UNDERWRITING

Underwriting (an issue of shares or debentures) is a contract between a company and another party called underwriter, whereby in the event of the Shares or Debentures not being subscribed fully by the public, the underwriters agrees to take up the balance.

Underwriting agreement ensures that the company's issue will be fully subscribed. The risk of the Capital not being subscribed by the public is effectively borne by the underwriters.

For the services rendered, the underwriter is entitled to a commission called "underwriting commission" which is payable only at a rate authorized by the Articles of Association, not exceeding 2.5% of the Issue price of Debentures and 5% of Shares. No commission can be paid in respect of Shares or Debentures which have not been offered to the general public for subscription.

Now, how to determine the Underwriter's liability is illustrated in the following example:

Illustration:

A company made a public issue of 1,25,000 Equity Shares of ₹ 100 each, ₹ 50 payable on application. The entire issue was underwritten by parties A, B, C and D in the proportion of 30%, 25%, 25%, and 20%, respectively. Under the terms agreed upon, a commission of 2% was payable on the amounts underwritten.

A, B, C and D had also agreed to 'firm' underwritten of 4,000, 6,000, Nil and 15,000 shares, respectively.
The total subscriptions, excluding firm underwritten, including marked applications were for 90,000 shares. Marked applications received were:
A 24,000, B 20,000, C 12,000 and D 24,000.
Ascertain the liability of the individual underwriters.

Solution:

If the benefit of firm underwriting is given to individual underwriters:

	Shares
Shares Subscribed (including marked application but excluding firm underwriting) Less: Marked Applications (24,000 +20,000+12,000 + 24,000)	90,000 80,000
Unmarked Applications	10,000

Statement showing the Liability of Underwriters

Name of the Underwriters:	A Shares	B Shares	C Shares	D Shares	Total Shares
No. of shares underwritten (A:B:C:D = 30:25:25:20)	37,500	31,250	31,250	25,000	1,25,000
Less: Unmarked Applications (in 30 : 25 : 25 : 20)	3,000	2,500	2,500	2,000	10,000
	34,500	28,750	28,750	23,000	1,15,000
Less: Marked Applications (as given in question)	24,000	20,000	12,000	24,000	80,000
	10,500	8,750	16,750	(-)1,000	35,000
Less: 'Firm' Applications (as given in question)	4,000	6,000	---	15,000	25,000
	6,500	2,750	16,750	(-)16,000	10,000
Less: Excess of 'D' surplus distributed in the ratio of 30 : 25 : 25 to A, B and C	(-) 6,000	-5,000	-5,000	+16,000	---
	500	(-)2,250	11,750	---	
Less: Benefit of 'B' surplus distributed to A&C	(-) 500	+2,250	1,750	---	
Net Liability	---	---	10,000	---	10,000

Statement showing the Liability of Underwriters

	A	B	C	D
Net Liability	---	---	10,000	---
Add: Firm Underwriting	4,000	6,000	---	15,000
	4,000	6,000	10,000	15,000

Now amounts due from underwriters to be calculated as:

	A	B	C	D
Shares to be underwritten	4,000	6,000	10,000	15,000
Amount due @ ₹ 50	2,00,000	3,00,000	5,00,000	7,50,000
Less: Amount already paid as firm underwriting	2,00,000	3,00,000	---	7,50,000
Less: Amount to be paid as commission	NIL	NIL	5,00,000	NIL
@ ₹ 2 on nominal values				
A – 37,500 x 2 = 75,000	75,000			
B – 31,250 x 2 = 62,500		62,500		
C – 31,250 x 2 = 62,500			62,500	
D – 25,000 x 2 = 50,000				50,000
2,50,000				
	(-)75,000	(-)62,500	4,37,500	(-)50,000

Redemption of Preference Shares

Redemption of Preference shares should be subject to the provisions of Sec. 80 in the Companies Act, 1956 and as per the terms and conditions of issue of such shares and in the manner specified in the Articles of Association of the company.

Fully paid up shares can be redeemed only and partly-paid shares cannot be redeemed. If the company has partly paid up Preference Shares which are to be redeemed, they should first be made fully paid up, before redeeming them.

Shares can be redeemed only out of Divisible Profits (i.e. Profits available for distribution as Dividend) or from proceeds of a fresh issue of Shares made for the purpose of redemption.

Premium if any, payable on redemption must be provided out of profits of the company or company's securities premium account before the shares are redeemed.

Now, an illustration is given to understand the calculation of minimum fresh issue to be made at a premium for redemption of preference shares also at a premium.

Illustration:

Following is the Balance Sheet of Ms Raja Ltd. as on 31st March

Equity and Liabilities	₹	Assets	₹
80,000, 6% Red. Pref. Shares of ₹ 10 each ₹ 9 Paid Up	7,20,000	Sundry Assets	16,80,000
40,000 Equity Shares of ₹ 10 each Fully Paid	4,00,000	Cash	5,20,000
Securities Premium	1,00,000		
Profit and Loss Account	5,00,000		
General Reserve	60,000		
Sundry Creditors	4,20,000		
Total	22,00,000	Total	22,00,000

By the terms of their issue, the Preference Shares were redeemable at a Premium of 5% per Share on 1st April, and it was decided to arrange for this, as far as possible, out of the Company's resources subject to leaving a credit balance of ₹ 24,000 in the Profit and Loss A/c. It was also decided to raise the balance of funds required by the issue of sufficient number of Equity Shares at a Premium of 10%.

Show the necessary Journal Entries giving effect to the above transactions.

Solution:

1. Computation of Minimum Number of Equity Shares to be issued

Particulars	₹	₹
Face value of Redeemable Preference Shares		8,00,000
Less: General Reserve	60,000	
Profit and Loss Account (5,00,000 - 24,000 to be retained)	4,76,000	(5,36,000)
Face Value of Equity Shares to be issued		2,64,000
Number of Equity Shares to be issued (Face Value = ₹ 10 per Share)		26,400 Shares

2. Journal Entries in the books of Raja Ltd

	Particulars	Dr. (₹)	Cr. (₹)
1.	Redeemable Preference Share Final Call A/c Dr. To 6% Redeemable Preference Share Capital A/c (Being Final Call due on 80,000 Shares at ₹ 1 each, so that Preference Shares can be made fully paid and eligible for redemption)	80,000	 80,000
2.	Bank A/c Dr. To 6% Redeemable Preference Share Final Call A/c (Being Call Money received from all Preference Shareholders)	80,000	 80,000
3.	Bank A/c Dr. To Equity Share Application and Allotment A/c (Being amount received on issue of 26400 Shares x ₹ 10 + 10% Premium)	2,90,400	 2,90,400
4.	Equity Share Application & Allotment A/c Dr. To Equity Share Capital A/c (WN 1) To Securities Premium A/c (Being 26,400 Equity Shares of ₹ 10 each issued at a Premium of 10%)	2,90,400	 2,64,000 26,400
5.	6% Redeemable Preference Capital A/c Dr. Premium on Redemption of Preference Shares A/c Dr. To Preference Shareholders A/c (Being amount due to Pref. Shareholders on redemption incl. 5% Premium)	8,00,000 40,000	 8,40,000
6.	Securities Premium A/c Dr. To Premium on Redemption of Preference Shares A/c (Being Premium on PSC Redemption at 5% provided out of Securities Premium A/c)	40,000	 40,000
7.	Preference Shareholders A/c Dr. To Bank A/c (Being payment made to Preference Shareholders)	8,40,000	 8,40,000
8.	Profit & Loss A/c Dr. General Reserve A/c Dr. To Capital Redemption Reserve A/c (Being Revenue Profits transferred to Capital Redemption Reserve)	4,76,000 60,000	 5,36,000

3. Cash Account

Receipts	₹	Payments	₹
To balance b/d To 6% Red. Pref. Shares Final Call A/c To Equity Share Appl. & Allot. A/c (Fresh issue)	5,20,000 80,000 2,90,400	By Preference Shareholders A/c By balance c/d	8,40,000 50,400
Total	8,90,400	Total	8,90,400

Reconciliation of Number and Amount of Shares (all figures for this year)

Particulars	Equity Shares of ₹ 10 each		Pref. Shares of ₹ 10 each	
	Number	Amt (₹)	Number	Amt (₹)
Opening Balance Add: Fresh Issue Less: Redemption	40,000 26,400 ---	4,00,000 2,64,000 ---	80,000 Final Call 80,000	@ ₹ 9 = 7,20,000 @ ₹ 1 = 80,000 (8,00,000)
Closing Balance	66,400	6,64,000	---	---

Note: Reserves and Surplus (showing Appropriations and Transfers) (all figures for this year)

Particulars	Opg Bal.	Additions	Deductions	Clg. Bal
Capital Redemption Reserve		From P&L = 4,76,000 From Gen Res = 60,000	-	5,36,000
Securities Premium Account	1,00,000	Fresh Issue = 26,400	Prem. on PSC Redemp. = 40,000	86,400
Other Reserves (Gen. Res.)	60,000	-	Tfr to CRR = 60,000	Nil
Surplus (P&L A/c)	5,00,000	-	Tfr to CRR = 4,76,000	24,000
Total	6,60,000	5,62,400	5,76,000	6,46,400

Process Costing

Process costing is a term used in cost accounting to describe one method for collecting and assigning manufacturing costs to the units produced. Processing cost is used when nearly identical units are mass produced. (Job costing or job order costing is a method used when the units manufactured vary significantly from one another.)

To illustrate process costing, let's assume that a product requires several processing operations---each of which occurs in a separate department. The costs of Department One for the month of June amount to ₹ 150,000 of direct materials and ₹ 225,000 of conversion costs (direct labor and manufacturing overhead). If the number of units processed in June in Department One is the equivalent of 100,000 units, the per unit cost of the products processed in Department One in June will be ₹ 1.50 for direct materials and ₹ 2.25 for conversion costs. These costs will then be transferred to Department Two and its processing costs will be added to the cost of the units.

Example:

Vinal Ltd. produces article 'B' from a material which passes through namely P and Q.

The details relating to a month are as under:

	Process P	**Process Q**
Materials introduced (units)	**10,000**	
Transferred to next process (units)	**9,000**	
Work-in-process:		
At the beginning of the month (units)	**-------**	**600**
At the end of the month (units)	**1,000**	**400**
Expenses:		

Work-in-process at the beginning of the month	**-------**	**9,400**
Material introduced at the beginning of the process	**1,20,000**	**------**
Labour and Overheads	**27,600**	**18,200**

State of completion of work-in-process:

Process P: Closing WIP 20% complete in respect of labour and overheads.

Process Q: Opening WIP 33 1/3% complete in respect of labour and overheads.

Closing WIP: 25% complete in respect of labour and overheads.

The finished output 'B' emerging out of process P is sold at ₹ 20 per unit.

Required:

Prepare Process Cost Accounts for Process P and Q (Show the workings of equivalent units and cost per equivalent unit in each process).

Solution:

Process Cost Accounts

STATEMENT OF EQUIVALENT UNITS (PROCESS P)

Input Units		**Materials**		**Labour & Overheads**	
		Units	**% completion**	**Units**	**% completion**
9,000	Units Completed	9,000	100	9,000	100
1,000	Closing Stock	1,000	100	200	20
Equivalent Units		10,000		9,200	
Expenses		₹ 1,20,000		₹ 27,600	
Cost per Equivalent unit		12		3	
Cost of Closing Stock= 1,000 × ₹ 12 + 200 × ₹3 =₹ 12,600					
Cost of Completion units= ₹1,20,000 + ₹ 27,600 - ₹ 12,600 = ₹1,35,000					

PROCESS P ACCOUNT

	Units	**₹**		**Units**	**₹**
To Material	10,000	1,20,000	By Transfer Process Q	9,000	1,35,000
To Labour & Overhead		27,600	By Closing Stock	1,000	12,600
	10,000	1,47,600		10,000	1,47,600

STATEMENT OF EQUIVALENT UNITS (PROCESS Q)

		Material		Labour & Overhead	
Input		Units	% Completion	Units	% Completion
600	Opening Stock (Work Competed in current period)			400	66 2/3
8,600	Units introduced and completed [units started less closing stock: (9,000 – 400)]	8,600	100	8,600	100
400	Closing Stock (work done in current period)	400	100	100	25
	Equivalent Units	9,000		9,100	
	Expenses	₹ 1,35,000		₹ 18,200	
	Cost per Equivalent unit	₹ 15		₹ 2	
Cost of Closing Stock = 400 × ₹ 15 + 100 × ₹ 2 = ₹ 6,200					

Cost of finished Stock (Product B) = ₹ 9,400 + ₹ 1,35,000 + ₹ 18,200 - ₹ 6,200 = ₹ 1,56,400

PROCESS Q ACCOUNT

	Units	₹		Units	₹
To Opening Stock	600	9,400	By Transfer to Finished Stock (Product B)	9,200	1,56,400
To Process P	9,000	1,35,000			
To Labour & Overhead		18,200	By Closing Stock	400	6,200
	9,600	1,62,600		9,600	1,62,600

Customs Valuation: Significance of Relevant Date for Foreign Exchange Rate and Rate of Duty

Relevance of Rate of Exchange: Exchange rate as applicable on the date of presentation of Bill of Entry u/s 46 of the Customs Act, 1962, as prescribed by CBE&C (Board) should be considered. As per explanation (a) to section 14(2) of the Customs Act, the rate of exchange will be determined by CBE&C or ascertained in such manner as CBE&C may direct.

This rate is not same as 'Inter Bank Closing Rates' fixed by 'Foreign Exchange Dealers Association or foreign exchange rate announced by the Reserve Bank of India.

The condition of 'grant of entry inwards' is not provided for this purpose. Bill of Entry can be presented 30 days before expected date of arrival of vessel. If Bill of Entry is presented within that time and even if 'Entry inward' is granted subsequently, rate of exchange prevalent on the date of presentation of Bill of Entry will be considered.

Rate of Exchange in case of warehoused goods: Relevant exchange rate for valuation is as in force on date on which Bill of Entry is presented u/s 46. Bill of Entry is presented u/s 46 of Customs Act either for home consumption or for warehousing. Hence in case of warehoused goods, exchange rate prevailing on the date on which Bill of Entry is presented u/s 46 of the Customs Act is to be considered and not when Bill of Entry is presented u/s 68 for clearance from customs warehouse.

Exchange rate to be taken of the date of shipping bill in case of Export: The price referred u/s 14(1) of the Customs Act is to be calculated with reference to the rate of exchange as in force on the date on which a shipping bill or bill of export is presented u/s 50.

Relevant Date for Rate of Duty: Section 15 of the Customs Act prescribes that rate of duty and tariff valuation applicable to imported goods shall be the rate and valuation in force at one of the following dates:

(a) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section;

(b) in the case of goods cleared from a warehouse under section 68, on the date on which a bill of entry for home consumption in respect of such goods is presented under that section;

(c) in the case of any other goods, on the date of payment of duty..

Section 15 also provided that if a bill of entry has been presented before the date of entry inwards of the vessel or the arrival of the aircraft by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival, as the case may be.

Example: Expected date of arrival as per 'Shipping News' is 18th August, 2013. Bill of Entry was filed on 1st August, 2013, i.e. within 30 days. However, the ship was delayed and 'Entry inward' was granted on 30th August, 2013. Thus for rate of customs duty, 30th August, 2013 is the relevant date, while for considering foreign exchange rate, 1st August, 2013 is the relevant date, i.e. foreign exchange rate as on that date will have to be considered.

Illustration:

From the following particulars, calculate assessable value and total customs duty payable:

- **(i) Date of presentation of Bill of entry: 18-06-2013 [Rate of Basic Customs Duty 25%; Exchange Rate: ₹ 43.60 and rate notified by CBE&C ₹ 43.80]**
- **(ii) Date of arrival of goods in India: 28-06-2013 [Rate of Basic Customs Duty 20%; Exchange Rate; ₹ 43.90 and rate notified by CBE&C ₹ 44.00]**
- **(iii) Rate of Additional Customs Duty : 12%;**
- **(iv) CIF value 2,000 US Dollar; Air Freight 500 US Dollars, Insurance cost 100 US Dollars [Landing Charges not ascertainable].**
- **(v) Education Cess applicable 3%**
- **(vi) Assume there is no special CVD.**

Solution:

Computation of Assessable Value and the Total Customs Duty payable –

CIF value	**US$**	**2,000**
Less: Freight	US$	500
Insurance	US$	100
FOB Value	US$	1,400
Add: Air Freight restricted @ 20% of FOB value	US$	280
Insurance (actual amount)	US$	100
CIF value	US$	1,780
CIF Value in Indian ₹ (CIF Value in US$ x ₹ 43.80 per US$)	₹	77,964
Add: 1% for landing charges	₹	780
Assessable value [A]	₹	**78,744**
Add: Basic Customs duty @ 20% of [A] [B]	₹	15,749
Total for additional duty of customs u/s 3(1) Customs Tariff Act, 1975 [C]	₹	94,493
Add: Additional Customs Duty (@ 12% of ₹ 94,493 i.e., [C]) [D]	₹	11,339
Add: Education Cess on total customs duty i.e., 3% of [B+D] [E]	₹	813
Total for the levy of additional duty of customs u/s 3(5) of Customs Tariff Act, 1975 [F=C+D+E]	₹	1,06,645
Add: Additional duty of customs equal to sales tax etc. [G]	₹	---
Total cost of imported goods	₹	1,06,645
Total Customs duty [B+D+E+G] (rounded off)	₹	**27,901**

Working Notes:

(1) Rate of exchange notified by CBE&C on the date of presentation of bill of entry has been considered.

(2) Rate of duty as applicable on the arrival of aircraft which is later than the date of submission of the Bill of Entry has been considered.

(3) Landing charges @ 1% have been considered as per Rule 10(2)(b) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

(4) Since Air freight exceeds 20% of FOB value of goods, it shall be restricted to 20% of FOB value of goods.

DIRECT TAXATION

Income of Minor Child [Sec. 64(1A)]

Nature of Transaction	Clubbed in the hands of	Conditions/ Exceptions
Income of a minor child including minor married daughter. Child includes step-child and adopted child.	1. If the marriage subsists, in the hands of the parent whose total income is greater, or, 2. If the marriage does not subsists, in the hands of the person who maintains the minor child. Exemption : The parent in whose hands the minor's income is clubbed is entitled to an exemption u/s 10(32) - ₹ 1,500 per child. Where, however, the income of any minor so includible is less than ₹ 1,500, the aforesaid exemption shall be restricted to the income so included in the total income of the individual.	The following income of the minor child shall not be clubbed : 1. Income of a minor child suffering any disability specified u/s 80U. 2. Income on account of manual work done by the minor child. 3. Income on account of any activity involving application of skills, talent or specialized knowledge and experience. 4. In case, an individual transfers house property to a minor married daughter, income from that property shall not be clubbed in the parents' hands. [Sec 27].

Example :

M and N are minor sons of Mr. and Mrs. Z. Business income of Z is ₹ 3,80,000. Income from house property of Mrs. Z is ₹ 2,10,000. Income of M and N from stage acting is ₹ 50,000 and ₹ 70,000, respectively. Besides, interests on company deposits of M and N (deposit was made out of income from acting) is ₹ 35,000 and ₹ 1,300, respectively. M and N have received the following birthday gifts – on August 25, 2013 gift received by N from his grandfather ₹ 70,000; on December 19, 2013 gift received by M ₹ 60,000 from Z's friend and ₹ 40,000 from a relative. Find out the income of Z, Mrs. Z, M and N for the assessment year 2014-15.

Solution :

Particulars	Z ₹	Mrs. Z ₹	M ₹	N ₹
Income from house property	-	2,10,000	-	-
Business income	3,80,000	-	-	-

Income from stage acting	-	-	50,000	70,000
Income from other sources	-	-	-	-
- Gift received by N from grandfather on August 25, 2013 (gift from a relative not chargeable to tax)	-	-	-	-
- Gift received by M on December 19, 2013 from Z's friend (to be clubbed in the hands of Z after giving exemption of ₹ 1,500)	58,500	-	-	-
- Gift received by M on December 19, 2013 from relatives (gift from a relative not chargeable to tax)	-	-	-	-
- Interest from company deposit received by M (to be clubbed in the hands of Z)	35,000	-	-	-
- Interest from company deposit received by N (to be clubbed in the hands of Z after giving exemption of ₹ 1,500 , amount to be clubbed is ₹ 1,300 - ₹ 1,300)	-	-	-	-
Net income	4,73,500	2,10,000	50,000	70,000

Taxability of Gifts received on or after 01.10.2009

Where an Individual or HUF receives from any persons –

Circumstance	Taxable Value
Sum of money without consideration and aggregate value exceeds ₹ 50,000	Whole of the aggregate value
W.e.f 01.04.2014. Immovable property without consideration and Stamp Duty value of the Property exceeds ₹ 50,000	Stamp Duty Value **(See Note 2)**
W.e.f 01.04.2014 Immovable Property, for a consideration which is less than the stamp duty value of the property by an amount exceeding ₹ 50,000	Stamp Duty Value (-) Consideration **(See Note 2)**
Any Property other than immovable property without consideration and Fair Market Value exceeds ₹ 50,000	Whole of aggregate Fair Market Value
Any Property other than immovable property for consideration less than Fair market value by ₹ 50,000	Fair Market Value (-) Consideration

Note:

(1) If Stamp Duty Value is disputed by the Assessee u/s 50C(2) grounds, the Assessing Officer may refer the valuation to the Valuation Officer and provisions of sections 50C and 155(15) shall apply.

(2) Where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purpose determining the Income from Other sources. This clause is applicable only when the amount of consideration referred therein, or a part thereof has been paid by any mode other than cash on or before the date of the agreement for the transfer of such immovable property.

(3) The above provisions cover only a receipt by an individual or HUF

(4) Gift on the occasion of marriage is not chargeable to tax. Gifts on other occasions (e.g. gifts on birthday, etc.) will, however, be chargeable to tax. Further, marriage gift may be received from relatives, friends or any other person.

(5) Then above provision is applicable whether the recipient is a resident or non-resident. Even a gift received by a non-resident in India is chargeable to tax.

(6) The above provision is applicable whether the donor is a resident or a non-resident.

(7) **Exceptions:** Gifts received from the following persons not taxable:

(a) From a relative, or
(b) On the occasion of the marriage of the individual, or
(c) Under a will or by way of inheritance, or
(d) In contemplation of death of the payer or donor
(e) Local authority u/s 10(20)
(f) From Fund / Foundation / University / Other Educational Institution / Hospital or other Medical Institution/Trust/Institution referred to in 10(23C)
(g) Trust or Institution registered u/s 12AA

(8) **Relative means (W.r.e.f. 01.10.2009)-**

Assessee	**Relative**
Individual	(a) Spouse of the individual, (b) Brother or sister of the individual, (c) Brother or sister of the spouse of the individual, (d) Brother or sister of either of the parents of the individual, (e) Any lineal ascendant or descendant of the individual, (f) Any lineal ascendant or descendant of the spouse of the individual, (g) Spouse of the person referred to in clauses (b) to (f) above.
HUF	Any Member

Notes:

1. Property means the following **properties, (w.e.f. 01.06.2010)** which are **held as Capital Assets** by Assessee -
   - Immovable Property (Land or Building or both)
   - Shares and Securities
   - Paintings
   - Sculptures
   - Jewellery
   - Archaeological Collections
   - Drawings
   - Any work of art
   - W.e.f. 01.06.2010, Bullion
2. Fair Market Value of a property other than an Immovable Property means the value determined as per the prescribed method.
3. Stamp Duty Value means the value adopted or assessed or assessable by any Authority of the Central / State Government for the purpose of payment of Stamp Duty in respect of an immovable property.

Example :

Mr. Shiv received the following gifts during the P.Y. 2013-14 from his friend Mr. Narayan,

(a) Cash gift of ₹ 51,000 on his birthday, 20th August, 2013

(b) 50 shares of Alpha Ltd., the Fair Market Value of which was ₹ 75,000, on his birthday, 20th August, 2013

(c) 100 shares of Gama Ltd., the Fair Market Value of which was ₹ 80,000 on the date of transfer. This gift received on the occasion of Durga Puja. Mr. Narayan had originally purchased the shares on 5.4.2013 at a cost of ₹ 55,000

(d) Further, on 27th October 2013, Mr. Shiv purchased Land from his sister's mother-in-law for ₹ 8,00,000. The Stamp Value of land was ₹ 10,00,000

Compute the Income of Mr. Shiv chargeable under the head "Income from Other Sources".

Solution :

Computation of Income from Other Sources

Gift	**Amount (₹)**	**Reason & Taxability**
Cash gift	51,000	Sum of money received without consideration and aggregate value exceeds ₹ 50,000

50 shares of Alpha Ltd.	75,000	Taxable at Fair Market Value
100 shares of Gama Ltd.	80,000	Taxable at Fair Market Value
Purchase of land	2,00,000	If an Immovable Property is acquired for inadequate consideration, it is taxable if the difference between Stamp Duty Value and consideration exceeds ₹ 50,000
Income from Other Sources	4,06,000	

Example :
M, a lady received the following gifts during the year ending 31.3.2014
(a) ₹ 40,000 from her elder sister
(b) ₹ 50,000 from the daughter of her elder sister
(c) ₹ 1,50,000 from various friends on the occasion of her marriage
Discuss the taxability or otherwise of these gifts in the hands of M.

Solution :
Assessee: Mrs. M Previous Year : 2013-2014 Assessment Year – 2014-2015

Statement showing the taxability of gifts in the hands of M

Gift receipt/ Donor	Amount (₹)	Reason & Taxability
Elder sister	40,000	Relative – not taxable
Daughter of her elder sister	50,000	Not a relative, but not exceeding ₹ 50,000 in aggregate – not taxable
Various friends on the occasion of M's marriage	1,50,000	Occasion of marriage – not taxable

Exemption for all Long Term Capital Gains available [Sec 54EC]

Applicability	**All Assessees**
Asset Transferred	**Any Long Term Capital Asset**
Nature of the Asset	**Long Term Capital Asset**
New Asset to be acquired	**(a) Notified Bonds - W.e.f. 1.4.2007, 3 Years redeemable bonds issued after 1.4.2007 by National Highway Authority of India (NHAI) and Rural Electrification Corporation Limited (RECL)]** **(b) [W.e.f. A.Y. 2007-2008 Bonds redeemable after 3 years issued on or after 1.4.2006 but before 31.3.2007 by National Highway Authority of India (NHAI) and Rural Electrification Corporation Limited (RECL).** **(c) Prior to AY 2007-08, Bonds issued by (a) NABARD, (b)National Highway Authority of India (NHAI), (c) Rural Electrification Corporation Ltd. (RECL), (d) National Housing Bank (NHB), (e) Small Industrial Development Bank of India (SIDBI)** **[Such investment will not be eligible for rebate u/s 88 upto AY 2005-06 and deduction u/s 80C W.e.f. AY 2006-07]**
Amount to be invested in New Asset	**Long Capital Gain on Transfer (W.e.f. 1.4.2007 amount that can be invested by the assessee during any Financial Year cannot exceed ₹50 Lakhs).**
Amount of Exemption	**Least of: (a) Amount invested in Bonds, or (b) Capital Gain**

Time Limit for Investment	**Within 6 months from the date of transfer.**
Holding Period of New Asset	**3 years from the date of acquisition**
Sale of New Asset within holding period	**The long-term capital gain so exempted u/s 54EC shall be deemed to be income under LTCG of the assessee in the year of transfer or converted into Money or created charge on the specified Asset.**

Example :
Mr. Murthy transferred a vacant site on 1.11.2013 for ` 100 lakhs. The site was acquired for ` 9,50,000 on 15.7.2002. he deposited ` 50 lakhs in eligible bonds issued by Rural Electrification Corporation Ltd (REC) on 25.3.2014.
Again, he deposited ` 35 lakhs in eligible bonds issued by National Highways Authority of India (NHAI) on 20.4.2014.
Compute the chargeable Capital Gain in the hands of Mr. Murthy for the AY 2014-2015.

Solution :
Assessee : Mr. Murthy   Previous Year : 2013-2014   Assessent Year : 2014-2015

Computation of Taxable Long Term Capital Gain (in lakhs)

Particulars	`	`
Long Term Capital Gain on sale of site : Sale consideration Less : Expenses on Transfer	 100.00 -	
Net Sale Consideration Less : Indexed Cost of Acquisition = Cost of Acquisition x $\frac{\text{CII for year of transfer}}{\text{CII for year of acquisition}} = 9{,}50{,}000 \text{x} \frac{939}{447}$	100.00 19.96	
Long Term Capital Gain Less : Exemption u/s 54EC		80.04 50.00
Taxable Long Term Capital Gain		30.04

Note : Sec 54EC provides for maximum investment of ` 50 lakhs in one financial year. Such investment has to be made within a time period of 6 months from the date of transfer. Some persons opine that ` 50 lakhs can be invested before the end of one financial year and another ` 50 lakhs in following financial year and claim the benefit of exemption upto ` 1 crore, as the investments were made within six months. This is certainly not the intention of the law as it benefits only those Assessees who transfers on or after 1st October of the financial year. Such interpretation is not tenable in law.

<u>Wealth Tax</u>
Incidence of Wealth Tax shall be determined on the basis of the following –

1. In case of Individual, - (a) his Nationality, (b) Residential Status, and (c) Location of the Asset on the Valuation Date.
2. In case of HUF and Company, - (a) their Residential Status, and (b) Location of the Asset on the Valuation date.

During the previous year ending on the valuation date.

Nationality / Residential Status of the Assessee	**Assets located**		**Debts incurred on assets**	
	In India	**Outside India**	**In India**	**Outside India**
1. Individual being Indian National, and HUF				
(a) Resident and Ordinarily Resident	Taxable	Taxable	Deductible	Deductible
(b) Resident but not Ordinarily Resident	Taxable	Not Taxable	Deductible	Not Deductible
(c) Non - Resident	Taxable	Not Taxable	Deductible	Not Deductible

2. Individual who is a Foreign National	Taxable	Not Taxable	Deductible	Not Deductible
3. (a) Resident Company (b) Non-Resident Company	Taxable Taxable	Taxable Not Taxable	Deductible Deductible	Deductible Not Deductible

Guidelines for Identifying the Location of Property/Debts [Circular No. 392 / 24.8.1984]:

Nature of Property/Debts	Location
Any Immovable Property or any Rights or Interest on Immovable Property	Property lies in India
Movable Property or any Rights or Interest on Movable Property	Property located in India
Debts, secured or unsecured	Repayment in India, or Debtor is residing in India
Aircraft or Motor Car	Registered in India

Definition of India [Sec.2 (ka)]: The Territory of "India" as referred to in Article 1 of the Constitution, its territorial waters, sea bed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 and the air space above its territory and territorial water.

Goods on high seas cannot be treated as located in India and not taxable in the hands of Non-Resident. **[Consolidated Pneumatic Tools Co. Ltd 81ITR 752 (SC)]**

Asset [Sec.2(ea)]

Asset Includes	Asset Excludes
1. Building or Land appurtenant thereto, i.e. called "House", whether used for— (a) Residential Purpose (b) Commercial Purpose (c) Guest House (d) Farmhouse situated within 25 kms from local limits of Municipality or Cantonment Board.	• Residential House allotted by a Company to its Employee / Officer / Executive who is in whole time employment and their Gross Annual Salary is less than **w.e.f. AY 2013-14 ₹10 Lakhs p.a.** (Upto AY 2012-13, ₹ 5 lakhs p.a.) • Residential or Commercial House forming part of Stock-in-Trade. • House occupied by Assessee for his own business or profession. • Residential House let out for a period of 300 days or more during the previous year. • Property in the nature of commercial establishment or complexes.
2. Motor Cars (whether Indian or Foreign Car)	• Motor Car used in the business of running on hire • Motor Car held as Stock in Trade in the business.
3. Jewellery, Bullion, Furniture, Utensils and any other article made wholly or partly of gold, silver, platinum or other precious metal.	• Such items held as Stock in Trade in the business of the Assessee. • Gold Deposit Bonds issued under Gold Deposit Scheme, 1999
4. Yachts, Boats and Aircrafts (including Helicopter.)	• Yachts/ Boats / Aircraft used by assessee for commercial purposes • Ship

5. Urban Land **[See Note]**	• Land classified as Agricultural Land in the records of Government and used for agricultural purpose **(w.r.e.f 01.04.1993),** • Land on which construction of a Building is not permissible under any law for the time being in force. • Land occupied by any Building which has been constructed with the approval of the appropriate Authority. • Any unused land held by the Assessee for industrial purposes for a period of 2 years from the date of its acquisition by him. • Any land held by the Assessee as Stock-in-Trade for a period of 10 years from the date of its acquisition by him.
6. Cash in Hand	
• In case of individual or HUF any amount in excess of ₹ 50,000. • For Others, amount not recorded in books of accounts.	For Individual / HUF, any amount less than ₹ 50,000. For Others, amount recorded in the books of accounts.

Note: w.e.f. 01.04.2014 "Urban Land" means land situate -

(i) in any area which is comprised within the jurisdiction of a Municipality (whether known as a Municipality, Municipal Corporation, Notified Areas Committee, Town Area Committee, Town Committee, etc.) or a Cantonment Board, and which has a population of not less than 10,000, or

(ii) in any area within the distance, measured aerially -

- not being more than 2 kilometers, from the local limits of any Municipality or Cantonment Board referred in Item (i) and which has a population of more than 1 Lakh but not exceeding 1 Lakh, or
- not being more than 6 kilometers, from the local limits of any Municipality or Cantonment Board referred in Item (i) and which has a population of more than 1 Lakh but not exceeding 10 Lakh, or
- not being more than 8 kilometers, from the local limits of any Municipality or Cantonment Board referred in Item (i) and which has a population of more than 10 Lakh.

Items excluded from "Assets"

Building owned by Partners but used in Firm's business is deemed to be used by the assessee for his own business or profession - Not an Asset chargeable to Tax. **[DM Srinivas 248 ITR 406 (FB)]**

Assets owned by the assessee and used for business purpose by a Firm in which he is a Partner, are treated as assets used by the Assessee for the purpose of business and not an asset u/s 2(ea). **[KM Jagannathan 181 ITR 191 (Mad.), Contrary view in KN Guruswamy 146 ITR 34 (Kar)]**

Motor Cars covers all Motor Vehicle other than Heavy Vehicles. Hence, Buses, Trucks, Tempos are not considered as Motor Cars. However, Jeep, Sport Utility Vehicle (SUV), Multi Utility Vehicle (MUV), are classifiable as Motor Car. **[Southern Roadways Ltd 122 Taxman 126 (Mad)]**

Aircraft used by the Assessee for its own business shall be treated as commercial purpose. For example, Aircrafts used for transporting goods of the assessee, or carrying its Directors or Executives or Employees, shall be treated as used for commercial purpose. **[Gareware Wall Ropes Ltd [2004] 89 ITD 221 (Mum.)]**

Conditions for "Assets"

Incomplete Building neither fall within the meaning of Building nor with the purview of urban land u/s 2(ea) and hence not an asset chargeable to Wealth Tax **[CIT vs Smt. Neena Jain 330 ITR 157 (P & H)]**

The asset may be located anywhere but must belong to the Assessee and held by him as on the valuation date. **[Sardar C.S. Angre 69 ITR 336 (MP)]**

For the purpose of taxability, the assessee should have right of ownership over the property and not mere possession. **[Bishwanath Chatterjee 103 ITR 536 (SC)]**

Example:

Raman, a Not Ordinarily Resident in India, seeks your advice with regard to the furnishing of his Wealth Tax Return. The value of assets held on 31.03.2014 is indicated below.
You are requested to compute the Taxable Wealth of Raman, giving justification for the inclusion or exclusion of each item. The Valuation Date as indicated above is 31.03.2014

Particulars	₹
Motor Cars of foreign make held as Fixed Assets	**9,50,000**
Gold bonds under Gold Deposit Scheme, 1999	**15,00,000**
Residential House Property at Pune let-out with effect from 05.03.2013	**11,00,000**
Jewellery held	**9,00,000**
Lands purchased for industrial purpose on 01.01.2010	**5,50,000**
on 25.03.2013	**7,50,000**
Loan against the purchase of lands on 01.01.2010	**2,75,000**
on 25.03.2013	**3,50,000**
Wealth Tax Liability	**9,000**
Cash on Hand	**75,000**
Cash at Bank	**1,25,000**
Fixed Asset located in U.S.A	**50,00,00**
Value of Assets held by Mrs. Raman acquired out of the gifts received from her husband	**0**
Shares and Securities	
Residential House Property at Mumbai	**2,00,000**
	9,00,000

Solution:

Assessee: Mr. Raman **Valuation Date: 31.03.2014** **Assessment Year: 2014-2015**

Computation of Net Wealth

Nature of Asset	₹	Reasons
Motor-cars	9,50,000	Motor-Car other than those used in the business of hire or held as Stock-in-Trade is an asset u/s 2(ea).
Gold Bonds, 1999	NIL	Not an asset under WT Act.
Residential House Property	NIL	Any Residential House Property let-out for 300 days or more is not an asset
Jewellery	9,00,000	Jewellery other than those held as Stock-in-Trade is an asset u/s 2 (ea).
Land purchased on 01.01.10 for Industrial Purpose	5,50,000	Unused Land held for more than two years from the date of acquisition for industrial purposes, is an asset u/s 2(ea).
Land purchased 25.03.2013	NIL	Land held for first two years from the date of acquisition for industrial purposes is not an asset
Cash-on-Hand	25,000	Cash held beyond ₹ 50,000 is an asset for individuals.
Cash-at-Bank	NIL	Not an asset under WT Act.
Fixed Asset located in USA	NIL	Not chargeable to tax, for Not Ordinary Resident.

Deemed Assets acquired and held by Mrs. Raman		
(a) Shares and Securities	NIL	Not an asset u/s 2(ea)
(b) Res. House Property at Mumbai 9,00,000 **Less:** Exemption u/s 5(vi) (9,00,000)	NIL	Asset u/s 2(ea) and clubbed u/s 4(1). One house or part of the house exempt u/s 5(vi)
Total Assets **Less: Debts incurred on Assets Taxable** On Land acquired on 01.01.2010	**24,25,000** (2,75,000)	Wealth Tax Liability and Debts incurred in relation to exempted assets are not deductible
Net Wealth	**21,50,000**	
Taxable Net Wealth	**NIL**	Since Net Wealth does not Exceed Basic Exemption limit of ₹ 30,00,000