Paper 7- Direct Taxation

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Full Marks : 100 **Time allowed: 3 hours**

Answer Question No. 1 which is compulsory and any Five from Question No. 2 to No. 7

Part - I

1. (a) Multiple choice questions: [10x1=10]

(i) Maximum Deduction available under section 80C is –
(a) ₹ 1,00,000
(b) ₹ 40,000
(c) ₹ 1,50,000
(d) ₹ 75,000

(ii) On donation to whom of the following a 0% deduction is allowable u/s 80G of the Income Tax Act?
(a) National Defence Fund
(b) Prime Ministers National Relief Fund
(c) Donation given in kind
(d) National foundation for Communal Harmony

(iii) Equity share shall be treated as Long term capital asset if it is held by the transferor for __________

(a) more than 12 months
(b) more than 36 months
(c) 12 months
(d) 36 months

(iv) _______ is a capital asset.

(a)Stock in trade
(b)Jewellery
(c)Personal use
(d)None of the above

(v) If the asset is acquired during the earlier previous year and the same is put to use during the previous year for less than 180 days for the purpose of business or profession of the assessee then the eligible depreciation on such asset which can be claimed by the assessee during the previous year will be_______.

(a) 100% of normal depreciation
(b) 50% of normal depreciation
(c) 60% of normal depreciation
(d) No depreciation

(vi) For the purpose of sec. 17(2), member of household does not include –

(a) Spouse (whether dependent or not);
(b) Servants

(c) Dependents
(d) Assessee himself

(vii) Which out of the following is not a case of deemed ownership of house property?

(a) Transfer to a spouse for inadequate consideration
(b) Transfer to a minor child for inadequate consideration
(c) Holder of an impartible estate
(d) Co-owner of a property

(viii) On 10-10-2017, Mohan received shares from his friend Uttam (fair value ₹ 36,000 and not acquired through ESOP) as a gift. Further, as on 01-11-2017, he also received gold chain (fair value ₹ 10,000) without any consideration from another friend. Income u/s 56(2) taxable in hands of Mr. Mohan shall be –

(a) Nil
(b) ₹ 16,000
(c) ₹ 46,000
(d) None of these

(ix) Where assessment has not been completed, revised return for assessment year 2018-19 can be filed upto:

(a) 31.03.2019
(b) 31.02.2018
(c) 31.03.2018
(d) 31.12.2019

(x) The income before deduction admissible under section 80C to 80U is called _____.

(a) Total income
(b) Gross Total income
(c) Both (a) and (b)
(d) None of these

Answer:

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)
c	c	a	b	a	d	d	a	a	b

(b) Fill in the blanks: [5x1=5]

(i) The maximum amount deductible u/s 80QQB is ₹ _____________.
(ii) Winning from lottery is taxable @ ___________
(iii) Agricultural income from land located in India is exempt u/s ____________
(iv) Interest on PPF is ___________
(v) In case of HUF, the return of income has to be signed by the __________.

Answer:

(i) ₹ 3,00,000

(ii) 30%
(iii) 10(1)
(iv) Exempt u/s 10(11)
(v) Karta

(c) State whether the following statements are true or false: [5x1=5]

(i) A belated return cannot be revised
(ii) Reasonable expected rent cannot exceed standard rent.
(iii) No tax is required to be deducted from professional fees, if aggregate amount of such fees credited or paid during the financial year to the payee does not exceed₹ 30,000
(iv) Negative income under the head 'income from house property' cannot be carried forward
(v) Short term capital loss can be adjusted with income under any head.

Answer:

(i) False;
(ii) True;
(iii) True;
(iv) False;
(v) False.

(b) Match the following: [5x1=5]

	Column 'A'		**Column 'B'**
1.	**Person**	**A**	**Sec. 35**
2.	**Heads of Income**	**B**	**Sec. 32**
3.	**Scientific Research**	**C**	**Sec. 33ABA**
4.	**Depreciation**	**D**	**Sec. 2(31)**
5.	**Site Restoration Fund**	**E**	**Sec. 14**

Answer:

	Column 'A'		**Column 'B'**
1.	Person	**D**	Sec. 2(31)
2.	Heads of Income	**E**	Sec. 14
3.	Scientific Research	**A**	Sec. 35
4.	Depreciation	**B**	Sec. 32
5.	Site Restoration Fund	**C**	Sec. 33ABA

Part - II

Answer any five from the following. Each question carries 15 marks (5x15=75)

2.(a) Kanak, a Bangladeshi national discloses the following particulars of his income during the previous year 2017-18:
(i) Income from house property in Bangladesh, remitted by tenant to him in India through State Bank of India ₹1,00,000

(ii) Income from business in Singapore, controlled and managed from Singapore and profit received in Singapore ₹5,00,000.
(iii) Profit from business in Bangladesh, controlled and managed from India but profit being received in Bangladesh ₹10,00,000.
(iv) Dividends received from Bangladeshi companies outside India ₹1,35,000.
(v) Interest received on bonds of U.K. companies outside India ₹45,000

Determine his total Income for the previous year 2017-18 in the following cases:
(a) He is resident and ordinarily resident in India during the previous year;
(b) He is resident but not ordinarily resident in India during the previous year. [7]

Answer:

Computation of Total Income in India of Kanak for A.Y. 2018-19

Particulars	**Resident & ordinarily resident**	**Resident but not ordinarily resident**
Income from house property in Bangladesh, remitted by tenant to him in India	1,00,000	1,00,000
Income from business in Singapore, controlled and managed from Singapore and profit received in Singapore	5,00,000	-
Profit from business in Bangladesh, controlled and managed from India but profit being received in Bangladesh	10,00,000	10,00,000
Dividends received from Bangladeshi companies outside India	1,35,000	-
Interest received on bonds of U.K. companies outside India	45,000	-
Total Income	**17,80,000**	**11,00,000**

(b) Avik constructed a house in Kolkata on 30th September 2014. He took loan of ₹ 5,00,000 from a bank on 1st September, 2012 at an interest of 12% p.a. for the construction of the house. He refunded ₹ 2,00,000 on 1.1.2014. Compute allowable interest on loan u/s 24(b) for the assessment year 2018-19 under the Income tax Act. [8]

Answer:

Statement showing Interest allowed u/s 24(b)

Particulars	**Details**	**Amount ₹**
Pre-construction interest (Working)	89,000/5	17,800
Post construction interest	3,00,000 x 12%	36,000
Total		53,800

Working: Since construction has been completed on 30th September 2014, so pre-construction period starts from 1/9/2012 and ends on 31st March, 2014. Calculation of pre-construction interest is as follows:

Previous year	**Loan Amount ₹**	**No. of months**	**Details**	**Interest Amount ₹**
2012-13	5,00,000	7	5,00,000 × 7/12 ×12%	35,000
2013-14	5,00,000	9	5,00,000 × 9/12 × 12%	45,000
	3,00,000 #	3	3,00,000 × 3/12 × 12%	9,000

Total				89,000

₹ 2,00,000 has been refunded on 1.1.2014.

3.(a) From the following particulars, compute the total income of Mr. Hari for the A.Y. 2018-19. Mr. Hari, an employee of the Central Government retired on 30.6.2017. His salary from 1.4.2017 was ₹ 5,000 per month. On retirement, he received provident fund ₹ 80,000 and gratuity ₹ 5,10,000 and received ₹ 50,000 through encashing his 12 months earned leave. He started getting his pension @ ₹ 1,000 per month from 1.7.2017. From 1.12.2017, Mr. Hari joined Raj Ltd., Kolkata on a salary of ₹ 4,000 per month. The company provided him a rent-free accommodation (unfurnished) and a self-driven car (1.6 cc) for which all expenses are borne by the company.

[8]

Answer:

Computation of Taxable Income of Mr. Hari for the A.Y. 2018-19

Particulars	Govt. employee		Non-Govt. employee		Total
	Details	**Amount ₹**	**Details**	**Amount ₹**	**Amount ₹**
Basic salary	5,000 × 3	15,000	4000 × 4	16,000	31,000
Gratuity u/s 10(10)	Not Taxable	Nil			Nil
Leave encashment	Not Taxable	Nil			Nil
Uncommuted pension	1,000 × 9	9,000			9,000
Provident fund	Not Taxable	Nil			Nil
Rent-free accommodation			15% of 20,000	3,000	
Car facility			Not a specified employee		3,000
Taxable Salary					43,000

Note: Salary for the purpose of:

Particulars	**Accommodation**
Basic	16,000
Pension	4,000 *
Total	20,000

* While calculating salary for the purpose of rent-free accommodation, salary from all sources shall be included during the period for which accommodation has been provided.

(b) Mention few instances of Agricultural Income. **[7]**

Answer:

Instances of Agricultural (Agro) Income:

1. Income from growing trade or commercial products like jute, cotton, etc. is an agro income.
2. Income from growing flowers and creepers is an agro income.
3. Plants sold in pots are an agro income provided basic operations are performed.
4. Remuneration and interest to partner: Any remuneration (salary, commission, etc.) received by a partner from a firm engaged in agricultural operation is an agro income.
5. Interest on capital received by a partner from a firm, engaged in agricultural operation is an agro income.
6. Income arising by sale of trees grown on denuded parts of the forest after replanting and by carrying on subsequent operations, is an agro income.

7. Compensation received from insurance company for damage caused by hail-storm to the green leaf of the assessee's tea garden is agricultural income. Further, no part of such compensation consists of manufacturing income, as such compensation cannot be apportioned under Rule 8 between manufacturing income and agricultural income.
8. Any fee derived from land used for grazing of cattle, being used for agricultural operation, is an agro income.
9. Any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income

4. (a) During the previous year 2017-18, Jay exchanges his agricultural land (being acquired on 1-04-2002 for ₹ 40,000) against the agricultural land of Vijay (being acquired on 1-02-2017 for ₹ 90,000). Fair market value of such properties on the date of transfer is ₹ 3,00,000. Compute capital gain assuming that both the land is situated in urban area. [7]

Answer:

Computation of capital gain for A.Y. 2018-19

Particulars	Working	Jay	Vijay
Sale consideration		3,00,000	3,00,000
Less: Expenses on transfer		Nil	Nil
Net sale consideration		3,00,000	3,00,000
Less: Indexed cost of acquisition	₹ 40,000 × 272 / 105	1,03,619	-
Less: Cost of acquisition		-	90,000
Less: Indexed cost of improvement		Nil	-
Less: Cost of improvement		-	Nil
Long Term Capital Gain		1,96,381	-
Short Term Capital Gain		-	2,10,000
Less: Exemption			
U/s 54B		1,96,381	Nil[1]
Taxable Long Term Capital Gain		**Nil**	**-**
Taxable Short Term Capital Gain		**-**	**2,10,000**

[1]. Since Vijay does not use such land for 2 years, hence he is not eligible for exemption u/s 54B.

(b) Mr. X, an Indian citizen, gives the following particulars for the P.Y. 2017-18:

Particulars	Amount ₹
Business income	**4,00,000**
Income from other sources	**50,000**
Donation to the following funds/institutions:	
National Defence Fund	**20,000**
Government of India for promotion of family planning	**40,000**
Prime Minister's National Relief Fund	**15,000**
National Foundation for Communal Harmony	**7,000**
Approved Charitable Trust	**18,000**
Approved University	**4,000**
Donation in kind to an approved Charitable Trust	**5,000**

Determine the amount deductible u/s 80G for the A.Y. 2018-19. [8]

Answer:

Statement showing Deduction u/s 80G

Donee	**Donation**	**Qualifying Amount**	**%**	**Deduction**
National Defence Fund	20,000	20,000	100	20,000
P.M. National Relief Fund	15,000	15,000	100	15,000
National Foundation for Communal Harmony	7,000	7,000	100	7,000
Approved University	4,000	4,000	100	4,000
Donation to an approved Charitable Trust (As given in kind)	5,000	Nil	--	--
Govt. of India for promotion of family planning	40,000	40,000 [1]	100	40,000
Approved Charitable Trust	18,000	5,000 [1]	50	2,500
Deduction u/s 80G				88,500

Working 1: Calculation of Adj. GTI for qualifying amount:

Particulars	**Amount**
Profits & gains of business or profession	4,00,000
Income from other sources	50,000
Gross Total Income	4,50,000
Less: Other deduction	Nil
Adjusted Gross Total Income	4,50,000
Limit (being 10% of above)	45,000

List of donations on which Limit is applicable and qualifying amount thereof:

Donee	**Rate of deduction**	**Amount**	**Qualifying Amount**
Govt. of India for promotion of family planning	100%	40,000	40,000
Approved Charitable Trust	50%	18,000	5,000
Total		58,000	45,000

Since rate of deduction on donation made to Govt. of India for promotion of family planning is 100%, whereas in case of donation made to approved charitable trust is 50%. So, first we adjust donation made to Government of India for promotion of family planning with maximum amount available for donation.

5. (a) From the following Profit and Loss A/c and other relevant information, compute income from business of Ratanlal for the A.Y. 2018-19:

Profit and Loss A/c for the year ended 31.3.2018

	₹		**₹**
To Opening stock	**11,000**	**By Sales**	**5,20,000**
To Purchases	**2,50,000**	**By Dividend from foreign company**	**4,000**
To Salaries	**50,000**	**By Bad debt recovery**	
To Business expenses	**7,500**	**(Disallowed in 2007-08)**	**35,000**
To Income Tax	**8,500**	**By Bank Interest**	**15,000**
To Fine paid to Excise Dept.	**12,000**	**By Closing stock**	**66,000**
To Provision for bad debts	**8,000**		

To Depreciation	**27,000**		
To Donation to Puri temple	**10,000**		
To GST	**16,000**		
To Travelling expenses	**5,000**		
To Advertisement	**15,000**		
To Net profit	**2,20,000**		
	6,40,000		**6,40,000**

Additional information:

(a)Both opening and closing stock have been valued at 10% above cost.
(b)Business expenses include
- **(i) wages @₹200 p.m. to his domestic servant;**
- **(ii) Life insurance premium of ₹1,600 on his own life.**

(c)Purchases include a payment of ₹40,000 made in cash.
(d)Depreciation as per I.T. Rules ₹22,000. [10]

Answer:

Computation of Gross Total Income of Ratanlalfor the A.Y.2018-19

Particulars	**Note**	**Details**	**Amount ₹**
Net profit as per books of accounts			2,20,000
Add: <u>Expenditure disallowed but debited in P/L A/C</u>			
Income tax	1	8,500	
Fine paid to excise department	2	12,000	
Provision for bad debt	3	8,000	
Depreciation debited to the account	4	27,000	
Donation	5	10,000	
Wages to domestic servant	6	2,400	
LIC Premium	7	1,600	
Purchase for which payment has been made in cash	8	40,000	1,09,500
			3,29,500
Less: <u>Expenditure allowed but not debited in P/L A/c:</u>			
Depreciation as per I.T. Rules	4	22,000	
Less:<u>Income credited but taxable under other head</u>			
Dividend from foreign company	9	4,000	
Bank Interest	9	15,000	
Less:<u>Income credited but not taxable</u>			
Bad debt recovery	10	35,000	76,000
			2,53,500
<u>Adjustment for stock valuation</u>			
Add: Overvaluation of opening stock	11	1,000	
Less: Overvaluation of closing stock	12	6,000	(5,000)
Profits & gains of Business or Profession			**2,48,500**

<u>Notes</u>:

1. Income tax is not allowed u/s 40(a).
2. Any payment for infringement of law is not allowed as deduction.
3. Any anticipated loss is not allowed as deduction.
4. Depreciation is allowed as per IT Act not as per books of accounts.
5. Donation is not an allowable expenditure.
6. Personal expenditure is not deductible.
7. Payment of LIC premium is eligible for deduction u/s 80C
8. Any expenditure incurred in cash in excess of ₹10,000 shall be disallowed u/s 40A(3).
9. Dividend from foreign country and bank interest is taxable under the head 'Income from Other Sources'
10. Since bad debt was earlier disallowed, hence recovery thereof shall not be taxable
11. Over valuation of opening stock
Value of opening stock (₹11,000/110%) = ₹10,000
Over value of stock 10% of ₹10,000 = ₹1,000.
12. Over valuation of closing stock
Value of closing stock (₹66,000/110%) = ₹60,000
Over value of stock 10% of ₹60,000 = ₹6,000.

(b) Write brief note on ICDS – II. **[5]**

Answer:

ICDS II: Valuation of Inventories

Scope

- This Standard shall be applied for valuation of inventories, except
  i. Work-in-progress arising under 'construction contract'
  ii. Work-in-progress which is dealt with by other Standard
  iii. Shares, debentures and other financial instruments held as stock-in-trade
  iv. Producers' inventories of livestock, agriculture and forest products, mineral oils, ores and gases to the extent that they are measured at net realisable value
  v. Machinery spares, which can be used only in connection with a tangible fixed asset and their use is expected to be irregular

Measurement

- Inventories shall be valued at cost, or net realisable value, whichever is lower.
  - Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

Cost of Inventories

- Cost of inventories shall comprise of all costs of purchase, costs of services, costs of conversion and other costs incurred in bringing the inventories to their present location and condition.
  - The costs of purchase shall consist of purchase price including duties and taxes, freight inwards and other expenditure directly attributable to the acquisition. Trade discounts, rebates and other similar items shall be deducted in determining the costs of purchase
  - The costs of services shall consist of labour and other costs of personnel directly engaged in providing the service including supervisory personnel and attributable overheads.

- The costs of conversion of inventories shall include costs directly related to the units of production and a systematic allocation of fixed and variable production overheads that are incurred in converting materials into finished goods.
- Other costs shall be included in the cost of inventories only to the extent that they are incurred in bringing the inventories to their present location and condition.
- Interest and other borrowing costs shall not be included in the costs of inventories, unless they meet the criteria for recognition of interest as a component of the cost as specified in the Income Computation and Disclosure Standard on borrowing costs.
- In determining the cost of inventories, the following costs shall be excluded
  a. Abnormal amounts of wasted materials, labour, or other production costs;
  b. Storage costs, unless those costs are necessary in the production process prior to a further production stage;
  c. Administrative overheads that do not contribute to bringing the inventories to their present location and condition;
  d. Selling costs.

Cost Formulae

- The standard recognizes 3 cost formulae viz. (i) Specific Identification Method; (ii) First-in-First-Out Method (FIFO); (iii) Weighted Average Method

Change of Method of Valuation of Inventory

- The method of valuation of inventories once adopted by a person in any previous year shall not be changed without reasonable cause

Disclosure

- Following shall be disclosed:

a. the accounting policies adopted in measuring inventories including the cost formulae used; and
b. the total carrying amount of inventories and its classification appropriate to a person.

6. (a) Ms. Suparna Roy (Age 46 yrs), a resident individual of India, finished the following details of her income during the Previous year 2017 – 18. Compute her Total Income and tax payable for the Assessment year 2018 – 19.

- **Gross salary ₹ 5,01,000 (Professional Tax paid ₹ 2,000).**
- **Income from Business owned by her ₹ 2,00,000 and Allowable expenses ₹ 1,20,000.**
- **Received family pension ₹ 10,000 p.m. w.e.f. 1.04.2017.**
- **Long term Capital gain on sale of building ₹ 80,000.**
- **She received her share of income from Hindu Undivided Family (HUF) as member ₹ 40,000.**
- **She deposited to PPF ₹ 80,000 during the year.**
- **Donation to National Defence Fund ₹ 25,000.**
- **Repayment of house building loan taken from HDFC Bank (purchased during 2017 – 18) ₹ 2,50,000 (of which ₹ 50,000 is for principal repayment).**

Paid premium on Mediclaim Insurance Policy on own health by cheque ₹ 16,000. [8]

Answer:

Computation of total income of Ms. Suparna Roy for the A.Y. 2018-19

Particulars	Amount ₹	Amount ₹	Amount ₹
<u>Salaries</u>			
Gross Salary		5,01,000	
Less: Professional Tax		2,000	4,99,000
<u>Income from House Property</u>			
Net annual value of self-occupied property		Nil	
Less: Deduction u/s 24(b) (Interest on loan)		2,00,000	(2,00,000)
<u>Profits & Gains of Business or Profession</u>			
Income from business		2,00,000	
Less: Allowable Expenses		1,20,000	80,000
<u>Capital Gains</u>			
Long term capital gain			80,000
<u>Income from other sources</u>			
Family Pension		1,20,000	
<u>Less</u>: Std. Deduction [Lower of 1/3rd of pension or ₹15,000]		15,000	1,05,000
Gross Total Income			**5,64,000**
Less: <u>Deductions</u>			
- u/s 80C			
PPF	80,000		
Repayment of housing loan	50,000	1,30,000	
- u/s 80D (mediclaim)		16,000	
- u/s 80G [Donation to National Relief Fund]		25,000	1,71,000
Total Income			**3,93,000**

Computation of Tax liability of Ms. Suparna Roy for the A.Y. 2018-19

Particulars	Rate	On	Details	Amount ₹
<u>Long Term Capital Gain</u> ₹80,000	20%			16,000
<u>Other Income</u>(Note)				
Upto ₹2,50,000	-		-	
From ₹2,50,001 to ₹3,13,000	5%	63,000	3,150	3,150
Tax Liability				19,150
Less: Rebate u/s 87A				-
				19,150
Add: Education cess & SHEC	3% of ₹ 19,150			574
Final tax liability				19,724
Rounded off u/s 288B				19,720

(b) Write short note on "Co-ownership". [7]

Answer:

Co-ownership [Sec. 26]

If two or more persons own a house property jointly, then they are known as co-owners. If individual share of each co-owner is definite and ascertainable then the share of each such person shall be taxable as his income from house property.

Tax treatment

1. Share of each co-owner in the income from the property as computed in accordance with sec. 22 to 25 shall be included in his total income.

2. Where the house property is owned by co-owners and is occupied by each of the co-owner then all of them can claim benefit u/s 23(2)(a) and interest on loan shall be allowed to all the co-owners to the extent of ₹30,000/₹2,00,000 as the case may be.

Note: Provision of Sec. 26 is mandatory and not optional.

7. (a) A proprietary business was started by Smt. Rani in the year 2015. As on 1.4.2016 her capital in business was ₹ 3,00,000.

Her husband gifted ₹ 2,00,000, on 10.04.2016, which amount Smt. Rani invested in her business on the same date. Smt. Rani earned profits from her proprietary business for the financial years 2016-2017, ₹ 1,50,000 and financial year 2017-2018 ₹ 3,90,000. Compute the income, to be clubbed in the hands of Rani's husband for the assessment year 2018-2019 with reasons. [8]

Answer:

Where asset transferred to spouse is invested in the proprietary business then proportionate share being calculated in following manner shall be clubbed in the hands of transferor:

$$\frac{\text{Income of such business} \times \text{Value of such assets as on the 1}^{\text{st}}\text{ day of the P.Y.}}{\text{Total investment in the business by the transferee as on the 1}^{\text{st}}\text{ day of the P.Y.}}$$

= ₹ 3,90,000 × ₹ 2,00,000 / ₹ 6,50,000[1] = ₹ 1,20,000

Hence, ₹ 1,20,000 shall be clubbed in the hands of husband of Smt. Rani

[1]·Computation of total investment in the business on 1-4-2017

Particulars	Amount ₹
Investment as on 1-4-2016	₹ 3,00,000
Add: Investment of gift from husband on 10-4-2016	₹ 2,00,000
Add: Net profit earned during the year 2016-17 (assumed reinvested in the business)	₹ 1,50,000
Total investment in the business as on 1-4-2017	**₹ 6,50,000**

Income arising from accretion to transferred asset shall not be liable to clubbing.

Assume, Net profit earned during the year 2016-17 is retained in the business.

Alternatively, one can assume that net profit earned during the year 2016-17 is withdrawn. In such case income to be clubbed shall be computed as under:

$$\frac{\text{Income of such business} \times \text{Value of such assets as on the 1}^{\text{st}}\text{ day of the P.Y.}}{\text{Total investment in the business by the transferee as on the 1}^{\text{st}}\text{ day of the P.Y.}}$$

= ₹ 3,90,000 × ₹ 2,00,000 / ₹ 5,00,000 = ₹ 1,56,000

Hence, ₹ 1,56,000 shall be clubbed in the hands of husband of Smt. Rani

[1]·Computation of total investment in the business on 1-4-2017

Particulars	Amount ₹
Investment as on 1-4-2016	₹ 3,00,000
Add: Investment of gift from husband on 10-4-2016	₹ 2,00,000
Total investment in the business as on 1-4-2017	**₹ 5,00,000**

(b) Write short note on Defective Return. [7]

Answer:

Defective Return [Sec. 139(9)]

<u>When a return is termed defective</u>- A return of income is said to be defective where all the following conditions are not fulfilled:

- The return is furnished without paying self-assessment tax along with interest, if any.
- The annexure, statements and columns in the return of income have been duly filled in.
- The return is accompanied by the following documents -
  - **a.** a statement showing the computation of tax liability;
  - **b.** the audit report u/s 44AB (where the report has been submitted prior to the furnishing of return, a copy of audit report together with proof of furnishing the report);
  - **c.** the proof of tax deducted or collected at source, advance tax paid and tax paid on self-assessment;
  - **d.** where regular books of account are maintained by the assessee:
    - **i.** copies of Manufacturing A/c, Trading A/c, Profit and Loss A/c or Income and Expenditure A/c or any other similar account and Balance Sheet;
    - **ii.** in the case of –
      - A proprietary business or profession - the personal account of the proprietor;
      - A firm, AOP or BOI - personal account of the partners or members; or
      - A partner or member of the firm, AOP or BOI - his personal account in the firm, association of persons or body of individuals;

      where regular books of account are not maintained by the assessee–
  - **e.** where regular books of account are not maintained by the assessee:
    - **i.** a statement indicating the amount of turnover or gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amount have been computed; and
    - **ii.** the amount of sundry debtors, sundry creditors, stock and cash balance as at the end of the previous year.
  - **f.** where the accounts of the assessee have been audited, copies of the audited Profit and Loss A/c, Balance Sheet and a copy of the Auditor's report;
  - **g.** Cost audit report u/s 233B of the Companies Act, 1956 (if any).

<u>Effect</u>: Where the Assessing Officer considers that the return of income furnished by the taxpayer is defective, he may intimate the defect to the taxpayer and give him an opportunity to rectify the defect(s).

<u>Time limit for rectification</u>: The assessee must rectify the error within a period of 15 days from the date of intimation (served on the assessee) or within such extended time as allowed by the Assessing Officer. Where the taxpayer rectifies the defect after the expiry of the period of 15 days or such extended period but before the assessment is completed, the Assessing Officer can condone such delay.

<u>Consequence when defect is not rectified</u>: If defect is not rectified within the time limit, the Assessing Officer will treat the return as an invalid return and provisions of the Act will apply as if the taxpayer had failed to furnish the return at all.

8. Write short notes on any three of the following: [3x5=15]

(i) TDS u/s 194H
(ii) Due dates for payment of advance tax
(iii) Exemption to political party u/s 13A
(iv) Revocable Transfer u/s 61

Answer:

(a) <u>TDS u/s 194H</u>

<u>TDS on commission, etc. other than insurance commission [Sec. 194H]</u>

<u>Who is responsible to deduct tax</u>: Following persons are responsible to deduct tax at source on commission or brokerage (other than commission on insurance) to a resident person -

- Any person, other than individual or HUF; &
- Individual or HUF, whose books of account are required to be audited u/s 44AB (*due to turnover or gross receipt criteria*) during the financial year immediately preceding the financial year in which such commission is credited or paid.

<u>Note</u>:

1. No tax shall be deducted if the aggregate amounts of commission or brokerage credited or paid during the financial year to the payee *does not exceed ₹ 15,000*.

2. No deduction shall be made on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.

<u>When tax shall be deducted</u>: At the time of payment or crediting the payee, whichever is earlier.

<u>Rate of TDS</u>: *5%*

<u>Exemption or relaxation from the provision</u>

When the recipient applies to the Assessing Officer in Form No. 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax

When commission is retained by an agent

Where commission or brokerage is retained by the consignee/agent while remitting the sale consideration, the consignor/principal will have to deposit the tax deductible on the amount of such retained commission - [*Circular No.619*]

<u>Other Points</u>: Commission or brokerage includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities.

<u>(b) Due dates for payment of advance tax</u>

Assessee	Due date of installment (of previous year)	Minimum amount payable
An eligible assessee in respect of an eligible business referred to in sec. 44AD or 44ADA	On or before March 15	100% of advance tax liability
Other Assessee	On or before June 15	Upto 15% of advance tax liability

	On or before September 15	Upto 45% of advance tax liability
	On or before December 15	Upto 75% of advance tax liability
	On or before March 15	Upto 100% of advance tax liability

(c) Exemption to Political Party

Exemption to Political party [Sec. 13A]

Conditions to claim exemption u/s 13A

a) Maintenance of Books of Account: The political party keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom;

b) Record of voluntary contribution in excess of ₹ 20,000: The political party keeps and maintains a record of -

- each voluntary contribution (other than contribution by way of electoral bond) in excess of ₹ 20,000; and
- names and addresses of persons who have made such contributions

c) Audit of accounts: The accounts of the political party shall be audited by a chartered accountant.

d) Cap on Cash Donation: Donation exceeding ₹2,000 shall not be received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bond.

e) Return of Income: Return of income for the previous year should be furnished within due date.

f) Submission of report: The political party should submit a report to the Election Commission showing contribution received in excess of ₹ 20,000.

Time limit for submission of such report: On or before the due date of submission of return of income

Exemption

The following categories of income derived by a political party are not included in computing its total income:

a) Any income which is chargeable under the heads "Income from house property", "Income from other sources" and "Capital gains".

b) Any income by way of voluntary contributions.

(d) Revocable Transfer u/s 61

Revocable Transfer [Sec. 61]

If an assessee transfers an asset under a revocable transfer, then income generated from such asset, shall be clubbed in the hands of the transferor.

Revocable transfer

As per sec. 63(a), a transfer shall be deemed to be *revocable* if -

- It contains any provision for the retransfer (directly or indirectly) of any part or whole of the income/assets to the transferor; or
- It, in any way, gives the transferor a right to re-assume power (directly or indirectly) over any part or whole of the income/assets.

Exceptions [Sec. 62]

As per sec. 62(1), the provision of sec. 61 shall not apply to an income arising to a person by virtue of -

(i) A transfer by way of creation of a trust which is irrevocable during the lifetime of the beneficiary;

(ii) Any transfer which is irrevocable during the lifetime of the transferee; or

(iii) Any transfer made before 1.4.61, which is not revocable for a period exceeding 6 years.

In any case, the transferor must not derive any benefit (directly or indirectly) from such income.

Note: As per sec. 62(2), income, in any of the above exceptional case, shall be taxable as under -

Situation	**Taxable in hands of**
When the power to revoke the transfer arises (whether such power is exercised or not)	Transferor
When the power to revoke the transfer does not arise	Transferee