

Paper-7 – Applied Direct Taxation

Time Allowed: 3 hours

Full Marks: 100

All the questions relate to the assessment year 2015-16, unless stated otherwise.

Working notes should form part of the answers.

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

Question No 1.

(a) Choose the most appropriate alternative:

- (i) The amount of exemption for leave encashment in case of Government employee on termination of service or after retirement is —
(A) Actual amount of leave encashment received;
(B) fully exempted from tax;
(C) ₹ 3,00,000;
(D) 10 months average salary preceding the month of retirement
- (ii) The basis of chargeability under the head income from house property is —
(A) Annual Value;
(B) Municipal Value;
(C) Standard Rent;
(D) Fair Rent
- (iii) The Cost Inflation Index as notified by the Central Government for the previous year 2014-15 is —
(A) 852;
(B) 1024;
(C) 939;
(D) 100.
- (iv) Which one of the following is not considered for deduction u/s 80C of the Income-tax Act?
(A) contribution by an employee to a recognised provident fund;
(B) contribution by an employee to an approved superannuation fund;
(C) medical insurance premium paid by any mode of payment other than cash;
(D) subscription to any such security of the Central Government or any such deposit scheme as that Government may, by notification in the Official Gazette, specify in this behalf
- (v) Advance tax is payable by any person for the assessment year immediately following the financial year when the tax payable is —
(A) ₹ 10,000 or more;
(B) Less than ₹ 10,000;
(C) ₹ 5,000 or more;
(D) Less than ₹ 5,000

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- (vi) Residential status of a company can be determined by which of the following sections of Income-tax Act:
- (A) Section 6(4);
 - (B) Section 6(1);
 - (C) Section 6(6);
 - (D) Section 6(3)
- (vii) Which of the following is not the condition for claiming exemption for House Rent Allowance:
- (A) Assessee is in receipt of HRA;
 - (B) Pays Rent;
 - (C) Rent paid is more than 10% of salary;
 - (D) Location of the accommodation
- (viii) Capital assets include:
- (A) House property;
 - (B) Stock in trade;
 - (C) Personal effects;
 - (D) Rural agricultural lands in India
- (ix) Wealth tax is payable on amount by which 'net wealth' exceeds —
- (A) ₹ 15,00,000;
 - (B) ₹ 30,00,000;
 - (C) ₹ 1,00,000;
 - (D) ₹ 20,00,000
- (x) Rate of tax deducted at source in case of professional income —
- (A) 7%;
 - (B) 10%;
 - (C) 2.5%;
 - (D) 5%
- (xi) Which one of the following is liable to pay wealth tax —
- (A) Club;
 - (B) HUF;
 - (C) Political party;
 - (D) Social club
- (xii) Maximum deduction available in respect of a medical treatment of handicapped dependent with severe disability of 80% or more is:
- (A) ₹ 50,000;
 - (B) ₹ 75,000;
 - (C) ₹ 1,00,000;
 - (D) ₹ 40,000
- (xiii) The amount of penalty which may be imposed under section 271F of Income-tax Act if belated return is submitted after the end of Assessment Year is —
- (A) ₹ 10,000;

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- (B) ₹ 5,000;
- (C) ₹ 50,000;
- (D) ₹ 1,000

[13 × 1]

(b) Fill up the blanks:

- (i) Section _____ specifies deduction in respect of certain donations for scientific research or rural development.
- (ii) _____ Tax includes services tax like Water Tax and Sewerage Tax levied by any Local Authority.
- (iii) The maximum limit of exemption u/s 10(10B) in case of retrenchment compensation is _____.
- (iv) Where bonus shares are issued prior to 1.4.81, the cost of acquisition shall be the _____ as on _____.
- (v) The rate of TDS for dividend paid by a company to any person u/s 194 will be @ _____% if PAN is provided.
- (vi) In case of an individual cash in hand on the last moment of the valuation date in excess of _____ is an 'asset' u/s 2(ea) of Wealth Tax Act.
- (vii) Standard deduction of _____ % of _____ shall be allowed to the assessee in computation of income from house property which is let out to tenants.
- (viii) Rate of additional depreciation is _____ % of the actual cost of Plant or Machinery.
- (ix) Loss incurred by an assessee from a source, income from which is exempt _____ be set off against income from a taxable source.
- (x) 15% of Advance Tax should be paid by a corporate assessee on or before _____.

[12 × 1]

Answer:

- (a)**
- (i) (B) fully exempted from tax
 - (ii) (A) Annual Value
 - (iii) (B) 1024
 - (iv) (C) medical insurance premium paid by any mode of payment other than cash
 - (v) (A) ₹ 10,000 or more
 - (vi) (D) Section 6(3)
 - (vii) (D) Location of the accommodation
 - (viii) (A) House property
 - (ix) (B) ₹ 30,00,000
 - (x) (B) 10%
 - (xi) (B) HUF
 - (xii) (C) ₹ 1,00,000
 - (xiii) (B) ₹ 5,000.

- (b)**
- (i) 80GGA
 - (ii) Municipal
 - (iii) ₹ 5,00,000
 - (iv) fair market value, 1.4.81
 - (v) 10%
 - (vi) ₹ 50,000
 - (vii) 30%, net annual value

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- (viii) 20%
- (ix) cannot
- (x) June, 15

Question 2.

(a) Discuss in respect of the following items, the manner of treatment for Mrs. P's wealth-tax assessment for the assessment year 2015-16.

1. Mrs. P has two cars for her personal use each being of value of ₹ 95,000.
2. She has another house property at Nainital given to her as a gift by her father on January 1, 1971 on the occasion of her birthday. This house is also used by her as her own residence where she lives during summer vacations only. The value of the house on March 31, 2015 was ₹ 25,00,000.
3. Jewellery received from her father at the time of her marriage in 1956 was of the value of ₹ 1,20,000 on March 31, 2015.

(b) What are the basic conditions for determination of residential status of an individual [u/s 6(1)]? Also specify the exceptions of it.

(c) State to whom Alternate Minimum Tax shall not be applicable as per Section 115JEE(2).

(d) What are the duties and powers of Inspectors of Income Tax?

[4+5+4+2]

Answer:

(a) 1. ₹1,90,000 (₹ 95,000 × 2) is chargeable to wealth-tax.

2. Value of the house is to be included in the net wealth of Mrs. P. She can, however, claim exemption under section 5(vi).
3. Jewellery received in 1956 is outside the purview of section 4. Therefore, it will be included in the net wealth of Mrs. P.

(b) **The basic conditions for determination of residential status of an individual [u/s 6(1) of Income-tax Act] —**

(a) If the Individual stayed in India for a period of 182 days or more during the Relevant Previous Year (RPY), he is Resident of India;

Or,

(b) If he stayed in India for a period of 60 days or more during Relevant Previous Year (RPY) and 365 days or more during the four preceding Previous Years, he is Resident of India.

If the assessee fails to satisfy either of the above basic conditions, as applicable, then the assessee is a Non-Resident for that Relevant Previous Year.

Special exceptional situations:

For the following persons, condition mentioned in (a) above only shall apply to determine their Residential Status —

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- (i) Individual, an Indian citizen, leaving India for employment outside India, or
- (ii) Indian Citizen being a crew member of an Indian ship leaving India, or
- (iii) Individual, an Indian citizen or a person of Indian origin, visiting India.

(c) The provisions of Alternate Minimum Tax under Chapter XII-BA shall not apply to-

- (i) an Individual; or
- (ii) a Hindu Undivided Family; or
- (iii) an Association of Persons or a Body of Individuals (whether incorporated or not) or
- (iv) an Artificial Juridical Person referred to in section 2(31) (vii),

If the Adjusted Total Income of such person does not exceed ₹ 20,00,000.

(d) Inspectors are appointed by the Commissioner of Income Tax. They have to perform such functions as are assigned to them by the Commissioner or any other Income-tax Authority under which they are appointed to perform their functions. In case of survey, inspectors have power to inspect books of account and other documents, place marks of identification, to take statements at any function, ceremony or event.

Question 3.

(a) Mr. X and Mr. Y own the house property of H₁ and H₂ respectively. The details of which are as follows —

	H ₁ ₹	H ₂ ₹
Municipal value (MV)	1,20,000	1,20,000
Fair rent (FR)	1,30,000	1,30,000
Standard rent under the Rent Control Act (SR)	1,10,000	1,10,000
Actual rent if property is let out throughout the previous year	1,26,000	1,26,000
Unrealised rent of the previous year 2014-15 as per Rule 4	10,500	Nil
Period when the property remains vacant (in number of month)	1 month	Nil
Loss due to vacancy	10,500	Nil
Municipal taxes—		
Tax of the year 2014-15	18,000	18,000
- Paid by X and Y during 2014-15	16,000	9,000
- Paid by X and Y after March 31, 2015	2,000	1,000
- Paid by tenants during 2014-15	-	8,000

Find out the income from properties chargeable to tax for the assessment year 2015-16.

- (b) What do you mean by annexure less return? What is the manner of filling the return of income?
- (c) Mr. Dey sells a residential house property at a long-term capital gain of ₹ 75,000. He invests ₹ 80,000 within 3 years in construction of the first floor and barsati (to be used for residence) to another house owned by him since 1949. Is ₹ 75,000 exempt from tax under section 54? (Specify in details)

[8+4+3]

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Answer:

(a) Computation of income under the head "Income from house property"

	H ₁ ₹	H ₂ ₹
Gross annual value		
Step I - Reasonable expected rent of the property [MV or FR, whichever is higher, but subject to maximum of SR]	1,10,000	1,10,000
Step II - Rent received/receivable after deducting unrealized rent but before adjusting loss due to vacancy	1,15,500	1,26,000
Step III - Amount computed in Step I or Step II, whichever is higher	1,15,500	1,26,000
Step IV - Loss due to vacancy	10,500	Nil
Step V - Gross annual value is Step III minus Step IV	1,05,000	1,26,000
Less: Municipal tax paid by X or Y during the previous year 2014-15	16,000	9,000
Net annual value	89,000	1,17,000
Less: Standard deduction under section 24(a) [30% of net annual value]	26,700	35,100
Income from house property	62,300	81,900

(b) The return of income required to be furnished in Form No. ITR-1, ITR-2, ITR-3, ITR-4, ITR-5, ITR-6 or ITR-7 shall not be accompanied by a statement showing the computation of the tax payable on the basis of the return, or proof of the tax, if any, claimed to have been deducted or collected at source or the advance tax or tax on self-assessment, if any, claimed to have been paid or any document or copy of any account or Form or report of audit required to be attached with the return of income under any of the provisions of the Act.

Manner of filling the return: The return of income referred to in sub-rule (1) may be furnished in any of the following manners, namely:-

- (i) Furnishing the return in a paper form;
- (ii) Furnishing the return electronically under digital signature;
- (iii) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V;
- (iv) Furnishing a bar-coded return in paper form.

(c) The words "house property" in section 54 does not mean an independent and completed house. They have the same meaning as the concept of house property in sections 22 to 27 and it includes an independent unit such as the first floor of house. In fact, there can be no doubt that the section takes into account all independent residential units, particularly in the days when multi-storied flats are becoming the order of the day. The amount of capital gain is invested by Mr. Dey in the construction of a house property within the meaning of section 54, which is completed within a period of 3 years after the date of the sale. Further, the house property so constructed is admittedly used for the purpose of residence. Hence, Mr. Dey is entitled to the exemption under section 54.

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Question 4.

(a) Ravi purchases the following movable and immovable properties from persons who are not his relatives. State the tax liability in the hands of Ravi.

Date of purchase	Property	Purchase price ₹	Stamp duty value ₹	Fair market value ₹
April 22, 2014	House I	21 lakh	21.5 lakh	----
June 27, 2014	Plot of land	30 lakh	30.5 lakh	----
August 22, 2014	Gold ring	5 lakh	----	5.5 lakh
October 23, 2014	Shares	8 lakh	----	8.5 lakh

(b) A & Co. (a firm with partners A and B) is engaged in the business of manufacturing (turnover of 2014-15 being ₹ 87,80,000). It wants to claim the following deduction —

	₹
Salary and interest to partners [as permitted by section 40(b)]	60,000
Salary to employees	4,90,000
Depreciation	2,70,000
Cost of material used	75,90,000
Other expenses	3,45,000
Total	87,55,000
Net profit (₹ 87,80,000 minus ₹ 87,55,000)	25,000

Determine the total income of A & Co. for the assessment year 2015-16 assuming that long-term capital gain is ₹ 50,000 and the firm is eligible for a deduction of ₹ 5,000 under section 80G. The firm has a brought forward business loss of ₹ 2,40,000 (previous year 2011-12) of a trading business which has been discontinued.

(c) State whether assets having personal effects are also capital assets or not [as per section 2(14)(ii) of Income-tax Act]?

[7+6+2]

Answer:

(a) Section 56(2)(vii)(b) of Income-tax Act has been amended with effect from assessment year 2014-15 to cover the case of receipt immovable property with inadequate consideration. The amended provision is applicable only when an individual or HUF has received an immovable property for a consideration which less than the stamp duty value of the property by an amount exceeding ₹ 50,000.

House I - House I is purchased for less than stamp duty value. The difference is ₹ 50,000. The amended provision is applicable only if stamp duty value is more than purchase price and the difference is more than ₹ 50,000. Consequently, nothing is taxable in the hands of Ravi on purchase of House I. However, in the hands of the transferor, stamp duty value of ₹ 21.5 lakh will be taken as sale consideration under section 50C or 43CA.

Plot of land - Plot of land is purchased for ₹ 30 lakh. Stamp duty value is ₹ 30.5 lakh. The inadequacy of consideration is ₹ 50,000. Since it is not more than ₹ 50,000, the amended

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provision is not applicable. Consequently, nothing is taxable in the hands of Ravi under section 56. It may be noted that inadequacy of consideration of ₹ 50,000 of House I and inadequacy of consideration of plot of land of ₹ 50,000 cannot be clubbed (such clubbing is required in the case of recipient of movable properties). In the hands of the transferor, ₹ 30.5 lakh is taken as full value of consideration by virtue of section 50C or 43CA.

Gold ring and shares - Gold ring is purchased for less than fair market value. Likewise, shares are purchased for less than fair market value. The two assets come within the definition of "movable property" under section 56. The aggregate inadequacy of consideration is more than ₹ 50,000 (i.e., ₹ 5.5 lakh - ₹ 5 lakh + ₹ 8.5 lakh - ₹ 8 lakh = ₹ 1 lakh). Consequently, ₹ 1 lakh is taxable under section 56(2). In the hands of the transferors of gold ring and shares, ₹ 5 lakh and ₹ 8 lakh, respectively, will be taken as sale consideration. Section 50C or section 43CA is not applicable on transfer of movable properties.

(b) Assessee: A & Co.

Previous Year: 2014-15

Assessment Year: 2015-16

Computation of Total Income

	₹
Income from business (8% of ₹ 87,80,000)	7,02,400
Less : Expenses	
Salary/interest paid to partners as permitted by section 40(b)	60,000
Other expenses [except salary/interest to partners in the case of a firm, no other expenditure is deductible]	Nil
Income from business	6,42,400
Less : Brought forward business loss adjusted	(-)2,40,000
Profits and gains from business or profession	4,02,400
Capital gains	50,000
Gross total income	4,52,400
Less : Deductions under sections 80C to 80U	5,000
Total income	4,47,400

(c) Assets having personal effects are not capital assets under section 2(14)(ii) of Income-tax Act, if the following conditions are satisfied:

1. It should be movable property (including wearing apparel and furniture).
2. It should be held for personal use by the assessee or any member of his family dependent on him.
3. It should not be jewellery, archaeological collections, drawings, paintings, sculptures, or any work of art.

Question 5.

(a) State the taxability of the following five incomes —

- (i) Dividend
- (ii) Bonus
- (iii) Winning from lotteries etc.
- (iv) Fees and commission
- (v) Gift

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(b) Compute the taxable net wealth and wealth tax payable by X Ltd. from the following particulars:

- (i) Land in urban area (Construction is not permitted as per Municipal Laws in force) ₹ 50,00,000.
- (ii) Cash Balance (as per books) ₹ 2,75,000.
- (iii) Guest House (situated in a place which is 30 kms away from the local limits of the municipality) ₹ 35,00,000.

[10+5]

Answer:

(a) (i) Dividend is defined by section 2(22) of Income-tax Act. Dividend from an Indian company is not taxable in the hands of shareholders. However, deemed dividend under section 2(22)(e) from an Indian company or any dividend from a foreign company is taxable in the hands of shareholders under the head "Income from other sources".

(ii) It is taxable in the year of receipt if it has not been taxed earlier on due basis. While contractual bonus is regarded as salary, gratuitous bonus is taxable as perquisite. If bonus is received in arrears, the assessee can claim relief in terms of section 89.

(iii) It includes any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever. These receipts are chargeable to tax under the head "Income from other sources".

(iv) Fees and commission are taxable as salary irrespective of the fact that they are paid in addition to or in lieu of salary. However, if fees and commission is paid to a person (other than an employee), it is not taxable as salary income. For instance, commission paid to a director (not being an employee) for his giving guarantee for repayment of loan, etc. is taxable under the head "Income from other sources".

(v) If any sum of money or property is received during a previous year without consideration by an individual or a Hindu undivided family from any person or persons exceeds ₹ 50,000, the whole of such amount is taxable in the hands of the recipient as income from other sources.

(b) Assessee: X Ltd.

Valuation Date: 31.3.2015

Assessment Year: 2015-16

Computation of Taxable Net Wealth and Wealth Tax Payable

Nature of Assets	₹	Reasons
Land in Urban Area	Nil	Land in which construction is not permitted as per municipal law is not an asset u/s 2(ea) of Wealth-tax Act
Cash Balance	Nil	Cash as per books - Not an asset u/s 2(ea) of Wealth-tax Act
Guest House	35,00,000	Asset u/s 2(ea) of Wealth-tax Act

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Net Wealth	35,00,000	
Less: Basic Exemption	30,00,000	
Taxable Net Wealth	5,00,000	
Tax Payable @1%	5,000	

Question 6.

- (a) X Ltd., an Indian company, is engaged in the business of production of minerals since 1960. During the year ending March 31, 2014, it starts commercial exploitation of a new mine at Dhanbad. Compute the amount deductible under section 35E of Income-tax Act for the assessment years 2014-15 and 2015-16 from the given information —

	Previous year 2013-14 ₹	Previous year 2014-15 ₹
Income from mining (before section 35E deduction)		
- from old mining	22,000	4,00,000
- from new mining at Hazaribag	25,000	75,000
Other business income	4,00,000	3,90,000

Qualifying expenditure u/s 35E —

	₹
Expenses for the purpose of exploring and locating mineral incurred up to March 31, 2009	7,20,000
Expenses for the purpose of exploring and locating mineral from April 1, 2009 to March 31, 2014 (out of which ₹ 6,000 is met by the State Government)	9,36,000
Acquisition of site on June 30, 2009	4,00,000
Purchase of plant, machinery and building on July 31, 2010	6,00,000

- (b) Write down the steps for calculation of tax in case of agricultural income.
(c) In what way capital can be restructured for maximum benefit?

[7+6+2]

Answer:

- (a) **Computation of qualifying expenditure u/s 35E —**

	₹
1. ₹ 7,20,000 incurred prior to April 1, 2009 is not part of qualifying expenditure (expenditure incurred during 2013-14 and earlier 4 years will be considered)	---
2. Out of ₹ 9,36,000, ₹ 6,000 is met by the State Government; only ₹ 9,30,000 shall be included	9,30,000
3. Expenditure on acquisition of site is not qualifying amount	---
4. Building, plant and machinery are qualified for depreciation ; deduction under section 35E is not available	---
Qualifying expenditure	9,30,000
Amount deductible during 10 years : assessment years 2014-15 to 2023-24	93,000
Assessment year 2014-15	
Income from mining (old and new)	47,000

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Less : Deduction under section 35E (i.e., ₹ 47,000 or ₹ 93,000 whichever is less)	47,000
Mining income	Nil
Other income	4,00,000
Net income	4,00,000

Note: The amount of unabsorbed deduction under section 35E of ₹ 46,000 (i.e., ₹ 93,000 - ₹ 47,000) become a part of deduction for the next year.

Assessment year 2015-16

	₹
Mining income (old and new)	4,75,000
Less : Deduction under section 35E [i.e., ₹ 93,000 + ₹ 46,000, subject to a maximum of mining income)	1,39,000
Balance	3,36,000
Other business income	3,90,000
Net income	7,26,000

(b) The steps for calculation of tax in case of agricultural income:

Step 1: Add non-agricultural income with net agricultural income. Compute tax on the aggregate amount.

Step 2: Add net agricultural income and the maximum exemption limit available to the assessee (e.g. ₹ 2,50,000/ ₹ 3,00,000 / ₹ 5,00,000, etc. as applicable). Compute tax on the aggregate amount.

Step 3: Deduct the amount of income tax calculated in step 2 from the income tax calculated in step 1 i.e. Step 1 – Step 2.

Step 4: Deduct any applicable rebate from the amount of tax obtained in step 3.

Step 5: Add surcharge, if applicable, to the amount obtained in step 4 above.

Step 6: The sum so arrived at shall be increased by education and higher secondary cess.

These steps are applicable whenever tax liability is to be worked out e.g. self-assessment tax, advance tax, tax on regular assessment.

(c) A balance between own and borrowed capital has to be achieved. When own capital is more there will be larger taxable profits and poorer after-tax return. With more borrowed capital, taxable profits are less but after-tax return on own investment is better. There should be a continuous appraisal in this behalf.

Question 7.

(a) Delta Ltd., an infrastructure capital company, issued 1,00,000 Zero Coupon Bonds (Face Value ₹ 100) on 10th September, 2014 at a price of ₹ 75. The redemption date of the bonds is 22nd September, 2026. These bonds are notified by the Central Government as Zero Coupon Bond. You are required to compute the amount of discount allowable as deduction while computing business income of the Delta Ltd.

(b) What is the responsibility & liability of the Tax Collector?

(c) State the applicability, amount of deduction and conditions in respect of deduction of in royalty of authors [sec. 80QQB of Income-tax Act]. [5+5+5]

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Answer:

(a) Discount on Zero Coupon Bond is allowable to Delta Ltd. on pro-rata basis.

Total Amount of Discount = $(₹100 - ₹75) \times ₹1,00,000 = ₹ 25,00,000$

Date of issue: 10th September, 2014 [as it is less than 15 days, it shall be ignored and date of issue will be taken as 1st September, 2014]

Date of redemption: 22nd September, 2026 [if it is 15 days or more, it is taken as one month and so redemption date will be taken as 30th September, 2026]

Total life of the bond: 1st September, 2014 to 30th September, 2026 i.e. 145 months.

Prorated discount for one month = $25,00,000/145 = ₹17,241$

Amount of discount allowable for the Previous Year 2014-15 = $₹ (17,241 \times 7) = ₹ 1,20,687$

Amount of discount allowable for the Previous Year 2015-16 to 2024-25 = $₹ (17,241 \times 12) = ₹2,06,892$ per year

Amount of discount allowable for the Previous Year 2025-26 = $₹ (17,241 \times 6) = ₹ 1,03,446$.

(b) The Responsibility & Liability of the Tax Collector —

1. To obtain Tax Collection Account No. [Section 206CA(1) of Income-tax Act]
2. To quote TCS No. in all returns, certificates and challans. [Section 206CA(2) of Income-tax Act]
3. To furnish quarterly return in Form No. 27EQ within stipulated time i.e. within fifteen days from the end of a quarter for the first three quarters and by 30th April for the last quarter.
4. Failure to furnish TCS return: Penalty @ 100/- per day, during which the default continues, but not exceeding the amount of TCS. [Section 272A(2)(g)]
5. Failure to deposit TCS in Government treasury, rigorous imprisonment for a term of not less than 3 months, but which may extend to 7 years, in addition to fine [Sections 276B & 276BB]

Thus, administrative provisions are similar to TDS administration.

(c) Deduction in respect of royalty of authors [Sec. 80QQB of Income-tax Act] —

Applicability: Any resident individual, being an author/joint author, in respect of any income by way of lump sum consideration or otherwise as royalty or copyright fees for assignment or grant of any of his interests in the copyright of any book.

Amount of Deduction: 100% of the royalty income etc. subject to a maximum of ₹ 3,00,000.

In case of royalty or copyright fees, not in lump sum consideration, deduction shall be restricted to 15% of the value of books sold during the Previous Year.

Conditions:

- (1) The assessee shall furnish a certificate in Form 10CCD.
- (2) In case of income received from a source outside India, the assessee shall furnish a certificate in Form 10H.

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Question 8.

- (a) Rohini acquired a plot of land on 1.6.75 for ₹ 4,00,000. He converts the plot into stock in trade of his real estate dealing business on 18.2.2008 when the fair market value of the plot was ₹35,00,000. The stock-in-trade is sold by him on 18.5.2014 for ₹ 40,00,000 (FMV as on 1.4.81 was ₹ 6,00,000 and FMV as on 1.4.76 ₹ 4,50,000). Compute her income.
- (b) Discuss the correctness or otherwise of the following propositions with reasons therefore (reference of case laws may be given) :
- (i) Where a person draws from his own stock-in-trade for personal use, there can be no taxable profit.
 - (ii) Even an outlay for acquiring an enduring advantage for business may be deductible as revenue expenditure.
- (c) Write a brief note on Speculative Business.

[5+5+5]

Answer:

- (a) The conversion of capital asset into stock-in-trade is treated as a transfer as per Sec. 2(47). Capital asset was converted into stock-in-trade on 18.2.2008 i.e. Previous Year 2007-08.

Computation of Capital Gains

	₹
Consideration for Transfer (FMV)	35,00,000
Less : Indexed Cost of Acquisition (6,00,000 × 551/100)	33,06,000
Long Term Capital Gains	1,94,000

Computation of Business Income

	₹
Sale Proceeds of HP	40,00,000
Less : FMV on the date of conversion	35,00,000
Business Income	5,00,000

- (b)
- (i) The Supreme Court in *CIT vs. Kikabhai Premchand* (1953) 24 ITR 506 held that when a person draws from his own stock-in-trade for personal use, there can be no taxable profit as in this case the vendor and the vendee are not different. To constitute a sale these should be one buyer and seller. The buyer and seller has to be different entity to constitute a proper sale.
 - (ii) Normally, an amount spent for acquiring an enduring advantage for business is of capital nature but there can be certain cases when the amount spent on acquiring an enduring advantage may be treated as revenue expenditure. The Supreme Court in *CIT vs. Empire Jute Co. Ltd.* (1980) 124 ITR 1 held that when a jute mill as a result of an arrangement with other Jute mil had undertaken to work only for specified hours during a week but exceeded the same and paid for such excess period to other members of

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the pooling arrangement, such payment is known as purchasing loom hours. Though looms are capital assets, the payment was for their operations. By the purchase of loom hours no new asset was created and there was no addition to or expansion of the profit-making apparatus of the company. Hence, such payment is of revenue nature.

- (c)** Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business.

In the context of computation of income under the head profits and gains of Business or Profession, the following points may be noted:

- (i) Profits chargeable to tax are computed on the basis of commercial principles including Generally Accepted Accounting Principles and Practices.
- (ii) Only profits or gains are liable to Income-tax and not mere gross receipts. Capital receipts and Capital expenditures are not generally to be taken into account while computing profits under this section unless it expressly provides in the provisions of the Income Tax Act.
- (iii) Taxable profits or gains should be real and not notional. Anticipated losses are not provided for and unrealized gains are not considered except in case of stock valuation which is valued at lower of cost or market price.
- (iv) Profits and gains cannot arise by trading with oneself.
- (v) Taxability of an income depends on its source. Thus, profits and gains that arise to an assessee during the Previous Year may not be taxed under the head Business or Profession; its taxability depends on source.