INTERMEDIATE EXAMINATION

GROUP I
(SYLLABUS 2008)

SUGGESTED ANSWERS TO QUESTIONS
JUNE 2013

PAPER – 7 : APPLIED DIRECT TAXATION

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

The figures in the margin on the right side indicate full marks.
Answer **Question No.1** which is compulsory and **any five** questions from the rest.
Wherever necessary, you may make suitable assumptions and
state them clearly in your answer.
Working notes should form part of the answer.
All questions relate to the assessment year 2013-14, unless stated otherwise.

1. (a) choose the most appropriate alternative: **1x 13 = 13**

(i) The basic Exemption limit for a female below the age of 60 years for the assessment year 2013-14 is
(A) ₹1,80,000 (B) ₹1,90,000 (C) ₹2,00,000 (D) ₹2,50,000

(ii) Under Rule 7A of the Income Tax Rules, the following % age of income from manufacture of Rubber shall be deemed to be business income and liable to tax
(A) 15% (B) 25% (C) 35% (D) 50%

(iii) Interest is payable to assessee on Refund under Tax Act 1961 at the rate of
(A) 5% (B) 6% (C) 9% (D) 12%

(iv) The maximum penalty leviable for failure to keep or maintain books of account or document as required u/s. 44AA of the Income tax Act 1961 is
(A) ₹50,000 (B) ₹75,000 (C) ₹1,00,000 (D) ₹1,50,000

(v) Tax on non- monetary benefit paid by the employer is
(A) Fully taxable (B) Taxable to the extent of 50% (C) Taxable to the extent of 60% (D) Fully exempted from Tax.

(vi) Mr. A gifted jewellery worth ₹5 lakhs to his wife Mrs. A on 12th April 2012. Mrs. A in turn gifted the said jewellery to Mrs. B, the wife of their son Mr. B on 25th May 2012. The value of the jewellery as on 31st March 2013 is includible in the net wealth of
(A) Mr. A (B) Mrs. A (C) Mrs. B (D) Mr. B

(vii) The maximum amount of deduction from Gross Total Income available to an individual for interest on savings bank deposit is
(A) ₹5,000 (B) ₹7,500 (C) ₹10,000 (D) ₹12,000

(viii) Loss from activity of outstanding and maintaining race horses can be carried forward for: (Assessment years)
(A) 4 (B) 6 (C)8 (D)5

(ix) Annual value of house property if not let out is taken as ………………..

(x) No tax is deductible if the amount of rent credited or paid during the financial year does not exceed rupees ………………u/s. 194 I of the Income tax Act 1961.

(xi) When entire net consideration has been invested by an individual towards subscription of shares of an eligible company the exemption u/s. 54GB of the Income Tax Act 1961 would be
(A) NIL (B) 10% of capital gain (C) 50% of capital gain (D) 100% of capital gain

(xii) Amount received towards share application money when not properly explained it is
(A) Taxable u/s. 68 (B) exempt u/s. 10 (C) fully taxable but deduction at 50% u/s. 57(iii) is allowable (D) None of the above

(xiii) Book profit u/s.115 JB of a domestic company was ₹50 lakhs. The tax liability of the company for the assessment year 2013-14 would be
(A) 18.54% including cess (B) 19.055% including cess (C) 20% including cess surcharge at 5% (D) 19.431% including cess and surcharge at 2%

(b) Fill up the blanks: 1x12 = 12

(i) Any sum paid to an approved university, college or other institutions u/s. 35 (1) (iii) of the income Tax Act 1961 the allowable deduction is …….. (100%/125%)
(ii) Interest payable to a partner by a firm shall not exceed……… (18% / 12%) per annum.
(iii) An assessee……. (can/cannot) spread over the arrears of rent over the past several years.
(iv) Chapter VI–A deduction……….. (shall/shall not) be allowed in respect of income from short term capital gain.
(v) Dividend receives by an Indian Company on shares of Foreign company is ………..(taxable/exempted)
(vi) Salary received by Mr. P a foreign national and a non resident out- side India for services rendered in India for 150 days is ……….(chargeable/not chargeable) to tax in India.
(vii) Deduction for provision for bad and doubtful debts made by a public financial institution is allowed upto…………% of total income before allowing such deduction under chapter VIA.
(viii) Z Ltd. awarded three contracts for repair work of ₹22,000, ₹23,000 and ₹30,000 respectively to L Ltd. in the year 2012-13. Z Ltd. is ……….. (required/not required) to deduct tax at source section 194C of the Income Tax Act 1961.
(ix) In case of slum sale of any undertaking indexation benefit is………. (allowed/ not allowed) for the purpose of computation of capital gain.
(x) Annual value of any one palace in the occupation of a former ruler is ………………
(xi) A charitable trust must apply atleast ………………percent of its income towards its objects.
(xii) The time limit for issue of notice to assess the income in relation to assets located outside India for reassessment purposes is …………years from the end of the relevant assessment year.

Answer

1. (a)

(i)	C.	₹ 2,00,000/-
(ii)	C.	35%
(iii)	B.	6%
(iv)	The correct answer is ₹ 25,000/- u/s. 271A.	
(v)	D.	Fully exempted from tax
(vi)	A.	Mr. A
(vii)	C.	₹ 10,000/-
(viii)	A.	4 Assessment years
(ix)	Nil	
(x)	₹ 1,80,000/-	
(xi)	D.	100% of Capital Gain
(xii)	A.	Taxable u/s 68
(xiii)	B.	19.055% including cess

(b)

(i) 125%
(ii) 12%
(iii) Cannot
(iv) Chapter VIA deduction shall be allowed in respect of short term capital gain, generally. However, in case it is short term capital gain in respect of transaction in equity shares in a company chargeable to STT (u/s 111A) deduction under Chapter VIA shall not be allowed. The question does not mention the type of transaction. Hence, both answers would be possible.
(v) Taxable
(vi) Chargeable
(vii) 5
(viii) Not Required
(ix) Not allowed
(x) Exempt
(xi) 85
(xii) 16

2. (a) Mr. Jeff, a citizen of USA came to India for 80 days, 90 days, 110 days and 130 days in the financial years 2009-10, 2010-11, 2011-12 and 2012-13 respectively. Determine his residential status for the Assessment Year 2013-14. **3**

(b) Compute the total income of Mr. Taylor, UK citizen and a non- resident for the Assessment Year 2013-14 from the following details furnished by him. **7**

Particulars	₹
(i) Income from business carried out in Mumbai (60% received in USA)	**5,00,000**
(ii) Capital gain from sale of shares of Zenith Private Limited, an Indian company. Sale proceeds were received in UK.	**3,50,000**
(iii) Rent from a house property in New Jersey collected there, but later remitted to India through normal banking channel	**12,00,000**
(iv) Dividend received from MNO Limited, an Indian Company	**2,50,000**
(v) Royalty received in UK from PQR Limited, an Indian company for use of trade mark for its business operation in India	**6,00,000**
(vi) Interest on loan received in UK from S & T Limited, an Indian company. The loan was used by S & T Limited for its business carried on in Dubai	**3,00,000**

(c) Write a note on how interest received by an assessee on delayed compensation or enhanced compensation is taxed. **5**

Answer 2.

(a) As per section 6 an individual is a resident in India in any previous year, if he fulfils any of the following two conditions:

(i) He is physically present in India in that previous year for 182 days or more.

(ii) He was physically present in India within 4 years preceding that previous year for 365 days or more and he is physically present in India for 60 days or more in that previous year.

In this case Jeff was physically present in India for less than 182 days in previous year 2012-13.
AY 2013 – 14 – FY 2012-13 = 130 days

4 Previous Years

FY 2008 - 09	NIL
FY 2009 – 10	80
FY 2010 – 11	90
FY 2011 – 12	110
	280 days

280 < 365 days. Hence, non-resident. He was present in India for 130 days (more than 60 days in the previous year and he was physically present in India for 280 days (80+90+110) i.e. less than 365 days in 4 previous years preceding the previous year 2012 – 13. Hence, he does not fulfill the second condition and Jeff is non-resident in India for the Assessment Year 2013 – 14.

(b)

Computation of total income of Mr. Taylor for Assessment Year 2013-14

Particulars	₹
Income from business carried out in India is income from business connection in India and deemed to accrue or arise in India.	5,00,000
Capital gain is deemed to accrue or arise in India as shares of Indian company are capital assets situated in India. Place of receipt of consideration is immaterial.	3,50,000
Rent from house property situated in New Jersey being an income from source outside India is not taxable. Subsequent remittance of rent to India does not alter the position.	---
Dividend from Indian company though an income deemed to accrue or arise In India is exempted under section 10(34)	---
Royalty received from the Indian company is deemed to accrue or arise in India, as the patent was used by the Indian company for its business in India.	6,00,000
Interest on loan received from the Indian company is not deemed to accrue or arise in India as the amount of loan was used by the Indian company for its business carried out outside India	---
Total Income	14,50,000

(c) As per section 145A (b) irrespective of method of accounting followed by the assessee interest received on compensation or on enhanced compensation shall be deemed to be the income of the year in which it is received.

As per section 56(2) (viii) income by way of interest on compensation or enhanced compensation shall be chargeable to income tax under the head "income from other sources".

Under Section 57 (iv) in computation of above Income of the assessee, a deduction for a sum equal to 50% of such income shall be allowed to the assessee.

3. (a) Mr. Sridhar constructed his house on a plot of land acquired by him in Kolkata. The house has two floors of equal size. He started construction of the house on 1st April, 2011 and completed construction on 30th June, 2012. He occupied the ground floor on 1st July, 2012 and let out the first floor at a rent of ₹20,000 per month on the same date. However, the tenant vacated the first floor on 31st January, 2013 and Mr. Sridhar occupied the entire house from 1st February, 2013 to 31st March, 2013. **8**

Other information

Particulars	
(i) Fair rent of each floor	**₹1,20,000 per annum**
(ii) Municipal value of each floor	**₹80,000 per annum**
(iii) Municipal tax paid	**₹10,000**
(iv) Repair expenses	**₹5,000**

Mr. Sridhar obtained a housing loan of ₹15 lacs at interest of 10% per annum on 1st July, 2011. He did not repay any part of the loan till 31st March, 2013.
Compute income form house property in the hands of Mr. Sridhar for the Assessment year 2013-14.

(b) Mr. Rajput, aged 82 years gives you the following information for the previous year 2012-13: 4

Particulars	**₹**
(i) Interest on fixed deposit with banks	**4,80,000**
(ii) Long- term capital gain on sale of land	**50,000**
(iii) Short- term capital gain on sale of shares (securities transactions tax paid)	**20,000**

Compute tax payable by Mr. Rajput for the Assessment year 2013-14 in cases (i) he is resident; (ii) he is non- resident.

(c) State briefly whether the following transaction require deduction of tax at source: **3**

(i) Payment of royalty of ₹5 lacs by P Limited, an Indian company to another Indian Company, Q Limited.

(ii) Payment of interest of ₹7,500 by D Limited, an Indian Company to M Limited, an Indian Company for delayed payment of sale proceeds.

(iii) Payment of ₹1,00,000 by a partnership firm, resident in India to Mr. L, resident contractor for manufacturing a product as per requirement of the firm. The contractor used materials which were purchased by him from a company.

Answer3.

(a) Computation of income from house property of Mr. Sridhar for Assessment Year 2013-14

Particulars	Ground Floor (Self-Occupied) ₹	First Floor ₹
Gross Annual Value	Nil	1,40,000
Less: Municipal Tax		5,000
Net Annual Value	Nil	1,35,000
Less: Deduction under section 24 (30% of net annual value)		40,500
Interest on loan :		
Current year's interest (15,00,000 x 10% = ₹ 1,50,000)	75,000	75,000
Pre-construction period's interest (15,00,000 x 10% x 9/12 = ₹ 1,12,500 to be allowed in 5 equal installments 1,12,500/5 = ₹ 22,500)	11,250	11,250
Aggregate deduction	86,250	1,26,750
Income from house property (each floor)	(86,250)	8,250
Loss under the head "income from house property"	78,000	

Notes: Annual letting value is the higher of fair rent and municipal value. However, as the construction of the house was completed on 30th June, 2012, annual letting value should be considered for 9 months.

Fair Rent = ₹ 1,20,000 x 9/12 = ₹ 90,000
Municipal Value = ₹ 80,000 x 9/12 = ₹ 60,000
Annual letting value = ₹ 90,000
Actual Rent = ₹ 20,000 x 7 = ₹ 1,40,000
Gross Annual Value = Higher of annual letting value or actual rent = ₹ 1,40,000

(b) As per the proviso to Section 112(1)(a) if the following conditions are satisfied :

(i) The taxpayer is a resident individual or a resident HUF. He or it may be ordinarily resident or not ordinarily resident.

(ii) Taxable income - Long-term Capital Gain is less than the amount of basic exemption limit

The following shall be deducted from long-term capital gain :
Exemption limit – (Net Income or taxable income including Long-term Capital Gain – Long-term Capital Gain)

(i) As Mr. Rajput is a resident, the relief u/s 112 is available

	₹
Basic Exemption Limit	5,00,000
Taxable income including Long-term Capital Gain	5,30,000
Long-term Capital Gain	50,000
Relief u/s 112	20,000

Computation of tax payable :	₹
Tax on income other than capital gain ₹4,80,000	Nil
Tax on long-term capital gain on sale of land i.e., ₹ 50,000 – 20,000 i.e., ₹ 30,000 @ 20%.	6,000
Tax on short-term capital gain on sale of shares @ 15% as per section 111A as STT is paid.	3,000

Tax	9,000
EC & SHEC @ 3%	270
Total Tax	9,270

(ii) As Mr. Rajput is a non-resident, the relief u/s 112 is not available

Computation of tax payable :	₹
Tax on income other than capital gain ₹4,80,000	Nil
Tax on long-term capital gain on sale of land i.e., ₹ 50,000 @ 20%.	10,000
Tax on short-term capital gain on sale of shares @ 15% as per section 111A as STT is paid.	3,000
Tax	13,000
EC & SHEC @ 3%	390
Total Tax	13,390

(c) (i) As the amount of royalty paid to resident exceeds ₹ 30,000, tax is required to be deducted at 10% under section 194J.

(ii) Payment of interest by D. Ltd. to M. Ltd., resident required deduction of tax at 10%, as the amount of interest exceeds ₹ 5,000. (Section 194A)

(iii) Under Section 194C 'work' does not include manufacturing or supplying of product according to the requirement or specification of a customer by using material purchased from a person, other than such customer. As L used the materials purchased from a third party, the firm is not required to deducted tax at source.

4. (a) The details of assets and liabilities as on 31st March 2013 of a partnership firm of two partners, Palak and Nolak sharing profits and losses in the ratio of 3: 1 is as follows: 5

Particulars	
(i) **Value of assets located outside India**	**₹45 lakhs**
(ii) **Value of assets located in India**	**₹120 lakhs**
(iii) **Debts incurred in relation to assets located in India**	**₹75 lakhs**

Capital of Palak and Nolak as on 31st March, 2013 are ₹20 lakhs and ₹10 lakhs respectively. Compute the value of interest of the partners as on 31st March, 2013 for the purpose of wealth tax.

(b) State the time limit prescribed for passing the following orders under the Income Tax Act: 5

(i) An order of assessment by the Assessing Officer under section 143(3);

(ii) An order of assessment by the assessing Officer under section 143(3), where reference has been made to Transfer Pricing Officer for determination of arm's length price in international transactions;

(iii) An order of assessment by the Assessing Officer under section 147;

(iv) An order of revision by the Commissioner of Income Tax under section 263;

(v) An order by the Commissioner of Income Tax for granting registration to a public charitable trust under section 12AA.

(c) Srinivas Charitable Trust registered under section 12AA of the Income Tax Act is engaged in providing medical assistance to the physically challenged persons. The trust has furnished the following details relating to previous year 2012-13; 5

Particulars	**₹**
Net income from the properties held under trust	**16,50,000**
Voluntary Contribution (including donation ₹1,50,000 received with direction from the donor that it would form part of corpus)	**5,00,000**
Financial assistance to physically challenged persons	**9,50,000**
Purchase of Land for construction of office of the trust	**4,00,000**

Compute tax payable, if any, by the trust for the Assessment Year 2013 – 14.

Answer 4.

(a)

Computation of net wealth of the firm

Particulars	₹ In lakhs
Value of assets located in India	120
Less: Debts incurred in relation to above assets	75
	45
Value of assets located outside India	45
Net Wealth	90

Apportionment of net wealth of the partners

Particulars	₹ In lakhs	
	Palak	Nolak
Net wealth to the extent of capital of partners i.e. ₹ 30 lakhs in capital ratio	20	10
Balance net wealth i.e., ₹ 60 lakhs in profit sharing ratio of 3:1	45	15
Value of interest in the assets of firm	65	25

(b) (i) As per section 153 an assessment order under section 143(3) is to be passed within 2 years from the end of the relevant assessment year.

(ii) Where a reference has been made to the Transfer Pricing Officer for determination of arm's length price in international transactions, assessment order under section 143(3) is to be passed within 3 years from the end of the relevant assessment year.

(iii) An order of assessment under section 147 is to be passed by the Assessing Officer within 12 months from the end of the financial year in which notice under section 148 was served.

(iv) An order for revision under section 263 is to be passed by the Commissioner within 2 years from the end of the financial year in which the order sought to be revised was passed by the Assessing Officer.

(v) An order for granting registration to a public charitable trust under section 12AA is to be passed by the Commissioner within 6 months from the end of the month in which application for registration was received.

(c) Computation of income of Srinivas Charitable Trust and tax payable for Assessment Year 2013 -14

Particulars	₹	₹
Income from properties held under trust		16,50,000
Voluntary Contribution	5,00,000	
Less: Voluntary contribution received with specific direction that it		

would form part of corpus (corpus donation) exempted under section 11(1)(d)	1,50,000	3,50,000
		20,00,000
Amount set apart for future (15%)		3,00,000
Amount available for application for charitable purpose		17,00,000
Less: Amount applied for charitable purpose:		
Financial assistance to physically challenged persons	9,50,000	
Purchase of land for construction of office	4,00,000	13,50,000
		3,50,000
Total Income		
Tax on above (3,50,000 – 2,00,000) x 10%	15,000	
Education cess at 3%	450	
Total Tax		15,450

5. (a) Abhishek & Co. partnership firm incurred the following expenses: **5**

(i) Salary paid to staff ₹12,00,000 of which two employees were paid salary in excess of ₹2,00,000 each. No tax was deducted at source on those salary payments.

(ii) Interest paid to bank on working capital limit ₹27,500. No tax was deducted at source.

(iii) Interest on capital paid to partners at 15% per annum of ₹1,50,000. No tax was deducted on such interest payment.

(iv) Payments made to contractors for job work process ₹6,87,000. Two parties to whom payments were ₹87,000 and ₹1,02,000 for which no tax was deducted at source. The parties however have agreed to admit the receipt in their income statement and pay tax thereon.

(v) Rent paid for machinery ₹20,000 per month for 8 months. No tax was deducted at source on this amount.

Determine the allowability or otherwise of the above said expenses due to non- deduction of tax at source.

(b) Decide the exemption/taxability of following receipts/recipients: **5**

(i) Educational scholarship of ₹10,000 received from a charitable trust by a college student.

(ii) Rental income earned by a registered trade union.

(iii) Co- operatives formed for promoting the interest of schedule tribes.

(iv) Dividend received from Indian companies by resident individuals and tax on such dividend paid by the company u/s. 115- O.

(v) Amount received by a non- resident towards compulsory acquisition of urban agricultural land in India by central Government.

(c) Mr. Basu is an actor deriving income from foreign contracts performed outside India ₹1,00,000. Tax of ₹20,000 was deducted at source in the country where the performances were given. India does not have any agreement with that country for avoidance of double taxation. Assuming that Indian Income of Mr. Basu is ₹ 3,00,000 what is the relief due to him under section 91 for the assessment year 2013-14? **5**

Answer 5.

(a) (i) Salary paid to staff is a deductible expenditure even though no tax was deducted at source on such payment. Section 40a(ia) disallowance is not applicable for salary expenditure.

(ii) Interest paid to bank is subject to exemption given in section 194A(3)(iii), hence the question of deduction of tax at source on interest paid to bank does not arise.

(iii) Interest on capital paid to partners at 15% will be liable for disallowance to the extent of 3% since section 40(b) mandates allowance only to the extent of 12% per annum. Allowable interest will be ₹ 1,20,000/-. Section 194A(3)(iv) provides exception, hence no tax deduction at source is required for the interest paid to partners of the firm.

(iv) Payments made to contractor when exceeds in aggregate ₹ 75,000, tax is deductible at source as per section 194C. However, further proviso to section 40(a)(ia) carves out an exception viz. that if the payee has admitted the said receipt in his return of income and paid tax on such income, the payer is not deemed to be an assessee in default under the first proviso to section 201(1), the disallowance envisaged in section 40(a)(ia) will not apply. Therefore, if the recipients / payees have paid tax on their income including the contract receipt given in the question, the disallowance u/s. 40(a)(ia) will not apply.

(v) Rent paid for machinery above ₹ 1,80,000 in a financial year warrants deduction of tax at source under section 194-I. Since the aggregate payment was only ₹ 1,60,000 the expenditure does not attract tax deduction provision contained in section 194-I. Thus it is out of the clutches provided in section 40(a)(ia).

(b) **(i)** Educational scholarship is exempt in the hands of recipient regardless of the amount or source of scholarship [Section 10(16)].

(ii) Rental income of registered trade union is exempt from tax. [Section 10(24)].

(iii) Income of co-operative society meant for promoting the interests of members of schedule tribes is exempt [Section 10(27)]

(iv) Dividend from Indian companies is exempt from tax if dividends so paid by the company were subjected to tax under section 115-0.

(v) Amount received towards compulsory acquisition of urban agricultural land is exempt under section 10(37) if the acquisition if such compensation is received after March 31, 2004 and the agricultural land was used by the assessee (or by any of his parents) for agricultural purposes during 2 years immediately prior to transfer.. The residential status of the recipient has no bearing on the benefit of exemption.

(c) **Computation of total income of Mr. Basu**
For the Assessment year 2013-14

(a) Computation of Total Income		
(i) Indian Income		3,00,000
(ii) Foreign Income		1,00,000
Gross Total Income		4,00,000
(b) Computation of Tax Liability		
Income Tax on Total Income		20,000
Add: (i) Education cess @ 2%	400	
SHEC @ 1%	200	600
		20,600
Less: Double Taxation Relief		
Under Section 91: 1,00,000 x 5.15%		5,150
Income Tax payable		15,450

Note:

1) Average rate of Indian Income Tax: $\frac{20,600}{4,00,000} \times 100 = 5.15\%$

2) Average rate of foreign Income Tax: Relief is allowed either at the average rate of Indian income tax or average rate of foreign income tax is $\frac{20,000}{1,00,000} \times 100 = 20\%$, whichever is lower.
Accordingly, the relief has been allowed at the average rate of Indian Income Tax.

6. (a) 'X' a resident of Bengaluru receives ₹ 20,00,000 as basic salary. In addition he gets ₹6 Lakhs as dearness allowance (forming part of basic salary), 3.5% commission on sales made by him (sale made by X during the previous year is ₹ 80,00,000); ₹2,40,000 is paid to him as house rent allowance. He however pays ₹ 2,80,000 as house rent. Determine the quantum of HRA exempt from tax. 4

(b) Enumerate the conditions for exemptions of senior citizens from payment of advance tax u/s. 207. 4

(c) A company pays in Aug'2012, a remuneration of ₹50,000 to its Director, which is not in the nature of salary. State whether tax has to be deducted from the payment and if so the amount to be deducted. 3

(d) (i) State who are the persons not eligible to avail any benefit u/s. 44AD. (2+2) = 4

(ii) An assessee owns a light commercial vehicle for 8 months and 3 days, a medium goods vehicle for 11 months and another medium goods vehicle for 12 months during the previous year.

Compute his profits from the three trucks in terms of sec. 44AD.

Answer 6.

(a) Out of the HRA received i.e., ₹ 2,40,000/-, the least of the following would be exempt

(a) ₹ 11,52,000/- being 40% of salary, i.e., basic salary, dearness pay and commission: ₹ 28,80,000/-

(b) ₹ 2,40,000 being the house rent allowance.

(c) NIL, being the excess of rent paid (i.e., ₹ 2,80,000/- over 10% of salary, i.e., ₹ 2,88,000/-. As least of the three is NIL, the entire house rent allowance is taxable.

(b) Every assessee is required to pay Advance Tax if the tax liability for the previous year is ₹ 10,000/- or more. From the financial year 2012-13. Section 207 has been amended to provide that Advance Tax need not be payable in the case of senior citizens if the following conditions are satisfied.

1. The tax payer is an individual.
2. He is resident in India.
3. He is at least 60 years of age at any time during the previous year (for the F.Y. 2012-13 the condition can be satisfied in the case of an individual who was born before April 1, 1953).
4. He does not have any income chargeable under the head "Profits and gains of business or profession".

If the above conditions are satisfied the concerned individual will not be required to pay advance tax during the financial year (i.e. immediately prior to the relevant assessment year).

(c) Sec. 194J has been amended with effect from July 12, 2012 to provide that tax will be deducted u/s 194J on the remuneration paid/payable to a Director, which is not in the nature of salary, at the rate of 10% of such remuneration. The amount of tax to be deducted would therefore come to ₹ 5,000/-.

(d) (i) The following persons are not eligible u/s 44AD.

a) Person carrying on profession as referred to in sec. 44AA(1)

b) A person earning income in the nature of commission or brokerage;

c) A person carrying on any agency business; or

d) a person who is in the business of plying, hiring or leasing goods carriages.

(ii) Profits and gains of the assessee u/s 44AE would be deemed to be, (in regard to the three trucks):
(4,500 x 9) + (4,500 x 11) + (4,500 x 12) = ₹ 1,44,000/-

7. (a) State whether the following are agricultural income or non- agricultural income: 2
(i) Where owner himself performs slaughter tapping and them sells rubber.
(ii) Conversion of sugar cane into gur.

(b) In the course of assessment proceedings, the Assessing officer enhanced the value of closing stock and added the difference to the total income. In the assessment year subsequent to this, the assessee wants the A. O. to enhance, by the same amount, the value of the opening stock of the year. Discuss the validity of the claim. 3

(c) Please advise regarding admissibility of the following items of expenditure:
(i) Payment of interest of ₹40,000 on monies borrowed from bank for payment of dividends to share holders.
(ii) ₹12,000 has expended for shifting of business from the original site to another place which is more advantageously located.
(iii) Lump sum paid to acquire a licence regarding technical information to reduce production cost.
(iv) Expenses for registration of trademarks.
(v) Theft of stock-in-trade assuming
(a) It is insured (b) it is uninsured 10

Answer 7.

(a) (i) Where owner himself performs slaughter tapping and then sells the rubber, it is Agricultural income. (K.C. Jacob's case).
(ii) Conversion of sugar cane into Gur - Non Agricultural income (Seth Banarasidas Gupta vs. CIT).

(b) The value of the closing stock of the preceding year must be the opening stock of the succeeding year. Hence, if the value of the closing stock is enhanced, the enhanced value should be taken as the value of opening stock of the next year for purposes of the I.T. The claim of the assessee is therefore valid.

(c) (i) Loan utilized for payment of dividend. This is allowable u/s. 36(1)(iii).

(ii) Shifting expenses of business premises results in an expenditure of enduring benefit. It is a capital expenditure and hence it is not allowable.

(iii) Payment made to acquire license regarding technical information is a capital expenditure. Only depreciation is allowed on such cost u/s. 32.

(iv) Expenditure incurred for registration of trademark is a revenue expenditure. It is allowable u/s 38(1).

(v) Loss of stock in trade due to theft is allowed as incidental to business. However if it is insured, insurance compensation received will be a trading receipt.

8. (a) What are the consequences if a person fails to comply with the provision of sec. 139A of the Income Tax Act, 1961? 2

(b) What is the effect of contribution made by an individual to electoral trust on his taxable income? 2

(c) A, a mentally retarded minor has a total income of ₹2,40, 000 for the assessment year 2013-14. The total income of his father B and of his mother C for the relevant assessment year is ₹4,00,000 and ₹3,00,000 respectively. Discuss the treatment to be accorded to the total income of A for the relevant assessment year. 3

(d) What are the conditions to be fulfilled by an employee to get his accommodation in a hotel that will not be a taxable perquisite? 2

(e) State the deductibility of the following expenses while computing the business income: 6x1= 6

- **(i) Anticipated hedging loss under a contract to purchase raw material;**
- **(ii) Consultation fees paid to tax advisor;**
- **(iii) Advertisement expenses incurred outside India in foreign currency. RBI permission has not been obtained;**
- **(iv) 500 VIP briefcases costing ₹2,000 each presented to customers;**
- **(v) Travelling expenses incurred to explore the feasibility of new line of business;**
- **(vi) The assessee claims the setoff of unabsorbed depreciation of a discontinued business against the profits of another business.**

Answer 8.

(a) As per sec 272 B (2) if a person fails to comply with the provisions of sec 139A, the assessing officer may direct that such person shall have to pay by way of penalty a sum of ₹ 10,000/-.

(b) The scope of section 80GGC has been widened so as to enable an individual to claim deduction from gross total income in respect of amount of contribution made by him to an electoral trust during the year.

(c) Section 64(IA) provides that all income accruing or arising to a minor child has to be included in the income of that parent whose total income is greater. However the income of a minor child suffering from any disability of the nature specified in Section 80U shall not be included in the income of the parents but shall be assessed in the hands of the child. Thus the total income of A had to be assessed in his hands and cannot be included in the total income of either his father or his mother.

(d) Accommodation provided in a hotel will not be a taxable perquisite if the following two conditions are fulfilled.

- (i) The period of such accommodation does not exceed 15 days.
- (ii) Such accommodation has been provided on the transfer of the employees from one place to another.

(e) The deductibility of the following expenses while computing the business income:

- (i) Anticipated hedging loss under a forward contract is not allowed to be deducted
- (ii) Consultation fees paid to tax advisor is allowed under sec 37(1).

(iii) Advertisement expenses incurred in India or outside India is allowed to be deducted under section 37(1), provided it is not of a capital nature and it is incurred wholly and exclusively for the purpose of business. Permission of RBI is not relevant.

(iv) Presentation of VIP bags to customers is allowed as expenditure on advertisement under section 37(1). There is no ceiling limit for gift articles.

(v) Travelling expenditure for exploring new line of business is a capital expenditure. It is not allowed under sec 37(1). It may be capitalized for the purposes of sec 35D.

(vi) Unabsorbed depreciation of a discounted business now can be set off against the profits of any other business and thereafter against income of any other head. It is operative from the assessment year 2003-04.

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