Paper 7- Direct Taxation

Paper-7: - Direct Taxation

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

All question relate to income –tax assessment Year 2018-19 and the provisions stated relate to the Income-Tax Act,1961,unless otherwise stated in the question.

Answer Question No.1, which is compulsory and any five question Question Nos.2 to 8.

1. **(a)** Choose the most Appropriate alternative for the following **(Option to be given only in capital letters A,B,C or D ; entire answer need Not be reproduced);** **1 X 10 =10**

(i) An individual, being foreign national, came to India first time during the previous year 2018- 19 on 01-01-2019 for 200 days, his residential status for the previous year 2018-19 is.

(a) **Non-resident**
(b) Resident but not ordinarily resident in India
(c) Resident and ordinarily resident in India
(d) Resident in India

(ii) Which of the following is an agriculture income?

(a) Dividend paid by a company out of its agriculture income.
(b) **Share of Profit of a Partner from a firm engaged in an agriculture operation**
(c) Income from supply of water by a assessee from a tank in its agriculture land
(d) Interest received by a money lender in the form of agricultural produce.

(iii) Which of the following is **not** taxable under head 'Salaries'?

(a) Remuneration paid to the lecturer of a college for setting a question paper by a university.
(b) Salary received by a member of the Parliament
(c) Commission received by an employee director of a company
(d) **Both (a) and (b) above**

(iv) If a domestic servant is engaged by the employer and salary is paid by him, the perquisite is

(a) Taxable in the hands of all employee
(b) Not taxable in the hands of both specified and non-specified employers.
(c) **Taxable in the hands of specified employees only**
(d) Taxable to the extent of ₹ 120 per person in the hands of all employees.

(v)A house property located outside India is:

(a) Taxable in hands of all assessee
(b) Taxable in hands of non resident assesse
(c) **Taxable in hands of resident and ordinarily resident assessee**
(d) Exempted from tax in India

(vi) Which of the following is not allowed as a deduction for computation of business Income?

(a) Loss incurred due to theft in factory after working hours
(b) **Anticipated future losse**
(c) Loss caused by white ants
(d) Loss due to accidental fire in stock-in-trade

(vii) Deduction u/s 35AD is available in respect of expenditure on specified business, one of them is:

(a) **Setting up and operating a cold chain facility**
(b) Setting up and operating a power plant
(c) Setting up and operating an industrial unit
(d) All of the above

(viii)U/s 54, capital gain will be allowed as exemption if the house property under transfer is held for

(a) Less than 12 months preceding the date of transfer
(b) More than 12 months preceding the date of transfer
(c) Less than 36 months preceding the date of transfer
(d) **More than 24 months preceding the date of transfer**

(ix) Cost of acquisition of self-generated asset is nil, the exception is:

(a) Goodwill
(b) Route permit
(c) **Bonus shares acquired before 01-04-2001**
(d) Loom hours

(x) Unabsorbed depreciation can be carried forward for

(a) **Any number of years**
(b) 8 years
(c) 4 years
(d) 7 years

(b) Match The following(Sufficient to give the corresponding item in column 3 for column 1; reproducing columns 2 and 4 are not required): **1 X5=5**

1	2	3	4
(i)	Sec. 288B	(A)	Determination of Residential Status
(ii)	Sec. 6	(B)	Capital Gain
(ii)	Sec. 10	(C)	Depreciation
(iv)	Sec. 45	(D)	Rounding off of tax
(v)	Sec. 32	(E)	Exempted Income

Answer:

(i)D	(ii)A	(iii)E	(iv)B	(v)C

(c) State whether the following statements are True or False : **1 X5=5**

(i) Cash gift of ₹ 1,00,000 from uncle's son is not taxable.
(ii) Reasonable expected rent can not exceed standard rent.
(iii) The income of minor child will always be included in the income of his/her parents.
(iv) No tax is required to be deducted from winning from race-horse, if such winning does not exceed ₹10,000
(v) Telephone provided to an employee at his residence is a tax-free perquisite.

Answer:

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

(d) Fill in the blanks: 1 X5=5

(i) A person owns 4 goods vehicles other than heavy vehicles. His estimated annual income u/s 44AE is ₹ ______
(ii) Advance tax is payable in _______instalments by a non-corporate assessee.
(iii) Total tax payable on a lottery income of ₹ 3,00,000 as per section 115BB is _____________
(iv) The monetary ceiling limit for exemption for gratuity received under the Payment of Gratuity Act, 1972 is __________
(v) Exemption u/s. 10(32) in respect of income of minor child included in the hands of assesses under Section 64(1A) is restricted to ₹ _____per child.

Answer:

(i) ₹3,60,000	(ii)4	(iii)₹90,00(plus applicable surcharge and health and education cess)	(iv)₹20,00,000	(v) ₹1,500

2(a) Ram provides following details of income, calculate the income which is liable to be taxed in India for the A.Y.2019-20 assuming that –

a) He is an ordinarily resident b) He is not an ordinarily resident c) He is a non-resident.

Particulars	Amount
Salary received in India from a former employer of UK	1,40,000
Income from tea business in Nepal being controlled from India	10,000
Interest on company deposit in Canada (1/3rd received in India)	30,000
Profit from a business in Mumbai controlled from UK	1,00,000
Profit for the year 2002-03 from a business in Tokyo remitted to India	2,00,000
Income from a property in India but received in USA	45,000
Income from a property in London but received in Delhi	1,50,000
Income from a property in London but received in Canada	2,50,000
Income from a business in Jambia but controlled from Turkey	10,000

[8]

2(b) X Ltd. has two house properties both of which are vacant. Municipal value of 1st house property is ₹ 1,00,000 and that of 2nd is ₹ 80,000. It has computed income from house property as under:

Particulars	Details(₹)	Amount(₹)
HP1: **Self occupied** [Sec. 23(2)(a)]		
Net Annual Value (NAV)	Nil	
Less: Interest on loan u/s 24(b)	Nil	
Income from HP1		Nil
HP2: **Deemed to be let out** [Sec. 23(4)]		
Gross Annual Value (GAV)	80,000	
Less: Municipal tax	Nil	
Net Annual Value (NAV)	80,000	
Less: Standard deduction u/s 24(a) @ 30% of NAV	24,000	56,000
Income from house property		56,000

Do you agree with the computation of income from house property of the assessee **[7]**

Answer:2(a)

Calculation of income liable to be taxed in India of Ram for the A.Y.2019-20

Particulars	**Resident & Ordinarily resident**	**Resident but not ordinarily resident**	**Non-resident**
Salary received in India from a former employer of UK	1,40,000	1,40,000	1,40,000
Income from tea business in Nepal being controlled from India	10,000	10,000	Nil
Interest on company deposit in Canada -			
- 1/3rd received in India	10,000	10,000	10,000
- 2/3rd received outside India	20,000	Nil	Nil
Profit from a business in Mumbai controlled from UK	1,00,000	1,00,000	1,00,000
Past Profit from a business in Tokyo remitted to India	Nil	Nil	Nil
Income from a property in India but received in USA	45,000	45,000	45,000
Income from a property in London but received in Delhi	1,50,000	1,50,000	1,50,000
Income from a property in London but received in Canada	2,50,000	Nil	Nil
Income from a business in Jambia but controlled from Turkey	10,000	Nil	Nil
Income liable to tax in India	7,35,000	4,55,000	4,45,000

2(b)

In the above computation, X Ltd. has claimed benefit of self-occupation, whereas, such benefit can be claimed only by an individual or HUF. A company form of assessee cannot claim such benefit. Hence, income under the head Income from house property will be as under:

Computation of income from house property of X Ltd. for the A.Y. 2018-19

Particulars	Details	Amount
HP1: **Deemed to be let out** [Sec. 23(4)]		
Gross Annual Value (GAV)	1,00,000	
Less: Municipal tax	Nil	
Net Annual Value (NAV)	1,00,000	
Less: Standard Deduction u/s 24(a) @ 30% of NAV	30,000	70,000
HP2: **Deemed to be let out** [Sec. 23(4)]		
Gross Annual Value (GAV)	80,000	
Less: Municipal tax	Nil	
Net Annual Value (NAV)	80,000	
Less: Standard Deduction u/s 24(a) @ 30% of NAV	24,000	56,000
Income from house property		**1,26,000**

3(a) Mr. Mugal joined Star Ltd. on 1/4/2018. Details regarding his salary are as follows:

Particulars	Amount
Basic	5,000 p.m.
Dearness Allowance	2,000 p.m. (50% considered for retirement benefit)
Education Allowance	1,000 p.m. (he has 1 son and 3 daughters)
Hostel Allowance	2,000 p.m. (none of the children is sent to hostel)
Medical Allowance	1,000 p.m. (total medical expenditure incurred ₹ 3,000)
Transport Allowance	1,800 p.m. (being used for office to residence & vice versa)
Servant Allowance	1,000 p.m.
City compensatory Allowance	2,000 p.m.
Entertainment Allowance	1,000 p.m.
Assistants Allowance	3,000 p.m. (paid to assistant ₹ 2,000 p.m.)
Professional Development Allowance	2,000 p.m. (actual expenses for the purpose ₹ 8,000 p.m.)
Bonus	24,000 p.a.
Commission	9,000 p.a.
Fees	5,000 p.a.

Compute his gross taxable salary for the assessment year 2019-20. **[9]**

(b)Y ,an individual has a net agricultural income of an assessee is RS 90,86,0000 and non agricularal income is Rs 13,65,000.Y contributes 1,40,000 towards PPF . Compute his taxable liablility for the assessment year 2019-20. **[6]**

Answer 3(a)

Computation of gross taxable salary of Mr. Mugal for the A.Y.2019-20

Particulars	Details	Amount	Amount
Basic Salary			60,000
Bonus			24,000
Commission			9,000
Fees			5,000
Allowances			
Dearness Allowance		24,000	
Education Allowance	12,000		
Less: Exemption (₹ 100 * 2 * 12)	2,400	9,600	
Hostel Allowance	24,000		
Less: Exemption (₹ 300 * 2 * 12)	7,200	16,800	
Medical Allowance		12,000	
Transport Allowance	21,600		
Less: Exemption	Nil	21,600	
Servant Allowance		12,000	
City Compensatory allowance		24,000	
Entertainment Allowance		12,000	
Assistance Allowance	36,000		
Less: Exemption (Being actual expenditure)	24,000	12,000	
Professional development allowance	24,000		
Less: Exemption (Actual expenditure max. of amount received)	24,000	Nil	1,44,000
Gross Taxable Salary			**2,42,000**

3(b) Computation of Mr.Y for the A.Y 2019-20

	(₹)
Gross total Income	13,65,000
Less: Deduction under section 80 C	1,40,000
Total income (i.e non-agricultural income)	12,25,000
Computation of tax	
1.Income Tax on agricultural income: Rs 90,86,000 + non-agricultural income Rs 12,25,000	29,05,800
2.Income Tax on agricultural income 90,86,000 +exempted slab of income 2,50,000	26,13,300
3.Income tax Computed at(1) minus Income Tax computed at (2)	2,92,500
4.Less : Rebate under section 87A	Nil
5.Balance	2.92,500
6.Surcharge (applicable only if non-agricultural income exceeds 50 lakh	Nil
7.Tax and Surcharge	2,92,500

8.Health and Education cees {4 % of (7)] 11,700
9.Tax Liability 3,04,200

4(a) Sunil has a house property acquired on 7/07/1995 for ₹ 3,00,000. He incurred improvement expenditure on such property ₹ 70,000 on 16/08/2000 and ₹ 50,000 on 17/07/2010. Market value of such property as on 1/04/2001 is ₹ 4,50,000. On 16/08/2013, such property is compulsorily acquired by the Government and compensation decided at ₹ 11,50,000. 20% of the compensation received on 31/03/2019 and balance on 2/04/2019.

On further appeal, on 16/08/2019 enhanced compensation is declared by the Government ₹ 2,00,000. Expenditure incurred to get enhanced compensation is ₹ 11,000. Such compensation received on 18/08/2020. Compute income under the head Capital Gains of Sunil for the assessment year 2019-20, 2020-21 and 2021-22.

[10]

(b) Mr. Bhola has furnished you the following data –

Income from house property	(₹ 1,30,000)
Salaries (Net)	₹ 80,000
Income from other sources	(₹ 90,000)
Income from lotteries	₹ 3,50,000

Mr. Bhola is seeking your advice relating to set off and carry-forward.

[5]

Answer:4(a)

Computation of capital gains of Sunil for the A.Y. 2019-20

Particulars	Working	Amount(₹)	Amount(₹)
Sale consideration			11,50,000[1]
Less: Expenses on transfer			Nil
Net sale consideration			11,50,000
Less: **i)** Indexed cost of acquisition	₹ 4,50,000[2] * 220[4]/100	9,90,000	
ii) Indexed cost of improvement[3]	₹ 50,000 * 220[4]/167	65,868	10,55,868
Long Term Capital Gain			**94,132**

1. The initial compensation (i.e. ₹ 11,50,000) decided by the Government shall be treated as sale consideration.
2. Cost of acquisition is the original cost of acquisition (i.e. ₹ 3,00,000) or Fair market value as on 1/04/2001 (i.e. ₹ 4,50,000) whichever is higher.
3. Cost of improvement incurred before 1/04/2001 is to be completely ignored.
4. Though the property was compulsorily acquired by the Government in the P.Y 2013-14 but the compensation was received in the P.Y.2018-19, therefore the amount shall be taxable in the P.Y. 2018-19, however indexation benefit shall be available till the previous year 2013-14.

<u>Computation of capital gains of Mr. Sunil for the A.Y. 2020-21</u>: As the assessee has not received enhanced compensation during the P.Y.2019-20, hence nothing is taxable in the A.Y. 2020-21.

Computation of capital gains of Mr. Sunil for the A.Y. 2021-22

Particulars	Working	Amount(₹)	Amount(₹)
Sale Consideration	Enhanced compensation		2,00,000

Less: Expenses on transfer			11,000
Net Sale Consideration			1,89,000
Less: **i)** Indexed cost of acquisition		Nil	
ii) Indexed cost of improvement		Nil	Nil
Long Term Capital Gain			**1,89,000**

In case of enhanced compensation, the cost of acquisition shall be taken as nil and the nature of capital gain shall be same as that of initial compensation.

(b)

Statement showing application of sec. 71

Particulars	Amount(₹)
Salaries	80,000
Income from house property	(1,30,000)
Income from other sources	
Winning from lotteries	3,50,000
Other income	(90,000)
Gross total income	**3,50,000**
Conclusion	
Casual income shall be fully taxable as no loss can be set off against such income.	3,50,000
Losses to be carried forward a) Loss under the head "Income from house property"	(1,30,000)
b) Loss under the head "Income from other sources", as such loss cannot be carried forward.	Nil
Income under the head 'Salaries' is first adjusted with the loss under the head 'Income from other sources' as the same cannot be carried forward. Though loss under the head 'Income from other sources' is ₹ 90,000 and such loss could be adjusted with income under the head 'Salaries' only to the extent of ₹ 80,000 still the remaining loss of ₹ 10,000 cannot be carried forward.	

5(a) Uttar and Dakshin, partners of PP Traders, furnishes the following details –

Profit and loss account for the year ended 31-3-2019

Particulars	Amount	Particulars	Amount
Bonus paid to employee	50,000	Gross Profit	10,00,000
Interest on loan taken from bank	45,000	Interest on drawings	
Other Expenses	40,000	Uttar	2,000
Salary to partners		Dakshin	3,000
Uttar	2,44,000		
Dakshin	4,88,000		
Interest on capital @ 15%			
Uttar	4,500		
Dakshin	6,000		

Depreciation	40,000		
Net profit	87,500		
	10,05,000		**10,05,000**

Additional information

1. Depreciation for the year allowed u/s 32 is ₹ 30,000.
2. During the last year, firm has incurred loss of ₹ 8,50,000 (which includes unabsorbed depreciation of ₹ 50,000).
3. Interest on loan taken from bank is yet to be paid. Compute total income of firm.

(b) Compute total income of Sri Bajaj of Delhi from the following data:

Particulars	Amount(₹)
Profits & gains of business or profession	80,000
Income from house property (let-out and situated at Kolkata)	40,000
Income from other sources	10,000
Rent paid for office	8,000
Rent paid for residential house	40,000

Answer:5(a)

Working 1 Computation of remuneration allowed to the partners

Particulars	Details(₹)	Amount(₹)
Profits and gains of business or profession		
Net profit as per Profit & loss account		87,500
Add: Expenditure disallowed but debited in P/L A/c		
Salary to partners	7,32,000	
Interest on capital (in excess of 12%) [(₹ 4,500 + ₹ 6,000)/15 * 3]	2,100	
Depreciation	40,000	
Interest on loan taken from bank is disallowed u/s 43B	45,000	8,19,100
		9,06,600
Less: Expenditure allowed but not debited in P/L A/c		
Depreciation		30,000
		8,76,600
Less: Unabsorbed Depreciation (allowed to the extent that the remaining book profit is not less than brought forward business losses)		50,000
Book profit		**8,26,600**
Remuneration paid to the partners (being minimum of the following)		
- Actual remuneration	7,32,000	
- Maximum remuneration u/s 40(b) [₹ 3,00,000 * 90% + ₹ 5,26,600 * 60%]	5,85,960	5,85,960

Computation of total income of PP Traders for A.Y. 2019-20

Particulars	Amount(₹)
Book Profit before adjusting unabsorbed depreciation	8,76,600
Less: Salary to partner (as computed above)	5,85,960
	2,90,640
Less: Brought forward business loss	2,90,640
Total Income	**Nil**
Remaining brought forward loss ₹ 5,09,360 & unabsorbed depreciation ₹ 50,000 shall be carried forward.	

(b) Calculation of total income of Sri Bajaj for the A.Y. 2019-20

Particulars	Amount(₹)
Profits & gains of business or profession	80,000
Income from house property	40,000
Income from other sources	10,000
Gross Total Income	1,30,000
Less: Deduction u/s 80GG#	27,000
Total Income	**1,03,000**

Computation of deduction u/s 80GG

Particulars	Working	Amount(₹)	Amount(₹)
Least of the following shall be deductible:			
1. ₹ 5,000 per month	₹ 5,000 * 12	60,000	
2. 25% of Adjusted Gross total income	25% of ₹1,30,000#	32,500	
3. Excess of rent paid over 10% of Adj. GTI	₹ 40,000 - (10% of ₹ 1,30,000#)	27,000	27,000

Adjusted GTI = Gross total income – Long term capital gain – Short term capital gain covered u/s 111A - All deduction under 80's other than section 80GG – Income u/s 115A, etc. = ₹ 1,30,000

Note: Rent paid for office is irrelevant for the purpose of Sec. 80GG.

6(a) Ms. Suparna Roy (Age 46 yrs), a resident individual of India, finished the following details of her income during the Previous year 2018 –19. Compute her Total Income and tax payable for the Assessment year 2019 –20.

- Gross salary ₹ 5,01,000 (Professional Tax paid ₹ 2,000).
- Income from Business owned by her ₹ 2,00,000 and Allowable expenses ₹ 1,20,000.
- Received family pension ₹ 10,000 p.m. w.e.f. 1.04.2018.
- Long term Capital gain on sale of building ₹ 80,000.
- She received her share of income from Hindu Undivided Family (HUF) as member ₹ 40,000.
- She deposited to PPF ₹ 80,000 during the year

.•Donation to National Defence Fund ₹ 25,000.
•Repayment of house building loan taken from HDFC Bank (purchased during 2018 –19) ₹ 2,50,000 (of which ₹ 50,000 is for principal repayment).
Paid premium on Mediclaim Insurance Policy on own health by cheque ₹ 16,000.

[8]

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

Answer:6(a)

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

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

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

Particulars	**Rate**	**On**	**Details ₹**	**Amount ₹**
Long Term Capital Gain ₹ 80,000	20%			16,000
Other Income (Note)				
Upto ₹ 2,50,000	-		-	
From ₹ 2,50,001 to ₹ 3,13,000	5%	63,000	3,150	3,150
Tax Liability				19,150
Less: Rebate u/s 87A				-
				19,150

Add: Education cess & SHEC	3% of ₹ 19,150			574
Final tax liability				19,724
Rounded off u/s 288B				19,720

(b) Co-ownership [Sec. 26]

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

Tax treatment

1. Share of each co-owner in the income from the property as computed in accordance with sec. 22 to 25 shall be included in his total income.
2. Where the house property is owned by co-owners and is occupied by each of the co-owner then all of them can claim benefit u/s 23(2)(a) and interest on loan shall be allowed to all the co-owners to the extent of ₹30,000/₹2,00,000 as the case may be.

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

7(a) Shri Anil follows cash basis of accounting and has furnished the Receipts & Payment A/c of previous year 2018-19 for computing his income:

Particulars	Receipts	Payments
Interest on listed debenture of A Ltd.	16,200	
Letting of building & machinery @ ₹ 15,000 p.m. under a composite lease	1,50,000	
Collection charges		1,000
Repairs		5,000
Capital repairs		16,000
Interest paid outside India without deducting tax on loan taken for construction of building		8,000
Gift from father	6,000	
Ground rent received (related to financial year 2017-18)	600	

The following additional information are also provided -

Allowable depreciation on Building and Machinery	- ₹ 4,000
Fire Insurance on Building and Machinery (not paid)	- ₹ 1,000

[8]

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

Answer:7(a)

Computation of income from other sources of Anil for A.Y.2019-20

Particulars	Details (₹)	Details (₹)	Amount (₹)	Amount(₹)
Interest on debenture of A Ltd.	₹16,200 / 90%			18,000
Interest received on letting of assets			**1,50,000**	
***Less*: Expenses paid**				
Collection charges		**1,000**		
Repair		**5,000**		
Capital repairs[3]		**Nil**		
Depreciation		**4,000**	**10,000**	**1,40,000**
Gift from father [As received from relative]				**Nil**
Ground rent received				**600**
Income from other source				1,58,600

Notes

1. Since assessee follows cash basis of accounting, hence, income shall be chargeable and expenditure shall be allowed on cash basis.
2. Debenture income required to be grossed up.
3. Capital repairs are not allowed.
4. Interest paid outside India without deducting tax at source shall not be deductible expenditure.

(b) REVISED RETURN [SEC. 139(5)]

If an assessee discovers any omission or wrong statement (bonafide in nature) in the return filed, he can revise his return u/s 139(5).

Time limit: Assessee may file the revised return –

● before the end of the relevant assessment year; or

● before completion of regular assessment, - whichever is earlier.

Notes

a) Replacement of original return: Once a revised return is filed, it replaces the earlier return. This signifies that the revised return should be complete in itself and not merely an accessory to the original return.

b) Revision of revised return: A revised return can again be revised i.e. a second revised return can be filed u/s 139(5) for correcting any omission or wrong statement made in the first revised return within specified time.

c) Revision of belated return: A belated return u/s 139(4) can be revised.

d) Revision of loss return: A loss return can be revised

e) Return filed pursuant to notice u/s 142(1) cannot be revise

8.Write short notes on any three of the following: 5 X 3=15

(a) TDS u/s 194H

(b) Rectification u/s 154

(c) Who is required to follow Income Computation and Disclosure Standards (ICDS)
(d) INTIMATION [SEC. 143(1)

Answer:8(a)

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

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

Note:
1.No tax shall be deducted if the aggregate amounts of commission or brokerage credited or paid during the financial year to the payee does not exceed ₹ 15,000.
2. No deduction shall be made on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.

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

Rate of TDS: 5%

Exemption or relaxation from the provision
When the recipient applies to the Assessing Officer in Form No. 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax [Refer sec.197]

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

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

(b) Rectification u/s 154
An income-tax authority, is empowered (suo moto or on application by assessee) to –
a) rectify any mistake apparent in an order passed by him; or
b) amend any intimation issued u/s 143(1) or deemed intimation
c) amend any intimation issued u/s 200A(1).
Taxpoint: Such order of rectification must be passed in writing.

Time limit for Rectification [Sec. 154(7)]
Within 4 years from the end of the financial year in which the order sought to be amended was passed.However, in respect of an application made by the assessee or deductor or collector, the authority shall, within a period of 6 months from the end of the month in which the application is received by it, pass an order –

a. making the amendment; or

b. refusing to allow the claim.

Opportunity of being heard [Sec. 154(3)]:

If such rectification order is prejudicial to the assessee or deductor or collector, an opportunity of being heard must be given to the assessee, before passing such order.

Note

●Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor or collector, the Assessing Officer shall make any refund which may be due to such assessee or the deductor or collector.

●Where any such amendment has the effect of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee or the deductor or collector, the Assessing Officer shall serve on the assessee or the deductor or collector, as the case may be a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued u/s 15

(c) The ICDS are required to be followed:

- by all assessee (other than an individual or a Hindu undivided family who is not required to get his accounts of the previous year audited u/s 44AB)
- who follows the mercantile system of accounting,
- for the purposes of computation of income chargeable to income-tax under the head "Profits and gains of business or profession" or "Income from other sources".

<u>**Tax point**</u>

- The standards are not for the purpose of maintenance of books of account. The standards are for computation of income under aforesaid heads of income only
- In case of conflict between the provision of the Income-tax Act and ICDS, the provision of the Act shall prevail to that extent.

(d) Where a return has been made u/s 139 or in response to a notice u/s 142(1), such return shall be processed in the following manner, namely:—

a.the total income or loss shall be computed after making the following adjustment:

i. any arithmetical error in the return;

ii. an incorrect claim, if such incorrect claim is apparent from any information in the return;

iii. disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished after the due date;

iv. disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return;

v. disallowance of deduction claimed u/s 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or 80-IE, if the return is furnished after the due date;

b.the tax, interest and fee, if any, shall be computed on the total income computed above;

c.the sum payable by (or the amount of refund due to), the assessee shall be determined after adjustment of the tax, interest and fee, if any, by any TDS, TCS, advance tax paid, any relief, tax paid on self-assessment and any amount paid otherwise by way of tax, interest or fee;

d.an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee; and

e.the amount of refund due to the assessee in pursuance of the determination shall be granted to the assessee.

f.An intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax or interest or fee is payable by, or no refund is due to, him.

Time limit for intimation: No intimation shall be sent after the expiry of 1 year from the end of the financial year in which the return is made. The period of limitation will run from the date of filing of latest revised return.