

INTERMEDIATE EXAMINATION GROUP I (SYLLABUS 2008)

SUGGESTED ANSWERS TO QUESTIONS DECEMBER 2014

Paper-7 : APPLIED DIRECT TAXATION

Time Allowed : 3 Hours

Full Marks : 100

*Wherever required, the candidate may make suitable assumptions
and state them clearly in the answers.*

Working notes should form part of the relevant answers.

All questions relate to the assessment year 2014-15 unless state otherwise

[Answer Question No. 1 which is compulsory and any five from the rest.]

1. (a) Choose the most appropriate alternative: 1×12=12
- (i) In the case of foreign company, surcharge at 5% is payable on the income-tax where the total income exceeds
- (A) ₹100 lakhs
(B) ₹200 lakhs
(C) ₹500 lakhs
(D) ₹1,000 lakhs
- (ii) Agricultural income is aggregated for income-tax rate purposes, only when it exceeds
- (A) ₹10,000
(B) ₹5,000
(C) ₹25,000
(D) ₹50,000
- (iii) Investment allowance under section 32AC of the Income-tax Act, 1961, is applicable where the investment in new plant and machinery exceeds
- (A) ₹25 Crores
(B) ₹50 Crores
(C) ₹100 Crores
(D) ₹40 Crores
- (iv) The quantum of deduction under section 80JJAA of the Income-tax Act, 1961, in respect of additional wages paid to new regular workmen is
- (A) 30% of additional wages
(B) 20% of additional wages
(C) 10% of additional wages

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- (D) 100% of additional wages
- (v) Basic rate of tax applicable to domestic company on distributed income in the case of buyback of shares not listed in stock exchange is
- (A) 15% on the distributed income
 - (B) 20% on the distributed income
 - (C) 30% on the distributed income
 - (D) Nil
- (vi) Penalty leviable per day for failure to furnish annual information return (AIR) under section 271 FA of the Income-tax Act, 1961 is
- (A) ₹10
 - (B) ₹50
 - (C) ₹100
 - (D) ₹500
- (vii) Return of income filed without payment of self-assessment income-tax will be treated as
- (A) Delayed return
 - (B) *Non-est* return
 - (C) Belated return
 - (D) Defective return
- (viii) The status of limited liability partnership constituted under the Limited Liability Partnership Act, 2008 for the purpose of income-tax is
- (A) AOP
 - (B) Partnership firm
 - (C) Trust
 - (D) Domestic Company
- (ix) Children education allowance received by a salaried employee is exempt upto a maximum of two children of
- (A) ₹100 per month per child
 - (B) ₹300 per month per child
 - (C) ₹500 per month per child
 - (D) Fully exempt without limit
- (x) In order to avail exemption u/s 54EC of the Income-tax Act, 1961, the time limit for making investment in specified bonds from the date of transfer of long-term capital asset is
- (A) 12 months
 - (B) 36 months
 - (C) 60 months
 - (D) 6 months

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- (xi) On a book profit of ₹110 lakhs for a domestic company, the tax payable under section 115JB of the Income-tax Act, 1961 is
- (A) 15% + cess @ 3% = ₹16.995 lakhs
(B) 18% + cess @ 3% = ₹20.394 lakhs
(C) 18.5% + surcharge @ 5% + cess @ 3% = ₹22.00852 lakhs
(D) 18.5% + surcharge @ 2.5% + cess @ 3% = ₹21.48451 lakhs
- (xii) Tax deduction at source would apply where the consideration for the acquisition of specified immovable property exceeds
- (A) ₹30 lakhs
(B) ₹5 lakhs
(C) ₹25 lakhs
(D) ₹50 lakhs

(b) Fill up the blanks:

1×13= 13

- (i) While computing business income, subsidy received after commencement of business for purchase of machinery is.....
- (ii) The maximum marginal rate of tax for non-corporate taxpayers is.....per cent.
- (iii) To avail applicable exemption under the Income-tax Act, 1961, a charitable trust must apply a minimum of.....per cent towards pursuing its objects.
- (iv) The maximum amount of exemption under section 10(10B) of the Income-tax Act, 1961 in respect of retrenchment compensation is ₹
- (v) First residential property acquired by individual taxpayer satisfying the conditions of section 80EE the Income-tax Act, 1961 entitles deduction of interest on monies borrowed upto a maximum of ₹
- (vi) Expenses in connection with family planning is deductible only in the case of..... assessee.
- (vii) When an asset owned by father for 10 years is inherited by son in June, 2013 and is subsequently sold in December, 2013, the resultant capital gain is.....in nature.
- (viii) When a factory building owned by an individual used for business purposes is sold after 48 months from the date of purchase, no other building being owned by the assessee, the resultant capital gain is.....in nature.
- (ix) When Mr. Dev (age 65), doing business, omits to record or explain the source for marriage expenses of his daughter of ₹ 5 lakhs, the total income-tax payable by him will be ₹, when the loss from his business is ₹1 lakh.
- (x) The provisions of specified domestic transfer pricing are attracted when the transaction between two related enterprises exceeds ₹
- (xi) Education cess payable on wealth tax is.....
- (xii) While computing the net wealth, the wealth tax liability is.....
- (xiii) Urban land for which the State Housing Board has initiated acquisition proceedings isasset u/s 2(ea) of the Wealth tax Act.

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Answer:

1. (a) (i) (D) ₹ 1,000 lakhs
- (ii) (B) ₹5,000
- (iii) (C) ₹100 crores
- (iv) (A) 30% of additional wages
- (v) (B) 20% on the distributed income
- (vi) (C) ₹100
- (vii) (D) Defective return
- (viii) (B) Partnership
- (ix) (A) ₹100 per month per child
- (x) (D) 6 months
- (xi) (C) 18% + surcharge @ 5% + cess @ 3% = ₹22.00852 lakhs
- (xii) (D) ₹50 lakhs

- (b) (i) Not taxable
- (ii) 33.99
- (iii) 85
- (iv) 5,00,000
- (v) 1,00,000
- (vi) Corporate
- (vii) Long-term
- (viii) Short - term
- (ix) 1,54,500
- (x) 5 crore
- (xi) Nil
- (xii) Not deductible
- (xiii) Not an

2. (a) Mrs. Q received a family pension of ₹54,000. How much is chargeable to income-tax? 2
- (b) State the conditions to be satisfied for allowance of expenditure under section 37 of the Income-tax Act, 1961. 6
- (c) Mrs. Laxmi resident in India, has a house property at New Jersey, USA, which is let out. The annual value and the actual rent of the house is USD (\$) 15000. The value of one USD (\$) may be taken as ₹ 60. The rent was credited to her bank account there and was not brought into India.
She has one residential house property at Chennai which is self-occupied. She borrowed ₹25 lakhs from her friend in April, 2013 for acquisition of the property. The loan interest for the year is ₹1,80,000 but the amount actually paid was ₹1,15,000. Municipal tax for the said property was ₹ 27,000 but only ₹ 21,000 was actually paid.

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Her other incomes are - (i) Bank fixed deposit interest ₹47,000; (ii) Salary income (computed) ₹5,40,000.

She deposited ₹40,000 in tax saver deposit and ₹70,000 in her minor son's PPF account. Compute the total income of Mrs. Laxmi for the assessment year 2014-15. 7

Answer:

2. (a) **Taxable family pension**

As per section 57 (iiia) of the Income- tax Act, 1961, one-third of such pension (₹ 18,000) is deductible subject to a monetary limit of ₹ 15,000.

Therefore, the amount of family pension chargeable to tax is ₹39,000 (₹54,000 – 15,000).

(b) **Allowability of expenditure u/s 37**

The following conditions are to be satisfied for allowance of expenditure under section 37 of the Income-tax Act, 1961:

- (i) The expenditure must not be an expenditure of the nature described in sections 30 to 36;
- (ii) The expenditure must not be in the nature of capital expenditure;
- (iii) It must not be in the nature of personal expenditure of the assessee;
- (iv) It must be laid out or expended wholly and exclusively for the purposes of business or profession whose income is chargeable to tax under the head 'Profits and gains of business or profession'.
- (v) It must not be expenditure for any purpose which is an offence or which is prohibited by law.
- (vi) It must not be an expenditure by way of advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party.

(c) **Computation of total income of Mrs. Laxmi for the assessment year 2014-15**

	₹	₹
Income from salary - computed		5,40,000
Income from house property:		
House property at New Jersey Note 1		6,30,000
House property at Chennai Note 2		(1,50,000)
Income from other sources: Bank FD interest		47,000
Gross Total Income		10,67,000
Less: Deduction under section 80C		
On Tax Saver deposit	40,000	
On PPF	70,000	
	1,10,000	
Celling		1,00,000
Total Income		9,67,000
Note 1 Income from house property at New Jersey		
Annual value \$15,000 × 60	9,00,000	
Less: Deduction U/s. 24 @ 30%	2,70,000	
Income from house property	6,30,000	
Note 2 Income from house property at Chennai		
Annual value-self occupied	Nil	
Less: Municipal tax - not deductible	Nil	
Less: Deduction U/s.24		

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Interest on monies borrowed limited to	1,50,000	
Income from house property	(1,50,000)	

3. (a) Following is the Profit and Loss Account of Mr. Ashwin, a resident of India, for the year ended 31.03.2014:

	₹		₹
To Administrative expenses	2,75,000	By Gross Profit	7,50,000
To Interest	55,000	By Agri. Income (net):	
To Life Insurance Premium:		from Lands in India	25,000
—Self	25,000	from lands in Malaysia	20,000
—daughter in law	15,000	By Interest—Public	
To Depreciation	1,50,000	Provident Fund	31,200
To Net Profit	3,24,200	By Dividend from listed	
		Indian companies	12,000
		By Savings Bank Interest	6,000
	8,44,200		8,44,200

Other information:

- (i) Depreciation allowable for the year under section 32 of the income-tax Act, 1961 amounts to ₹ 1,75,000.
- (ii) Administrative expenses include salary taken by Mr. Ashwin at ₹ 10,000 per month for 8 months.
- (iii) Interest includes payment of ₹ 24,000 to daughter @ 36% per annum when the market rate of interest is 15% per annum.

Compute the total income of Mr. Ashwin for the assessment year 2014-15. 7

- (b) State with brief reason, whether the following assets are long-term or short-term capital assets (Mere conclusion will not receive any credit): 4

- (i) Renunciations of right to subscribe to right shares, immediately after the offer was made by the company.
- (ii) Sale of surgery equipments by a doctor on discontinuance of profession.
- (iii) Slump sale of undertaking after operating for 4 years.
- (iv) Sale of bonus shares within 6 months after the allotment; original shares were acquired 24 menthes earlier.

- (c) Mr. Rajan running an undertaking, reports net profit of ₹10,15,000 before deduction under section 80-IA; the turnover of the assessee for the year was ₹ 85,00,000. By what date must he file his return of income to avail deduction under section 80-IA? 4

Answer:

3. (a)

Computation of total income of Mr. Ashwin for the assessment year 2014-15

Profits and gains of business or profession:		
Net Profit as per Profit & Loss Account	3,24,200	
Add: Life insurance premium of self and daughter in law - disallowed	40,000	
Depreciation	1,50,000	
Interest more than market rate disallowed (24,000 × 21/36)	14,000	

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Salary for self included in administrative expenses		80,000	
		6,08,200	
Less items considered separately:			
Agricultural income in India	25,000		
Agricultural income in Malaysia	20,000		
PPF interest	31,200		
Dividend from Indian companies	12,000		
Savings bank interest	6,000		
		94,200	
		5,14,000	
Less: Depreciation U/s.32		1,75,000	
Income from Business			3,39,000
Income from other sources:			
Agricultural income from Malaysia		20,000	
Savings Bank interest		6,000	
			26,000
Gross Total Income			3,65,000
Less: Deduction U/s.80C in respect of Life insurance premium for self		25,000	
Under section 80TTA in respect of SB interest		6,000	
			31,000
Total Income			3,34,000

Note: Interest on PPF account and Dividend from Indian companies are exempt.

3. (b)

- (i) As per clause (e) of the Explanation 1 to section 2(42A) right to subscribe to any financial asset when renounced in favour of any other person, the period shall be reckoned from the date of offer of such right by the company. Since the time between the offer made by the company and its renunciation in no case could exceed 12 months, it is always a **short-term capital asset**.
- (ii) Surgery equipments used by a surgeon in profession might have been allowed depreciation under section 32. Hence, in view of section 50 it shall **deemed to be a short-term capital asset** and the gain or loss if any sale be short-term capital gain or loss.
- (iii) As per proviso to section 50B(1) an undertaking owned and held for not more than 36 months shall be short-term capital asset and when the undertaking was operated for 4 years before slump sale, it shall be a **long-term capital asset**.
- (iv) As per clause (f) of the Explanation 1 to section 2(42A), a financial asset allotted without payment shall be treated as long-term or short-term by reckoning the time period from the date of allotment of such financial asset. Thus bonus shares sold within 6 months after allotment will be **short-term capital asset**.

3. (c)

In this case, the assessee has only income and has not suffered any loss to be carried forward to subsequent year(s) for set off.

Section 80AC says that no deduction under section 80-IA shall be allowed to an assessee unless he furnishes a return of income before the 'due date' specified in section 139(1) of the Act.

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Therefore, Mr. Rajan must file his return of income before the due date specified in section 139(1) otherwise, he cannot avail the benefit of section 80-IA.

In order to avail deduction under section 80-IA his books of account have to be audited and Form No. 10CC has to be filed on or before 30th September 2014.

Therefore, the return of income must be filed on or before 30th September in order to be eligible for deduction under section 80-IA.

4. (a) A, B and C are equal partners of the firm ABC & Co. The net profit of the firm was ₹ 5,72,000 before deduction of salary to working partner and interest on capital to partners. The partners have contributed ₹ 2,00,000 each as their capital. The partnership deed authorizes interest on capital at 15% per annum and working partner salary of ₹ 10,000 each per month for each partner.
Compute the business income of the firm. 5
- (b) State the quantum of deduction available under Chapter VIA of the income-tax Act, 1961 in the following cases: 5
- (i) Health insurance premium paid by cash ₹ 10,000 for self and ₹ 7,000 by credit card to other members of family.
 - (ii) Cash payment towards preventive health check up ₹ 6,000.
 - (iii) Deposited ₹ 10,000 in a scheme framed by LIC of India towards maintenance of son suffering from permanent physical disability.
 - (iv) Doctor fee of ₹2,00,000 towards treatment of Chronic Renal failure to dependent father.
 - (v) Tuition fee paid ₹ 3,50,000 for son studying in Cambridge University, United Kingdom.
- (c) Briefly state the conditions to be satisfied by a charitable trust to be eligible for the benefits of section 11 and section 12 of the Income-tax Act, 1961. 5

Answer:

4. (a) **Computation of income of ABC & Co**

Net Profit before deduction of interest on capital and working partner salary	5,72,000
Less: Interest on capital permissible at 12% on capital of ₹6,00,000	72,000
Book Profit as per section 40(b)	5,00,000
Permissible deduction in respect of working partner salary :	
(i) Actually authorized in the deed ₹ 10,000 × 3 × 12	3,60,000
(ii) Allowable under section 40(b)	
90% of ₹ 3,00,000 = 2,70,000	
60% of balance of book profit of ₹2,00,000 = 1,20,000	
	3,90,000
Lesser of (i) or (ii) is deductible	3,60,000
Income from business	1,40,000

4. (b)
- (i) Health insurance premium paid by cash is not eligible for deduction under section 80D.
However, payment by credit card being a mode other than cash is eligible for deduction under section 80D.
 - (ii) Payment for preventive health check up is deductible upto ₹ 5,000. Even payment by cash is eligible [section 80D]

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- (iii) Where any deposit is made for the maintenance of a dependent person with disability, a deduction of ₹50,000 is applicable.

The amount of actual deposit is not relevant. [Section 80DD]

- (iv) Chronic Renal failure is one of the diseases covered by rule 11DD and hence the deduction is the actual amount of expenditure or ₹40,000 - whichever is less. Since it was incurred for dependent father it is eligible for deduction but it is limited to ₹40,000 under section 80DDB.
- (v) Tuition fee is deductible U/s. 80C only where it is paid for full-time course and within India. Hence, the tuition fee paid for son's education in London University is not deductible under section 80C.

4. (c)

Conditions to be satisfied by charitable trust for availing exemption u/s 11

- (i) The trust must have been registered under section 12AA of the Income-tax Act, 1961 by submitting the application in the prescribed form and such registration is granted by the Commissioner of Income-tax;
- (ii) The property from which the income is derived should be held under trust or other legal obligation;
- (iii) The trust must be for charitable purposes. The term 'charitable purpose' defined in section 2(15) includes relief of the poor, education, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest and the advancement of any other object of general public utility;
- (iv) Where it is created after 01.04.1962, it should not be for the benefit of a particular religious community or caste;
- (v) No part of the income should inure directly or indirectly for the benefit of settler or other specified persons; and
- (vi) The property should be held wholly for charitable purposes.

5. (a) **What are the deterrents provided in the income-tax Act, if a firm paying rent for building used for its business purpose at the rate of ₹ 50,000 per month fails to deduct tax at source from such rent? List out the consequences of such failure.** 6

(b) **Mr. Guharaj is employed as a senior cost controller of GKV Limited. Details of his compensation package for the previous year 2013-14 are as follows:**

- (i) **Basic salary ₹ 60,000 per month.**
- (ii) **Dearness Allowance ₹ 10,000 per month.**
- (iii) **He is provided with a motor car (1.4 liter engine capacity) with chauffeur, which is used partly for official purpose and partly for personal purpose.**
- (iv) **The company reimbursed the expenditure on his medical treatment amounting to ₹ 18,000.**
- (v) **He purchased a Laptop from the company on 1st October, 2013 for ₹30,000. The company bought the same on 1st October 2012 for ₹ 80,000.**

His other income comprises of interest on fixed deposit and interest on savings bank account amounting to ₹ 1,50,000 and ₹ 15,000. He stays in a rented house in Kolkata at a monthly rent of ₹10,000.

Compute the total income of Mr. Guharaj for the Assessment Year 2014-15.

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Answer:

5. (a) If tax is not deducted at source from payment of rent by the firm, the following deterrents are provided in the Income tax Act:
1. Rent shall be disallowed under section 40(a)(ia) in computation of income under the head "profits and gains of business or profession".
 2. The firm shall be deemed to be an assessee in default in respect of such tax under section 201. However, the firm shall not be deemed to be an assessee in default, if
 - (i) the payee (i.e. the landlord) has furnished return of income under section 139;
 - (ii) the payee has considered such rent for computing his total income;
 - (iii) the payee has paid tax due on such rent declared in his return of income
 - (iv) the firm furnishes a certificate to this effect from a chartered accountant in prescribed Form.
 3. The firm shall be liable to interest at 1% per month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted under section 201(1A).
 4. Penalty under section 271C can be levied for a sum equal to the amount of tax which should have been deducted. Such penalty is not leviable if the assessee is not deemed to be in default where the payee pays the tax as stated in paragraph 2 above.

5. (b) **Computation of total income of Mr. Guharaj for Assessment Year 2014-15**

Particulars	Rs.	Rs.
<u>Salary</u>		
Basic salary (Rs. 60,000 x 12)		7,20,000
Dearness Allowance (Rs. 10,000 x 12)		1,20,000
<u>Motor Car</u>		
Rs. 1,800 x 12	21,600	
Rs.900 x 12 (for chauffeur)	10,800	32,400
Reimbursement of medical expenditure (Rs.18,000 - Rs. 15,000)		3,000
<u>Purchase of laptop</u>		
Cost of laptop to the employer on 1-10-2012	80,000	
Less: Depreciation at 60% from 1-10-2012 to 31-3-2013	48,000	
	32,000	
Less: amount paid by Mr. Guharaj	30,000	2,000
Taxable salary		8,77,400
<u>Income from other sources</u>		
Interest of fixed deposit	1,50,000	

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Interest on savings account	15,000	1,65,000
Gross Total Income		
Less: <u>Deduction under Chapter VI-A</u>		10,42,400
Deduction in respect of interest on savings account under Section 80 TTA		10,000
Deduction under section 80GG for house rent paid, being lower of the following three amounts		
(i) Excess of rent paid over 10% of total income before allowing this deduction: 1,20,000 -10% of (10,42,400 -10,000)		
(ii) Rs. 2,000 x 12	16,760	
(iii) 25% of total income (10,42,400 -10,000)	24,000	
	2,58,100	16,760
Total Income		10,15,640

6. (a) Arghya, a resident individual and a software engineer, set up one unit in a special economic zone in the year 2011-12 for development of the software. All the conditions of section 10AA of the income-tax Act stand fulfilled.

His Profit and Loss Account for the year ended 31st March, 2014 shows a net profit of ₹ 25 lakhs.

The other details are as follows:

- (i) Export turnover ₹75 Lakhs.
- (ii) Domestic turnover ₹ 25 Lakhs.

Debit side of the Profit & Loss Account includes corporation tax of ₹5 Lakhs for office premises, which was not paid due to certain dispute.

Compute tax payable by Arghya for the Assessment Year 2014-15.

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- (b) XYZ Limited, a manufacturing company, purchased machines for ₹120 crores during the previous year 2013-14 for use in factory. The said machines were put to use from 16th August, 2013 and include second hand machinery costing ₹10 crores.

What are the deductions admissible to the company in respect of the cost incurred while computing income under the head "profits and gains of business or profession" for Assessment Year 2014-15?

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- (c) What is the objective of "regular assessment" under section 143(3) of the income-tax Act? What is the time limit for service of notice on the assessee for taking up such assessment?

3

Answer:

6. (a) **Computation of tax payable by Arghya for Assessment Year 2014-15**

Particulars	₹ In lacs	₹ In lacs
Profits and gains of business or profession		
Net profit as per profit & loss account		25
Add: Unpaid corporation tax disallowed under section 43B		5

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Less: <u>Deduction under section 10AA in respect of profit from export of SEZ unit</u>		30
		<u>22.50</u>
₹ 30 lacs × 75 lacs / 100 lacs		<u>7.50</u>
Total Income		
	00.800	
Tax on above [(5 lacs - 2 lacs) × 10%] + [(7.50 lacs - 5 lacs) × 20%]	00.024	
Education cess at 3%		
Tax on total income		0.824

Computation of Alternate Minimum Tax under section 115 JC for Assessment Year 2014-15

Particulars	₹ In lacs
Total Income	7.50
Add: Deduction under section 10AA	22.50
Adjusted Total Income	30.00
As the assessee is an individual and adjusted total income exceeds ₹ 20 lacs, the provision of section is applicable.	
Alternate Minimum Tax at 18.5 % of adjusted total income	5.55
As AMT is more than tax on total income (₹ 0.80 lacs), the assessee is liable to AMT	
Education cess at 3%	0.17
Tax liability	<u>5.72</u>

6. (b)

Particulars	₹ In lacs
<u>Deductions admissible in computation of income under the head "profits and gains of business or profession for Assessment Year 2014-15</u>	
Depreciation under section 32 at 15% on ₹ 120 crores: ₹ 120 crores × 15%	18
Additional depreciation u/s. 56 at 20% on ₹ 110 crores: ₹ 110 crores × 20%	22
Deduction under section 32AC at 15% of ₹ 110 crores: ₹ 110 crores × 15%	16.50
Total deduction	<u>56.50</u>

Notes:

1. Additional depreciation is not admissible in respect of second hand plant & machinery
2. Deduction under section 32AC is admissible if the assessee engaged in manufacturing of article or things acquires new plant & machinery for more than ₹ 100 crores in aggregate in the financial years 2013-14 and 2014-15. Therefore, deduction is not allowed in respect of second-hand plant & machinery

6. (c) The objective of a regular assessment under section 143(3) is to ensure that

- (i) the assessee has not understated the income.
- (ii) he has not computed excessive loss.
- (iii) he has not underpaid the tax in any manner

Notice under section 143(2) for taking up regular assessment is to be served on the assessee before expiry of six months from the end of the year in which the return of income is furnished by the assessee.

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7. (a) Mr. Balakrishnan sold shares of VKS Limited, a listed company to RR Private Limited for consideration of ₹6,50,000 on 30th April, 2013, on which date the fair market value of shares was ₹7,50,000. Indexed cost of acquisition of such shares to Mr. Balakrishnan was ₹ 7,25,000. The sale was a private sale.

Examine the tax consequences of the above transaction in the hands of Mr. Balakrishnan and RR Private Limited. 5

- (b) Who are the persons not liable to pay advance tax? 2

- (c) State with reasons whether the following constitute assets chargeable to wealth tax as on the valuation date i.e. 31st March, 2014:

- (i) A factory building let out for 200 days. 2
(ii) A clinic building used by owner-doctor for the past 3 months after construction. 1
(iii) Motor car owned by a bank employee. 2
(iv) Guest house within 20 kms from the city limits of Chennai. 1
(v) Gold deposit bonds. 2

Answer:

7. (a) Tax consequence in the hands of Mr. Balakrishnan

Loss on sale of shares of VKS Limited (i.e. ₹7,25,000 - 6,50,000) ₹75,000 is a long-term capital loss.

As securities transaction has not been paid on private sale, such long-term capital loss can be set off against any other long-term capital gain for Assessment Year 2014-15.

If such set-off is not possible, the same can be carried forward for 8 assessment years to be set-off against long-term capital gains

Tax Consequence in the hands of RR Private Limited

Transfer of shares without consideration or for inadequate consideration attracts the provision of section 56(2)(vii-a), if the recipient is a firm or a company in which public are not substantially interested.

However, the provision of section 56(2)(vii-a) is not attracted in the case of transfer of shares of a company in which public are substantially interested.

In this case, the shares of VKS Limited are transferred. VKS Limited is a company in which public are substantially interested. Hence, the provision of section 56(2)(vii-a) is not attracted in the hands of RR Private Limited.

7. (b) The following persons are not liable to pay advance tax:

- (i) Any person in whose case advance tax computed under Chapter XVII-C is less than ₹ 10,000;
(ii) An individual resident in India, who does not have any income chargeable under the head "Profits and Gains of Business or Profession" and is of the age of sixty years or more at any time during the previous year.

7. (c)

- (i) Any property in the nature of commercial establishment or complex is not an asset under section 2(ea).

A factory building whether let out or used by the owner or vacant is not an asset under section 2(ea). The requirement of letting out for minimum of 300 days is not applicable to factory building.

- (ii) Any house occupied by the assessee for the purpose of business or profession is not an asset

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regardless of the number of days. Therefore a clinic building used for 3 months after construction is not an asset on the valuation date.

- (iii) Motor car is an asset except in the case of persons holding the same; as stock in trade. Therefore motor car owned by bank employee is an asset under section 2(ea), irrespective of the fact that it is not used for personal purposes.
- (iv) Guest house is an asset regardless of the distance. Only for farm house the distance factor from the local limits of 25 kms is prescribed.
- (v) Gold deposit bond is not a jewellery. It is also not specifically mentioned in section 2(ea), which defines the term "asset". Therefore it is not an asset under section 2(ea).

8. (a) **A firm filed a return of income for the Assessment Year 2014-15 on 1st December, 2014 showing business loss ₹3.35 Lakhs, unabsorbed depreciation ₹ 1 Lakh, loss from house property ₹ 0.75 Lakhs and loss of ₹1.30 Lakhs under the head "Capital gains". What is the effect of such return of income ?** 5
- (b) **Is Association of Persons liable to wealth tax, where shares of the members are indeterminate?** 2
- (c) **State the penalties leviable in the following cases:** 4
- (i) **Failure to file return of income before the end of the assessment year;**
- (ii) **Failure to keep and maintain information and documents in respect of international transactions.**
- (iii) **Failure to keep or maintain books of account and documents as required under section 44AA.**
- (iv) **Furnishing inaccurate particulars of income or concealing particulars of income.**
- (d) **State the cases in which the previous year for income-tax purposes will be the same as the assessment year.** 4

Answer:

8. (a) As per section 80 read with section 139(3), business loss, speculation loss, loss under the head "capital gains" and loss from activity of owning and maintaining race horses shall not be allowed to be carried forward and set off, if such losses have not been determined in pursuance of return filed in accordance with the provision of section 139(3). In this case the return filed by the firm is a belated return.
- In view of above provision-
- (i) Business loss of ₹ 3.35 lacs cannot be carried forward
- (ii) Carry forward of unabsorbed depreciation remains unaffected. So unabsorbed depreciation of ₹1 lac can be carried forward.
- (iii) Loss from house property not being referred to in section 80 or section 139(3) shall be allowed to be carried forward.
- (iv) Loss of ₹ 1.30 lacs shall not be allowed to be carried forward.
8. (b) Where taxable assets are held by an AOP, other than a company or cooperative society or society registered under the Societies Registration Act or under any law corresponding to that Act in force in any part of India and the individual shares of the members in the income or assets or both are unknown on the date of formation or at any time thereafter, the tax shall be levied and recovered from such AOP assuming such AOP as an individual who is a citizen of

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India and resident in India.

8. (c)

Nature of default	Penalty
(i) Failure to file return of income before the end of the assessment year	₹5,000
(ii) Failure to keep and maintain information and documents in respect of international transactions	2% of value of each international transaction
(iii) Failure to keep or maintain books of account and documents as required under section 44AA	₹25,000
(iv) Furnishing inaccurate particulars of income or concealing particulars of income	Minimum 100% of tax sought to be evaded. Maximum 300% of tax sought to be evaded.

8. (d) Case where previous year and assessment year are same:

- (i) Shipping business of non-resident - section 172
- (ii) Persons leaving India - section 174
- (iii) Association of persons or body of individuals or artificial juridical person formed for a particular event or purpose - section 174A
- (iv) Persons likely to transfer property to avoid tax - section 175
- (v) Discontinued business - section 176