00,000	<u>2,62,903</u>
Taxable Gratuity		<u>3,17,097</u>

Note : Salary = Basic Pay + Dearness Allowance. In case of seasonal employment, instead of 15 days, 7 days shall be considered.



(iii) As an employee of a non-seasonal factory, covered by Payment of Gratuity Act, 1972

Computation of Taxable Gratuity

Particulars	₹	₹
Amount received as Gratuity		5,80,000
Less: Exemption u/s 10(10)(ii)		
Least of the followings:		
(i) Actual amount received	5,80,000	
(ii) $15/26 \times$ Last drawn salary \times No. of years of completed service or part thereof in excess of 6 months	5,63,365	
[$15/26 \times 31 \times 31,500$]		
(iii) Maximum Limit	10,00,000	<u>5,63,365</u>
Taxable Gratuity		<u>16,635</u>

(iv) As an employee of a private sector, not covered by Payment of Gratuity Act, 1972

Computation of Taxable Gratuity

Particulars	₹	₹
Amount received as Gratuity		5,80,000
Less: Exemption u/s 10(10)(iii) Least of the followings:		
(i) Actual amount received	5,80,000	
(ii) $1/2 \times$ Average salary \times No. of fully completed years of service		
[$1/2 \times 31,500 \times 30$]	4,72,500	
(iii) Maximum Limit	10,00,000	<u>4,72,500</u>
Taxable Gratuity		<u>1,07,500</u>

Note: Salary = 10 months average salary preceeding the month of retirement.

= Basic Pay + Dearness Allowance considered for retirement benefits + commission (if received as a fixed percentage on turnover)

Salary for the months December '09 till September '10 shall have to be considered.

Basic Salary:	₹
December '09 to March '10 = $24,000 \times 4$	= 96,000
April '10 to September '10 = $26,000 \times 6$	= 1,56,000
Total Basic Salary	<u>2,52,000</u>
Add: D.A. [50% of 2,52,000 \times 50%, forming part of superannuation benefits]	<u>63,000</u>
Salary for 10 months	<u>3,15,000</u>

Therefore, **Average salary for 10 months = $3,15,000/10 = 31,500$**



(d) Mr.Surya was an employee of Z Ltd. After 38 years of service, he retired on 28.2.11. He was drawing a monthly salary of ₹18,000. On retirement he received a gratuity of ₹ 4,00,000. Compute taxable gratuity.

Solution : Assuming employee **not covered** by Payment of Gratuity Act, 1972

Computation of Taxable Gratuity

Particulars	₹	₹
Amount received as Gratuity		4,00,000
Less: Exemption u/s 10(10)(iii) Least of the followings:		
(i) Actual amount received	4,00,000	
(ii) $1/2 \times \text{Average salary} \times \text{No. of fully completed years of service}$ [$1/2 \times 18,000 \times 38$]	3,42,000	
(iii) Maximum Limit	10,00,000	<u>3,42,000</u>
Taxable Gratuity		<u>58,000</u>

Note: Salary = 10 months average salary preceding the month of retirement.

= Basic Pay + Dearness Allowance considered for retirement benefits + commission
(if received as a fixed percentage on turnover)

In this case, Average salary for 10 months preceding the month of retirement is ₹ 18,000 only.

(e) Mr. Ravi resigned from B Ltd after 23 years 8 months of service. He received a gratuity of ₹11,50,000. His average salary for the last 10 months, preceding the month of retirement is ₹54,000. What is the taxable gratuity? What would be the amount of taxable gratuity if prior to his joining B Ltd., he had also served in A Ltd. for a period of 4 years 6 months? If Mr.Ravi now joins C Ltd. and after serving for 5 years 10 months of service, receives ₹4,50,000, what would be the taxable gratuity, assuming that his average salary is ₹40,000?

Solution:

Computation of Taxable Gratuity (from B Ltd.) for the Previous Year 2010-11

Particulars	₹	₹
Amount received as Gratuity		11,50,000
Less: Exemption u/s 10(10)(iii) Least of the followings:		
(i) Actual amount received	11,50,000	
(ii) $1/2 \times \text{Average salary} \times \text{No. of fully completed years of service}$ [$1/2 \times 54,000 \times 28$]	7,56,000	
(iii) Maximum Limit	10,00,000	<u>7,56,000</u>
Taxable Gratuity		<u>3,94,000</u>

Note:

- (1) No. of years of completed service shall also include the services of Mr.Ravi in A Ltd. for a period of 4 years, which is prior to B Ltd. From A Ltd. he has not received gratuity as he did not serve for a period of 5 years, but for the purpose of computing total length of service, that time period shall have to be considered. Hence, total no. of fully completed years of service is 23 years 8 months + 4 years 6 months = 28 years 2 months = 28 years fully completed.
- (2) An Assessee shall be eligible to claim a total exemption of ₹10,00,000 during the entire service-life time. In this case, out of gratuity received from B Ltd., ₹7,56,000 is exempted, being the lowest. So, at the time of computation of taxable gratuity from C Ltd, the maximum limit of ₹ 10,00,000 shall be reduced by the



amount of exemption from gratuity already availed. Hence, the maximum limit after adjusting will be = ₹ (10,00,000 – 7,56,000) = ₹ 2,44,000.

- (3) Now, total length of service for Mr. Ravi would be 28 years 2 months + 5 years 10 months = 34 years, fully completed. Hence, for the purpose of computing taxable gratuity from C Ltd., total length of service shall be taken as 34 years.

Computation of Taxable Gratuity (from C Ltd.)

Particulars	₹	₹
Amount received as Gratuity		4,50,000
Less: Exemption u/s 10(10)(iii)		
Least of the followings:		
(i) Actual amount received	4,50,000	
(ii) $\frac{1}{2} \times$ Average salary \times No. of fully completed years of service [$\frac{1}{2} \times 40,000 \times 34$]	6,80,000	
(iii) Maximum Limit (See Note 2 above)	2,44,000	<u>2,44,000</u>
Taxable Gratuity		<u>2,06,000</u>

Question No.5

(a) Mr. King is getting a salary of ₹ 15,400 pm since 1.1.09 and dearness allowance of ₹ 8,500 pm, 50% of which is a part of retirement benefits. He retired on 30th November 2010 after 30 years and 11 months of service. His pension is fixed at ₹ 11,800 pm. On 1st February 2011 he gets 3/4ths of the pension commuted at ₹ ,3,69,000. Compute his gross salary for the previous year 2010-11 in the following cases:

- (i) If he is a government employee and received gratuity
- (ii) If he is an employee of a non-government company, and received gratuity
- (iii) If he is an employee of a non-government company and gratuity not received.

Solution :

Date of retirement: 30th November, 2010. Pension commuted on 1st February, 2011. Hence, the assessee has drawn full amount of pension, i.e. ₹3,800 p.m. for the months of December 2010 and January ,2011. After commuting pension, he then received 25% of the pension amount. So, he received ₹950 p.m. (i.e. 25% of ₹ 3,800) for two months i.e. February and March,2011 during the previous year 2010-11.

Particulars	Case (i)	Case (ii)	Case (iii)
Uncommuted Value of Pension [(11,800×2) + (2,950×2)]	29,500	5,900	5,900
Commuted Value of Pension	Exempted	2,05,000	1,23,000

Case (i) Gratuity and commuted value of pension received by a Government employee is fully exempted. Only uncommuted value of pension is fully taxable.

Case (ii) Gratuity received by an employee of a non-government company

	₹
Commuted Value of Pension	
Actual commuted value of pension received	3,69,000
Less: Exempted u/s 10(10A)	



$1/3^{\text{rd}}$ of Full Value of Commuted Pension [$1/3 \times 4,92,000$] 1,64,000

Where, Full Value of Commuted Pension [= $3,69,000 \times 4/3 = 4,92,000$]

Taxable Commuted Value of Pension **2,05,000**

Case (iii) Commuted Value of Pension (Non-govt employee, gratuity not received)

Actual commuted value of pension received 3,69,000

Less: Exempted u/s 10(10A)

$1/2$ of Full Value of Commuted Pension [$1/2 \times 4,92,000$] 2,46,000

Where, Full Value of Commuted Pension [= $3,69,000 \times 4/3 = 4,92,000$]

Taxable Commuted Value of Pension **1,23,000**

(b) Mrs. Vandana retires on 16th October 2010 after 30 years and 8 months of service. Salary structure is given below:

FY 2010-11 **Salary ₹ 24,000 pm** **D.A ₹ 7,500 pm**

FY 2009-10 **Salary ₹ 21,000 pm** **D.A ₹ 6,000 pm**

40% of dearness allowance forms a part of superannuation benefits. Record of Earned Leave is given below:

Leave allowed for one year of completed service -20 days; Leave taken while in service-150 days; Leave encashed during the year-60 days.

Determine the gross salary in the following cases:

- (i) He retires from government service
- (ii) He retires from the service of non-government organization.

Solution:

(i) If the assessee retires from a government organization, then the amount is fully exempted from tax.

(ii) If the assessee, retires from a non-government organization, then the amount received as leave encashment shall be liable to tax, subject to exemption as computed below:

Working Notes: (1) Calculation of Average Salary, (based on 10 months preceding the month of retirement)

	₹
Salary of 6 months 16 days: (1 st April 2010 to 16 th October 2010) =	1,56,800
Salary of 3 months 14 days: (14 th December 2009 to 31 st March 2010) =	<u>72,800</u>
Total Basic Salary	2,29,600

Add: Dearness allowance

For 6 months 16 days: (1st April 2010 to 16th October 2010) = 49,000

For 3 months 14 days: (14th December 2009 to 31st March 2010) = 20,800

Total D.A. 69,800

D.A. [40% of 69,800, forming part of retirement benefits] 27,920

Total Salary of 10 months **2,57,520**

Average Salary = $2,57,520 / 10 = 25,752$



Computation of Taxable amount of Leave Encashment (for a non-government employee)

Amount of encashment received:

$$(30 \times 20) - (150 + 60) \times (15,000 + 7,500) / 30 = 2,92,500$$

Less: Exempted u/s 10(10AA) [Least of the followings]

(i) Actual amount received	2,92,500	
(ii) 10 months' salary (preceding the month of retirement)	2,57,520	
(iii) Leave credit on the date of retirement [(30 × 20) – (150 + 60) × (25,752 / 30)]	3,34,776	
(iv) Maximum Limit	3,00,000	<u>2,57,520</u>

Taxable amount of Leave encashment **34,980**

(c) Ms. Parineeta retired from service after 28 years 7 months from ABC Ltd. Leave sanctioned by employer 42 days p.a. Leave availed during service 400 days. Leave encashment received: ₹ 4,30,000. Average salary for 10 months preceding the month of retirement ₹ 27,000. Compute taxable amount of leave encashment for the previous year 2010-11.

Solution:

Since leave sanctioned by the employer is more than 30 days p.a., the following calculation is required, to determine the amount of leave credit on the date of retirement. Further, only completed years of service shall have to be taken into consideration, which in this case is 28 years.

Particulars	₹
(i) Leave credit available on the date of retirement	
= Total Leave sanctioned during tenure of employment – Total leave availed during service	
= [(28 years × 42 days per annum) – 400 days]	776
Less: Excess leave sanctioned by the employer [(42– 30) days per year × 28 years]	<u>336</u>
Leave credit on the basis of 30 days credit for completed years of service	<u>440</u>
(ii) Leave salary on the basis of 30 days credit = Step (i) × Average Salary = 440 × (27,000/30)	3,96,000

Computation of Taxable Leave Salary on Retirement

Particulars	₹	₹
Amount Received on Leave Encashment		4,30,000
Less: Exemption u/s 10(10AA) Least of the followings:		
(i) Actual amount of Leave encashment received	4,30,000	
(ii) Average salary of the individual for the past 10 months × 10 months	2,70,000	
(iii) Maximum Limit	3,00,000	
(iv) Leave at credit at the rate of 30 days p.a. for every Completed year of service as calculated in Step (ii)	3,96,000	<u>2,70,000</u>
Taxable Value of Leave Encashment		<u>1,60,000</u>

(d) Mr. Rozario, was retrenched from service of "GO SLOW Ltd". Retrenchment compensation received ₹ 6,50,000. Amount determined under the Industrial Disputes Act, 1948 ₹ 5,75,000. What is the taxability?



Solution :

Computation of Taxable Retrenchment Compensation

Particulars	₹	₹
Amount received as Retrenchment Compensation		6,50,000
Less: Exemption u/s 10(10B): Least of the followings:		
(i) Actual amount received	6,50,000	
(ii) Amount determined under the Industrial Disputes Act, 1948	5,75,000	
(iii) Maximum Limit	5,00,000	<u>5,00,000</u>
Taxable Value		<u>1,00,000</u>

(e) Mr. Roshan, after serving Z Ltd. for 23 years 7 months, opted the Voluntary Retirement Scheme. Total tenure of service: 30 years Compensation received ₹ 8,00,000. Last drawn Salary (i.e. Basic pay + D.A, forming part of retirement benefits) ₹ 25,000. Compute exemption & taxable value of VRS compensation.

Solution:

Total tenure of service = 30 × 12=360 months

Actual length of service = 23 years 7 months = 283 months

No. of months of service left= (360 – 283) months = 77 months

Computation of Taxable amount of compensation received on Voluntary Retirement

Particulars	₹	₹
Amount received as VRS Compensation		8,00,000
Less: Exemption u/s 10(10C): Least of the followings:		
(i) Actual amount received	8,00,000	
(ii) Maximum Limit	5,00,000	
(iii) The highest of the following:		
Last drawn salary x 3 x No.of fully completed years of service		
=25,000 x 3 x 23= 17,25,000		
Last drawn salary x Balance of no.of months of service left.	19,25,000	
= 25,000 x 77 months= 19,25,000		<u>5,00,000</u>
Taxable Value		<u>3,00,000</u>

Question No.6

(a) Calculate the perquisite value of the expenditure on medical treatment, which is assessable in the hands of an employee of a company, inclusive of the conditions to be satisfied:

Gross total income, inclusive of salary ₹ 2,00,000

(i) amount spent on treatment of the employee's wife in a hospital maintained by the employer ₹ 20,000

(ii) amount reimbursed by the employer on treatment of the employee's child in a hospital ₹ 14,000

(iii) medical insurance premium reimbursed by the employer on a policy covering the employee, his wife and dependent parents ₹ 7,000



- (iv) (i) amount spent on medical treatment of the employee outside India ₹2,50,000 and (ii) amount spent on travel and stay abroad ₹90,000
 (v) amount spent on travel and stay abroad of attendant ₹60,000

Solution:

Computation of Taxable Value of Perquisite for expenses related to medical treatment

	Nature of Perquisites	Amount	Taxability/Non-taxability
i	Treatment of employee's wife in a hospital maintained by employer	nil	fully exempted
ii	Treatment of employee's child in a hospital, not maintained by the employer	nil	Since the amount is less than ₹15,000, it is exempted.
iii	Reimbursement of medical insurance premium	nil	since medical insurance premium u/s 80D is paid on the employee and members of his family
iv	Expenses on medical treatment outside India	nil	it is assumed that the whole of such expenditure is permitted by RBI
v	Amount spent on travel and stay abroad for the employee (referred as patient in this case)	nil	not taxable as the gross total income does not exceed ₹2,00,000
vi	Amount spent on travel and stay abroad for the attendant	nil	not taxable, as the gross total income does not exceed ₹2,00,000

(b) Mr. Avilash, is a Central Govt. employee. He is provided with an accommodation. The Licence fee determined by the Government is ₹ 900 p.m. An amount of ₹ 750 is deducted from his salary towards such rent. Determine the taxable value of perquisite for accommodation at a concessional rate. Cost of furniture provided costing Rs.50,000. Hire charges of furniture Rs.800 pm paid for 8 months only.

Solution :

Taxable Value of Unfurnished Accommodation: Explanation 1 to Sec. 17(2) Rule 3(1)

Licence fee determined by the Government (900 × 12)	= 10,800
Add: 10 % of cost of furniture provided by employer	= 5,000
Add: Hire-charges on furniture paid (800 × 8 months)	= 6,400
Less: Rent recovered from employee (750 × 12)	= (9,000)
Taxable value of perquisite	= <u>13,200</u>

(c) R submits the following information regarding his salary income for the year 2010-11: Basic salary ₹ 1,70,000 p.a.; D.A (forming part of salary) 60% of basic salary; City Compensatory Allowance ₹ 300 p.m; Children Education Allowance ₹ 400 pm per child for 3 children; Transport Allowance ₹ 1,000 p.m. He is provided with a rent free unfurnished accommodation which is owned by the employer. The fair rental value of the house is ₹ 24,000 p.a. Compute the value of perquisite for accommodation provided, assuming that the accommodation is provided in a city where population is (a) exceeding 25 lakhs (b) exceeding 10 lakhs but not exceeding 25 lakhs (c) less than 10 lakhs

**Solution:**

Workings: (1) Computation of Income from Salary for accommodation provided by employer

Particulars	Amount (₹)	Amount (₹)
Basic salary		1,70,000
D.A. (60% of ₹ 1,70,000)		1,02,000
City Compensatory Allowance (fully taxable) (₹300 × 12)		3,600
<u>Children Education Allowance</u>		
Actual amount received (400 × 12 × 3)	14,400	
Less: Exemption u/s 10(14)		
@ ₹100 per month per child subject to a maximum of 2 children (₹ 100 × 12 × 2)	<u>2,400</u>	12,000
<u>Transport Allowance</u>		
Actual amount received (₹ 1,000 × 12)	12,000	
Less: Exemption u/s 10(14) @ ₹ 800 p.m. (₹ 800 × 12)	<u>9,600</u>	<u>2,400</u>
Gross Income from Salary u/s 17(1)		<u>2,70,000</u>

Computation of Value of Unfurnished accommodation u/s 17(2) Rule 3(1) explanation 1

Case (a) Population exceeding 25 lakhs

15% of salary

Salary = Basic pay + DA (forming part of retirement benefits) + all other taxable allowances

$$= 1,70,000 + 1,02,000 + 3,600 + 12,000 + 2,400$$

$$= 2,70,000$$

40,500

Total Income from Salary

3,10,500

Case (b): Where population is exceeding 10 lakhs but not exceeding 25 lakhs

10% of Salary shall be considered as the value of taxable perquisite = 10% of ₹ 2,70,000 = ₹ 27,000

Case (c) : Where population is less than 10 lakhs

7.5 % of salary shall be considered as the value of taxable perquisite = 7.5% of ₹ 2,70,000 = ₹ 20,250

(d) Mr. Haider, was provided an accommodation in a hotel by his employer for 22 days, before he could be provided with a rent free accommodation, owned by the employer. The hotel charges paid ₹ 6,000. Salary for the purpose of accommodation for the period of 22 days is ₹ 22,000. Compute the value of accommodation assuming ₹3,000 was recovered from the employee.

Solution:

In case of accommodation provided to the assessee on account of transfer, which is exceeding 15 days cumulatively, such shall be taxable as a perquisite. The company recovered ₹ 3,000 from the employee. Compute taxability.



Lower of the followings:

(i) 24% of salary paid/payable= 24% of 22,000 = 5,280

(ii) Actual charges paid/payable = 6,000 5,280

Less: Amount paid by the employee (i.e. recovered from the employee) (3,000)

Taxable value of perquisite for accommodation in hotel 2,280

(e) Value of unfurnished accommodation (computed) ₹ 93,200. Cost of furniture provided by the employer ₹ 1,80,000. Hire charges of furniture provided in the accommodation ₹ 1,200 p.m. Amount recovered from employee ₹ 2,000 p.m. Compute taxable value of perquisite of furnished accommodation at a concessional rate.

Solution: Computation of Value of perquisite for furnished accommodation at concessional rates

Particulars	₹
Value of unfurnished accommodation as above	93,200
Add: Value of Furniture provided:	
• 10%p.a. of original cost of such furniture	18,000
• If hired from third party, then Actual hire charges	14,400
Less: Any charges paid or payable by the employee (₹ 2,000 × 12)	(24,000)
Taxable Value of perquisite for furnished accommodation at concessional rate	<u>1,01,600</u>

(f) Mr.Ritesh is provided with an accommodation in Kolkata since April 2010. Salary ₹ 40,000 p.m. Cost of furniture provided ₹80,000. On 1st September, 2010, following a promotion with a increase in Salary by ₹15,000, he was transferred to Jharkhand (population less than 25 lakhs but more than 10 lakhs), and was also provided an accommodation there. Mr.Ritesh was allowed to retain the Kolkata accommodation till March, 2011. Compute taxable value of perquisite for accommodation possessed by the assessee.

Solution :

Phase 1: Value of Furnished Accommodation (Kolkata) (April to September 2010)

Particulars	₹
Value of unfurnished accommodation (15% of 40,000 × 6 months)	36,000
Add: Value of Furniture provided:	
• 10%p.a. of original cost of such furniture (10% of 80,000 x 6 months)	<u>8,000</u>
Value of Furnished Accommodation	<u>44,000</u>

Phase 2: Valuation of accommodation (October 2010 to December 2010)

(a) For the first 90 days of transfer: Where accommodation is provided both at existing place of work and in new place, the accommodation, which has lower value, shall be taxable.

(b) After 90 days: Both accommodations shall be taxable.

Computation for the first 90 days of transfer: (October 2010 to December 2010)

Lower of :

(i) Value of accommodation at existing place of work

(ii) Value of accommodation at new place



Value of accommodation at existing place of work (Kolkata)	
15% of salary for 3 months (i.e. 90 days) = 15% of 55,000 × 3 months	= 24,750
Add: Cost of furniture provided: 10% of 80,000 × 3 months	= <u>24,000</u>
Total Value of Perquisite	<u>48,750</u>

Value of accommodation at new work place (Jharkhand)
 10% of salary for 3 months (i.e. 90 days) = 10% of 55,000 × 3 months = 16,500

Therefore, the assessee shall be assessed to tax on ₹ 16,500 (being the lower)

Phase 3: Valuation of accommodation (after 90 days) (January 2011 to March 2011)

For Kolkata accommodation: 15% of 55,000 × 3 months	= ₹24,750
Add: Cost of furniture provided: 10% × 80,000 × 3 months	= ₹ <u>24,000</u>
Total value of perquisite	₹<u>48,750</u>
For Jharkhand accommodation: 10% of 55,000 × 3 months	= ₹16,500

Total value of perquisite :

Particulars	Taxable value of perquisite
Phase 1: Accomodation in Kolkata	44,000
Phase 2: Accomodation in Jharkhand (being the lower during 90 days)	16,500
Phase 3: Accomodation in Kolkata	48,750
	<u>16,500</u>
Total Value of Taxable Perquisite	<u>1,25,750</u>

Question No.7

(a) Mr. E is employed with N Ltd. he also gets the services of sweeper and watchman. Determine his gross salary in the following cases:

- His salary is ₹ 4,200 pm. Employer provides the services of sweeper and watchman. He pays them ₹ 600 pm and ₹ 500 pm;
- His salary is ₹ 4,200 pm. Sweeper and watchman are engaged by N at the rates given in clause(1) above but their wages are reimbursed by the employer;
- His salary is ₹ 4,210 pm. Employer provides the services of sweeper and watchman at the above rates but he recovers from N ₹ 200 pm and ₹ 300 pm respectively.

E has paid employment tax of ₹ 400.

Solution:

Particulars	Case (i)	Case (ii)	Case (iii)
		[Ref.Sec.17(2)(iv), Rule 3(3)]	[Ref.Sec.17(2)(iii) Rule 3(3)]
Salary	50,400	50,400	50,520
Wages of sweeper	Sec.17(2)(iii) not taxable	7,200	4,800
Wages of watchman	Sec.17(2)(iii) not taxable	6,000	2,400
Gross salary	50,400	63,600	57,720

**Working Note:**

Case (i): He is a non-specified employee. Perquisites provided by employer u/s 17(2)(iii) are not chargeable to tax:

Salary: 4,200 × 12	= 50,400
Less: Professional tax paid u/s 16(iii)	= <u>400</u>
Monetary income not exceeding ₹ 50,000	= <u>50,000</u>

Case (ii): If the facility is engaged by the employee but reimbursed by the employer, it is an obligation of employee, discharged by employer u/s 17(2)(iv), it is always taxable.

Case (iii): He is a specified employee, as his monetary income, chargeable under the head “salaries” exceeds ₹ 50,000.

Gross salary; 4,210 × 12	= 50,520
Less: Professional tax paid u/s 16(iii)	= <u>400</u>
Monetary income exceeding ₹ 50,000	= <u>₹ 50,120</u>

(b) G Ltd. provides electricity to its employee, P. Annual consumption as per meter reading comes to 2,250 units. Determine the value of the perquisite in the following cases:

- Electricity meter is in the name of P and the rate of electricity is ₹ 4 per unit
- Electricity meter is in the name of G Ltd. the rate of electricity is ₹ 4 per unit.
- G Ltd. is a power-generating company. Manufacturing cost is 2.90 paise per unit but supplied to public @ ₹ 4 per unit. However, it charges 60 paise per unit from employees.

Solution:

With reference to Rule 3(4)

- Perquisite value of free electricity is ₹ 9,000 (2,250 × 4). As the electric meter is in the name of the employee, it is his obligation to pay the bill. However, as the bill has been paid by the employer, it is an obligation of employee, discharged by the employer. It is always taxable u/s 17(2)(iv).
- Perquisite value of free electricity will be ₹ 9,000. It shall be assessed to tax, if the employee is a specified employee as per Sec. 17(2)(iii)
- Perquisite value of electricity supplied = 2,250 (2..90 – 0.60) = ₹ 5,175

(c) Determine the value of education facility in the following cases:

- Three children of G, an employee of S Ltd., are studying in a school, run by S Ltd. School fees is ₹ 2,500 pm and hostel fees is ₹ 2,000 pm. But the employer recovers only ₹ 600 pm and ₹ 500 pm respectively. However, a similar school or a hostel around the locality charges ₹ 1,800 pm and ₹ 1,200 pm respectively.
- The employer has also reimbursed the school fees of ₹ 1,200 pm of his nephew, fully dependent on him after the death of his brother.

Solution:

Computation of taxable value of perquisite for education facility provided by employer [As per Rule 3(5)]

Particulars	Taxable value of perquisite
1. (a) School fees of his children, studying in a school run by employer :	



$(₹1,800 \times 3 \times 12) - (1,000 \times 3 \times 12) - (600 \times 3 \times 12)$	7,200
(b) Hostel fees: $(2,000 \times 3 \times 12) - (500 \times 3 \times 12)$	54,000
2. School fee of nephew $(1,200 \times 12)$	<u>14,400</u>
Total value of taxable perquisite	<u>75,600</u>

(d) Mr. Z is the manager of F Ltd. his son is a student of Amity International School. School fees of ₹ 4,000 pm and hostel fees of ₹ 3,000 pm., are directly paid by Z Ltd. to the school but it recovers from Z only 30%. F also joins an advanced course of Marketing Management for 4 months at IIM, Ahmedabad, fees of the course, ₹ 2,50,000 is paid by F Ltd. Determine the perquisite value of the education facility.

Solution :

Computation of taxable value of perquisite for education facility provided by the employer [As per Rule 3(5)]

Particulars	Taxable value of perquisite (₹)
(1)(a) School fees of his children, studying in a school run by employer: $(₹4,000 \times 12) - (1,200 \times 12)$	33,600
(b) Hostel fees: $(3,000 \times 12) - (900 \times 12)$	25,200
2) Fees paid for Marketing Management course for Mr.Z (it is a fully exempted perquisite)	nil
Total value of taxable perquisite	<u>58,800</u>

(e) Mr.D takes interest-free loan of ₹ 2,50,000 on 1.11.10 from his employer to construct his house. The loan is repayable in 50 monthly installments from January 2011. Compute the value of interest free loan. SBI Lending rate 10.5% p.a. (for housing loans not exceeding 5 years).

Solution :

Computation of taxable value of perquisite for loan provided by employer [As per Rule 3(7)(i)]

Time period during which loan remains outstanding	Balance on the last day of the month
November	2,50,000
December	2,50,000
January	2,45,000
February	2,40,000
March	2,35,000
Total	<u>12,20,000</u>

Perquisite value of interest-free loan: = $12,20,000 \times 10.5\% \times 1/12 = ₹ 10,675$

(f) Mr. Ashwin is a Manager in Z Ltd. He gets salary @ ₹ 50,000 pm. He is also allowed free use of computer, video-camera and television of the company. H Ltd. has purchased (i) Computer for ₹ 60,000 (ii) Video-camera for ₹ 30,000. Their written down value on 1.4.08 is ₹ 40,000 and ₹ 20,000 respectively. Television set has been taken on lease rent @ ₹ 250 pm. The employer recovers ₹ 500 per month for use of the assets. Compute his gross salary for the assessment year 2011-12.

Solution :

Computation of taxable value of perquisite relating to use of assets provided by employer [As per Rule 3(7)(vii)]

Salary: ₹ 50,000 × 12	6,00,000
Add: Free use of computer, u/s 17(2)(vi) read with Rule 3(7)(vii)	Nil



Add: Free use of video camera, u/s 17(2)(vi) read with rule 3(7) (vii) [10% of ₹20,000]	2,000
Add: Free use of telephone, u/s 17(2)(vi) read with rule 3(7)(vii) [₹250 x 12 months]	3,000
Less: Amount recovered from the employee (₹ 500 x 12)	<u>(6,000)</u>
Gross Salary	<u>5,99,000</u>

(g) Mr.C is an accountant of D Ltd. He gets basic salary of ₹ 35,000 pm. He has purchased motor car and washing machine from the company on 1 February 2011. Particulars of cost and sale price of the two assets are given below:

Year of Purchase	Particulars of the Asset	Purchase Price (Rs)	Sale price (Rs)
01.07.2008	Motor car	2,50,000	1,65,000
15.09.2006	Washing Machine	10,000	5,000

Compute the taxable value of perquisites for the assessment year 2011-12.

Solution:

Computation of taxable value of perquisites on transfer of moveable assets [As per Rule 3(7)(viii)]

TRANSFER OF MOVABLE ASSET TO EMPLOYEES

Nature of Assets transferred	Amount
Motor car (Actual Cost)	2,50,000
Less: Depreciation @ 20% on WDV from 01.07.2008 to 30.06.2009	<u>50,000</u>
WDV after completion of first year from the date of purchase	2,00,000
Less: Depreciation @ 20% on WDV from 01.07.2009 to 30.06.2010	<u>40,000</u>
WDV after completion of second year from the date of purchase	<u>1,60,000</u>

Amount paid by the employee to the company for purchase of the Motor Car is ₹1,65,000. This is more than the WDV of the motor car on the date of transfer. Hence, there is no perquisite.

Washing Machine (Actual Cost)	10,000
Less: Depreciation @ 10% on SLM from 15.09.2006 to 14.09.2007	<u>1,000</u>
WDV after completion of first year from the date of purchase	9,000
Less: Depreciation @ 10% on WDV from 15.09.2007 to 14.09.2008	<u>1,000</u>
WDV after completion of second year from the date of purchase	8,000
Less: Depreciation @ 10% on WDV from 15.09.2008 to 14.09.2009	<u>1,000</u>
WDV after completion of third year from the date of purchase	7,000
Less: Depreciation @ 10% on WDV from 15.09.2009 to 14.09.2010	<u>1,000</u>
WDV after completion of fourth year from the date of purchase	6,000
Less: Amount recovered from the employee	<u>5,000</u>
Value of Perquisite	<u>1,000</u>



(h) Amrit, Director (Administration) in MNPC Ltd. He is entitled to a motor car (1.8 ltrs) to be used for both official & private purposes.

Discuss the taxability of perquisite if :

- (i) The car is owned by the employer, expenses paid by employer & it is a chauffeur driven car.
- (ii) The car is owned by Amrit and expenses incurred ₹ 35,000 & chauffeur paid a salary of ₹ 48,000 provided by the employer.

Solution :

(i) Taxable value of perquisite will be : ₹ (2,400 + 900) p.m for chauffeur = ₹ 3,300 p.m × 12 months = ₹ 39,600

(ii) Value of Perquisite	₹
Amount of expenses	35,000
(+) Salary to chauffeur	48,000
Less : Value of Perquisite if the car was owned by the employer	<u>(39,600)</u>
[as computed in (i) above]	<u>43,400</u>

Question No.8

(a) Aniket joined a company on 1.7.2010 and was paid the following emoluments and allowed perquisites as under : Emoluments : Basic Pay ₹ 35,000 per month; D.A. ₹ 20,000 per month; Bonus ₹ 20,000 per month.

Perquisites :

- (i) Furnished accommodation owned by the employer and provided free of cost;
- (ii) Value of furniture therein ₹ 3,60,000; Hire charges of Furniture provided ₹ 20,000 p.a.
- (iii) Motor car owned by the company (with engine c.c. less than 1.6 litres) along with chauffeur for official and personal use, expenses met by Employer.
- (iv) Sweeper salary paid by company ₹ 1,500 per month; amount recovered @ ₹ 200 pm.
- (v) Watchman salary paid by company ₹ 1,500 per month; amount recovered @ ₹ 300 pm.
- (vi) Educational facility for 2 children provided free of cost. The school is owned and maintained by the company. Elder child studies in class V and younger child in class II. Tuition fee per month ₹ 1,600 & ₹ 900 respectively.
- (vii) Loan of ₹ 5,00,000 repayable within 7 years given on 1.10.2010 for purchase of a house. No repayment was made during the year; let charged by employer @ 2% p.a. Interest chargeable as per Income Tax Act @ 10% p.a.
- (viii) Interest free loan for purchase of computer ₹ 50,000 given on 1.2.2011. No repayment was made during the year;
- (ix) Corporate membership of a club. The initial fee of ₹ 1,00,000 was paid by the company. Aniket paid the bills for his use of club facilities.

You are required to compute the income of Aniket under the head "Salaries" in respect of assessment year 2011-12.

**Solution:****Previous Year: 2010-2011****Assessee : Mr. Aniket****A.Y. 2011-2012****Computation of Income under the head 'Salaries'**

(i) Basic Pay	(35,000 × 9)	3,15,000
(ii) D.A.	(20,000 × 9)	1,80,000
(iii) Bonus	(20,000 × 9)	1,80,000
(iv) Value of furnished accommodation	Note 1	1,28,250
(v) Motor car	(1,800+900) × 9 m	24,300
(vi) Sweeper Salary	(1,500-200) × 9 m	11,700
(vii) Watchman Salary	(1,500-300) × 9 m	10,800
(viii) Education facility	Note 2	5,400
(ix) Interest free housing loan	Note 3	23,333
(x) Interest free computer loan	Note 4	1,375
(xi) Corporate membership fee		<u>1,00,000</u>
Gross Salary		<u>8,80,158</u>

Note 1. Value of furnished accommodation:

Particulars		Amount
Salary for this purpose -		
Basic Salary	(35,000 × 9)	3,15,000
D.A (assuming part of retirement benefits)	(20,000 × 9)	1,80,000
Bonus	(20,000 × 9)	<u>1,80,000</u>
Total		<u>6,75,000</u>

Assuming, Mr. Aniket stays in a city where population is more than 25,00,000 as per 2001 census,

Value of unfurnished accommodation	= 15% of salary
	= 15% of 6,75,000 = ₹ 1,01,250
Value of furniture provided	= 10% p.a. of actual cost
	= 10% of 3,60,000 × 9/12 = ₹ 27,000

(Assuming, value of furniture given in the problem represents actual cost.)

Value of rent free furnished accommodation	= 1,01,250 (+) 27,000
	= ₹ 1,28,250

Note 2. Value of Educational Facility

Where the school is owned and maintained by employer, if the cost of education provided is less than ₹ 1,000 p.m. then the value of perquisite is NIL. If the cost of education exceeds ₹ 1,000 p.m. then the value of perquisite will be equal to the actual cost of education provided in excess of ₹ 1,000 pm. per child maximum for two children. Value of perquisite for elder child = ₹ (16,000 – 1,000) × 9 months = 5,400. Value of perquisite for younger child = NIL, since tuition fee per month is less than ₹ 1,000. Assuming, cost of education provided to Babu's children is less than ₹ 1,000 p.m. value of perquisite provided is NIL.

Note 3. Interest free housing loan

Value of perquisite	= Interest @ 10% p.a. less Actual interest charged
	= (10% – 2%) × ₹5,00,000 × 7/12 = ₹ 23,333.

Note 4. Interest free computer loan

Value of perquisite	= Interest @ 16.50% p.a. less Actual interest charged
	= (16.50% – 0%) × ₹ 50,000 × 2/12 = ₹ 1,375.



(b) A was employed with Z Ltd. He retired w.e.f. 1.2.2011 after completing a service of 24 years and 5 months. He submits the following information:

Basic Salary: ₹ 5,000 per month (at the time of retirement); Dearness Allowance: 100% of Basic Salary (60% of which forms part of salary for retirement benefits). Last increment ₹ 500 w.e.f. 1.7.2010.

His pension was determined at ₹ 3,000 per month. He got 50% of the pension commuted w.e.f. 1.3.2011 and received a sum of ₹ 1,20,000 as commuted pension. In addition to this, he received a gratuity of ₹ 1,50,000 and leave encashment amounting to ₹ 56,000 on account of accumulated leave of 240 days. He was entitled to 40 days leave for every years of service.

Compute his Gross Salary for assessment year 2011-12 assuming that he is not covered under Payment of Gratuity Act.

Solution:

Computation of Gross Salary for the Assessment Year 2011-12

	₹	₹
Basic Pay: April '10 to June '10 = 3 months @ ₹ 4,500 pm	13,500	
July 10 to June '11 = 7 months @ ₹ 5,000 pm	<u>35,000</u>	48,500
Dearness Allowance @ 100% of Basic Pay		48,500
Uncommuted Pension		
February @ ₹ 3,000 pm	3,000	
March @ ₹ 1,500 pm	<u>1,500</u>	4,500
(Since 50% commuted)		
Commuted Value of Pension		
Amount Received	1,20,000	
Less : Exemption u/s 10(10A)		
1/3 of Value of Commuted Pension	<u>80,000</u>	40,000
Full value of Commuted Pension		
Gratuity :		
Amount received	1,50,000	
Less : Exempt (See note No. 1)	<u>93,120</u>	56,880

Note 1: Exemption, being least of the followings:

(i) Actual Amount Received	1,50,000
(ii) Maximum limit	10,00,000
(ii) 1/2 months average salary for each year's of completed service	93,120

Salary for Gratuity (not covered by Payment of Gratuity Act)

= Basic Pay + D/A (Forming part for retirement benefit)

Average Salary = (48,500 + 60% of 48,500) / 10 = 77,600/10 = 7,760

**Leave Encashment**

Amount received		56,000	
Less : Exemption u/s 10(10AA)			
Least of the followings:			
(i) Actual Average Salary	56,000		
(ii) 10 months average salary (10×7760)	77,600		
(iii) Maximum limit	3,00,000		
(iv) Leave Credit as per note below	<u>NIL</u>	<u>NIL</u>	56,000

Note : Calculation of Leave Credit

Total leave entitlement (24 yrs × 40 days p.a.)	= 960 days
Less : Leave Availed during service	<u>720 days</u>
= Total leave entitlement – Leave encashment	
= (960 – 240)	240 days
Less : Excess Leave in excess of 30 days p.a.[24 (40 – 30)]	<u>240 days</u>
Leave credit	NIL

(c) Ramesh retired as General Manager of XYZ Co. Ltd. on 30.11.2010 after rendering service for 20 years and 10 months. He received ₹ 9,00,000 as gratuity from the employer. (He is not covered by Gratuity Act, 1972) . His Salary details as below -

Basic Pay	₹ 30,000 p.m. upto 30.06.2010
Basic Pay	₹ 32,000 p.m. from 01.07.2010
Dearness Allowance (not forming part of salary for Retirement Benefits)	50% of Basic Pay
Transport Allowance	₹ 3,000 p.m.

Ramesh resides in his own house. Interest on monies borrowed for the self-occupied house is ₹ 84,000 for the year 31.3.2011. From a Fixed Deposit with a Bank, he earned Interest Income of ₹ 18,000 for the year ending 31.3.2011. He also invested ₹ 30,000 in long-term infrastructure Bond and ₹ 80,000 in PPF.

Compute Total Income of Ramesh for the year ended 31.03.2011.

Solution:

Assessee : Mr. Ramesh	Particulars	Previous Year: 2010-2011		Assessment Year : 2011-12		
		Computation of Total Income		₹	₹	₹
	(A) Salary from XYZ Co. Ltd					
	1. Basic Salary	(₹ 30,000 × 3 + ₹ 32,000 × 5)				2,50,000
	2. Dearness Allowance	(50% of Basic Salary)				1,25,000
	3. Transport Allowance	(₹ 3,000 × 8)		24,000		
	Less: Exempt u/s 10(14)	(₹ 800 × 8 Months)		<u>(6,400)</u>		17,200
	4. Gratuity Received (Not covered under Payment of Gratuity Act)			9,00,000		
	Less: Exemption u/s 10(10) =					
	Least of the following —					



(i) Actual Amount received	9,00,000	
(ii) $\frac{1}{2}$ months average salary for each years of completed service = $\frac{1}{2} \times 30,800 \times 20$ years	3,08,000	
(iii) Maximum Limit	10,00,000	<u>3,08,000</u> <u>5,92,000</u>
Average Salary for Gratuity = (Salary for 10 months preceding the month of retirement)/10		
= (30,000 x 6 + 32,000 x 4) = 3,08,000 / 10 = 30,800		
Gross Salary		9,84,200
Less: Deduction u/s 16		<u>Nil</u>
Income under the head Salary		9,84,200
(B) Income from House Property		
Self Occupied — Annual Value		Nil
Less : Deduction u/s 24 — Interest on Borrowed Capital	(84,000)	(84,000)
(C) Income from Other Sources : Bank Interest		<u>18,000</u>
(D) Gross Total Income		9,18,200
Less : Deduction under Chapter VIA		
u/s 80C – Deposit in PPF ₹ 80,000		
(Maximum amount allowed as deduction)		70,000
u/s 80 CCF – Subscription to Long-term Infrastructure Bond		
– Amount deposited ₹ 30,000, but deduction restricted upto ₹20,000		<u>20,000</u>
(E) Total Income		<u>8,28,200</u>

Question No.9

(a) Write short note on: terminal depreciation and balancing charge. Give an example to illustrate the same.

Answer:

Terminal Depreciation refers to Loss on Transfer & **Balancing Charge** refers to Gain on Transfer.

- It is applicable for any undertaking engaged in generation or generation and distribution of power;
- It must be a depreciable asset, on which depreciation is claimed on straight line basis;
- Such depreciable asset, is sold, discarded, demolished or destroyed in a previous year

If there arises:

- Loss on Sale = Terminal Depreciation;
- Gain on Sale = Balancing Charge.

Calculation of Terminal Depreciation:

- Calculate Written Down Value of the depreciable asset on the first day of the previous year in which such asset is sold, discarded, demolished or destroyed.
- Ascertain Net Sale Consideration.

If value as per (1) > value as per (2) = Loss = Terminal Depreciation

Balancing Charge u/s 41(2) and Capital Gain u/s 50A:

If value as per (2) > value as per (1) = Gain = Balancing Charge. i.e. if, NC > WDV = Balancing Charge

Again, if, (i) NC > OC = Capital Gain and (ii) OC < WDV = Balancing Charge



Where,

- NC = Net Sale Consideration
 OC = Original Cost
 WDV = Written Down Value

Example :

Neyduli power Projects is a power generating unit. On 1.4.2008, it purchased a plant of ₹ 50,00,000, eligible for depreciation @15% on SLM. Compute balancing charge or terminal depreciation assuming the plant is sold on 21.4.2010 for : (a) ₹ 8,50,000 (b) ₹ 32,00,000 (c) ₹ 45,00,000 (d) ₹ 52,00,000

Solution :

Computation of Terminal depreciation or balancing charge, capital gain.

Particulars	A	B	C	D
W.D.V. as on 1.4.2010 (as per Note below)	35,00,000	35,00,000	35,00,000	35,00,000
Less: Sale Proceeds	8,50,000	32,00,000	45,00,000	52,00,000
Balance	26,50,000	30,00,000	(10,00,000)	(17,00,000)
Terminal depreciation	26,50,000	3,00,000	NIL	NIL
Balancing charge	NIL	NIL	10,00,000	15,00,000
Short term capital Gain	NIL	NIL	NIL	2,00,000

Note: Computation of Depreciation and WDV as on 1.4.2010:

Original cost	50,00,000
Less: Depreciation	<u>7,50,000</u>
WDV as on 1.4.2009	42,50,000
Less: Depreciation for the year 2009-2010	<u>7,50,000</u>
WDV as on 1.4.2010	<u>35,00,000</u>

- (b) Pharma Ltd. imported machinery from Germany on 27.8.10 at a cost of ₹ 40 crores. Customs Duty paid @ 20%. Countervailing Duty @ 10%. Government granted subsidy of ₹ 25 crores. The entire logistics was supported by Nexgen Courier Ltd., an Indian Company. Total Service charges paid to them ₹ 20 lacs including service tax of ₹ 1,86,763. Compute Actual Cost, if assessee, avail CENVAT credit adjustment.

Previous Year: 2010-11

Assessee : Pharma Ltd

Assessment Year : 2011-12

Computation of Actual Cost

Particulars	Amount (₹ crores)
Cost of Purchase	40.00
Add: Customs Duty @ 20% on ₹ 40 crores	8.00
Less: Countervailing duty @ 10% of ₹ 40 crores	4.00
Less: Government subsidy granted	25.00
Less: CENVAT Credit (Service Tax paid included in the payment made to Nexgen Courier Ltd.)	<u>0.187</u>
Actual Cost for the purpose of charging depreciation	<u>26.813</u>



(c) ZED Ltd. imported machinery from South Korea on 12.5.2010 for US\$ 50,000. Exchange rate on that date : US\$ = ₹ 44.70. Customs Duty paid @ 20%. Government granted subsidy of ₹ 15,00,000. The assessee had a forward contract on 2.4.2010 at US\$ 45.30. Logistics services was provided by Carrywell Courier Ltd. Service Charges paid ₹ 2,00,000 including service tax of ₹ 25,000. Engineers and labourers were engaged at site for installation of the machinery. Salary and wages paid for site engineers and labourers including their travelling expenses amounted to ₹ 4,60,000. Expenses incurred during trial run period ₹ 1,50,000. Sale of output produced during trial run period ₹ 90,000. Interest earned on deposits made to open Letter of Credit for purchase of this machinery ₹ 15,000 . The machine was put to use from 05.10.10. Depreciation @ 15%. Compute Actual Cost and Written Down Value.

Assessee: ZED Ltd.

Previous Year: 2010-11

Computation of Actual Cost and Written Down Value

Particulars	Amount
	(₹ crores)
Cost of the Asset (US\$ 50,000 × ₹ 44.70)	22,35,000
Add : Customs Duty paid @ 20% on ₹ 22,35,000	4,47,000
Less : Government Subsidy granted	(15,00,000)
Add : Exchange Rate Difference [US\$ 50,000 × ₹ (45.30 - 44.70)]	30,000
Add : Transportation charges paid ₹ 2,00,000 (including Service Tax ₹ 25,000)	2,00,000
Less : CENVAT credit adjustment (credit for Service tax included in service charges paid to Carrywell Courier Ltd.)	(25,000)
Add : Installation expenses incurred for payment of site engineers & labourers including travelling expenses	4,60,000
Add : Expenses incurred during trial run period	1,50,000
Less : Sale of output generated during trial run period	(90,000)
Less : Interest earned on deposits made to open Letter of Credit for purchase of this machinery	(15,000)
Actual Cost for the purpose of determining depreciation	18,92,000
Less : Depreciation @ 50% of 15% (since Put to Use < 180 days) for previous year 2010-11 (₹ 18,92,000 × 50% × 15%)	<u>1,41,900</u>
WDV as on 01.04.2011	<u>17,50,100</u>

(d) Mention the probable situations where proportionate depreciation may be resorted to.

Answer:

In the following cases, depreciation is allowed on proportionate basis where in any Previous Year, there is :-

- (i) Succession of a partnership firm by a company [u/s. 47(xiii)] or
- (ii) Succession of a proprietary concern by a company [u/s. 47(xiv)]
- (iii) Succession of any business other than on death [u/s. 170] or
- (iv) Amalgamation of company [u/s. 2(1B)] or
- (v) Demerger of any company [u/s. 2(19AA)]

(e) A Bros., a sole-proprietorship concern, was converted into a A Ltd. on 20.9.2010. Before the conversion, the concern had a block of furniture (rate of depreciation @ 10%), whose WDV as on 01.04.2010 was ₹ 6,50,000. On 01.05.2010, a new furniture of the same block was purchased for ₹ 50,000. A Ltd. purchased another furniture of the same type on 20.12.2010 for ₹ 48,000. Compute depreciation that would be claimed by A Bros. and A Ltd for the previous year 2010-11.

**Solution :**

- (1) Depreciation shall have to be calculated at the prescribed rates, as is applicable for a going concern, without considering the event of amalgamation or demerger.
- (2) Depreciation shall have to be apportioned between the predecessor and the successor in the ratio of number of days for which such assets were held for their business purpose and used by them.

Depreciation to be apportioned = [W.D.V. as on 1.4.2010 + New Purchases on 01.05.2010]

$$= ₹ (6,50,000 + 50,000) = ₹ 7,00,000 \times 10\% = ₹ 70,000$$

(f) X Ltd., is a company engaged in the business of growing, manufacturing and selling of tea. For the accounting year ended 31st March, 2010, its composite business profits, before an adjustment under section 33AB of the Income-tax Act, were ₹60 lakhs. In the year, it deposited ₹ 25 lakhs with NABARD. The company has a business loss of ₹10 lakhs brought forward from the previous year. The company withdrew in February, 2010 ₹20 lakhs from the deposit account to buy a non-depreciable asset for ₹18 lakhs and could not use the balance before the end of the accounting year. The withdrawal and the purchase were under a scheme approved by the Tea Board. The non-depreciable asset was sold in November, 2010 for ₹29 lakhs. Indicate clearly the tax consequences of the above transactions and the total income for the relevant years.

Computation of total income of X Ltd. for A.Y. 2010-11

Particulars	₹
Net profits before adjusting deduction u/s 33AB	60,00,000
Less: Deduction u/s 33AB	<u>24,00,000</u>
[Lower of	
(i) 40% of ₹60 lakhs = ₹24 lakhs; or	
(ii) actual amount deposited with NABARD = ₹25 lakhs	
Profits after adjusting deduction u/s 33AB	36,00,000
As per Rule 8 of Income-tax Rules, 40% of this sum is subject to income-tax	
and the balance 60% is treated as agricultural income.	
Hence, the business income is 40% of ₹ 36 lakhs	14,40,000
Add: Non-utilisation of amount withdrawn:	
₹ 2 lakhs [i.e. (₹ 20 lakhs – ₹ 18 lakhs)]	
40% is taxable as business income (the balance 60% is treated as agricultural income).	80,000
Business income	15,20,000
Less: Business loss brought forward from the previous year	<u>10,00,000</u>
Total income	<u>5,20,000</u>

Computation of Total Income of X Ltd. for A.Y.2011-12

Particulars	₹
Business income (See Note 2)	7,20,000
Capital gains (Short-term) (See Note 1)	<u>11,00,000</u>
Total Income	<u>18,20,000</u>

Note 1 - Computation of capital gains

Particulars	₹
Sale proceeds	29,00,000
Less: Cost of acquisition	<u>18,00,000</u>



Short term capital gains (since the period of holding is less than 36 months)

11,00,000

Note 2 - Computation of business income Since the asset is sold within 8 years, the cost of the asset i.e. ₹ 18 lakhs should be treated as income since the same has been allowed as deduction in the assessment year 2010-11.

However, out of this ₹18 lakhs, 60% would be agricultural income and the balance 40% i.e. ₹7.2 lakhs would be business income of P.Y.2010-11. This is because deduction under section 33AB was allowed in P.Y.2010-11, before disintegration of income into agricultural income and non-agricultural income.

Question No.10

(a) Free Call Ltd. obtained a telecom licence on 15.6.07 for a period of 8 years ending on 31.3.2015 against a fee of ₹30 crores to be paid in four instalments of ₹12 crores, ₹7 crores, ₹6 crores, ₹5 crores by June 2008, June 2009, June 2010 and June 2011 respectively. Explain how the payment for licence fee shall be dealt under the Income Tax Act, 1961.

Solution :

Assessee : Free Call Ltd.

Previous Year 2010-11

Assessment Year: 2011-12

- (a) U/s 35ABB, expenditure incurred for the purpose of acquiring any right to operate telecommunication services is allowed equally as deduction throughout the unexpired life of the licence. Deduction shall be allowed **only for the actual payment made.**
- (b) If only part payment is made, amortization is based on the amount paid and not on the basis of total consideration. For any further payments, deduction/amortization is allowed equally for the remaining unexpired useful life.
- (c) Computation of amount of eligible deduction u/s 35 ABB:

Previous year	Amount paid (₹ Crores)	Unexpired Period of Licence on the date of actual payment	Amount of Deduction (₹ Crores)
2007-08	12.00	8 years	1.50
2008-09	7.00	7 years	[1.50 + (7.00/7)] = 2.50
2009-10	6.00	6 years	[2.50 + (6.00/6)] = 3.50
2010-11	5.00	5 years	[3.50 + (5.00/5)] = 4.50

(b) Hello International Ltd. incurs an expenditure of ₹ 240 crores for acquiring the right to operate telecommunication services for Assam & Sikkim. The payment was made in November 2009 and the licence to operate the services was valid for 15 years. In December 2010, the company transfers part of the licence, in respect of Assam, to Hi International Ltd. for a sum of ₹56 crores and continue to operate the licence in Sikkim. What is the deduction allowable u/s 35ABB to Hello International Ltd. for the Assessment Year 2011-12?

Solution :

Assessee: Hello International Ltd.

Previous Year: 2010-11

Assessment Year : 2011-12

- (a) u/s 35ABB, where part of the Telecom Licence is transferred and Net Consideration received on such transfer, is less than the expenditure remaining unallowed, the amount of deduction shall be computed as follows :
- (i) Unallowed amount as on 01.04.2010 = Total Expenditure Less Deduction for Financial Year 2009-10
 = ₹240 crores Less (₹240 crores/licence period of 15 years)
 = ₹240 crores less ₹16 crores = ₹224 crores.



- (ii) Net Consideration received = ₹60 crores
 (iii) Remaining period of licence = 14 years (including current previous year)
 (iv) Deduction u/s 35 ABB = ₹ (224 crores less 56 crores) / 14 years = ₹12 crores.

(c) Jammer International Ltd. incurs an expenditure of ₹300 crores for acquiring the right to operate telecommunication services for Orissa and Jharkhand. The payment was made in August 2009 and the licence to operate the services was valid for 12 years. In December 2010, the company transfers part of the licence, in respect of Orissa to Hammer International Ltd. for a sum of ₹280 crores and continue to operate the licence in Jharkhand . What is the deduction allowable u/s 35ABB to Jammer International Ltd. for the Assessment Year 2011-12?

Solution:

Previous Year: 2010-11 Assessee: Jammer International Ltd. Assessment Year : 2011-12

- (a) u/s 35ABB, where part of the Telecom Licence is transferred and Net Consideration received on such transfer, is more than the expenditure remaining unallowed, the amount of deduction shall be computed as follows :
- (i) Unallowed amount as on 01.04.2010 = Total Expenditure Less Deduction for Financial Year 2009-10
 = ₹300 crores Less (₹300 crores / licence period of 12 years)
 = ₹300 crores less ₹25 crores = ₹275 crores.
- (ii) Net Consideration received = ₹280 crores
 (iii) Remaining period of licence = 11 years (including current previous year)
 (iv) Deduction u/s 35 ABB = ₹ (224 crores less 56 crores) / 14 years
 = ₹12 crores.

(d) Sleepwell Ltd. is an existing Indian Company, which sets up a new industrial unit. It incurs the following expenditure in connection with the new unit:

	₹
Preparation of project report	4,00,000
Market survey	5,00,000
Legal and other charges for issue of additional capital required for the new unit	2,00,000
Total	11,00,000
The following further data is given:	
Cost of project	30,00,000
Capital employed in the new unit	40,00,000

What is the deduction admissible to the company under section 35D for Assessment Year 2011-12?

Solution:

The deduction admissible under section 35D is one-fifth of the expenditure incurred for the project. This works out to ₹2,20,000.

However, such expenditure should not exceed the following limits as prescribed in section (3):

- (a) 5% of cost of the project or
 (b) 5% of the capital employed in the new industrial undertaking (being a company) — whichever is higher.

In this case

- (a) 5% of the project cost is ₹1,50,000 and
 (b) 5% of the capital employed is ₹2,00,000.

Hence, the expenditure eligible for amortization under section 35D would be ₹ 2,00,000.

And the admissible deduction for the current assessment year is $2,00,000 \times 1/5 = ₹ 40,000$.



(e) Ms. Raveena , a retail trader of Kolkata furnishes the following Trading and Profit and Loss Account for the year ended 31st March, 2011 :

Trading and Profit and Loss Account for the year ended 31.03.2011

	₹			₹
To Opening stock	90,000	By Sales		12,11,500
To Purchases	10,04,000	By Closing Stock		1,80,000
To Gross Profit	<u>2,97,500</u>			
	<u>13,91,500</u>			<u>13,91,500</u>
To Salary	60,000	By Gross profit b/d		2,97,500
To Rent and rates	36,000	By Income from UTI		2,400
To Interest on loan	15,000	By Other Business receipts		6,100
To Depreciation	1,05,000			
To Printing & stationery	23,200			
To Postage & telegram	1,640			
To Loss on sale of shares (Short term)	8,100			
To Other general expenses	7,060			
To Net Profit	<u>50,000</u>			
	<u>3,06,000</u>			<u>3,06,000</u>

Additional Information:

- (i) It was found that some stocks were omitted to be included in both the Opening and Closing Stock, the values of which were : Opening stock ₹ 9,000 ; Closing stock ₹ 18,000
- (ii) Salary includes ₹10,000 paid to his brother, which is unreasonable to the extent of ₹ 2,000.
- (iii) The whole amount of printing and stationery was paid in cash.
- (iv) The depreciation provided in the Profit and Loss Account ₹ 1,05,000 was based on the following information :
The written down value of plant and machinery is ₹ 4,20,000. A new plant falling under the same Block of depreciation of 25% was bought on 1.7.2010 for ₹ 70,000. Two old plants were sold on 1.10.2010 for ₹ 50,000.
- (v) Rent and rates includes sales tax liability of ₹ 3,400 paid on 7.4.2010.
- (vi) Other business receipts include ₹ 2,200 received as refund of sales tax relating to 2008-09.
- (vii) Other general expenses include ₹ 2,000 paid as donation to a Public Charitable Trust.

You are required to advise Ms.Raveena whether she can offer her business income under section 44AF i.e. presumptive taxation.

Solution:

Let us assume that the facts relate to previous year relevant to assessment year 2011-12 and accordingly compute the income of Ms.Raveena.

Computation of Business Income of Ms.Raveena for the assessment year 2011-12.

	₹	₹
Net Profit as per profit and loss account		50,000
<i>Add :</i> Inadmissible expenses / losses		
Under valuation of closing stock	18,000	
Unreasonable salary paid to brother [section 40A(2)]	2,000	
Printing and stationery paid in cash [Section 40A(3)] 100% of ₹ 23,200	23,200	
Depreciation (considered separately)	1,05,000	
Short term capital loss on shares	8,100	
Donation to public charitable trust	<u>2,000</u>	
		<u>1,58,300</u>
		2,08,300



Less : Deductions items:		
Under valuation of opening stock		9,000
Income from UTI		2,400
Refund of sales tax [Taxable u/s.41(1) – No adjustment necessary]		<u>Nil</u> <u>11,400</u>
Business income before depreciation		1,96,900
Less : Depreciation (see note 1)		<u>66,000</u>
	Business Income	<u>1,30,900</u>

Computation of business income as per section 44AF

As per section 44AF, the business income would be 5% of turnover = $12,11,500 \times 5 / 100 = ₹60,575$. The business income under section 44AF is ₹ 60,575.

As the business income under section 44AF is lower than the business income as per the normal provisions of the Act, it is advisable for Ms. Raveena to offer the business income under section 44AF of the Act

Note 1

Calculation of depreciation

WDV of the block of plant & machinery as on the first day of previous year	4,20,000
Add : Cost of new plant & machinery	<u>70,000</u>
	4,90,000
Less : Sale proceeds of assets sold	<u>50,000</u>
WDV of the block of plant & machinery as on the last day of previous year	<u>4,40,000</u>
Depreciation @ 15%	<u>66,000</u>

Note : No additional depreciation is allowable as the assessee is not engaged in manufacture or production of any article.

Note 2

Since sales-tax liability has been paid before the due date of filing return of income under section 139(1), the same is deductible.

(f) Discuss the tax implications of the following transactions in the case of a doctor running a nursing home :

	₹
(i) Amount paid to a scientific research association approved by the Central Government and run by a drug manufacturing company	20,000
(ii) Amounts received from the employees of the nursing home as contributions towards provident fund for the month of March, 2011 paid to the PF Commissioner on 25.4.2011	25,000
(iii) Repayment made in cash towards purchases of medicines	50,000
(iv) Repayment of loan taken from a bank for doing a post-graduate course in medicine – instalment including interest of Rs.10,000	50,000

Answer :

- (i). Under section 35(ii), 125% of the sums paid to scientific research association, which has as its object the undertaking of scientific research is deductible.

$$\text{Deduction admissible} = 20,000 + (1/4 \times 20,000) = ₹ 25,000.$$

- (ii) Under clause (x) of sub section 24 of section 2, any sum received by an assessee from his employees as contribution to any provident fund is deemed to be his income. Such income is deductible under section 36(1) (va) only if it is credited to the employees' account in the relevant fund by the due date.

Under Employees' Provident Fund Act, the due date for the payment of the contribution is the 15th of the month following the month for which the contribution is due. A grace period of 5 days is also allowed. Hence the payment



of the employee's contribution for the P.F. Commissioner should have been made by 20th April. Since the payment has been made on 25th April, the deduction is not available.

- (iii) Under section 40A(3) payments made in cash exceeding ₹ 20,000 are not allowable in computing the income from business or profession. 20% of such expenditure is liable to be disallowed. Hence ₹ 10,000 will be disallowed. It is assumed that the case is not covered by the exceptions under Rule 6DD.
- (iv) Under section 80E, a deduction is admissible in the case of an individual towards any amount paid in the previous year by way of interest on loan taken from any financial institution for the purpose of pursuing his higher education. The purpose stated in the question is covered by the section. The deduction is allowable only towards payment of interest. The amount deductible under section 80-E would be ₹10,000.

Question No.11

- (a) Mr Sanjeev , non-resident in India, for the year ended on 31 March 2011. Compute his income from business and his gross total income for the assessment year 2011-2012.

Profit & Loss Account for the year ended 31.3.11

Dr.	Expenditure	₹	Receipts	Cr. ₹
To Purchases		1,90,000	By sales less returns	5,69,300
To Salaries and wages		1,40,000	By bad debts recovered,	2,000
To Trade expenses		1,000	allowed in earlier years by the	
To Purchase of trademarks		50,000	Assessing Officer	
To Registration of trademarks		2,000	By interest on securities (gross)	892
To Rent, rates and taxes		5,000	By dharmada, mandir and	2,000
To Discount allowed		1,500	gaushala receipts	
To Household expenses		6,000	By refund on income tax	1,008
To Advertisement bill paid in cash		30,000	By proceeds of life insurance	43,500
To Income tax		10,000	policy on maturity	
To Sales tax paid		3,000		
To Purchased technical know-how		12,000	By Net Income from Business outside India	3,00,000
To Expenses incurred on income tax and sales tax proceedings		15,100		
To Contribution paid to a trust for staff welfare		1,000		
To Staff welfare expenses incurred		700		
To OYT deposit		5,000		
To Postage and telegrams		1,300		
To Donation to National Defence Fund		2,500		
To Life insurance premium on the life of the assessee		2,000		
To interest on capital		5,000		
To interest on loan taken to pay income tax		500		
To wealth tax		500		
To audit fee		1,000		
To entertainment expenditure		30,000		
To gifts and present to five customers, costing ₹ 3,000 each		15,000		
To expenses on apprentice training		4,000		
To emergency risk insurance		200		
To fire insurance premium for stock		200		
To provision for bad and doubtful debts		3,000		



To reserve for pecuniary losses	5,000	
To net profit	<u>3,76,000</u>	
Total	<u>9,18,700</u>	<u>9,18,700</u>

Solution :

Computation of Gross Total Income for the Assessment Year 2011-2012

Particulars	₹	₹
Income from Business		
Net profit as per profit and loss account		3,76,000
Add: Expenses inadmissible in computing profits and gains from business or profession:		
Purchase of trademarks	50,000	
Household expenses [Sec. 37(1)]	2,500	
Advertisement bills paid in cash [Sec. 37(1) r.w. Sec. 40A(3)] @ 100% of ₹ 30,000	30,000	
Income tax [Sec. 40(a)(ii)]	10,000	
Purchase of technical know-how	12,000	
Contribution to a Trust for staff welfare fund [Sec. 40A(9)]	1,000	
Donation for National Fund [Sec. 37(1)]	2,500	
Life Insurance premium [Sec. 37(1)]	2,000	
Interest on capital [Sec. 36(1)(iii)]	5,000	
Interest on loan to pay income tax [Sec. 37(1) r.w. 40(a)(ii)]	500	
Wealth tax [Sec. 40(a)(iii)]	500	
Provision for bad and doubtful debts [Sec. 37(1) r.w. 36(1)(vii)(2)]	2,000	
Reserve for pecuniary losses [Sec. 37(1)]	<u>6,000</u>	<u>1,24,000</u>
		5,00,000
Less: Income from Business outside India (assuming the business was set up and controlled from a place outside India and income earned had neither accrued in India or received in India during the previous year, hence deducted, as Mr. Sanjeev is a non-resident in India)		(3,00,000)
Less:		
(a) Income not relating to business or profession: [Sec. 28(i)]	892	
Interest on government securities		
(b) Dharada, mandir and gaushala receipts	2,000	
(c) Refund of income tax	1,008	
(d) Proceeds of L.I.P.: It is not a business receipt and exempt [Sec. 10(10)]	43,500	
(e) Depreciation on trademarks; 25% of ₹ 50,000	12,500	
(f) Depreciation on know-how: 25% of ₹ 12,000	<u>3,000</u>	<u>59,400</u>
Income from business		<u>1,40,600</u>
Statement of Gross Total Income for the Assessment Year 2011-12		
1. Income from business		1,40,600
2. Income from other sources— Interest on securities		<u>892</u>
Gross Total Income		<u>1,41,492</u>

**Note :**

- (i) Mr. Sanjeev is a non-resident in India for the previous year 2010-11. It is assumed that the business was set up and controlled from a place outside India and income earned had neither accrued in India nor received in India during the previous year, hence, does not form part of taxable income as per Income Tax Act, 1961
- (ii) Bad debts deducted in earlier years and now recovered, has been rightly included in the profit and loss account as business income [Sec. 41(4)].
- (iii) Since payment of income tax is not deductible, its refund cannot be taxed as deemed profits [Sec. 41(1)].
- (iv) OYT (own your telephone) deposit is an allowable deduction in the year in which it is paid.
- (v) "Dharmada", "mandir" and "gaushala" receipts are customarily levies by trader for charitable purposes. Amount received under these heads are not trading receipts. The fact that the amount collected under these heads are spent for other purposes would amount to breach of trust but it would not affect the initial nature and character of the receipt. Such receipts are not taxable.
- (vi) The assessee is entitled to the deduction in respect of donation to National Defence Fund under Sec. 80G.
- (vii) Life insurance paid by assessee on his life is allowed to be deducted in imputing total income under Sec. 80C.
- (viii) Any payment on advertisement exceeding ₹ 20,000 should be made by on account payee cheque or account payee bank draft. Since the payment has been made in cash, 100% of advertisement has been disallowed [Sec. 37(1) r.w. Sec. 40A(3)]. 'Crossed cheque' requirement has been amended by 'account payee' cheque. It is operative from 13-07-2008.
- (ix) From the assessment year 2001-2002, intangible assets also fall within the scheme of depreciation. Hence, depreciation has been allowed on trademarks and know-how.
- (x) Registration expense of trademarks is revenue expenditure, allowed under Sec. 37(1).

(b) Dr. Christin Pinto, is a renowned medical practitioner. He furnishes his Receipts and Payments account for the financial year 2010-2011:

Dr.		₹	Payments	₹	Cr.
Receipts					
To balance b/d		35,000	By Rent of clinics:		
To Consultation fees :			2008-2009	13,600	
2008-2009	25,000		2009-2010	44,800	
2009-2010	1,80,000		2010-2011	<u>26,600</u>	85,000
2010-2011	<u>2,62,000</u>	4,67,000	By electricity and water		12,000
To visiting fees		1,30,000	By purchase of professional books		18,000
To loan from bank for professional purpose		2,25,000	By household expenses		97,800
			By municipal taxes paid in respect		12,000
To sale of medicines		1,73,000	of property		
To gift/presents from patients		15,000	By purchase of motor car		2,45,000
To remuneration from articles		26,000	By Telephone Charges		10,000
published in professional			By fire insurance in respect of		3,200
magazines			property		
To rent from house property		96,000	By surgical equipment		44,700
To interest on Post Office National		17,000	By advance income tax		43,000
Savings Certificates			By salary and perquisite to		72,000
			compounder		
			By entertainment expenses		16,000
			By purchase of X-ray machine		2,00,000
			By expenses of income-tax		15,000
			proceedings		



By life insurance premium	25,000
By gifts to wife	25,000
By interest on loan	12,000
By loan a/c—instalment paid	25,000
By donation to Political Party	2,500
By car expenses	36,000
By purchase of medicines	1,05,000
By balance c/d	79,800
11,84,000	11,84,000

Compute his income from profession and gross total income for the assessment year 2011-2012 after taking into account the following additional information:

- One-third of the car expenses are in connection with personal use.
- Depreciation on motor car is allowed at the rate of 15%.
- The construction of the house property was completed in March 2006. It was let out for residential purposes.
- Expenses on income tax proceeding include ₹ 1,000 paid for the preparation of return of income.
- Receipts outstanding from patients for 2010-2011, amount to ₹ 8,000.
- Closing stock of medicines is ₹ 8,000 but its current market price is ₹ 12,000.
- Books purchased include annual publications of ₹ 12,000, purchased in December 2010.
- Interest paid on loan taken for higher –education of his son Rs.33,569, not accounted for .

Solution : Computation of Income from Profession for the assessment year 2011-2012 :

Particulars	₹	₹
Income from Profession :		
(a) Receipt from profession:		
1. Consultation fees: [Sec. 28(i)]: (₹ 25,000 + ₹ 1,80,000 + ₹ 2,62,000)	4,67,000	
2. Visiting fees [Sec. 28(i)]	1,30,000	
3. Sale of medicines [Sec. 28(i)]	1,73,000	
4. Gifts and presents from patients [Sec. 28(iv)]	15,000	
5. Remuneration from articles published in professional magazines [Sec, 28(i)]	<u>26,000</u>	8,11,000
(b) Closing stock of medicines		<u>8,000</u>
Total receipts and closing stock		8,19,000
Less: Expenses allowable:		
1) Rent of clinic [Sec. 30]	85,000	
2) Electricity and water [Sec. 37(1)]	12,000	
3) Salary of compounder [Sec. 37(1)]	72,000	
4) Entertainment expenses [Sec. 37(1)]	16,000	
5) Expenses on income-tax proceedings [Sec. 37(1)]	15,000	
6) Interest on loan [Sec. 37(1)(iii)]	12,000	
7) Purchase of medicines [Sec. 37(1)]	1,05,000	
8) Car expenses [Sec. 37(1)] (2/3 x ₹ 36,000)	12,000	



9) Depreciation on professional books :			
(i) Annual publications: $12,000 \times 100\% \times 50\%$		6,000	
(ii) Other books: $6,000 \times 60\%$		3,600	
10) Depreciation on car [Sec. 32 r.w. Sec. 38] : 15% of $2,45,000 \times 2/3$		24,500	
11) Depreciation on plant and machinery:			
(i) X-ray machine	2,00,000		
(ii) Surgical equipment	<u>44,700</u>		
Depreciation @ 15% of	<u>2,44,700</u>	36,705	
12) Telephone Charges		<u>10,000</u>	<u>(4,09,805)</u>
Taxable Income from Profession			4,09,195
Computation of Income from House Property :			
Gross annual value on the basis of rental valuation		96,000	
Less: Full municipal taxes paid by the owner		<u>12,000</u>	
Net annual value		84,000	
Less: Statutory deduction: 30% of net annual value		<u>25,200</u>	
		58,800	
Income from House Property			<u>58,800</u>
Gross Total Income			4,67,995
Less: Deduction u/s 80C (LIC premium paid)			(25,000)
Less: Deduction u/s 80 E (interest on loan paid for higher education)			(33,569)
Less: Deduction u/s 80GGC (actual amount of donation paid to political party)			<u>(2,500)</u>
Total Income			<u>4,06,926</u>
Total Income rounded off u/s 288A			<u>4,06,930</u>

Notes:

- Purchase of motor car is capital expenditure. Hence, it is not deductible. Depreciation has been allowed on motor car.
- Plant includes books and surgical equipment. Depreciation on professional books is allowed @ 60% but annual publications are written off @ 100%. However, as annual publications have been put to use for less than 180 days during the year, depreciation has been allowed @ 50%. The assessee can claim depreciation on surgical equipment at general rate.
- Contribution of articles to periodicals and magazines constitutes income from vocation of the assessee.
- Expenses in income-tax proceedings are wholly deductible [Sec. 37(1)].
- One-third of car expenses and proportionate depreciation in respect of motor car have been disallowed as they are in connection with the personal use of the assessee.
- Interest on Post Office National Saving Certificates is exempt from income tax [Sec. 10(15)].
- Profits and gains of the business or profession are computed according to the method of the accounting regularly followed by the assessee (Sec. 145). Since the assessee has adopted cash system of accounting. "Income" is taxable on receipt basis and "expenditure" is allowed to be deducted on payment basis, irrespective of the previous year to which the receipt of payment belongs. Receipts outstanding for the previous year 2010-2011 will not be taken into consideration.



8. Profits and gains of business profession is required to be computed according to the system of accounting regularly followed by the assessee but if the income cannot be properly deduced therefrom, the Assessing Officer may compute the income on such basis and in such manner as he may deem fit [Proviso to Sec. 145(1)].

In view of this, the Assessing Officer may take into account the value of closing stock while determining profits even under cash system of accounting

9. Donation to Political Party is allowed to be deducted from gross total income under Sec. 80GGC.

(c) The firm of M/s Amal & Associates is engaged in the business of growing and manufacturing tea. The Profit & Loss Account for the year ended 2010-2011 is given as follows:

Dr.		₹	Cr.		₹
	Particulars			Particulars	
	Cost of growing and manufacturing tea	40,00,000	Sales		95,00,000
	Salaries and wages	15,00,000	Stock		13,50,000
	Advertising	5,00,000			
	Entertainment expenses	1,00,000			
	Travelling expenses	3,00,000			
	Fine and penalties	50,000			
	Cost of patent rights	6,00,000			
	Expenses on scientific research	6,00,000			
	General and sundry expenses	2,00,000			
	Net profit	30,00,000			
		1,08,50,000			1,08,50,000

Additional information:

- (i) Advertising includes payment of ₹ 2,00,000 made to a political party for insertion of advertisement in party's journal. The payment has been made by bearer cheque,
- (ii) Travelling expenses include a visit of the director to UK for 10 days (including 2 days for travelling). Five days were utilized for business purpose. Permission for foreign exchange was granted for ₹ 50,000. Total expenditure on the visit is ₹ 1,00,000 (including air fare of ₹ 40,000).
- (iii) Expenses on scientific research include:
- (a) Purchase of land ₹ 1,50,000
- (b) Contribution to Agricultural Research Institute, New Delhi which is a National Laboratory ₹ 20,000.
- (c) Contribution to Bhaba Atomic Research Centre (an approved research association) for statistical research, which is not related to business ₹ 30,000.
- (iv) Refund of custom duty, deducted in the previous year, 2008-2009, amounting to ₹ 50,000, has not been credited to the profit and loss account.
- (v) Sundry expenses include a contribution of ₹ 60,000 to Kolkata Municipal Corporation for undertaking a Drinking Water Project for slum-dwellers. The Project has been approved by National Committee but KMC has not issued any certificate indicating the progress of the project.
- (vi) A deposit of ₹ 12,00,000 was made in instalments with National Bank for Agriculture and Rural Development (a) ₹ 4,00,000 in September 2010, (b) ₹ 6,00,000 in July 2011 and (c) ₹ 2,00,000 in December 2011. It has not been included in the profit and loss account. Date of submitting return of income 30/09/2011.
- (vii) (a) W.D.V. of machinery on 01-04-2010 (Rate of depreciation 15%) ₹15,00,000



(b) Machinery purchased in December 2010 for scientific research	₹ 5,00,000
(c) Purchase of five small drier machine, each costing ₹10,000	
(d) Sale price of an old machinery (Rate of depreciation 15%)	₹ 6,00,000
(viii) Lump sum payment of ₹ 5,00,000 was made to acquire a licence regarding technical information to improve tea-flavour. It has not been charged to P/L a/c.	

Compute the taxable business profits for the assessment year 2011-2012.

Solution :

Computation of Business Profits for the Assessment Year 2011-2012

Particulars	₹	₹
Net profit as per Profit & Loss Account		30,00,000
Add: Inadmissible Expenses:		
1. Advertisement payment to a political party [Sec. 37(2B)]	2,00,000	
2. Travelling outside India [Sec. 37(1)]. Proportionate expenses of foreign travel, (excluding air fare) not relating to business : (60,000 x 3/8)	22,500	
3. Fine and penalties	50,000	
4. Cost of patent rights	6,00,000	
5. Expenditure on scientific research (Sec. 35): Purchase of land	1,50,000	
6. Contribution to Bombay Municipal Committee (Sec. 35 AC): Since the Certificate indicating progress in the prescribed form has not been issued, no deduction is allowed.	<u>60,000</u>	<u>10,82,500</u> 40,82,500
Add: Deemed profit: Refund of Customs Duty, deducted in earlier years, not credited in the profit and loss a/c [Sec.41(1)]		50,000
Less: Admissible expenses:		
Capital expenditure on scientific research [Sec.35(1)(iv)(2)]	4,00,000	
Depreciation on Patent rights @ 25% of ₹ 6,00,000	1,50,000	
Depreciation on know-how: @ 25% of ₹ 5,00,000	1,25,000	
Depreciation on Machinery:		
WDV as on 01/04/2010:	15,00,000	
Add: Purchase of driers	<u>50,000</u>	
	15,50,000	
Less: Sale of Old Machinery	<u>5,00,000</u>	
WDV as on 31/3/2011	<u>10,50,000</u>	
Depreciation @ 15% on ₹ 10,50,000		
Weighted Deduction for scientific research:	1,57,500	
(i) National Laboratory: @ 125% of ₹ 20,000= ₹ 25,000 – ₹ 20,000 = ₹ 5,000		
(ii) Bhaba Atomic Research Laboratory: @ 125% of ₹ 30,000 =		



₹ 37,500 – ₹ 30,000 = ₹ 7,500		
Therefore, total deduction ₹(5,000 + 7,500)	<u>12,500</u>	<u>8,45,000</u>
Composite Profits before making deduction u/s 33AB		32,87,500
Less: <u>Deduction u/s 33AB, for Deposit with NABARD</u>		
Least of the followings:		
(i) Deposit of ₹ 10,00,000 (within the due date of submission of return)		
(ii) 40% of Business Profits: 40% of ₹ 32,87,500 = ₹ 13,15,000		<u>10,00,000</u>
Composite Profits after deduction u/s 33AB		<u>22,87,500</u>
Apportionment of profits into agricultural income and business income (As per Rule 8)[since the assessee is engaged in the business of growing and manufacturing tea: 40% of ₹ 22,87,500 =		
		9,15,000

Question No. 12

(a) What would be your advice regarding admissibility of the following items of expenditure in computing the business income:

- (i) A donation of ₹ 1 lakh made to a University for starting a laboratory for scientific research (i) relating to the assessee's business, (ii) not relating to the assessee's business.
- (ii) Travelling expenses include a sum of ₹ 15,000 incurred by a director in travelling abroad for negotiating purchase of plant and purchase of plant and machinery.
- (iii) Amount payable as damages to Government on account of shortfall in export target.
- (iv) Overdraft from bank for payment of income tax: interest charged by the bank is ₹ 20,000.
- (v) Payment of interest of ₹ 40,000 on monies borrowed from bank for payment of dividends to shareholders.
- (vi) ₹ 12,000 paid for shifting of business from the original site to the present place which is more advantageously located.
- (vii) Retrenchment compensation of ₹ 4 lakh paid to the workmen on the closure of one of the units.
- (viii) Fees paid to the Registrar of Companies for bringing about a change in the Memorandum and Articles of Association in regard to issue of Equity.

Answers:

- (i) The donation has been made to University to be used for scientific research for starting a laboratory. If the University is approved for the purpose of Sec. 35(1)(ii), then irrespective of the consideration whether the scientific research is related to assessee's business or not, deduction could be claimed @ 125% of amount paid. If it is not approved, donation could not be claimed as a deduction under Sec. 35 in the computation of business income. However, the assessee could claim deduction from Gross Total Income under Sec. 80G, if the same is eligible.
- (ii) Travelling expenses incurred by the director for negotiating the purchase of plant and machinery is a capital expenditure and hence to be disallowed.
- (iii) The payment is not for any infraction of law but for failure to reach a target undertaken by the company being payment made wholly in the course of business, it is deductible.
- (iv) Interest on overdraft taken to pay income tax is not allowable under Sec. 36(1)(iii).
- (v) Interest on borrowings utilised for payment of dividend is allowable under Sec. 36(1)(iii).
- (vi) Shifting expenses of business premises resulting in an expenditure of enduring benefit is a capital expenditure and is not allowable.



- (vii) Retrenchment compensation payable to workmen on the total closure of a business cannot be allowed as deduction as the expenses are not incurred for the purpose of carrying on of its business. When, however, the tax-payer closes one of its units and continues to carry on the same business as before, the compensation will be admissible under Sec. 37(1).
- (viii) Fee paid to Registrar of Companies for bringing about change in memorandum and articles of association is a capital expenditure, where it relates to issue of equity shares. Where alterations are warranted by the changes made in the Companies Act, the expenses are allowable.

(b) A company engaged in the manufacturing of fertilizer products, commenced its business on 01.04.2010. During the financial years 2007-2008 to 2009-2010 it had incurred ₹ 4.00 lakh annually as expenditure on salaries and purchase of raw material for the purpose of research connected with its business. During the previous year 2010-2011 incurred on scientific research, revenue expenditure of ₹ 3.00 lakh and a capital expenditure of ₹ 4.50 lakh on purchase of plant and machinery. Since the result of the research was unsuccessful, the company sold its plant and machinery on 31.12.2010 for ₹ 8.00 lakh and closed its research activity. Compute the admissible deduction under Sec. 35 for the assessment year 2011-2012.

Solution :

Computation of deduction u/s 35 for Expenditure on scientific research

Particulars	₹	₹
Expenditure incurred during the earlier 3 years on salaries and purchase of raw material for the purpose of research connected with the business — fully allowed in the year of commencement of business by virtue of Explanation to Sec. 35(1)(i) : [₹ 4,00,000 × 3]		12,00,000
Revenue expenditure on scientific research incurred during the previous year 2010-11	3,00,000	
Capital expenditure on scientific research incurred during the previous year 2010-11	4,50,000	
	<u>7,50,000</u>	
Total Weighted deduction @ 150% on ₹ 7.50 lakh u/s 35(2AB)		<u>11,25,000</u>
Admissible deduction u/s 35 for the AY 2011-2012		<u>23,25,000</u>

(c) A company engaged in pharmaceuticals manufacturing, debited to its profit and loss account a sum of ₹ 50,000, being the interest on loan of ₹ 5,00,000 taken for financing its expansion scheme. The plant and machinery purchased for the project with the loan were not received during the year and those were still in transit at the end of the year. A sum of ₹ 4,000 was paid to a broker who arranged the loan. Discuss the admissibility of the interest.

Answer : Interest paid in respect of capital borrowed for the purposes of business or profession is admissible u/s 36(1)(iii). As per the Proviso to Sec. 36(1)(iii) inserted by the Finance Act, 2005, from assessment year 2006-2007, interest paid in respect of capital borrowed for acquiring an asset for extension of existing business or profession (whether capitalised in the books of account or not) for any period beginning from the date on which the capital is borrowed for acquisition of the asset till the date on which such asset is first put to use cannot be allowed as deduction. In this case, the asset has not been put to use till the end of the previous year. Therefore, interest of ₹ 50,000 is not be allowed as deduction. However, the cost of the asset is to be increased by the amount of interest and depreciation is admissible on enhanced cost [Proviso to Sec. 36(1)(iii)]. The deduction brokerage of ₹ 4,000 paid to a broker for arranging the loan there is a bit controversial.

One view is that definition of the term "interest" u/s 2(28A) includes service fee or other charges in respect of monies borrowed, "brokerage" can be considered to fall under the scope of the term "other charges" and is therefore included under the definition of interest. Hence, brokerage of ₹ 4,000 for arranging the loan should be treated in the same way as interest. As per the other view, where brokerage or commission paid to an agent for arranging a loan for the purpose of business is not allowable as deduction u/s 36(1)(iii), but is allowable under Sec. 37(1). As per this view, ₹ 4,000 paid to a broker for arranging a loan is allowable as a deduction under Sec. 37(1).



Question No.13

(a) X Ltd., carrying on business in manufacture and sale of textiles, showed a net profit of ₹ 10,50,000 in its Profit and Loss Account for the period ending March 31, 2011. On the basis of the following particulars noted from the company's accounts and ascertained on enquiry, compute, giving reasons, the total income of the company for the assessment year 2011-12. The company maintains books of account on the basis of mercantile system.

- The general reserve account shows a credit of ₹ 2,75,000 under the head "Surplus on devaluation". The enquiries show that the company had exported textile to U.S.A. during the year 1995-96. The sale proceeds were placed in a separate bank account in U.S.A. which were utilized for import of cotton from time to time. After obtaining permission from the Reserve Bank of India, in January 2011 the company remitted to India a sum of ₹ 2 lakh, being the balance standing to its credit in the said bank account which included the above surplus realized on account of devaluation of the rupee in June 1996. The company claims that the said surplus is not taxable, firstly, on the ground that the said surplus did not relate to the previous year and secondly, the said surplus is not a trading receipt.
- The company had imported automatic looms under a special permission granted by the Textile Commissioner under the Cotton Textile (Control) Order, 1948. One of the conditions laid down while granting the permission was that the company should execute a bond in favour of President of India agreeing to export an agreed quantity of cloth and in default pay a sum calculated at the rate of 10 paise per metre to cover the shortfall. The company fell short of the target during the previous year as a result of which it was required to pay a sum of ₹ 40,000 towards the shortfall. The company has debited the said amount to "General expenses account".
- The company has set up a laboratory for conducting research in textile technology. It has incurred a capital expenditure of ₹ 1,00,000 for the said purpose. The amount is shown in the balance sheet as "Laboratory equipment account" but is claimed as deduction in the return of income for the assessment year 2011-12.
- The interest account includes payments amounting to ₹ 50,000 on deposits made by non-resident buyers of textile manufactured by the company. The said payments were made outside India without deduction of tax.
- The legal charge includes a sum of ₹ 60,000 paid to solicitors for framing a scheme of amalgamation of all other textile mill with the assessee-company. The scheme is approved by the Central Government in public interest.
- Travelling expenses include a sum of ₹ 1,25,000 being expenditure incurred by the directors of the company in connection with their tour to USA and UK for the purchase of new machinery for setting up a new plant for manufacture of caustic soda.
- ₹ 1,00,000 (debited to profit and loss account) is paid to an approved Notional Laboratory with a specific direction that it shall be used for an approved scientific research programme.

Solution :

	₹
Net profit as per Profit and Loss Account	10,50,000
Adjustments :	
Surplus arose on conversion of foreign currency into Indian currency (since foreign currency was kept for purchasing stock-in-trade, it will be revenue receipt)	(+ 2,75,000)
Payment of ₹ 40,000 towards the shortfall in export (allowable as deduction since the payment is not penalty)	—
Capital expenditure on scientific research	(–) 1,00,000
Interest to non-residents [not deductible under section 40(a) since payment was made without deducting tax at source]	(+ 50,000)
Legal charges for framing amalgamation scheme [deductible u/s 35DD in five years]	(+ 48,000)
Travelling expenses of directors [section 37(1) does not permit a deduction of capital expenditure]	(+ 1,25,000)
Weighted deduction under section 35(2AA) in respect of ₹ 1,00,000	



paid to a National Laboratory [amount deductible is 125% of ₹ 1,00,000,		(-) 25,000
(-) Amount	1,25,000	
Show in P/L A/c	<u>1,00,000</u>	
Expenses not debited earlier	<u>25,000</u>	
Net Income		<u>14,23,400</u>

(b) Bharat, owner of Great India Roadways, furnishes following details for the A.Y. 2011-12.

	₹
Revenue from customers	31,00,000
Less : Expenses	
Rent of office premises	1,80,000
Rent of godown	2,40,000
Truck Driver salary	5,00,000
Allowance to truck driver	1,20,000
Cost of petrol, diesel, etc	7,50,000
Other expenses other than depreciation	<u>2,00,000</u>
Income from business without charging depreciation	<u>11,10,000</u>

Additional Information :

Great India Roadways have following details of its assets —

Assets	Written down value as on 1.4.2010
Office Premises	₹ 2,50,000
Machinery block (30%) consists of —	₹ 20,00,000
— 2 Diesel engine trucks of 13000 kgs each	
— 2 Diesel engine trucks of 10000 kgs each	
— 1 Petrol engine truck of 12000 kgs	

During the year, he purchased 2 medium-size-truck (petrol engine) for ₹ 3,50,000 each on 13.7.2010. However, 1 petrol engine truck of 12,000 kgs was sold on 9.9.2010 for ₹ 1,00,000.

Compute his income under the head Profits & gains of business or profession.

Solution :

Computation of Profits & gains of business or profession of Shri Bharat for the A.Y. 2011-12

Particulars	Amount
Net profit as per Profit and Loss A/c	11,10,000
Less : Expenditure allowed but not debited to P & L A/c	
Depreciation u/s 32 (Note)	<u>8,05,000</u>
Profits & gains of business or profession	<u>3,05,000</u>

Note : Computation of depreciation allowed u/s 32

Particulars	Details	Amount
Block 1 : Office Premises @ 10%		
W.D.V. as on 1.4.2010	2,50,000	
Add : Purchase during the year	<u>Nil</u>	
	2,50,000	
Less : Sale during the year	<u>Nil</u>	
	<u>2,50,000</u>	
	Depreciation @ 10% on ₹ 2,50,000	25,000



Block 2 : Trucks @ 30%		
W.D.V. as on 1.4.2009	20,00,000	
Add : Purchase during the year	<u>7,00,000</u>	
	27,00,000	
Less : Sale during the year	<u>1,00,000</u>	
	<u>26,00,000</u>	
Depreciation @ 30% on ₹ 26,00,000		<u>7,80,000</u>
Depreciation allowed u/s 32		<u>8,05,000</u>

Alternative II : Computation of income u/s 44AE

No. of vehicle	Type of goods	Month including	Details	Income
				₹
	carriage	part of month		
2 Diesel engine trucks of 13000 kgs each	Heavy	12	3500×12×2	84,000
2 Diesel engine trucks of 10000 kgs each	Other vehicle	12	3150×12×2	75,600
1 Petrol engine truck of 12000 kg	Other vehicle	6	3150×6×1	18,900
2 medium size truck	Other vehicle	9	3150×9×2	56,700
Profit and gains of business or profession			2,35,200	

Income of the assessee under the head Profits & gains of business or profession shall be ₹ 2,35,200 u/s 44AE.

Question No.14

(a) Discuss the correctness or otherwise of the following propositions with reasons:

(i) Where a person draws from his own stock-in-trade for personal use, there can be no taxable profit.

(ii) Even an outlay for acquiring an enduring advantage for business may be deductible as revenue expenditure.

Answer:

(i) The Supreme Court in *CIT v. Kikabhai Premchand* (1953) 24 ITR 506 held that when a person draws from his own stock-in-trade for personal use, there can be no taxable profit as in this case the vendor and the vendee are not different. To constitute a sale these should be one buyer and seller. The buyer and seller has to be different entity to constitute a proper sale.

(ii) Normally, an amount spent for acquiring an enduring advantage for business is of capital nature but there can be certain cases when the amount spent on acquiring an enduring advantage may be treated as revenue expenditure. The Supreme Court in *CIT v. Empire Jute Co. Ltd.* (1980) 124 ITR 1 held that when a jute mill as a result of an arrangement with other Jute mil had undertaken to work only for specified hours during a week but exceeded the same and paid for such excess period to other members of the pooling arrangement, such payment is known as purchasing loom hours. Though looms are capital assets, the payment was for their operations. By the purchase of loom hours no new asset was created and there was no addition to or expansion of the profit-making apparatus of the company. Hence, such payment is of revenue nature.

(b) A Public Limited Company engaged in the generation and distribution of power had its business acquired by the Government in June 2008. Certain items of plant and machinery used by the Company in its business were taken over by the Government at a price which resulted in the Company realizing a surplus of ₹ 26,60,000 over its written down value. The compensation was received by the Company in April 2009 which was accepted by it under protest. The Company proceeded to initiate arbitration proceedings under law and was granted an additional compensation of ₹ 16 Lakhs. This was decided by the arbitrators in December 2008 and received by the Company in March 2010.



The Company claims that the assessment of the Company to tax should not be made since the business was completely taken over by the Government in June 2008 and at the time of final determination of compensation in March 2010, the Company did not exist.

Do you agree to the Company's claim? Discuss with reference to the Assessment Year(s) to which the claim to tax, if any, can be related.

Answer:

1. In case of acquisition of property under any law, the balancing charge u/s 41(2) is taxable as income of the previous year in which it becomes due and not in the year in which it was settled. [United Provinces Electric Supply Co. 110 Taxman 134 (SC)]
2. As per Explanation to Section 41(2), even when the business is not in existence, such balancing charge shall be taxable in its hands as if it is in existence in the relevant previous year.
3. **Conclusion :**
 - (a) Surplus of ₹ 26,60,000 — taxable in AY 2009-10 as Balancing Charge under the Business Income.
 - (b) Additional Compensation of ₹16,00,000 determined in December 2009 taxable as Balancing Charge in AY 2010-2011 under Business Income.

(c) Mr. Tony has estates in Rubber, Tea and Coffee. He derives income from them. He has also a nursery wherein he grows plants and sells. For the previous year ending 31.3.2010, he furnishes the following particulars of his sources of income from estates and sale of Plants. You are requested to compute the taxable income for the Assessment year 2010-2011.

(i) Manufacture of Rubber	₹ 5,00,000
(ii) Manufacture of Coffee grown and cured	₹ 3,50,000
(i) Manufacture of Tea	₹ 7,00,000
(iv) Sale of Plants from Nursery	₹ 1,00,000

Assessee : Mr. Tony

Previous Year : 2010-11

Assessment Yea : 2011-2012

From the words 'Mr. Tony has estates', it is presumed that he had grown Tea, Coffee and Rubber, and also Plants in his Estates, and the amount given is the Profits of the Business.

Computation of Taxable Income is as under —

Particulars	Agricultural Income	Non-Agricultural Income
Growing and Manufacture of Rubber [Rule 7A]	$5,00,000 \times 65\% = ₹ 3,25,000$	$5,00,000 \times 35\% = ₹ 1,75,000$
Grown and Cured Coffee[Rule 7B]	$3,50,000 \times 75\% = ₹ 2,62,500$	$3,50,000 \times 25\% = ₹ 87,500$
Growing and Manufactured of Tea [Rule 8]	$7,00,000 \times 60\% = ₹ 4,20,000$	$7,00,000 \times 40\% = ₹ 2,80,000$
Growing & Sale of Plant by Nursery [See Note]	₹ 1,00,000	—
Total	₹ 11,07,500	₹ 5,42,500
Taxable Income	Exempt u/s 10(1)	₹ 5,42,500

(d) Romit acquired a plot of land on 1.6.75 for ₹4,00,000/-. He converts the plot into stock in trade of his real estate dealing business on 18.2.2007 when the fair market value of the plot was ₹ 35,00,000. The stock-in-trade is sold by him on 18.5.2010 for ₹ 40,00,000/- (FMV as on 1.4.81 was ₹ 6,00,000 and FMV as on 1.4.76 ₹4,50,00).

**Solution:**

The conversion of capital asset into stock-in-trade is treated as a transfer as per sec. 2(47). Capital asset was converted into stock-in-trade on 18.2.2007 i.e. previous year 2006-07.

Computation of Capital Gains

	₹
Consideration for Transfer (FMV)	35,00,000
Less : Indexed Cost of Acquisition	<u>31,14,000</u>
Long term Capital Gains	<u>3,86,000</u>

Computation of Business Income

Sale Proceeds of HP	40,00,000
Less : FMV on the date of conversion	<u>35,00,000</u>
	<u>5,00,000</u>

Question No.15

(a) Mr. B acquired a house property for ₹ 50,000 in 1969-70. On his death in October 1985 the house was acquired by his son C. The market value of the house as on 1/4/81 was ₹ 3,00,000. This house was acquired by the Government on 15.3.2008 and a compensation of ₹ 16 lacs is paid to him on 25.3.2010. C filed a suit against the Government challenging the quantum of compensation and the court ordered for giving additional compensation of ₹ 14,00,000. He incurred an expenditure of ₹ 40,000 as an expenditure in connection with the suit. The additional compensation was received on 25.3.2011. Compute capital gains chargeable to tax.

Solution :

Capital Gain on initial compensation shall be chargeable in the A.Y. 2010-11, i.e. for the previous year 2010-11.

Computation of Long Term Capital Gains for the A.Y. 2010-11

	₹
Consideration for transfer (being the compensation)	16,00,000
Less : Indexed Cost of Acquisition	<u>14,25,564</u>
Long Term Capital Gains	<u>1,74,436</u>

Computation of Long Term Capital Gains for the A.Y. 2011-12

	₹
Enhanced Compensation received	14,00,000
Less : Cost of Acquisition	NIL
Cost of Improvement	NIL
Expenses on Transfer	<u>(40,000)</u>
Long Term Capital Gains	<u>13,60,000</u>



(b) A holds 15,000 shares (10% of total share holding) in B Ltd. which he had purchased on 10.2.96 for ₹ 6,00,000. The company went into liquidation on 16.7.2010 and paid a sum of ₹ 20 per share in cash and an asset whose market value as on the date of distribution i.e. 5.10.10 was ₹ 18,20,000 to A. the accumulated profits of the company were ₹ 15 lacs.

(i) Compute the income of A for the A.Y. 2011-12 assuming that he has no other income.

(ii) Compute the capital gain chargeable to tax if the asset of B Ltd. is sold by A for ₹ 15 lacs on 28.3.11.

Solution :

Computation of Capital Gains of Mr. B for the A.Y. 2011-12

	₹
(a) (i) Capital Gain on transfer of shares	
Total consideration (15,000×20+18,20,000)	21,20,000
Less : Proportionate amount of deemed dividend (10% of ₹ 12,86,353)	1,28,635
Less : Indexed Cost of Acquisition	15,18,149
Long Term Capital Gains	4,73,216
(ii) Income from others Sources	
Dividend from Indian Company	<u>Exempted</u>
	<u>4,73,216</u>
(b) Capital Gain on transfer of asset (B Ltd.)	
Full Value of Consideration	15,00,000
Less : Cost of Acquisition (being the market value as on the date of distributions)	13,20,000
Short Term Capital Gains	1,80,000
Accumulated Profits	15,00,000

Dividend tax @ 16.60875% (= 15% + 7.5% + 2% Education cess + 1% SHEC)

Hence, the amount to be distributed plus tax @ 16.60875% on such amount should be ₹ 15,00,000

Therefore, amount of tax = ₹ 2,13,6470

Profits available for distribution = ₹ (15,00,000 – 2,13,647) = ₹ 12,86,353.

(c) Ravi owns a residential house which was purchased by him in 1975 for ₹ 80,000. The FMV as on 1.4.81 was ₹ 2,00,000. This house is sold by him on 16.7.2010 for a consideration of ₹ 15,00,000. The brokerage and expenses on transfer was ₹ 15,000. Compute capital gains for the assessment year 2011-12. If he invests ₹ 5,00,000 for purchase of a new house on 15.3.2011. If the HP so purchased in 15.3.2011 is again sold in 21.10.11 for ₹ 9 lacs, what will be the tax liability?

Solution :

Computation of Capital Gains for the A.Y. 2011-12

	₹
Consideration for transfer	15,00,000
Less : Expenses on transfer	<u>15,000</u>
Net Consideration	14,85,000



Less : Indexed Cost of Acquisition	<u>14,22,000</u>
Long term Capital Gains	63,000
Less : Exemption u/s 54	
Cost of New HP Purchased ₹ 5,00,000	
(exemption restricted upto the balance of LTCG)	<u>63,000</u>
Taxable Long term Capital Gains	<u>NIL</u>

If the HP purchased in 15.3.2011 is again sold on 21.10.11 for ₹ 9 lacs, there shall be a rise in short term capital gains. The cost of acquisition shall be adjusted to the extent of long term capital gains exemption already availed.

Computation of Capital Gains for the A.Y. 2012-13

	₹
Consideration for transfer	9,00,000
Less : Cost of Acquisition	
Cost of purchase	5,00,000
Less : Exemption u/s 54 availed during A.Y. 2010-11 now withdrawn	<u>63,000</u>
Short term Capital Gains	<u>4,63,000</u>

(d) Saptarshi acquired shares of G Ltd. on 15.12.99 for ₹5 lacs which were sold on 14.6.10 for ₹ 16 lacs. Expenses on transfer of shares ₹ 20,000. He invests ₹ 8 lacs in the bonds of Rural Electrification. Corporation Ltd. on 16.10.2010.

- (i) Compute capital gain for the assessment year 2011-12.
- (ii) State the period for which the bonds should be held by the assessee. What will be the consequences if such bonds are sold within the specified period?
- (iii) What will be the consequences if Saptarshi takes a loan against the security of such bonds.

Solution :

Computation of Capital Gains for the A.Y. 2011-12

	₹
Consideration for transfer	16,00,000
Less : Expenses on Transfer	20,000
Net Consideration	15,80,000
Less : Indexed Cost of Acquisition	9,13,882
Long-term Capital Gains	6,66,118
Less : Exemption u/s 54EC	6,00,000
Taxable long-term Capital Gain	66,118

- (ii) Saptarshi should not transfer or convert (otherwise than transfer) into money such bonds within 3 years from the date of their acquisition.



If these bonds are transferred or converted into money within 3 years, capital gain of ₹ 6,00,000 exempted earlier shall attract taxability towards long-term capital gain of the previous year in which such asset is transferred or converted into money.

(iii) If any loan is taken against security of such bonds, it shall be taxable as long-term capital gains of the previous year in which such loan is taken against the security of such bonds.

(e) The house property of A is compulsorily acquired by the government for ₹ 10,00,000 *vide* Notification issued on 12.3.2005. A had purchased the house in 1986-87 for ₹ 2,00,000. The compensation is received on 15.4.2009. The compensation is further enhanced by an order of the court on 15.5.2010 and a sum of ₹ 2,00,000 is received as enhanced compensation on 21.10.2010. A wants to claim full exemption of the capital gains Advise A in this respect. Compute the capital gain and determine the year in which it is taxable. Also specify the period upto which the investment in the new house should be made by the assessee.

Solution :

Although the house property is compulsorily acquired on 12.3.2005, the capital gain will arise in the previous year in which full or part of the compensation is first received *i.e.* previous year 2009-10. However, indexation will be done till the year of compulsory acquisition. Therefore, capital gains will be calculated as under :

Assessment year 2010-11	₹
Full value of consideration	10,00,000
Less : Indexed cost of acquisition — ₹	6,85,714
Long-term capital gain	3,14,286

The assessee should either invest at least ₹ 3,14,286 for the purchase/construction of a residential house property on or before 31.7.2010 (relevant due date) and /or deposit the amount under the capital gain scheme on or before 31.7.2010, to be utilised for purchase of house property by 14.4.2011 and /or construction of the house property by 14.4.2012.

Computation of Capital Gain for the A.Y. 2011-12

	₹
Enhanced compensation Received	2,00,000
Less : Cost/Indexing cost of acquisition	Nil
Long-term Capital Gain	2,00,000

The assessee should either invest at least ₹ 2,00,000 for the additional construction of a residential house property already acquired for claiming under section 54 on or before 31.7.2011 (relevant due date) and/or deposit the amount under the capital gain scheme on or before 31.7.2011 may invest ₹ 2,00,000 in the bonds specified under

Question No.16

(a) V. G. had placed a deposit of ₹ 10 Lakhs in a bank on which he received interest of ₹80, 000. He had also borrowed ₹5 Lakhs from the same bank on the security of the deposit and was liable to pay ₹50,000 by way of interest to the bank. He therefore offered the difference between two amounts of ₹30,000 as income from other sources. Is this correct?



Answer :

(i) U/s 57, any expenditure (not being capital expenditure) expended to earn income chargeable under the head "Income from Other Sources" will be allowed as deduction against such income.

(ii) Interest on bank FD was the income in the hands of the assessee and the interest on the loan taken from bank on that deposit is not an allowable expenditure.

Therefore, in the given case, the interest of ₹50,000 paid by VG is not allowable as deduction, and the entire interest of ₹80,000 is fully taxable.

(b) Shrey purchased in 2003, 10,000 Shares of Hero Ltd. for ₹5 Lakhs by borrowing money from a bank. He holds them as 'Investments'. He received dividend during the previous year 2010-11. He has paid interest of ₹85,000 on the loan to the bank during the previous year. Please advise Shrey, how should he deal with these facts in computing his income?

Answer :

(i) In computation of total income under the Income Tax Act, the expenditure incurred in relation to income, which does not form part of Total Income, shall not be allowed as deduction. [Section 14A]

(ii) Dividend Income is exempt u/s 10(34) and hence does not form part of Total Income.

Therefore, the interest payment is not an allowable expenditure.

(c) Mr Goutam, out of his own funds, had taken a FDR for ₹ 1,00,000 bearing interest @ 10% p.a. payable half-yearly in the name of his wife Latika. The interest earned for the year 2010-2011 of ₹ 10,000, was invested by Mrs Latika in the business of packed spices which resulted in a net profit of ₹ 55,000 for the year ended 31st March 2011. How shall the interest on FDR and income from business be taxed for the Assessment year 2011-2012?

Answer: Where an individual transfers an asset (excluding house property), directly or indirectly to his/her spouse, otherwise than for adequate consideration, or in connection with an agreement to live apart, income from such asset is included in the total income of such individual [Sec. 64(1)(iv)].

Accordingly, interest on FDR, accruing to wife, is included in the total income of her husband. However, business profits cannot be clubbed with total income of husband. Clubbing applies only to the income from assets transferred without adequate consideration. It does not apply to the income from accretion of the transferred assets. Hence, business profit is taxable as the income of wife.

(d) Sawant is a fashion designer having lucrative business. His wife is a model. Sawant pays her a monthly salary of ₹ 20,000. The Assessing Officer while admitting that the salary is an admissible deduction, in computing the total income of Sawant had applied the provisions of Sec. 64(1) and had clubbed the income (salary) of his wife in Sawant's hands.

Discuss the correctness of the action of the Assessing Officer.

Answer: Where an individual has got substantial interest in a concern and his spouse derives any income from such concern by way of salary, commission, fees or by any other mode, such income is clubbed with the total income of such individual [Sec. 64(1)(ii)].

However, clubbing provision does not apply if the earning spouse holds technical or professional qualification and the income is solely attributable to the application of such knowledge and experience.

Salary earned by wife as model from the concern where her husband holds substantial interest is assessable as her income.


Solution : Computation of Gross Total Income for the Assessment Year 2011-2012

Particulars	₹	₹
1. Income from house property (+ 12,000 - 20,000)		(-) 8,000
2. Profits from speculation:		
(i) Profit from Silver Business	40,000	
Less: Current year loss from bullion	(-) <u>10,000</u>	
	30,000	
Less: Carried forward silver speculative loss	(-) <u>25,000</u>	
Surplus from Speculation	5,000	
(ii) Add: Business profit from X business	40,000	
(iii) Less: Business loss from Y business	(-) <u>50,000</u>	(-) 5,000
Unabsorbed business loss may be set-off against the income of any other head except 'salaries' and 'winnings from lottery, card games, crossword puzzle, betting on race horses', etc.		
3. Capital gains:		
Long-term capital gains	30,000	
Less : Short-term capital loss	(-) <u>10,000</u>	
Long-term capital gain	<u>20,000</u>	20,000
4. Income from other sources:		
(i) Income by letting out plant and machinery		1,11,000
(ii) Card game-loss of ₹ 10,000		
Neither it can be set-off nor it can be carried forward		
(iii) Profit from race horses at Kolkata	(+) <u>40,000</u>	
Less : Loss from race horses at Mumbai	(-) <u>50,000</u>	
Less : to be carried forward for next four assessment year	(-) <u>10,000</u>	
(iv) Dividend from Indian companies: Exempt under Sec. 10(34)		<u>Nil</u>
Aggregated income after setting-off current year losses from house property profit and business against income from other sources:		1,18,000
Less : Carried forward long-term capital loss, from the assessment year 2006-2007 to be set-off against long-term capital gains		<u>(18,000)</u>
Gross total income or total income as there is no deduction available from GTI		<u>1,00,000</u>

(c) M, resident in India, furnishes the following particulars of his receipts and outgoings during the previous year 2010-2011.

	₹
Receipts:	
(i) Income from salary	2,00,000
(ii) Income from house property	3,00,000



(iii) Gross winning from crossword puzzle	3,50,000
Outgoing :	
(i) Contribution to LIC annuity plan	15,000
(ii) Medical insurance premium:	
(a) For himself	4,000
(b) His wife, not dependent	3,000
(c) Mother, non-resident, 67 years, dependent	5,000
(d) Nephew, wholly dependent with disability	3,000
(e) Grandson, dependent	2,000
(iii) Expenditure on medical treatment and maintenance of the nephew referred to	30,000
(iv) Medical treatment for grandson, suffering from a disease specified under income-tax rules(v)	50,000
(v) Donation to Gujarat government for family planning	50,000
(vi) Scholarship to a poor but meritorious student	20,000
(vii) Contribution to approved scientific research association	30,000
(viii) Contribution to Delhi Municipal Corporation for sewage scheme for slum-dwellers, approved by National Committee	50,000
(ix) Donation to Political party paid during November 2010 assembly elections	
Compute his total income for the assessment year 2011-2012.	20,000
Make necessary assumptions and clarify them.	

Solution:**Computation of Total Income for AY 2011-2012**

Particulars	₹	₹
Income from salary		2,00,000
Income from house property		3,00,000
Gross winnings from crossword puzzle		<u>3,50,000</u>
Gross Total Income		8,50,000

Less: Deductions under Chapter VIA :

Contribution to LIC annuity plan [Sec. 80CCC]	10,000
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Medical insurance premium [Sec, 80D]

Self	4,000	
His wife	3,000	
Mother, 67 years old	5,000	
Nephew dependent with disability	x	
Grand son	___x	12,000

Maintenance and medical treatment of a dependent with disability [Sec. 80DD]

Expenditure for medical treatment of grandson [Sec. 80DDB]		Nil
Donations for scientific research or rural development [Sec. 80-GGA]		
(a) Donation to approved scientific research association		30,000
(b) Contribution to MCD for slum-dwellers scheme, approved by National Committee		50,000
Donations to political party [Sec. 80GGC w.e.f. 22.9.2004]		20,000
Charitable donations [Sec. 80G]		
(a) Scholarship to a poor meritorious student		xxx
(b) Gujarat government for family planning: 100% of qualifying amount		
1. Actual donation = 50,000, or		
2. 10% of specified GT1 = 37,800		
8,50,000 – (3,50,000 + 10,000 + 12,000 + 30,000 + 50,000 + 20,000)		
= ₹3,78,000		
whichever is less, is QA 37,800= 100% of 37,800		
	<u>37,800</u>	<u>1,59,800</u>
Total Income		<u>6,90,200</u>

Question No. 18

(a) SK Industries, a diversified group, discloses profit from the following sources for the previous year 2010-2011 :

	(₹ in lakhs)
(i) Profits from small-scale unit, started in 2001-2002	6.00
(ii) Profit from industrial undertaking 2002-2003, in Vidisha, a B-class industrially backward district.	10.00
(iii) Profit from multiplex theatre, started in 2006-2007	
(a) Delhi	4.00
(b) Allahabad	2.00
(iv) Profits from convention centre, started in 2007-2009	
(a) Delhi	5.00
(b) Allahabad	3.00
(v) Profits from Hill View, a hotel started in 2002-2003 at Manali in Himachal Pradesh. Hotel is approved by prescribed authority	10.00



- (vi) Profits from undertakings engaged in refining of mineral oil since 1 January 2004 in Uttar Pradesh, not listed in backward state in Eighth Schedule. 10.00
- Compute the total income for the assessment year 2011-2012.

Computation of Total Income

Particulars	(₹ lakhs)	(₹ lakhs)
(i) Profits from SSI		6.00
(ii) Profits from undertaking located in industrially backward B-class district		10.00
(iii) Profits from multiplex theatre: (4 + 2) =		6.00
(iv) Profits from convention centre : (5+3) =		3.00
(v) Profits from Hill View Hotel		10.00
(vi) Profits from refining undertaking		10.00
Gross Total Income		50.00
Less: Deduction in respect of profits and gains from certain industrial undertaking, other than infrastructure undertakings (Sec. 80-IB) :		
1. Profits from SSI [Sec. 80-IB (3)] : 25% of ₹ 6 Lakh :	1.50	
2. Profits from undertaking in B-class industrially backward district [Sec. 80-IB (4)] 25% of ₹ 10 lakh	2.50	
3. Profits from multiplex theatre [Sec. 80-IB(7A) 50% of Rs.2 lakhs (No deduction for Delhi)	1.00	
4. Profits from convention centre [Sec. 80-IB(7B)] 50% of Rs.8 lakhs	4.00	
5. Profits from Hill View Hotel [Sec. 80-IB(7)] Allowed only for Indian company	Nil	
6. Profits from refining undertaking [Sec. 80-IB(9)]-100% of profits for 7 assessment years	<u>10.00</u>	<u>19.00</u>
Total Income		<u>31.00</u>

(b) Evergreen Construction (P) Ltd. has earned profits during the PY 2010-2011 from construction and sale of flats under three housing projects, developed at Rajarhat, Kolkata, details of which are given below:

	(₹ in lakhs)
(i) Profits from construction and sale of flats, built up on a plot of 1.5 acres, built up area of the flat 1400 sq feet, located 30 km from Kolkata.	80.00
(ii) Profits from construction and sale of flats, built up on a plot of 1 acre, built up area 1050 sq feet, located within 25 km from Delhi.	60.00
(iii) Profits from construction and sale of flats, built on a plot of 0.90 acre, built up area 1000 sq feet, located 35 km from Kolkata.	40.00

The housing projects have been approved by the Kolkata Industrial Development Authority in the year 1 April 2006. Compute its total income for the previous year 2010-2011 relevant for the AY 2011-2012. Would your answer be different in the following cases:

- The housing projects were not approved.
- The housing project is carried out in accordance with a scheme approved by West Bengal Government for redevelopment of buildings in slum areas.
- The company was engaged only in the sale of flats and not developing and building the housing project.



Computation of Total Income for the AY 2011-2012

Particulars	(₹ in lakh)	(₹ in lakh)
Profits from Project (i)		80.00
Profits from Project (ii)		60.00
Profits from Project (iii)		<u>40.00</u>
Less :		180.00
Deductions from profits and gains from certain industrial undertaking other than infrastructure undertaking (Sec. 80-IB):		
(i) Profits from Housing Project (a) are fully deductible as the size of flat not exceeding the prescribed area 1,500 sq.ft.	80.00	
(ii) Profits from Housing Project (b) not deductible as the area of the flat exceeds the prescribed area of 1000 sq.feet	x	
(iii) Profits from Housing Project (c) not deductible as the size of the Housing plot is less than 1 acre.	x	<u>(-) 80.00</u>
Total Income		<u>100.00</u>

(c) Mekon Ltd., an Indian company, as on 1 April 2010, has 95 regular workers on the pay roll. During the previous year, it earns profits of ₹ 90 lakh before allowing any deduction for wages for new employments during the previous year 2010-11. Compute its total income for the previous year 2010-2011 taking into account the following employment schedules of workers:

Date of employment	Number of workers	Status of workers	Rate of wages
1-5-2010	90	Casual	3,500 p.m.
1-6-2010	25	Employed through contract labour	4,000 p.m.
1-6-2010	10	Regular	5,000 p.m.
1-7-2010	15	Regular	6,000 p.m.

Computation of Total Income for the AY 2011-2012

Particulars	₹	₹
Profits before allowing deduction for wages		90,00,000
Less: Wages paid to workers [Sec. 37(1)] :		
(i) 90 × ₹ 3,500 × 11	34,65,000	
(ii) 25 × ₹ 4,000 × 10	10,00,000	
(iii) 10 × ₹ 5,000 × 10	5,00,000	
(iii) 10 × ₹ 5,000 × 9	<u>4,50,000</u>	<u>(-) 54,15,000</u>
Business Profits and Gross Total Income		35,85,000
Less: Deduction in respect of employment of new workmen [Sec. 80 JJAA] 30% (₹ 5,000 × 5 × 10) – <i>Refer Note.</i>		<u>(-) 75,000</u>
Total Income		<u>37,10,000</u>

Note:

- (i) The company had already 95 workers on the pay roll as on 1st April, 2010.
- (ii) Deduction u/s 80JJAA is available @ 30% on additional wages paid to the new regular workmen employed by the assessee during the previous year
- (iii) Regular Workmen does not include :



- (a) A casual workman; or
 (b) A workman employed through contract labour; or
 (c) Any other workman employed for a period of less than three hundred days during the previous year.

(iv) Hence, for the purpose of computing deduction only 5 workmen is considered, out of those regular workman employed during 1-6-2010. On this date, the total number of regular workman crosses more than one hundred. i.e. it becomes $(95 + 10) = 105$. Hence, for the excess of 100 workman, the deduction is computed.

(v) Regular workman employed on 1-7-2010 could not be considered for deduction as the total number of working days during the previous year is less than 300 days.

Question No.19

(a) Mr. J is suffering with 60% locomotor disability which is certified by medical authority. He is employed as Technical Supervisor with Air Tel at a salary of ₹ 20,000 p.m.

Particulars	₹
(i) Income from government securities	20,000
(ii) Long-term capital loss	(-) 40,000
(iii) Short-term capital gain (Sec. 111A)	1,00,000
(iv) Insurance commission (gross)	1,00,000
(v) Interest on Saving Fund a/c from bank	10,000
He has incurred the following expenses:	
(i) Medical insurance paid by cheque for his father, resident in India and 70 years	18,000
(ii) Deposit with LIC for maintenance of father, mainly dependant on him for support and maintenance and suffering from low-vision with a severe disability of 80%, as per certificate of the medical authority	
(iii) Rent paid for the year 2010-2011 for accommodation hired by him.	40,000

Compute his total income for the assessment year 2011-2012.

Solution:

Computation of Total Income for the Assessment Year 2011-2012

Particulars	₹	₹
1. Income from salaries		2,40,000
2. Income from capital gains :		
(a) Short-term capital gains (Sec. 111A)		
(b) Long-term capital loss to be carried forward		1,00,000
3. Income from others sources :		Nil
(a) Interest government securities	20,000	
(b) Interest on savings fund a/c with Bank	10,000	
(c) Insurance commission	1,00,000	1,30,000
Gross Total income	4,70,000	
Less : Deductions under Chapter VIA:		
Medical insurance (Sec. 80D)	18,000	
Deduction in respect of maintenance including medical treatment of a department, a person with severe disability (Sec. 80DD)	1,00,000	
Deduction in case of a person with disability (Sec. 80U) :	50,000	
Deduction u/s 80GG :(Least of the followings)		



(a) (i) Rent paid less 10% of Adjusted Gross Total Income 40,000-23,300 = 16,700,		
(b) (ii) 25% of 2,33,000 Adjusted Gross Total Income=58,250,		
(iii) 2,000 p.m. × 12 = 24,000	<u>16,700</u>	<u>1,84,700</u>
Whichever is less, is or be deducted		
Total income		<u>2,85,300</u>

(b) Mr. Krishna is a lawyer of Allahabad High Court. He keeps his accounts on cash basis. His Receipts and Payments A/c for the year ended 31-03-2011 is given below :

	₹		₹
Balance b/d	3,820	Purchase of Infrastructure Bonds	20,000
Legal fees	3,45,000	Subscription and membership	4,500
Special commission fees	5,500	Purchase of legal books	17,500
Salary from Law College		Rent	47,500
as part time lecture	87,000	Municipal Tax paid on H. P.	3,000
Exam. Remuneration	1,480	Car expenses	44,000
Interest on Bank Deposit	3,500	Office expenses	8,500
Sale proceeds of residential		Electricity Exps.	4,000
property	3,01,000	Income tax	8,000
Dividend from Co-operative		Gift to daughter	12,000
society	1,000	Domestic expenses	85,000
Dividend received from		Donation to Institutions	
the units of UTI	2,000	approved u/s 80G	2,000
Rent from house property	15,000	Car purchased	3,27,000
		Life Insurance premium	16,000
		Balance c/d	1,26,3000
	7,65,300		7,65,300

Following information are available:

1. The Rent and electric expenses are related to a house, of which half portion in used for self residence and remaining half portion in used for office.
2. Car is used only for professional purposes.
3. Outstanding legal fees ₹ 10,000.
4. Rent has been paid for 10 months only.



5. Car was purchase on 25-09-2010. Law books purchased are annual publications out of which books of ₹ 2,000 were purchasd on 6-4-2010 and balance on 31-10-2010.

6. The house was purchased in April 1987 for ₹ 50,000 and sold on 1-7-2010.

7. Rent of the property which has been sold was ₹ 5,000 p.m. The property was vacated by the tenant on 30-6-2010.

Compute his Total Income for the assessment year 2011-12.

Solution :

Computation of Total Income of Mr. Sen for the Assessment Year 2011-12

	₹	₹
1. Income from salary		
Salary as a part time lecturer	87,000	
Less: Deduction	<u>Nil</u>	87,000
2. Income from House Property		
Annual Rent	60,000	
Less: Vacancy Allowance	<u>45,000</u>	
Gross Annual Value (GAV)	15,000	
Less: M/ Tax paid	<u>3,000</u>	
Net Annual Value (NAV)	12,000	
Less: Standard deduction @ 30% of NAV	<u>3,600</u>	8,400
3. Income from Profession		
Professional Earnings:		
(i) Legal fees	3,45,000	
(ii) Special commission	<u>5,500</u>	
	3,50,000	
Less: Allowable expenses		
(i) Subscription etc.	4,500	
(ii) 1/2 Rent (Office)	23,750	
(iii) Car expenses	44,000	
(iv) 1/2 electric charges	7,000	
(v) Office expenses	18,500	
(vi) Depreciation on car @ 15% on 3,27,000	49,050	



(vii) Depreciation on books				
[@ 100% on Annual Publication of ₹ 2,000 = 2,000				
@ 50% on Others of 15,500	= 7,750	9,750	(1,56,550)	1,93,450

4. Capital Gains :

Sale consideration		3,01,000		
Less: Indexed cost of acquisition (50,000 × 711/150)		<u>2,37,000</u>		70,000

5. Income from Other Sources :

Interest on bank deposit		3,500		
Examiner's fees		1,480		
Dividend from Co-operative Society		1,000		
Dividend from UTI		<u>Exempt</u>		<u>5,980</u>

Gross Total Income **3,64,830**

Less: Deductions

(i) 80C - LIP		16,000		
(ii) 80G - Donation @ 50% of ₹ 2,000		6,000		
(iii) 80CCF - Purchase of Infrastructure Bonds		<u>20,000</u>		<u>42,000</u>

Total Income **3,22,830**

Notes :

- As the assessee follows the cash system of accounting, amount actually received and payment actually made on account of expenditure, during the year, shall be considered for computing the income. Therefore, any outstanding receipts will not be included in the Total Income. Similarly rent not paid for two months will not be allowed as deduction.
- The system of accounting does not effect the computation of income from salary, house property and capital gains. Therefore, in this case, rent for three months, though not received (as it has not been shown in the Receipt and Payment Account) shall be taken into account in computing the income under the head house property.
- Car was purchased and put to use for more than 180 days. Therefore, full depreciation @15% has been claimed.
- Law books worth ₹ 2,000 were purchased and put to use for more than 180 days and are. therefore, eligible for depreciation @100%. The balance books worth ₹ 15,500 were purchased on 31-10-2010; therefore, 50% of the normal depreciation will be allowed as the books were purchased and put to use for less than 180 days. The total depreciation shall, therefore, be ₹ 2,000 + 50% of ₹15,500 = ₹ 9,750.



Question No.20

(a) M, an individual, retired from the services of a Company on 31.10.2010. He joined another employer on 1.11.2010 and was in service till end of March 2011, when he furnishes the following details and information :

1. Salary and Allowances for the period	
From First Employer	₹ Per month
Basic Salary	30,000
Dearness Allowance	16,000
Conveyance Allowance	6,000
From Second Employer	₹ Per month
Basic Salary	35,000
Fixed Conveyance Allowance	8,000

2. While he was with the first employer, M contributed 10% of his basic salary to a Provident Fund Account with the Regional Provident Fund Commissioner. He did not become a member of the Provident Fund maintained by the second employer.

3. M was permitted by the second employer to encash 15 days leave he had accumulated during his service and received ₹12,500 from his employer.

4. M had constructed a residential house in Chennai in February 2007 for ₹30 Lakhs. Part of the costs of construction was met by borrowals of ₹ 20 lakhs from the Housing Development Corporation, at interest of 12.5% p.a. The loan was taken on June 2005. The loan outstanding at the beginning of the current year was ₹12,00,000. The rate of interest applicable for the current year was reduced to 9% p.a. due to reduction in rates. [He had also borrowed from some relatives ₹4,00,000 on which interest at 15% p.a. was due.] The property had been let-out soon after completion.

5. In the Assessment Year 2007-08, M was allowed a deduction of ₹50,000 for irrecoverable rents. The annual value decided by the Corporation of Chennai for the property is ₹ 80,000. The property was let-out in the current year to a Company on a rent of ₹20,000 p.m. The half-yearly municipal taxes on the property were fixed by the Corporation of Chennai only in August 2010 at ₹15,000 for every half year from 1.4.2007. M paid the taxes due in September 2010 upto the half-year ending 31.3.2010.

6. M also received from the previous tenant ₹ 40,000 (out of the dues of ₹ 50,000).

7. After retirement from the first employer, M received ₹ 4,50,000 from the Regional Provident Fund Commissioner, money was fully invested by him in the 15% Non-Redeemable Debentures issued by the Indian Oil Corporation interest on these had not come in by the end of March 2011.

8. M received interest of ₹ 60,000 on long-term fixed deposits with Banks, ₹ 25,000 as interest on Post Office Savings Bank Accounts and ₹ 20,000 as income from units.

9. M owns a car which is used for office purposes also and it is found that the entire conveyance allowance from his employer had been fully spent on travel for official purposes.

10. One of the policies of insurance taken by M had matured for payment and ₹ 8,00,000 received by him in June 2010 from the LIC was invested by him, in the name of his 16-year old son, in fixed deposits with companies. Interest received upto 31.3.2011 on these deposits was ₹ 90,000. On one of the continuing policies of insurance, M paid a premium of ₹ 60,000 in the year. Compute M's total income for the Assessment Year 2011-12.

Solution :

Previous Year: 2010-11	Assessee: Mr. M	Assessment Year : 2011-12		
Computation of Total Income		₹	₹	₹
Income under the head Salaries				
From First Employer				
Basic Pay	(₹ 30,000 x 7)		2,10,000	
Dearness Allowance	(₹ 16,000 x 7)		1,12,000	
Conveyance Allowance	(₹ 6000 x 7)	42,000		
Less: Exempt u/s 10(14)		<u>(42,000)</u>	Nil	3,22,000
Amount received from Regional Provident Fund Commissioner		4,50,000		



Less: Exempt u/s 10(12)	<u>(4,50,000)</u>	Nil	
From Second Employer			
Basic Salary (₹ 35,000 x 5)		1,75,000	
Conveyance Allowance (₹ 8,000 x 5)	40,000		
Less: Exempt u/s 10(14) (incurred for official performance of duties)	<u>(40,000)</u>	Nil	
Leave Encashment - Fully taxable while in service		<u>12,500</u>	1,87,500
Gross Income from Salary			5,09,500

Income from House Property :

Gross Annual Value u/s. 23(1) — Higher of Municipal Value of ₹80,000 or Actual Rent of ₹ 2,40,000		2,40,000	
Less: Municipal Taxes paid during the year @ ₹ 15,000 for every half year from 1.4.2007 upto 31.3.2010 (Current Year - Not Paid)		<u>(90,000)</u>	
Net Annual Value (NAV)		1,50,000	
Less: Deduction @ 30% of NAV u/s 24(a)		(45,000)	
Interest on Borrowed Capital u/s 24(b)			
Loan from Housing Development Corporation:			
Current Period Interest: ₹12,00,000 × 9%	1,08,000		
Prior Period Interest (Interest upto 31.3.2006) [(₹20,00,000 × 12.5%) + (4,00,000 × 15%) × 10/12 × 1/5]	51,667		
Loan from Relative - Current Period Interest (₹ 4,00,000 × 15%)	<u>60,000</u>	(2,19,667)	
Add: Unrealised Rent recovered (taxable in the year of recovery u/s 25AA)		<u>40,000</u>	(74,667)

Income from Other Sources

Interest on Long-term Fixed Deposits with Bank		60,000	
Interest on Post Office Savings Bank A/c	25,000		
Less: Exempt u/s 10(15)	(25,000)	Nil	
Income from Units of UTI	20,000		
Less: Exempt u/s. 10(35)	<u>(20,000)</u>	Nil	
LIC Policy matured	8,00,000		
Less: Exempt u/s. 10(1D)	<u>(8,00,000)</u>	Nil	
Interest from Fixed Deposits with Companies in the name of minor son	90,000		
Less: Exemption u/s. 10(32)	(1,500)	88,500	1,48,500
Gross Total Income			5,83,333
Less: Deduction under Chapter VI-A— u/s 80C —LIC Premium		(60,000)	
— RPF — 10% of ₹ 1,40,000		(14,000)	<u>74,000</u>
Total Income			5,09,333
Total Income (Rounded Off u/s 288A)			5,09,330

Assumptions :

1. It is presumed that Mr. M accounts for his interest income on receipt basis.
2. Assumed that there has been no repayment of Housing Loan Principal during the year ending 31.3.2006 for the purpose of calculation of prior period interest.
3. Recognised Provident Fund received on retirement shall not be taxable u/s 10 (assuming conditions are satisfied).
4. **Unrealised Rent recovered** : Since the assessee has been allowed a deduction of ₹ 50,000 from his house property income in earlier years in respect of unrealised Rent, entire ₹ 40,000 recovered during current year becomes taxable.
5. **Deduction of Interest** u/s 24 shall be allowed even if the amount is borrowed from any person other than the Banks/Financial Institutions in respect of Let out property.



(b) Mr. A, a Senior Citizen, has furnished the following particulars relating to his House Properties:-

Particulars	House I —₹	House II —₹
Nature of Occupation	Self Occupied	Let-out
Municipal Valuation	60,000	1,20,000
Fair Rent	90,000	1,50,000
Standard Rent	75,000	1,40,000
Actual Rent per month	—	12,000
Municipal Taxes paid	6,000	12,000
Interest on Capital borrowed	90,000	80,000

Loan for both Houses were taken on 1.4.2006. House II remained vacant for 4 months.

Besides the above two house, A has inherited during the year 1988-89 an old house from his grandfather. Due to business commitments, he sold the house immediately for a sum of ₹ 250 Lakhs. The house was purchased in 1962 by his grandfather for a sum of ₹ 2 Lakhs. However, the Fair Market Value as on 1.4.1981 was ₹ 30 Lakhs. With the sale proceeds, A purchased a new house in March 2010 for a sum of ₹ 140 Lakhs and the balance was used in his business.

The other income particulars of Mr. A besides the above are as follows (AY 2011–2012):-

• Business Loss	₹ 12 Lakhs
• Income from Other Sources (Bank Interest)	₹ 1 Lakh
• Investments made during the year PF	₹ 70,000
• ICICI Infrastructure Bond Purchased (u/s 80CCF)	₹ 30,000

Compute Total Income of Mr. A and his Tax Liability for the Assessment Year 2011–2012

Solution:

Assessee : Mr. A

Previous Year : 2010-11

Assessment Year : 2011-12

Computation of Total Income

Particulars	₹	₹	₹
1. Income from House Property :			
(a) House I: Self Occupied — Annual Value u/s 23(2)	Nil		
Less : Deduction u/s 24(b) = Interest on Housing Loan taken on 1.4.2006 (Note 1)	90,000	(90,000)	
(b) House II : Let-out – (Note 2)		<u>(21,000)</u>	(1,11,200)
2. Profits and Gains of Business or Profession – Loss			(12,00,000)
3. Capital Gains — Sale of Residential House Property — Long Term Asset			
Sale Consideration	2,50,00,000		
Less : Expenses on Transfer		<u>Nil</u>	
Net Consideration	2,50,00,000		
Less : Indexed Cost of Acquisition — Fair Market Value as on 1.4.81 × CII of year of Sale /CII of year of first holding (₹ 30 Lakhs × 711/161)		<u>(1,32,48,447)</u>	
Long Term Capital Gain	1,17,51,553		
Less : Exemption u/s 54 — New House purchased for Rs.140 lakhs, but deduction restricted upto the balance of capital gains		<u>1,17,51,553</u>	NIL



4. Income from Other Sources : Bank Interest	1,00,000
Gross Total Income	<u>Nil</u>

Note:

- No deduction under Chapter VIA is allowed as there is no positive income.
- Balance of loss from House property after adjustment against Income from other sources is Rs.11,200 (i.e. Rs.1,11,200 – Rs.1,00,000)
- Loss from Business Rs.12,00,000 is carried forward for adjustment in the next year.
- It is assumed that the construction of the house was completed **within 3 years** from the end of the financial year in which the loan was taken.

5. Annual Value of House Property II is computed as under —

(i) Municipal Value (MV)	1,20,000
(ii) Fair Rental Value (FRV)	1,50,000
(iii) Higher of MV + FRV	1,50,000
(iv) Standard Rent	1,40,000
(v) Reasonable Expected Rent (RER)	1,40,000
[lower of (iii) + (iv)]	
(vi) Annual Rent @ ₹ 12,000 pm	1,44,000
(vii) Unrealised Rent	Nil
(viii) Actual Rent [(vi) – (vii)]	1,44,000
(ix) Vacancy Allowance	48,000
(x) Gross Annual Value [(viii) – (ix)]	96,000
Less : Municipal Tax paid	<u>12,000</u>
Net Annual Value (NAV)	84,000
Less : Standard deduction @ 30% of NAV u/s 24(a)	25,000
Less : Interest on borrowed Capital u/s 24(b)	<u>80,000</u>
Income for House II	<u>(21,200)</u>

Question No.21

(a) Mr. Anurag is a Cost Accountant in practice. The Income & Expenditure Account for the year ending March 31, 2011 read as follows :

Expenses	₹	Income	₹
To Employees cost	1,50,000	By Professional earnings	16,00,000
To Travelling & Conveyance	50,000	By Dividend income	
To Administration & Office exp.	4,00,000	from shares	2,00,000
To Interest	1,50,000	from equity oriented	
		mutual funds	1,00,000
To Demat charges	10,000		
To Net profit	11,40,000		
Total	19,00,000	Total	19,00,000

**Other Information:**

- (a) Entire Dividend income is claimed as exempt from taxation by virtue of Section 10(34) and 10(35).
 (b) Anurag claims that no expenditure has been incurred against the dividend income, which is claimed as exempt from tax.
 (c) The value of investment in shares as on the first day and the last day of the previous year is ₹ 7,50,000 and ₹ 9,00,000 respectively.
 (d) The value of investment in units of Mutual Funds as on the first day and the last day of the previous year is ₹ 5,00,000 and 2,00,000 respectively.
 (e) All expenditure including interest expenditure of ₹ 1,50,000 incurred by Anurag are relating to taxable and non taxable Income. Demat charges are directly attributable to exempt income.
 (f) The value of the total assets as appearing in the Balance sheet of the assessee as on the first day and last day of the previous year is ₹ 60,00,000 and ₹80,00,000 respectively.

You are required to compute the taxable income of Anurag for the assessment year 2011-12.

Solution :**Computation of Taxable Income A.Y. 2011-12**

Particulars	₹
Income from Profits & Gains of Business or Profession	8,40,000
– as per Working Note 1	
Income from other sources	
– as per Working Note 2	Nil
Total	4,40,000
<i>Add</i> : Disallowance u/s 14A	
– as per Working Note 3	<u>31,804</u>
Taxable Income	4,71,804

Working Note 1 — Profits & Gains of Business or Profession

	₹	₹
Net profit as per Income & Expenditure Account		11,40,000
<i>Less</i> : Income considered under other heads		
– Dividend Income from shares	2,00,000	
– Income from UTI	<u>1,00,000</u>	<u>3,00,000</u>
Taxable professional income		<u>8,40,000</u>

Working Note 2 — Income from other sources

	₹	₹
1. Dividend Income from Shares	2,00,000	
<i>Less</i> : Exempt under sec 10(34)	<u>2,00,000</u>	Nil
2. Income from units in Mutual funds	1,00,000	
<i>Less</i> : Exempt under sec 10(35)	<u>1,00,000</u>	<u>Nil</u>
Taxable income from other sources		Nil

Working Note 3 — Disallowance u/s 14A

	₹
(a) Amount of expenditure directly relating to exempt income (Other than interest) — Demat charges	10,000
(b) Amount of interest incurred by way of expenditure other than those included above (1,50,000 × 8,25,000 / 70,00,000)	17,679
(c) Amount equal to 0.5% of the average value of Investments (8,25,000 × 0.5%)	<u>4,125</u>
Total amount disallowed u/s 14A (a) + (b) + (c)	<u>31,804</u>

Note:

- Average value of Investment = $(7,50,000 + 9,00,000) / 2 = ₹ 8,25,000$.
- Average value of Total Assets = $(60,00,000 + 80,00,000) / 2 = ₹ 70,00,000$.



(b) Mr. Samir submits the following information for the A.Y. 2011-12.

Particulars	₹
Taxable Income from Salary	1,64,000
Income from House property :	
House 1 Income	37,000
House 2 loss	(53,000)
Textile Business (discontinued on 10.10.2010)	(20,000)
Brought forward loss of textile business - A.Y. 2008-09	(80,000)
Chemical Business (discontinued on 15.3.2010)	
– b/f loss of previous year 2008-09	(25,000)
– unabsorbed depreciation of previous year 2008-09	(15,000)
– Bad debts earlier deducted recovered in July '2010	40,000
Leather Business	62,000
Interest on securities held as stock in trade	10,000

Determine the gross total income for the assessment year 2011-12 and also compute the amount of loss that can be carried forward to the subsequent years.

Solution:

Computation of Gross Total Income A.Y. 2011-12

Particulars	₹	₹
I. Income from Salary :		1,64,000
II. Income from House property :		
House 1 Income	37,000	
House 2 loss	(53,000)	(26,000)
III. Profits and Gains of Business or Profession:		
(i) Textile business loss	(20,000)	
(iii) Chemical business – Bad debts recovered taxable u/s 41(4)	40,000	
Less : (i) Set off of brought forward loss of P.Y. 2008-09 u/s. 72	(25,000)	15,000
		(5,000)
(iii) Leather Business Income	62,000	
(iv) Interest on securities held as stock-in-trade	10,000	
		<u>72,000</u>
		67,000
Less : B/f. business loss ₹ 80,000 restricted to		<u>67,000</u> Nil
Gross Total Income		<u>1,38,000</u>

**Note :**

1. The unabsorbed loss of ₹ 13,000 (80,000-67,000) of Textile business can be carried forward to A.Y. 2011-12 for setoff u/s. 72, even though the business is discontinued.
2. The unabsorbed depreciation of ₹ 15,000 is eligible for set off against any income other than salary income. Since, Gross total income contains the balance of Income from Salary only, Unabsorbed depreciation cannot be adjusted. Hence, carried forward for adjustment in the subsequent years.

Question No.22

(a)H Bros., an HUF, started an undertaking in “Special Economic Zone” during the previous year 2007-2008. From the following particulars relating to the previous year 2010-2011, compute the total income for the assessment year 2011-2012.

	₹ (in lakh)
(i) Total turnover	30
(ii) Export sales	25
(iii) Business profits	15
(iv) Receipt of convertible foreign exchange in India up to 30 September 2011	
(v) Convertible foreign exchange kept outside India with the permission of RBI for importing a new machinery	16
(vi) Receipt of convertible foreign exchange in December 2011	4
(vii) Convertible foreign exchange received for reimbursement for freight, insurance attributable to export	2

Solution :	Computation of Total Income	₹ (in lakhs)
Business profits		15
Less : Deduction for export profits : [Sec. 10A]		<u>10</u>
Total income		<u>5</u>

Note :

1. Convertible foreign exchange received in December 2011 has not been included in Export turnover, because it is received after the prescribed time limit without approval of the competent authority.
2. Convertible foreign exchange kept outside India with the permission of RBI is included in Export turnover.
3. Reimbursement of freight and insurance in convertible foreign exchange is not included in Export turnover.

(b)The books of account maintained by a National Political Party registered under the Representation of the People Act, 1951 for the year ended on 31-3-2011 disclose the following receipts :

(i) Rent of property let out to a departmental store at Chennai.	10,00,000
(ii) Interest on deposits other than banks.	2,00,000
(iii) Contribution from 100 persons (who have secreted their names) of ₹ 33,000 each	33,00,000
(iv) Contribution @ ₹ 22 each from 1,00,000 members in cash	22,00,000
(v) Net profit of cafeteria run in the premises at Delhi	3,00,000

Compute the total income of the political party for the assessment year 2011-2012, with reason for inclusion or otherwise.

**Solution: Computation of income of National Political Party: AY 2011-2012**

Particulars	₹
(a) Rent from property: Exempt under Sec. 13A	—
(b) Income from business—Profits of cafeteria	3,00,000
(c) Income other sources:	—
(i) Interest on deposit other than banks: Exempt under Sec. ISA	—
(ii) Contributions from 100 persons exceeding ₹ 22,000 each—See Note below,	33,00,000
(iii) Contributions from 1,00,000 members: Exempt Sec. 13A.	—
Total income	36,00,000

Note : Any income of a political party received by way of voluntary contributions is exempt, provided:

- (i) it keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom;
- (ii) it keeps and maintains a record, name and address of the person who has contributed in excess of ₹ 20,000; and
- (iii) its accounts are audited by an accountant defined in Explanation below Sec. 288(2).

Thus, in order to claim exemption in respect of voluntary contributions exceeding ₹ 20,000, a political party is required to keep and maintain a record, and names, address of persons who have made such contributions. The legislative intention is to ensure that there is transparency in the process of collection of funds [Common Cause v. Vol. 222 ITR 260 (SC)]. Hence, no exemption can be allowed in respect of contributions exceeding ₹ 20,000 from persons who have secreted their names.

(c) B Ltd. grows sugarcane to manufacture sugar. The data for the financial year 2010-11 is as follows :

Cost of cultivation of sugarcane	₹ 6,00,000
Market value of sugarcane when transferred to factory	₹ 10,00,000
Other manufacturing cost	₹ 6,00,000
Sales of sugar	₹ 25,00,000
Salary of Managing Director who looks after all operations of the Company	₹ 3,00,000

Solution :

(1) Business Income :	
Sales of Sugar	₹ 25,00,000
Less: Market value of sugarcane when transferred to factory	₹ 10,00,000
Other manufacturing cost	₹ 6,00,000
Salary of Managing Director	₹ 3,00,000
	₹ 6,00,000
(2) Agricultural Income :	
Market value of sugarcane when transferred to factory	₹ 10,00,000
Less: Cost of cultivation	₹ 6,00,000
	₹ 4,00,000



(d) Mr. P has estates in Rubber, Tea and Coffee. He has also a nursery wherein he grows plants and sells. For the previous year ending 31.3.2011, he furnishes the following particulars of his sources of income from estates and sale of Plants. You are requested to compute the taxable income for the Assessment year 2011-2012:

Manufacture of Rubber	₹ 5,00,000
Manufacture of Coffee grown and cured	₹ 3,50,000
Manufacture of Tea	₹ 7,00,000
Sale of Plants from Nursery	₹ 1,00,000

Solution:

Computation of Taxable Income

Rule	Nature of Business	Agl Inc.	Non-Agl. Inc.
7A	Sale of centrifuged latex or cenex manufactured from rubber	3,25,000	1,75,000
7B	Sale of grown and cured coffee by seller in India	2,62,500	87,500
8	Growing and Manufacturing Tea	4,20,000	2,80,000
	Sale of plants from nursery	1,00,000	—
	Total	11,07,500	5,42,500

Computation of Tax Liability :

	₹
(a) Total Income (Agricultural Income + Non-agricultural Income)	16,50,000
(b) Tax on (a) above	3,49,000
(c) Total of (Agricultural Income + Basic Exemption Limit)	12,67,500
(d) Tax on (c) above	2,34,250
(e) Tax Payable (b) – (d)	1,14,750
Add: Education Cess @ 2%	2,295
Add: SHEC @ 1%	1,148
Total Tax Liability	1,18,193
Tax payable rounded off u/s 288B	1,18,190

Question No.23

(a) What is the due date of filling of return of income in case of a non-working partner of a firm whose accounts are not liable to be audited?

Answer : Due date of furnishing return of income in case of non-working partner shall be 31st July of the assessment year whether the accounts of the firm are required to be audited or not.

A working partner for the above purpose shall mean an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner and is drawing remuneration from the firm.

(b) Can unabsorbed depreciation be carried forward even if the return is filed after due date?

Answer : Unabsorbed depreciation can be carried forward even if the return of loss is submitted after the due date, as it is not covered under Chapter VI of set off or carry forward of losses but covered u/s 32(2). [East Asiatic Co.(India) Pvt. Ltd. vs.CIT (1986) 161 ITR 135(Mad.)]

**(c) Can a belated return of income filed u/s 139(4) be revised?**

Answer : There was a difference of opinion among various courts regarding filling of revised return in respect of belated returns. However, it has been held that a belated return filed u/s 139(4) cannot be revised as section 139(5) provides that only return filed u/s 139(1) or in pursuance to a notice u/s 142(1) can be revised [Kumar Jagdish Chandra Sinha vs.CIT(1996) 220 ITR 67(SC)].

(d) Can a revised return be further revised?

Answer : If the assessee discovers any omission or any wrong statement in a revised return, it is possible to revise such a revised return provided it is revised within the same prescribed time[Niranjan Lal Ram Chandra Vs.CIT (1982) 134 ITR 352 (All.)]

(e) What is a protective assessment under Income-tax law? What is the procedure followed for the recovery of tax in such cases?

Answer: A protective assessment is made in a case where there are doubts relating to the true ownership of the income. If there is an uncertainty about the taxing of an income in the hands of Mr. A or Mr. B, then at the discretion of the Assessing Officer, the same may be added in the hands of one of them on protective basis. This is to ensure that on finality, the addition may not be denied on the ground of limitation of time. Once finality regarding the identity of the tax payer to be taxed is established, the extra assessment is cancelled. But the Department cannot recover the tax from both the assesseees in respect of the same income. Penalty cannot be imposed on the strength of a protective assessment.

(f) Joseph engaged in profession filed his return of income for assessment year 2011-12 on 15th November, 2011. He disclosed an income of ₹4,00,000 in the return. In February, 2012 he discovered that he did not claim certain expenses and filed a revised return on 3rd February, 2012 showing an income of ₹1,80,000 and claiming those expenses. Is the revised return filed by Joseph acceptable?

Answer: Joseph is engaged in profession. The due date for filing income tax return for assessment year 2011-12 as per section 139(1) of the Income-tax Act is 30th September, 2011 if his accounts are required to be audited under any law. The due date is 31st July, 2011 if the accounts are not required to be audited under any law.

The return was filed beyond the due date prescribed in section 139(1). The return so filed is covered by section 139(4) and the time limit is one year from the end of the relevant assessment year. The Apex court in *Kumar Jagdish Chandra Sinha v. CIT 220 ITR 67 (SC)* has held that a return filed under section 139(4) is not eligible for revision and hence a revised return cannot be filed.

Hence, the return filed by Joseph is not valid as the original return was not filed before the due date mentioned in section 139(1).

(g) If an assessment is remanded back to Assessing Officer, can he introduce new sources of income for assessment?

Answer: Where the assessment is set aside by the Tribunal and the matter remanded to the Assessing Officer, it is not open to him to introduce into the assessment new sources of income so as to enhance the assessment. Any power to enhance is confined to the old sources of income which were the subject matter of appeal [Kartar Singh vs.CIT (1978) 111 ITR 184 (P &H)].



(h) Can Department make fresh computation, once the assessment is made final?

Answer: It is now a well settled principle that an assessment once made is final and that it is not open to the department to go on making fresh computation and issuing fresh notices of demand to the end of all time. [ITO vs.Habibullah (S.K.) (1962) 44 ITR 809 (SC)]

(i) Can an Assessing Officer make an assessment for a year other than the assessment year for which the return is filed?

Answer: It is not open to the Assessing Officer to make assessment in respect of a year other than the Assessment Year for which the return is filed. Thus, in respect of a return filed for assessment year 2010-11, assessment cannot be made for the assessment year 2011-12. [CIT vs. Amaimugan Transports Pvt.Ltd.(1995) 215 ITR 553 (Mad.)]

(j) Can an Assessing Officer assess the income below the returned income or assess the loss higher than the returned loss?

Answer: The Assessing Officer cannot assess income under section 144 for an assessment below the returned income or cannot assess the loss higher than the returned loss.

Question No.24

(a) In the case of Ms Laxmi, you are required to compute the interest u/s 234A, 234B & 234C from the following details—

Tax on total income ₹ 2,00,000; Due date for filing the return 30.09.2011; Actual date of filing the return 1.10.2012 and tax paid on 30.09.2011 ₹ 2,00,000.

Solution:

Computation of Interest u/s 234A

Particulars	As per assessed income
Tax	₹ 2,00,000
Less : Advance tax paid	Nil
TDS	Nil
Amount on which interest is payable	₹ 2,00,000
Period of default (October being part of a month shall be considered)	1 month
Interest u/s 234A (1% × ₹ 2,00,000 × 1 month)	₹ 2,000

Computation of Interest u/s 234B

Since assessee did not pay any amount by way of advance tax, hence she is liable to pay interest u/s 234B.

Particulars	Assessed income
Shortfall	₹ 2,00,000
Period of default (From April to September)	6 months
Interest (1% × 2,00,000 × 6 months)	₹ 12,000



Computation of Interest u/s 234C

Due Date	Advance Tax payment	Advance Tax paid	Cumulative Advance Tax paid before due date	shortfall in payment	Surplus	Months	Interest
15.9.2010	30% of 2,00,000 = 60,000	nil	nil	60,000	nil	3	1,800
15.12.2010	60% of 2,00,000 = 1,20,000	nil	nil	1,20,000	nil	3	3,600
15.3.2011	100% of 2,00,000	nil	nil	2,00,000	nil	1	2,000
Total Interest payable u/s 234C							7,400

(b) X Ltd. estimates its income for the previous year 2009-10 at ₹ 1,20,000. Besides this income, it has also earned long-term capital gain of ₹ 80,000 on transfer of gold on 1.12.2010. Compute the advance tax payable by the company in various instalments.

Solution :

	₹
Tax on ₹ 1,20,000 @ 30%	36,000
LTCG of ₹ 80,000 @ 20%	<u>16,000</u>
	52,000
Add : Education cess @ 2%	1,040
SHEC @ 1%	<u>520</u>
	<u>53,560</u>

Amount payable on 1st and 2nd instalment. For the first two instalments tax on LTCG will not be taken into account as this accrued on 1.12.2010 i.e. after the due date of the first 2 instalments.

	₹
Tax including Education Cess and SHEC payable	
without Long-term Capital Gain (₹ 36,000 + 720 + 360)	<u>37,080</u>

Advance Tax Payable

Due Date	Tax Liability as on due date	Amount of Instalment Payable (₹)
15.6.2010	15% of 37,080 = 5,562	₹ 5,562
15.9.2010	45% of 37,080 = 16,680	= 16,680 – 5,562 = 11,118
15.12.2010	75% of 53,560 = 40,170	= 40,170 – 5,562 – 11,118 = 23,490
15.3.2011	100% of 53,560 = 53,560	= 53,560 – 5,562 – 11,118 – 23,490 = 13,390



(c) Find out the amount of advance tax payable by ABC Ltd. on specified dates for the financial year 2010-11 :

Business income	₹ 1,75,000
Long term capital gain on 31-7-2010	₹ 3,50,000
Bank interest	₹ 10,000
TDS on business income	₹ 19,995

Solution :

Computation of total income of ABC Ltd. for the Previous Year 2009-10

Particulars	Amount
	₹
Profits and gains of business or profession	1,75,000
Capital gains: Long term capital gains	3,50,000
Income from other sources: Bank Interest	<u>10,000</u>
Total Income	<u>5,35,000</u>

Computation of tax liability of ABC Ltd. for the previous year 2010-11

Particulars	Long term capital gain	Other income
	₹	₹
Income	3,50,000	1,85,000
Tax rate	20%	30%
Tax on above	70,000	55,500
Add : Education cess & SHEC	<u>2,100</u>	<u>1,665</u>
Tax and cess payable	72,100	57,165
Less : TDS	—	<u>19,995</u>
Advance tax payable	<u>72,100</u>	<u>37,170</u>

Advance tax to be paid on specified dates

Date	Advance tax on LTCG		Advance tax on income other than LTCG		Total (a+b) ₹
	Workings	Amount (a) ₹	Workings	Amount (b) ₹	
15.06.2010	As LTCG occurred on 31.7.10	Nil	15% of ₹ 37,170	5,576	5,576
15.09.2010	45% of ₹ 72,100	32,445	30% of ₹ 37,170	11,151	43,596
15.12.2010	30% of ₹ 72,100	21,630	30% of ₹ 37,170	11,151	32,781
15.03.2011	25% of ₹ 72,100	18,025	25% of ₹ 37,170	9,292	27,317
Total		72,100		37,170	1,09,270

Question No.25

(a) Find out the amount of advance tax payable by Mr. A on specified dates under the Income tax Act, 1961 for the Previous Year 2010-11:

	₹
Business income	2,75,000
Long term capital gain on 31-7-2010	60,000



Winning from lotteries on 12-9-2010	50,000
Bank interest	10,000
Other income	5,000
Investment in PPF	40,000
Tax deducted at source :	
Case I	48,000
Case II	25,000

Solution:

Computation of Total Income of Mr. A for the previous year 2010-11:

Particulars	Details	Amount
Profits and gains of business or profession		2,75,000
Capital gains : Long term capital gains		1,60,000
Income from other sources		
Winning from lotteries	50,000	
Bank interest	10,000	
Other income	5,000	65,000
Gross Total Income		5,00,000
Less : Deduction u/s 80C — Deposits in PPF		40,000
Total Income		4,60,000

Computation of Tax liability of Mr. A for the previous year 2010-11 :

Income	Case 1	Case 2
Long term capital gain (₹ 1,60,000 @ 20%)	32,000	32,000
Winning from lotteries (₹ 50,000 @ 30%)	15,000	15,000
Balance income (₹ 2,50,000)	9,000	9,000
Tax	56,000	56,000
Add : Education cess & SHEC	<u>1,680</u>	<u>1,680</u>
	57,680	57,680
Less : Tax Deducted at Source	<u>48,000</u>	<u>25,000</u>
Total Tax Payable	<u>9,680</u>	<u>32,680</u>

Advance tax to be paid on specified dates:-

Case I : Since amount of tax payable is less than ₹10000, assessee is not liable to pay advance tax.

Case II : Advance Tax Payable

Due Date	Tax Liability (₹)	Amount of Instalment (₹)
15.6.2010	30% of 32,680 = 9,804	9,804
15.9.2010	60% of 32,680 = 19,608	= 19,608 – 9,804 = 9,804
15.12.2010	100% of 32,680 = 32,680	= 32,680 – 9,804 – 9,804 = 13,072

**(b) State the Income Tax Authorities.****Answer:**

In order to discharge executive and administrative functions relating to the Act, the following income-tax authorities have been constituted :-

- (a) The Central Board of Direct Taxes;
- (b) Directors General of Income-tax or Chief Commissioners of Income-tax;
- (c) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals);
- (d) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals);
- (e) Joint Directors of Income-tax or Joint Commissioners of Income-tax;
- (f) Deputy Director of Income-tax or Deputy Commissioner of Income-tax or Deputy Commissioner of Income-tax (Appeals);
- (g) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax;
- (h) Income-tax Officers;
- (i) Tax Recovery Officers;
- (j) Inspectors of Income-tax.

Question No.26

(a) Mr. Prasad, ordinarily resident in India, furnished the following particulars of his income/savings during the previous year 2010-2011.

	₹
(i) Income from foreign business (Including ₹ 2,00,000 from business connection in India) accruing outside India	12,00,000
(ii) Loss from Indian business	(-) 2,00,000
(iii) Income from house property	4,00,000
(iv) Dividends gross from Indian companies	60,000
(v) Deposit in Public Provident Fund	70,000
(vi) Tax paid in foreign country	2,50,000

There is no double taxation avoidance treaty. Compute the tax liability

Solution: (a) Computation of Total Income for the A.Y. 2011-12

Particulars	₹	₹
1. Income from House Property		4,00,000
2. Income from Business :		
(a) Income from Indian business	(-) 2,00,000	
(b) (i) Income from foreign business accruing or arising outside India	(+) 10,00,000	
(ii) Income from foreign business deemed to accrue or	(+) 2,00,000	10,00,000



arise in India	
3. Income from other sources	
Dividends from Indian companies exempt [Sec. 10(34)]	Nil
Gross total income	14,00,000
Less : Deduction for approved savings (Sec. 80C):	70,000
PPF Deposits	
Total income	13,30,000
Tax liability on total income :	
Income-tax on slab rates	3,48,000
Add: Surcharge on income tax	Nil
(assuming total income less than one crore)	3,48,000
Add : Education cess : 2% on the aggregate of income	6,960
tax and surcharge	
Add : SHEC @ 1%	3,480
Tax liability	3,58,440
Less : Double taxation relief on foreign business profits,	2,08,330
not deemed to accrue or arise in India (Sec. 91)	
10,00,000 × 20.833%	
Tax payable	1,50,110

Note: 1. Relief is allowed on the doubly taxed income either at average rate of Indian tax or average rate of foreign income tax, whichever is lower;

(a) Average rate of Indian income tax : $3,58,440 / 13,30,000 \times 100 = 26.95\%$

(b) Average rate of foreign income tax: $(2,50,000/12,00,000) \times 100 = 20.833\%$

2. The amount of doubly taxed income has been worked out as under:	₹
Income from foreign business, accruing outside India	12,00,000
Less: (i) Income from business connection deemed to accrue or arise in India which is not entitled to double taxation relief.	2,00,000
Doubly taxed income	10,00,000
3. Loss from Indian business has been set-off against profits from foreign business which is deemed to accrue or arise in India.	
The mode of set-off increases the amount of double taxation relief.	



(b) A is a musician deriving income from foreign concerts performed outside India, ₹ 50,000. Tax of ₹ 10,000 was deducted at source in the country where the concerts were given. India does not have any agreement with that country for avoidance of double taxation. Assuming that Indian income of A is ₹ 2,00,000, what is the relief due to him under Sec. 91 for the assessment year 2011-2012.

Solution : Computation of Total Income for the A.Y. 2011-12

(a) Computation of total income:	₹
(i) Indian income	2,00,000
(ii) Foreign income	50,000
Gross Total Income or Total Income	2,50,000
(b) Computation of Tax Liability :	
Income tax on total income:	9,000
Add :	
(i) Education cess @ 2%	180
(ii) SHEC @ 1%	90
	9,270
Less : Double taxation relief under Sec. 91: ₹ 50,000 × 3.71%	1,855
Tax payable	7,415

Note: 1. Average rate of Indian income tax :

2. Average rate of foreign income tax:

Relief is allowed either at the average rate of Indian income tax or the average rate of foreign income tax, whichever is lower. Accordingly, the relief has been allowed at the average rate of Indian income tax.

Question No.27

(a) Samir furnishes the following particulars for the compilation of his Wealth Tax return for Assessment Year 2011-12.

(i) Gifts of jewellery made to wife from time to time aggregating ₹80,000. Market value on valuation date ₹3,00,000

(ii) Flat purchased under installment payment scheme in 1979 for ₹9,50,000. Used for purposes of his residence and market value as on 31.3.2010. (Installment remaining unpaid ₹ 80,000) ₹10,00,000

(iii) Urban land transferred to minor handicapped child valued on 31.3.2010 ₹5,00,000.

Solution : Explain how you will deal with these items. Make suitable assumptions if required.

Particulars	Taxable	Reasons
Gift of Jewellery made to wife	₹ 3,00,000	Deemed asset u/s 4. Fair Market Value of the Jewellery is taxable.
Flat used for residence	NIL	Taxable as an asset u/s 2(ea) but the assessee can claim exemption u/s 5(vi). So full value of the asset is exempt from tax.
Urban Plot in the hands of the minor	NIL	Asset held by the minor who is handicapped u/s 80U, clubbing provisions does not apply.



(b) Sunrise Promoters & Developers Ltd. a widely held company owns the following assets as on 31.3.2011 :

-

- (i) Land at Rajarhat (West Bengal) purchased in 2002 on which a residential complex consisting of 24 flats, to be sold on ownership basis, is under construction for last 18 months
- (ii) Two office flats at Noida purchased for resale in the year 2003
- (iii) Shares of Group Companies, break-up value of which is ₹ 19,00,000
- (iv) Cash at construction site ₹ 8,00,000
- (v) Residential flat in occupation of company's whole-time director drawing a salary of ₹4,50,000 per annum.

Which of the above assets will be liable for wealth? Give reasons in brief.

Solution : Assessee: Sunrise Promoters & Developers Ltd. Valuation Date: 31.3.2011

Assessment Year: 2011-12		
Nature of Asset	Amount	Reasons
	Taxable	
Land at Rajarhat purchased in 2005	NIL	Urban Land held as stock-in-trade for a period less than 10 Years -not an asset u/s 2(ea)
Residential Flats at Noida purchased in 2004 for resale	NIL	House Property held as stock-in-trade - not an asset u/s 2(ea)
Shares of Group Companies	NIL	Not an asset u/s 2(ea)
Cash at construction site	NIL	Any amount recorded in the books of account is not an asset u/s 2(ea)
Residential House Property for Whole-Time Director	NIL	Since Gross Annual Salary of Whole Time Director is less than ₹ 5 Lakhs - not an asset u/s 2(ea)

(c) Hassan, a person of Indian origin was working in Australia since 1986. He returned to India for permanent settlement in June 2004 when he remitted the moneys into India. He furnished the following particulars of his wealth as on 31.3.2011. You are required to arrive at his wealth in respect of Assessment Year 2011-12 :

- (a) Market Value of Residential house in Jharkhand (let-out for residence) ₹ 10,00,000 with Net Maintainable Rent p.a. of ₹ 1,20,000.
- (b) Share in building owned by a firm in which Hassan is a Partner - used for business ₹ 5,00,000
- (c) Motor-car purchased in April 2009, out of moneys remitted to India from Australia ₹ 4,00,000
- (d) Value of interest in Firm excluding item (b) above ₹ 5,00,000
- (e) Shares in companies (quoted) ₹ 2,00,000
- (f) Assets purchased out of amount remitted from Australia :
 - Jewellery purchased in March 2002 ₹ 5,50,000



- Vacant land purchased in October 2000 ₹ 10,00,000
- (g) Amount standing to the credit of NRE Account ₹ 15,00,000
- (h) Cash on hand (out of sale proceeds of agricultural income) ₹ 65,000

Solution : Assessee: Hassan Valuation Date: 31.3.2011 Computation of Net Wealth

Nature of Asset	Amount	Reasons
	Taxable	
Residential House in Jharkhand	NIL	Not an Asset u/s 2(ea) - Let-out for whole year -Hence, not taxable
Share in the building owned by the firm	NIL	Not an asset u/s 2(ea), used for its own business - not chargeable to tax
Motor-car 4,00,000		
Less: Exempt u/s 5(v)-acquired out of money brought into India	NIL	Asset u/s 2(ea). But, exemption available u/s 5(v), since acquisition out of money brought into India.
<u>(4,00,000)</u>		
Value of Interest in a Firm	5,00,000	Assumed as deemed asset u/s 4(1)(b)
Shares in Companies	NIL	Not an asset u/s 2(ea)
Value of Jewellery	5,50,000	Asset u/s 2(ea) - Not entitled for exemption
Vacant Land	10,00,000	Asset u/s 2(ea) - Purchased in October 2000
Money in NRE A/c	NIL	Not an asset u/s 2(ea)
Cash in Hand in excess of ₹ 50,000	15,000	Asset u/s 2(ea), being an Individual
NET WEALTH	20,65,000	
Tax Liability	Nil	
Since less than the Basic Exemption limit.		

Question No.28

(a) Abhishek, a person of Indian origin was working in Austria since 1991. He returned to India for permanent settlement in May 2010 when he remitted money into India. For the valuation date 31.3.2011, the following particulars were furnished. You are required to compute the taxable wealth. The reason for inclusion or exclusion should be stated:-

- Building owned and let-out for 270 days for residence. Net maintainable rent (₹1,00,000) and the Market Value (Excess of Unbuilt Area over Specified Area is 20% of the Aggregate Area) ₹ 30 lakhs
- Jewellery : (a) Purchased in April 2010 out of money remitted to India from Austria ₹12,00,000
(b) Purchased in May 2010 out of sale proceeds of motor-car brought from abroad and sold for ₹ 40 lakhs.
- Value of interest in urban land held by a firm in which he is a partner ₹10 lakhs
- Bonds held in companies ₹10 lakhs
- Motor car used for own business ₹ 25 lakhs



- Vacant house plot of 480 sq. mts. (purchased in December 2003) market value of ₹ 20,00,000
- Cash in hand ₹ 45,000
- Urban land purchased in the year 2007 out of withdrawals of NRE Account ₹ 15,00,000

Assessee : Abhishek Valuation Date : 31.3.2011 Assessment Year : 2011-12

Computation of Net Wealth

Nature of the Asset	₹	₹	Reasons
Value of the House		18,50,000	Asset u/s 2(ea). Working Note 1
Jewellery: Purchased in April 2010	12,00,000		Asset u/s 2(ea).
Less: Exempt u/s 5(v)	<u>(12,00,000)</u>	Nil	Purchased out of money
Jewellery			brought into India
Jewellery: Purchased in May 2010	40,00,000		Asset u/s 2(ea).
Less: Exempt u/s 5(v)	<u>(40,00,000)</u>	Nil	Purchased out of sale proceeds of
Interest in Urban Land held by firm		10,00,000	Deemed Asset u/s 4(1)(b)
Bonds held in companies	—	Nil	Not an asset u/s 2(ea)
Motor car		25,00,000	Asset u/s 2(ea). Not held as
			stock-in-trade
Vacant House Plot (480 sq. mts.)	20,00,000		Asset u/s 2 (ea)
Less: Exempt u/s 5(vi)	<u>(20,00,000)</u>	Nil	House/part of house/plot
			less than 500 sq.mts.
Cash in hand		Nil	Since not exceeding ₹50,000
Urban Land Purchased	15,00,000		Purchased out of money
Less: Exempt u/s 5(v)	<u>(15,00,000)</u>	Nil	brought into India
NET WEALTH		53,50,000	
Less : Basic Exemption		<u>30,00,000</u>	
Net Taxable Wealth		<u>23,50,000</u>	
Tax Payable @ 1%		23,500	

(1) Working Notes: Valuation of Building :

Net Maintainable Rent(NMR)	= ₹1,00,000
Capitalized Value of NMR=NMR×12.5 (Owner of the land) = ₹ 1,00,000 × 12.5	= ₹12,50,000
Add : Premium for excess of unbuilt area (20%) over specified area = 40% of CNMR	= ₹ 5,00,000
VALUE OF THE HOUSE	₹18,50,000



- (b) Mr. Kushal Sengupta owns a house at Jharkhand, which is let-out at ₹1,35,000 per annum. The annual value of the property as per municipal records also is ₹1,00,000. Municipal taxes are partly borne by the owner (₹5,000) and partly by the tenant (₹6,000). Repair expenses are borne by tenant (₹10,000) the difference between the un-built area and specified area does not exceed 5%. The property was acquired on 10.5.1998 for ₹ 15,00,000.

Determine for purposes of Wealth Tax Act, the value of the property as on 31.3.2011 on the following situations —

- (i) The house is built on a freehold land.
- (ii) It is built on a leasehold land, the unexpired period of lease of the land is more than 50 years
- (iii) If the area of the plot on which the house is built is 800 sq. metre ₹ FSI, permissible is 1.4 and FSI utilised is 1088 Sq. metres. (136 Sq. metres × 8 Storeys)
- (iv) The tenant had made interest free deposit of ₹ 1,00,000 with the landlord.

Solution :

Assessee : Mr. Kushal Sengupta Valuation Date : 31.3.2011 Assessment Year : 2011-12

Computation of Value of House Property

For Situations (i) & (ii):

Particulars	Computation of Gross Maintainable Rent (Amount in ₹)	
	No Rental Deposit	Rental Deposit excess of 3 Mths
Actual Annual Rent	1,35,000	1,35,000
Add: Municipal Taxes borne by the tenant	6,000	6,000
1/9 th of Actual Rent Receivable since repair expenses are borne by the tenant (₹1,35,000/ 9)	15,000	15,000
Rental Deposits - 15% Interest on ₹ 1,00,000	Nil	15,000
GROSS MAINTAINABLE RENT	1,56,000	1,71,000
Less: Municipal Taxes Paid	11,000	11,000
Less: 15% of Gross Maintainable Rent	23,400	25,650
Net Maintainable Rent	1,90,400	2,07,650
Case (a) Capitalization of Net Maintainable Rent		
-Freehold Land NMR x 12.5	23,80,000	25,56,625
Case (b) Capitalization of Net Maintainable Rent		
-Leasehold Land - Unexpired Lease 50 Years = NMR×10	19,04,000	20,07,650
Property Acquired after 31.3.1974 i.e. 10.5.1997	15,00,000	15,00,000
Therefore, Value of the Property (whether on	15,00,000	15,00,000

Lease-hold Land or on Freehold Land)

For Situation (iii) : In case of excess unbuilt area :

Unbuilt Area = (Actual Area of the Land less Built up Area) = (800 sq. mt less 136 sq. mt). = 664 sq. mt.

Excess Unbuilt Area = (Unbuilt Area less Specified Area) = 664 sq. mt. less 70% of 800 sq. mt. = 664 Less 560 = 104 sq. mt



% of Excess Unbuilt Area = $\frac{\text{Excess Unbuilt Area} \times 100}{\text{Aggregate Area}} = \frac{104 \times 100}{800} = 13\%$

Therefore, Value of the Property = Substituted Net Maintainable Rent i.e. ₹15,00,000 + 30% of SNMR = ₹19,50,000

Question No.29

(a) From the following dated furnished by Mr. Soumitra, determine the value of house property built on leasehold land as at the valuation date 31.3.2011:

Particulars	₹
Annual Value as per Municipal valuation	1,40,000
Rent received from tenant (Property vacant for 3 months during the year)	1,08,000
Municipal tax paid by tenant	10,000
Repairs on property borne by tenant	8,000
Refundable deposit collected from tenant as security deposit which does not carry any interest	50,000

The difference between unbuilt area and specified area over aggregate area is 10.5%.

Solution :

Assessee: Mr. Soumitra Valuation Date: 31.3.2011 Assessment Year: 2011-12

Computation of Value of House Property

Step I: Computation of Gross Maintainable Rent (GMR)

Particulars	₹	₹
Actual Annual Rent- ₹ 1,08,000 x 12 Months/9 Months		1,44,000
Add: Municipal tax paid by the Tenant 10,000		
1/9 th of Actual Rent Receivable as repair expenses are borne by the tenant - ₹ 1,44,000/9	16,000	
Interest on Refundable Security Deposit- ₹ 50,000 x 15% x 9/12	6,000	32,000
GROSS MAINTAINABLE RENT (GMR)	1,76,000	

Step II: Computation of Net Maintainable Rent (NMR)

Particulars	₹	₹
Gross Maintainable Rent (GMR)		1,76,000
Less: Municipal Taxes levied by the local authority	10,000	
15% of Gross Maintainable Rent - ₹1,76,000 x 15%	26,400	(36,400)
NET MAINTAINABLE RENT (NMR)		1,39,600

Step III: Capitalisation of the Net Maintainable Rent (CNMR) (Assumed that unexpired lease period is more than 50 Years)

NMR × Multiple Factor for an Unexpired Lease Period - ₹ 1,39,600 × 10 = ₹ 13,96,000



Step IV: Addition of Premium to SNMR in case of excess inbuilt area:

Particulars	₹
Add: Capitalisation of the Net Maintainable Asset	13,96,000
Premium for excess of 10.5% unbuilt area over specified area-30% of CNMR	<u>4,18,800</u>
Value of House Property as per Wealth Tax Act	<u>18,14,800</u>

(b) Property Company Ltd. has let-out a premise with effect from 1.10.2010 on monthly rent of ₹1.5 lakh. The lease is valid for 10 years and the tenant has made a deposit equivalent to 3 months rent. The tenant has undertaken to pay the municipal taxes of the premises amounting to ₹ 2 lakh. What will be the value of the property under Schedule III of the Wealth Tax Act for assessment to wealth tax?

Solution :

Assessee: Property Company Ltd. Valuation Date: 31.3.2011 Assessment Year : 2011-12

Computation of Value of Let-out Property

Actual Annual Rent Receivable :- ₹ 1,50,000 × 12 Months	18,00,000
Add: Municipal Taxes borne by the Tenant	<u>2,00,000</u>
Gross Maintainable Rent (GMR)	20,00,000
Less: Municipal Taxes levied by the Municipal Authority	2,00,000
Less: 15% of Gross Maintainable Rent (₹ 20,00,000 × 15%)	<u>3,00,000</u>
NET MAINTAINABLE RENT	<u>15,00,000</u>

Value of the Property = Capitalized Value of NMR

$NMR \times 8$ (unexpired period of lease is less than 50 years) = ₹ 15,00,000 × 8 = ₹ **1,20,00,000**

Question No.30

(a) Net wealth of firm consisting of three partners Bidyut, Kingshuk and Deepak in 2:2:1 and a capital contribution of ₹ 17 Lakhs, ₹ 13 Lakhs, and ₹ 12 Lakhs respectively is as under -

(i) Value of assets located outside India	₹ 30,00,000
(ii) Value of assets located in India	₹ 80,00,000
(iii) Debts incurred in relation to assets in India	₹ 40,00,000

Determine the value of interest of the partners in the firm under the Wealth Tax Act, 1957.

Solution:

Assesses: Bidyut, Kingshuk & Deepak Valuation Date: 31.3.2011

Assessment Year: 2011-12

Computation of net wealth of the Firm

Particulars	₹	₹
Value of Assets located in India	80,00,000	
Less: Liability in relation to assets in India	<u>40,00,000</u>	40,00,000
Value of Assets located outside India		<u>30,00,000</u>
Net Wealth of the Firm		<u>70,00,000</u>



Solution :

Computation of Interest of the Partner in the net wealth of the Firm (Amount in ₹)

Particulars	Bidyut	Kingshuk	Deepak
To the extent of Capital Contribution	17,00,000	13,00,000	12,00,000
Balance (Net Wealth-Capital Contribution) in Profit	11,20,000	11,20,000	5,60,000
sharing ratio since dissolution ratio is not given			
Interest of the Partner in the Net Wealth of the Firm	28,20,000	24,20,000	17,60,000

Computation of the Interest of the Partner in the net wealth of the Firm on the basis of location of assets:
(Interest of the Partner in the Firm apportioned in the ratio of 4:3)

Particulars	Balu	Kausik	Deepu
Assets Located Inside India	16,11,429	13,82,857	10,05,714
Assets Located Outside India	12,08,571	10,37,143	7,54,286
Interest of the Partner in the Net Wealth of the Firm	28,20,000	24,20,000	17,60,000

(b) Satender is aged 35 years. His father settled a property in trust giving whole life interest therein to Satender. The income from the property for the years 2006-07 to 2009-10 was ₹ 70,000, ₹ 84,000, ₹ 90,000, ₹ 108,000, respectively. The expenses incurred each year were ₹ 2,000, ₹ 4,000, ₹ 5,000 and ₹ 6,000 respectively. Calculate the value of life interest of Mr. Jogi in the property so settled on the valuation date 31.3.2011, with the help of the factor of 9.267.

Step	Procedure
1	Average Income for last three years = $(₹ 84,000 + ₹ 90,000 + ₹ 1,08,000) / 3 = ₹ 94,000$.
2	Average Expenses for the last three years = $(₹ 4,000 + ₹ 5,000 + ₹ 6,000) / 3 = ₹ 5,000$.
3	Maximum Permissible Expenses = Average Expenses or 5% of Average Income, whichever is less = 5% of ₹ 94,000 = ₹ 4,700
4	Average Annual Income = ₹ 94,000 Less ₹ 4,700 = ₹ 89,300.
5	Life Interest = Average Annual Income × Life Interest Factor = ₹ 89,300 × 9.267 = ₹ 8,276,664.