

# INTERMEDIATE EXAMINATION

## GROUP I

(SYLLABUS 2008)

### SUGGESTED ANSWERS TO QUESTIONS

December  
2012

#### 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 from the rest.*

*Wherever necessary, you may make suitable assumptions and state them clearly in your answer.*

*Working notes should form part of the answers.*

*All questions relate to the assessment year 2012 – 13, unless stated otherwise.*

1. (a) Choose the most appropriate alternative :

[1×13=13]

(i) The basic exemption limit for a non-resident super senior citizen above the age of 80 years for the assessment year 2012- 13 is

- |               |               |
|---------------|---------------|
| A. ₹ 1,80,000 | B. ₹ 2,50,000 |
| C. ₹ 5,00,000 | D. ₹ 1,60,000 |

(ii) When patent is transferred, the amount received is

- A. Not chargeable to tax
- B. Chargeable under the head 'profits and gains of business or profession'
- C. Taxable under the head "income from other sources'
- D. Adjust towards the patent value in the block of assets

(iii) Rent derived from land located outside India, used exclusively for agricultural purpose is

- |                               |   |
|-------------------------------|---|
| A. Agricultural income        | B. Exempt income                                      |
| C. Taxable as business income | D. Taxable under the head 'Income from other sources' |

(iv) Ram introduced his building costing ₹ 10,00,000 acquired in April, 2007 into the business newly commenced by him from 01.04.2011. The actual cost of building for the purpose of depreciation for the assessment year 2012- 13 would be ₹

- |              |                   |
|--------------|-------------------|
| A. 10,00,000 | B. 5,90,490       |
| C. 6,56,100  | D. None of these. |

- (v) Motor car with more than 1.6 liters cubic capacity is given to the employee both for official and personal use with expenditure on running and maintenance met by the employer. The car was self driven by the employee. The perquisite value shall be
- |                 |                 |
|-----------------|-----------------|
| A. ₹ 1,200 p.m. | B. ₹ 1,800 p.m. |
| C. ₹ 2,400 p.m. | D. Nil          |
- (vi) The liability for payment of advance tax would arise only when the tax liability of the taxpayer after reducing tax deductible at source exceeds
- |             |                  |
|-------------|------------------|
| A. ₹ 10,000 | B. ₹ 5,000       |
| C. ₹ 20,000 | D. None of these |
- (vii) Amount is received under the notified reverse mortgage scheme, is
- |   |                       |
|---|-----------------------|
| A. Taxable as 'Income from other sources' | B. Exempt from tax    |
| C. 50% taxable                            | D. Taxable as capital |
- (viii) Azhar, being an employee in a transport company, received ₹ 10,000 per month by way of allowance to meet his personal expenses in the course of running such transport system from one place to another. The amount chargeable to tax is
- |                  |                 |
|------------------|-----------------|
| A. Nil           | B. ₹ 3,000 p.m. |
| C. Fully taxable | D. Fully exempt |
- (ix) Rajiv received scholarship of ₹ 20,000 to meet the cost of education. The amount of scholarship chargeable to tax is ₹
- |             |             |
|-------------|-------------|
| A. Nil      | B. ₹ 20,000 |
| C. ₹ 10,000 | D. ₹ 5,000  |
- (x) Sita received family pension of ₹ 10,000 per month in the capacity of widow of the deceased spouse who died in the course of operational duties in Indian army. The amount of family pension chargeable to tax is
- |               |               |
|---------------|---------------|
| A. ₹ 1,20,000 | B. ₹ 1,05,000 |
| C. Nil        | D. ₹ 30,000   |
- (xi) A religious trust registered under section 12AA received ₹ 2,00,000 by way of anonymous donation. The total amount of donation received during the year was ₹ 15,00,000. The amount of anonymous donation chargeable to tax is
- |               |                     |
|---------------|---------------------|
| A. ₹ 2,00,000 | B. ₹ 1,00,000       |
| C. ₹ 75,000   | D. Nil. Not taxable |
- (xii) Fees paid to Registrar of companies for increasing the authorized capital of a company is
- |                        |                     |
|------------------------|---------------------|
| A. Capital expenditure | B. Fully deductible |
| C. 50% deductible      | D. 75% deductible   |
- (xiii) Raja gifted a building to Miss Vimala on 02.04.2011, its market value on the said date being ₹ 30lacs. Miss Vimala got married to his son on 12.03.2012. The market value on the said date was ₹ 32 lacs. The value of this house as on 31.03.2012, as per schedule III to the Wealth tax Act is ₹ 15 lacs. The value of house includible in the net wealth of Raja, as on 31.03.2012 is
- |                |                |
|----------------|----------------|
| A. ₹ 30,00,000 | B. Nil         |
| C. ₹ 15,00,000 | D. ₹ 32,00,000 |

**(b) Fill up the blanks:**

[1×12=12]

- (i) Interest received on delayed payment of enhanced compensation shall be deemed to be ---- (income/not an income/interest relating to the concerned year alone is income) of the year in which it is received.
- (ii) Gift received from a trust registered under section 12AA is ----- (included/not included) in the taxable income of an individual.
- (iii) Any sum paid on account of wealth tax is ----- (deductible/not deductible) while computing income from other sources.
- (iv) Dividend received from a company having only agricultural income is ----- (agricultural income/ non-agricultural income/ 50% taxable) in the hands of its shareholder.
- (v) There are two schools of Hindu Law, one in Mitakshara and the other is -----.
- (vi) The depreciation allowable in respect of an asset used for the purpose of business for less than 180days shall be restricted to ----- (50%/25%/75%) of the normal rate of depreciation.
- (vii) The rate of TDS will be ----- in all cases, if PAN is not furnished by the deductee.
- (viii) The minimum alternate tax u/s 115JB for the A.Y. 2012 -13 shall be -----% of book profit [ Basic rate excluding surcharge, education cess, etc.].
- (ix) The minimum penalty levied u/s 271A for not maintaining books of account, documents as required u/s 44AA is -----.
- (x) Prima facie, revision of any order can be made by the Commission of Income-tax within ----- --- four years.
- (xi) Unabsorbed los under the head 'Capital gains' shall be carried forward for a period of ----- assessment years immediately following the assessment year in which such loss was incurred.
- (xii) Loss from gembling ----- (can/cannot) be carried forward and set off in subsequent years under profits from gambling.

**Answer 1. (a)**

- (i) (A) ₹ 1,80,000.
- (ii) (D) Adjusted towards the patent value in the block of assets – If the asset is transferred, the amount should be adjusted in the same block of the assets as per Sec 2(11) of the Act. So Patents should be adjusted towards the patent value in the block of the assets.
- (iii) (D) Taxable under the head 'Income from other sources'.  
U/s 2(1A), Agricultural income means income derived from Land situated and used for agricultural purpose. Agricultural income from India is exempt U/s 10 (1). Foreign agricultural income is not fallen under this exemption and the same is chargeable to tax under the head "Income from other sources". So, here, rent derived from located outside India, "Taxable under the head 'Income from other sources'".
- (iv) (C) 6,56,100.
- (v) (C) 2,400 p.m.  
Under the head of salary, taxability of Motor Car Benefits [Rule 3(2)(A)] if employer gives the car with more than 1.6 liters cubic capacity partly for office use & personal use and expenses met by employer, taxable value of perquisite is ₹ 2,400 p.m. + ₹ 900 p.m. for chauffeur. Here, Motor car with more than 1.6 liters capacity is given to the employee for partly official & personal use & expenditure met by the employer. The car was self driven by the employee. So, perquisite value is ₹ 2,400 p.m.
- (vi) (A) ₹ 10,000.  
Section 208 states advance tax is payable by any person for the assessment year immediately following the financial year if the tax liability is ₹ 10,000 or more.

(vii) (B) Exempt from tax

(viii) (B) ₹ 3,000 p.m.

This is the Running Allowance. It is given to employees working in the transport sector for meeting personal expenditure incurred during transport from one place to another.

Particulars	Amount ₹
Running Allowance Received	10,000
Less: Exempt u/s 10(14) least of the following	
(a) 70% of the amount received	7,000
(b) ₹ 10,000 p.m.	<u>10,000</u>
taxable portion of the Allowance	<u>3,000</u>

(ix) (A) Nil

U/s 10(16), the scholarship granted to meet the cost of education is exempt from tax.

(x) (C) Nil

U/s 10(19), the family pension received by the family members of armed forces is exempted from tax, if the three following conditions are satisfied :

- (a) Family pension received by the widow (or children or nominated heirs) of a member of the armed forces including para-military forces) of the Union.
- (b) The death of such member has occurred in the course of operational duties.
- (c) The death has occurred in the specified circumstances and the death is certified by the Head of the Department where the deceased member of the armed forces last served.

(xi) (D) Nil. Not taxable

Anonymous Donation refers to voluntary contributions received by a Trust/ Institutions in respect of which such Trust/ Institution does not maintain records of the identity of the donor (i.e. name and address of the person making such contribution) and such other prescribed particulars. Anonymous Donations received by the following persons are taxable :

- (a) Any University or Educational Institution,
- (b) Hospital or Institution,
- (c) Fund/ Institution,
- (d) Trust or Institution.

The above provisions relating to taxability will not apply in the following cases :

- (a) If the anonymous donation received for religious purposes, and
- (b) Anonymous donation other than those given with specific direction that such donations is for any University/ Other Educational Institution/ Hospital/ Medical Institution run by such Trust/ Institution.

Since the trust is a religious trust hence, the Anonymous Donation is excluded from the ambit of taxable donation.

(xii) (A) Capital expenditure

To decide whether expenditure is capital in nature, the Non-recurring expenses is the one of the main principle. Here, fees paid to ROC for increasing the authorized capital of a company is non-recurring expenses & it is capital expenditure.

(xiii) (B) Nil

On the date of transfer of taxable wealth, there existed no relationship that may be construed as "in-laws". However, the relationship exists only on the date of valuation, which however does not attract the clubbing provisions as per Sec 4 "Deemed Assets" under the Wealth Tax Act. Hence, no taxable wealth on the valuation date.

**Answer 1. (b)**

- (i) Income
- (ii) Not included
- (iii) Not deductible
- (iv) Non agricultural income
- (v) Dayabhaga
- (vi) 50%
- (vii) 20%
- (viii) 18.5%
- (ix) ₹ 25,000
- (x) 4
- (xi) 8
- (xii) Cannot

2. (a) State the difference between residential status of a company and that of others. [2]

(b) Explain the difference between 'Total Income' and 'Gross Total Income'. [2]

(c) 'R' who resides at Delhi, gets ₹ 6,00,000 as basic salary. He receives ₹ 1,70,000 as house rent allowance. Rent paid by him is ₹ 1,80,000. Find out the amount of taxable HRA for the assessment year 2012-13. [4]

(d) Mr. A furnishes the following particulars of his income during the previous year 2011-12: [7]

- (i) Income from agriculture in Bangladesh, received thereof ₹ 2,00,000 and subsequently remitted to India.
- (ii) Gift of ₹ 52,000 received in foreign currency from a relative in India.
- (iii) Arrears of salary ₹ 70,000 received in India from a former employer in England.
- (iv) Income from property received abroad but later on remitted to India ₹ 3,20,000 (₹ 1 lakh used in Bahrain for educational expenses and ₹ 2 lakhs remitted in India later).
- (v) Profit from business outside India managed from India ₹ 90,000 and received outside India.

Find out the gross total income of Mr. A for the assessment year 2012-13 if A is (i) Resident and ordinarily resident (ii) Resident but not ordinarily resident and (iii) Non-resident.

**Answer 2.**

(a) To be called as resident,

In the case of companies, control and management of affairs should be wholly situated in India.

In the case of others, control and management of affairs must be either wholly or partly situated in India.

(b) Income from Salary	XXXXX
Income from House Property	XXXXX
Income from Business and Profession	XXXXX
Income from Capital Gain	XXXXX
Income from Other Sources	XXXXX
<b>Gross Total income</b>	XXXXX
Less – Deduction under Chapter VI	XXXXX
<b>Total Income</b>	XXXXX

(c)

## Computation of Taxable HRA for the Previous Year 2011-12

Particulars	Amount ₹	Amount ₹
Amount Received during the previous year towards HRA		1,70,000
Less: Exemption u/s 10(13A) – least of the followings :		
(a) Actual amount of HRA Received	1,70,000	
(b) 50% of Salary	3,00,000	
(c) Rent paid	1,80,000	
Less: 10% of Salary	<u>60,000</u>	
	1,20,000	1,20,000
Taxable Amount of HRA		50,000

Salary for HRA = ₹ 6,00,000.

(d)

Sl. No.	Particulars	R O R (₹)	R N O R (₹)	Non-Resident (₹)
1.	Income from agriculture in Bangladesh, received there but later on remitted to India	2,00,000	--	--
2.	Gift received from a relative in India [exempt u/s 57(v)]	--	--	--
3.	Arrears of salary received in India from a former employer in England	70,000	70,000	70,000
4.	Income from property received outside India but later on remitted to India.	3,20,000	--	--
5.	Profit from business outside India, managed from India.	90,000	90,000	--
	<b>Gross Total Income</b>	<b>6,80,000</b>	<b>1,60,000</b>	<b>70,000</b>

3. (a) On 01.05.2011, Mr. Rama transferred the right to receive rental income arising from a factory godown owned by him, to his major son Mr. Lava, for a period of 10 years. The rental income derived is ₹ 10,000 per month.

On 12.03.2008, he gifted 2000 shares of face value of ₹ 100 each, in Janak Granites Ltd., a listed company, to his wife Mrs. Seetha. Mr. Rama had purchased them on 19.02.2006 at ₹ 110 each.

Janak Granites Ltd. allotted bonus shares in the ratio of 1:1 on 12.04.2009. Mrs. Seetha sold all shares of the above company on 15.01.2012 in the National Stock Exchange for a net consideration of ₹ 180 per share, per share, paying the applicable STT thereon.

Discuss how the above items will be treated in the hands of Mr. Rama and Mrs. Seetha for the assessment year 2012-13 (Computation if income is not required). [5]

(b) Excel Ltd. allotted 1000 (sweta) equity shares of ₹ 10 each to Mr. Rao, General Manager. The fair market value of the shares computed in accordance with the method prescribed under the Income-tax Act/Rules was ₹ 500 per share, whereas it was allotted at ₹ 300 per share.

What is the perquisite value of sweat equity shares allotted to Mr. Rao?

In case these shares are sold subsequently, what would be their cost of acquisition in the hands of Mr. Rao? [6]

(c) Determine the eligibility and quantum of deduction under Chapter VI-A in the following cases:

- (i) Subscription to notified long-term infrastructure bonds ₹ 30,000 paid by Mr. A who had also paid life insurance premium of ₹ 70,000 during the year.
- (ii) Contribution to notified pension scheme (referred to section 80 CCD) by the employer ₹ 40,000 for an employee whose basic salary plus dearness allowance was ₹ 3,00,000 for the year.

[4]

**Answer 3.**

- (a) As per section 60, where a person transfers merely the right to receive income from an asset without the transfer of the corresponding asset, the income from the asset will be included only in the hands of the transferor. Hence in the given problem, the rental income from the godown, calculated as per the provisions of the Income-tax Act, 1961, will be assessed only in the hands of Mr. Rama.

As per sec 64(1)(iv), where an individual transfers to his/her spouse any asset other than for adequate consideration, the income from such transferred asset will be included in the hands of the transferor. Where such transferred asset is subsequently sold by the spouse, the resultant tax consequences relating to capital gains will have to be considered in the hands of the transferor only i.e., Mr. Rama.

Thus, capital gains on transfer of the original 1000 shares will have to be considered in the hands of Mr. Rama. Since the shares are long-term in nature and are listed shares sold in recognized stock exchange, STT also being paid, the ensuing capital gain is exempt under section 10(34).

However, income on income or accretion from the transferred asset will not be clubbed in the hands of the transferor. Bonus shares are accretions and hence capital gains arising on transfer of the bonus shares will be assessed in the hands of the transferee only.

Thus, capital gain on transfer of bonus shares will have to be considered in the hands of Mrs. Seetha. The bonus shares have been held for less than 12 months and hence is a short-term capital asset. The cost of acquisition of bonus share is taken as nil. The profit from sale of the bonus shares being the net sale proceeds, will be assessed as short-term capital gains and may be chargeable to tax at 15%.

- (b) As per section 17(2)(vi) the value of sweat equity shares chargeable as perquisite shall be the fair market value of such shares on the date on which the option is exercised by the assessee as reduced by the amount actually paid or recovered from him in respect of such shares.

Particulars	Amount ₹
Fair market value of 1000 equity shares @ ₹ 500 each	5,00,000
Less: Amount recovered from Mr. Rao 1000 x 300 each	3,00,000
Value of perquisite of sweat equity shares allotted to Mr. Rao	2,00,000

As per section 49(2AA) the cost of acquisition of such shares shall be adopted while computing the capital gain.

Hence, the cost of acquisition for Mr. Rao shall be ₹ 3,00,000.

- (c) **Subscription to notified long-term infrastructure bond** ₹ 30,000.

Amount of deduction u/s 80CCF – least of the following

- (i) Actual Amount ₹ 30,000

or

- (ii) Maximum Limit ₹ 20,000

∴ Eligible deduction ₹ 20,000

**For Insurance Premium :**

Amount paid towards the L.I.C. premium of ₹ 70,000

Maximum deduction u/s 80C is ₹ 1,00,000

∴ Eligible deduction is ₹ 70,000

Note: Assuming ₹ 70,000 is within the maximum limit of 20% of sum assured.

**(iii) Contribution to Notified Pension Scheme**

Amount of deduction u/s 80CCD(2) – least of the following

(i) Amount Paid ₹ 40,000

(ii) 10% of Salary (3,00,000 x 10%) ₹ 30,000

∴ Amount of Deduction is ₹ 30,000.

4. (a) Mr. Gopi carrying on business as proprietor converted the same into a limited company by name Gopi Pipes (P) Ltd. from 01.07.2011. The details of the assets are given below:

Block – I WDV of plant & machinery (rate of depreciation @ 15%) ₹ 12,00,000

Block – II WDV of building (rate of depreciation @ 10%) ₹ 25,00,000

The company Gopi Pipes (P) Ltd. acquired plant and machinery in December 2011 for ₹ 10,00,000. It has been doing the business from 01.07.2011.

Compute the quantum of depreciation to be claimed by Mr. Gopi and successor Gopi Pipes (P) Ltd. for the assessment year 2012-13.

Note:- Ignore additional depreciation. [5]

(b) Name any four specified businesses covered under section 35AD and state the fiscal incentives available to such businesses. [5]

(c) Mr. Ashwin stated a proprietary business on 20.04.2012 with a capital of ₹ 5,50,000. His wife Smt. Padma gifted ₹ 2,00,000 on the occasion of his birthday on 28.07.2010, out of which he introduced ₹ 1,00,000 into his proprietary business.

Details of his income from business are given below:

Financial year	(Loss)	Income
2010-11	₹ (1,50,000)	-
2011-12	-	₹ 4,00,000

He did not withdraw any amount from the business for his personal use.

Determine the amount chargeable to tax in the hands of Ashwin and the amount liable for clubbing in the hands of his wife Smt. Padma. [5]

Answer 4.

**(a) Computation of depreciation for the Assessment Year 2012-13**

Block-I WDV of plant & machinery @ 15% on ₹ 12,00,000	1,80,000
Block-II WDV of building @ 10% on ₹ 25,00,000	2,50,000
Total	<b>4,30,000</b>
Depreciation for Gopi (individual) for 91 days = $4,30,000 \times \frac{91}{366} =$	1,06,913
Depreciation for Gopi Pipes (P) Ltd (Company) for 275 days = $4,30,000 \times \frac{275}{366} =$	3,23,087
New acquisition ₹ 10,00,000 x 15% x $\frac{1}{2} =$	75,000
Depreciation claim for the company	<b>3,98,087</b>

In the new acquisition of plant in the business or profession during the same P.Y. for a period of less than 180 days.



**(b) Specified businesses covered by section 35AD are-**

- (i) Setting up and operating cold chain facilities for specified products.
- (ii) Setting up and operating warehousing facilities for storing agricultural produce.
- (iii) Laying and operating cross – country natural gas or crude or petroleum oil pipe line net work for distribution, including storage facilities being as integral part of such net work.
- (iv) Building and operating a hotel of two star or above category, anywhere in India.
- (v) Building and operating a hospital, anywhere in India, with at least 100 beds are patients.
- (vi) Developing and building a housing project under a scheme for slum development or rehabilitation framed by the Central Government or State Government, as the case may be, and notified by the CBDT.

**Fiscal Incentives:**

100% of the capital expenditure incurred is eligible for deduction for year in which in the specified business commences operations. However, expenditure towards acquisition of land, goodwill or financial instrument would not be eligible for deduction.

The excess of expenditure over income from the specified business is eligible for set off against another or any other specified business in the same year.

In the subsequent years also, loss can be set off against the profits of the same specified business or any other specified business as mandated in section 73A.

**(c) Computation of Income from business chargeable in the hands of Mr. Ashwani and clubbing in the hands of Smt. Padma.**

Sl. No.	Particulars	2010 – 2011 (₹)	2011 – 2012 (₹)
(i)	Profit / (Loss)	(1,50,000)	4,00,000
(ii)	Gifted amount considering the investing part in the business	1,00,000	--
(iii)	Capital	5,50,000	5,00,000 [Previous Year Capital + gifted amount – Loss of Business] (5,50,000 + 1,00,000 – 1,50,000)
(iv)	Clubbed Amount	--	80,000 [Profit Earned x Gifted Amount ÷ Total Capital] (4,00,000 x 1,00,000 ÷ 5,00,000)
(v)	Income Chargeable in the hands of Ashwani	--	3,20,000 [Profit Earned – Clubbed Amount] (4,00,000 – 80,000)

∴ Income chargeable to tax in the hands of Ashwani = ₹ 3,20,000.

∴ Clubbing in the hands of Padma = ₹ 80,000.

**Note:-**

- (1) Based on Mohini Thapar vs. CIT and R. Ganesan vs. CIT case decisions, the amount of profit to the extent of gifted to total capital on the first day of the previous year must be clubbed in the hands of Smt. Padma.

- (2) The gift was made on 28.07.2010. therefore, the clubbing provisions shall not apply as the gift was made after the 1<sup>st</sup> day of the previous year.
- (3) As per question, Ashwain not withdraw any amount for his personal use. So, closing capital of 2010-11 plus profit for that year is taken as the capital for Financial Year 2011-12.

**5. (a) State with brief reason whether the following are 'assets' as on 31.03.2012 under the Wealth Tax Act: [8]**

- (i) **A commercial complex let out after completion of construction from 01.01.2012**
- (ii) **A vacant land acquired in March 2008 by a company meant for construction of factory building.**
- (iii) **Residential complex building owned and let out by a company for 270 days during the year.**
- (iv) **Accommodation to an employee having aggregate annual salary of ₹ 4,50,000, let out by a company.**
- (v) **Vacant lands owned by a real estate company for the past 7 years.**
- (vi) **A firm house beyond 30 kms from corporation limits by an individual.**
- (vii) **A guest house located 30 kms beyond the city limits owned by a company.**
- (viii) **Equity shares in a company owned by assessee-company.**

**(b) Briefly discuss the provisions of section (142(2A) of the Income-tax Act, 1961 relating to special audit. [4]**

**(c) State the difference between Exemption u/s 10 and Deduction under Chapter VIA of the Income-tax Act, 1961. [3]**

**Answer 5.**

- (a) (i) **A commercial complex is not an asset** even though let out for only 92 days. (01.01.2012 – 31.03.2012)
- (ii) **A vacant land** acquired in March 2008 by a company meant for construction of factory building **for more than 2 years** from the date of acquisition is an asset.
- (iii) **Residential complex** building owned and let out by a company for 270 days during the year **is an asset** since it is **let out for less than 300 days**.
- (iv) **Accommodation to an employee** having aggregate annual salary of ₹ 4,50,000 let out by a company **is not an asset**.
- (v) **Vacant lands** owned by a real estate company for the past 7 years forming part of stock in trade is **not liable for wealth tax for a period of 10 years from the date of acquisition**.
- (vi) **A firm house** beyond 30 kms from corporation limits by an individual is not an asset liable for wealth tax levy.
- (vii) **A guest house** beyond 30 kms from the city limits, owned by a company, regardless of the location **is an asset** liable for wealth tax.
- (viii) **Equity shares** in a company owned by assessee-company **is not an asset** and hence not liable for wealth tax.

**(b) Special Audit [u/s 142 (2A)]**

- (i) **Applicability:-** If the assessing officer is of the opinion that having regard to the nature and complexity of the accounts and in the interest of revenue, the accounts should be audited.
- (ii) **Audit under Other Law:-** Assessing officer can direct the assessee to get his accounts audited under this section even if the accounts are already audited under this Act or under any other law.
- (iii) **Approval:-** Prior approval of the Chief Commissioner or Commissioner should be obtained.
- (iv) **Appointment:-** The Chief Commissioner/Commissioner shall nominated the auditor.
- (v) **Form of Report:-** The Audit Report containing prescribed particulars must be furnished in the prescribed Form No. 6B.
- (vi) **Time Limit:-** Within the period specified by the Assessing Officer, which may be extended upto 180 days from the date of directions.
- (viii) **Others:-** The Assessing Officer shall not direct the assessee to get the accounts so audited unless the assessee had been given a reasonable opportunity of being heard.

**(viii) Consequences of Non Compliance:-** Best judgement assessment u/s 144, Penalty u/s 271(1) (b) of ₹ 10,000, prosecution u/s 276D or issue of order u/s 132 of search and seizure.

**(c) Difference between Exemption u/s 10 and Deduction under Chapter VIA**

Exemption u/s 10	Deduction under Chapter VIA
i) Income exempt does not form part of total income or gross total income.	i) Income might form part of gross total income.
ii) Expenditure in relation to exempt income is not deductible.	ii) Expenditure in relation to these income is deductible.
iii) Income is normally exempt subject to certain conditions.	iii) Deduction is normally allowed based on payment or fulfillment of specified conditions.

**6. (a) Mr. Nitin completed construction of a residential house on 01.04.2010.**

Interest paid on loans borrowed for the purpose of construction during the 30 months prior to completions was ₹ 60,000.

The house was let-out on a monthly rent of ₹ 18,000.

Annual corporation tax paid is ₹ 35,000.

Interest paid during the year is ₹ 25,000.

Amount spent on repairs is ₹ 6,000

Fire insurance premium paid ₹ 3,000 p.a.

The property was vacant for 4 months.

Annual letting value as per corporation records is ₹ 1,50,000.

He had also received arrears of rent of ₹ 36,000 during the year, which had not been charged to tax in the earlier year.

Compute the income under the head "Income from House Property" for the assessment year 2012-13. [8]

(b) Discuss whether it is required on the part of an assessee desiring to claim deduction of bad debt written off, to prove that the debt written off in the books as irrecoverable or bad debt, is incapable of recovery or that the said debt had really turned bad. [4]

(c) Explain how jewellery has to be valued as per Wealth Tax Act. [3]

**Answer 6.**

**(a) Computation of Income from House Property of Mr. Nitin for the Assessment Year 2012-13**

Particulars	Amount ₹	Amount ₹
Gross Annual Value u/s 23(1) (c)		1,44,000
Less: Corporation Tax Paid		35,000
Net Annual Value (NAV)		1,09,000
Less:- Deduction u/s 24		
a) 30% of NAV (109000 x 30%)	32,700	
b) Interest on Borrowed Capital		
Current Year	25,000	
Prior Period (60,000 x ½)	12,000	
	37,000	69,700
Income from House Property before considering Arrear Rent		39,300
Arrear Rent	36,000	
Less: 30% of Arrears Received	10,800	25,200
Net Income from House Property		64,500

**Note (1):****Computation of Gross Annual Value**

Step 1:	Corporation/ Municipal value		1,50,000
Step 2:	Annual rent (18,000 x 12)	2,16,000	
Step 3:	Less: unrealized rent	Nil	2,16,000
Step 4:	Actual rent (Higher of corporation value and annual rent)		2,16,000
Step 5:	Since the property was vacant for 4 months, the vacancy allowance = (Annual rent/ 12) x Vacancy Period = (2,16,000/12) x 4		76,000
Step 6:	Gross Annual Value (Actual Rent – Vacancy Allowance)		1,44,000

**(b) Write-off of bad debt**

Sec 36(1) (vii) enjoys that subject to the provisions of sub section (2), deduction shall be allowed in respect of the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year. As per section 36(2), in making any deduction for a bad debt or part thereof, the provisions stated therein shall apply.

The following aspects emerge from the reading of the said provisions:

- It is not necessary for the assessee to establish that the debt, in fact, has become irrecoverable.
- It is sufficient if the bad debt is written off as irrecoverable in the books of account of the assessee.
- Deduction is available in the previous year in which the write-off of the debt in question is made.

In the light of the above, it is not required on the part of an assessee to prove that the debt which he had written off in the books as bad debt, is incapable of recovery or that the said debt had really turned bad.

**(c) The value of jewellery shall be estimated to be the price which it would fetch if sold in the open market on the valuation date (i.e., fair market value).**

Where the value of jewellery does not exceed ₹ 5,00,000, a statement in Form No. 0-8A is to be submitted. Where the value of the jewellery exceeds ₹ 5,00,000, a report of a registered valuer in Form No. 0-8 should be submitted.

The report is not binding on the Assessing Officer and he can determine fair market value of jewellery. The value determined by the Valuation Officer for any assessment year shall be taken to be the value of such jewellery for the subsequent four assessment years subject to the prescribed adjustments.

**7. (a) 'A' Ltd. owns two plant: Plant X and Plant Y, as on April 1, 2011 (rate of depreciation: 15% W.D.V. on 01.04.2011: ₹ 2,37,000). [5]**

The company purchases Plant Z on May 31, 2011 for ₹ 20,000.

It sells Plant X (on April 10, 2011) and Plant Y (on December 11, 2011) and Plant Z (on March 1, 2012) for ₹ 40,000; ₹ 36,000 and ₹ 24,000 respectively.

Find out the WDV of the block of assets on 31.03.2012. explain the treatment relating to depreciation and allied issues relating to the above. What is the opening WDV of the block as on 01.04.2012?

**(b) State the provisions for valuation of self-occupied property under section 7(2) of the Wealth Tax Act. [5]****(c) State ten instances/transactions where Permanent Account Number (PAN) has to be compulsorily quoted. [5]**

**Answer 7.**

(a) Written down value of the block of assets will be determined as below:

Particulars	Amount ₹
Opening WDV of the block consisting of Plants X & Y	2,37,000
Add: Cost of Plant Z (:· Put to use > 180 days)	20,000
Total	2,57,000
Less: Sale of Plants X, Y and Z	1,00,000
Short Term Capital Loss	1,47,000

**Note:**

- i) No depreciation is allowable as the block of assets ceases to exist on the last day of the previous year, since all members (i.e. plants) are sold.
- ii) ₹ 1,47,000 will be treated as short-term capital loss on sale of the assets, as per Sec. 50(2).
- iii) As on first day of the next year (i.e., April 1, 2012) the WDV will be taken as 'NIL'.

**(b) Valuation of self occupied property u/s 7(2) of W.T. Act**

1. The assessee owns a house of part of the house, being an independent unit.
2. It is used by the assessee exclusively for his residential purpose throughout 12 months ending on the valuation date. Exclusively used would mean that the house should not have been let out for rent or for the use of commercial purposes.

If the above are satisfied, the assessee can adopt the valuation as per any one of the following (as per the option of the assessee):

**Option 1:**

He can take the value of house as determined in accordance with Part B of Schedule – III to W.T. Act. Broadly this method applies capitalization of net maintainable rent, This would be the value as on valuation date relevant to the current assessment year.

**Option 2:**

Alternatively, he may take the value of the house as determined above, on the first valuation date next following the date on which he became the owner of the house or valuation relevant for the Assessment year 1971-72, whichever is later.

**If the house had been constructed by the assessee**, he shall be deemed to have become the owner on the date on which the construction of the house was completed.

**(c) Instances where PAN No should be quoted:**

PAN should be quoted in all document pertaining to transactions specified below:

- i. Sale or purchase of any immovable property valued at ₹ 5 lakhs or more;
- ii. Sale or purchase of a motor vehicle or vehicle, as defined in clause (28) of section 2 of the Motor Vehicles Act, 1988, which requires registration by a registering authority under Chapter IV of the Act;
- iii. A time deposit, exceeding ₹ 50,000 with a Banking Company to which the Banking Regulations Act, 1949 applies.
- iv. Deposit of cash aggregating to ₹ 50,000 or more during any day with a bank or post office;
- v. Making an application to any banking or to any other company or institution for issue of a credit card or debit card.
- vi. A contract of a value exceeding one lakh rupees for sale or purchase of securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.

- vii. Making an application for installation of a telephone connection (including a cellular telephone connection);
- viii. Payment to hotels and restaurants against their bills for an amount exceeding twenty-five thousand rupees at any one time;
- ix. Return of income furnished by the assessee, and correspondences with the Department.
- x. Tax challans paid.
- xi. Payment of an amount of ₹ 50,000 or more to a Company for acquiring shares issued by it.
- xii. Payment of an amount of ₹ 50,000 or more to a Company or an Institution for acquiring debentures or bonds issued by it.
- xiii. Opening of Bank Account (except individual).
- xiv. Payment made for foreign travel exceeding ₹ 25,000 at any one time.
- xv. On purchase of a Bank Draft/ Pay Order/ Banker's Cheque of ₹ 50,000 or more in cash in a day.
- xvi. Payment of an amount of ₹ 50,000 or more to any mutual fund for purchase of its units.
- xvii. Payment of an amount of ₹ 50,000 or more to the RBI for acquiring bonds issued by it.

**8. (a) Please state the deductibility of the following expenses:** **[6]**

- (i) Litigation expenses for restraining another company from using assessee's trade mark.**
- (ii) Brokerage paid for raising loan to finance assessee-company's business.**
- (iii) Compensation paid to cancel purchase order of a machine due to abnormal rise in its price. Assessee claims it as a trading loss.**

**(b) Explain the provisions for carry forward and set off of business losses under section 72. Explain the order of priority amongst business loss, current depreciation and brought forward unabsorbed depreciation.** **[6]**

**(c) Explain the provisions in regard to a reference to Valuation Officer for valuation of a capital asset under the provisos of the Income-tax Act, 1961.** **[3]**

**Answer 8.**

- (a)** (i) Litigation expenses for restraining another company from using assessee's trade mark, is one expended out of commercial expediency, wholly and exclusively for the purchase of the business; being revenue expenditure, the same is an allowable expenditure u/s 37.
- (ii) Brokerage paid for raising loan to finance business is a deductible expenditure u/s 37 as it is incurred wholly and exclusively for the purchase of the business. If any tax is deductible at source u/s 194-H, the same has to be done; the provisions of section 40(a)(ia) should not be contravened.
- (iii) Compensation paid to cancel purchase order of a machine, is a capital expenditure. It avoids further investment in futility in machine. It cannot be deducted u/s 37. As there is no 'transfer' of any capital asset, compensation paid cannot be claimed as a Capital loss also.

**(b) Nature of loss**

Brought forward unabsorbed business loss other than Speculation loss and loss of specified business covered by section 35AD.

**Details of set off**

Set off only against income under the head profits and gains of business or profession.

**Conditions**

1. Carry forward and set off is permissible for 8 assessment years immediately succeeding the assessment year for which the loss was computed.

2. Loss can be carried forward only if the return is filed u/s 139(1) and it is determined and communicated u/s 157.
3. It is not essential that the business in which the loss was sustained should be carried on in the year of set off.

**Priority of set off**

- i) Current year depreciation u/s 32
- ii) Brought forward business loss
- iii) Brought forward unabsorbed depreciation

**(c) Reference to Valuation Officer [Section 55A]**

Under the following circumstances the Assessing Officer may refer the valuation of the capital asset to the Valuation Officer.

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

The valuation report of the Valuation Officer shall be binding on the Assessing Officer.