

# **SUGGESTED ANSWERS**

## **EXECUTIVE PROGRAMME**

### **TAX LAWS AND PRACTICE (EP-TL&P/2013)**



**THE INSTITUTE OF  
Company Secretaries of India**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**  
Statutory body under an Act of Parliament

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# THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

EXECUTIVE PROGRAMME

TAX LAWS AND PRACTICE



## EP-TL/2013

SUGGESTED ANSWERS

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The Suggested Answers contain the information based on the Laws/Rules applicable at the time of preparation. However, students are expected to be well versed with the amendments in the Laws/Rules made upto **six** months prior to the date of examination.

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Price :  $\left\{ \begin{array}{l} \text{Rs. 40.00 (Excluding Postage \& Packing)} \\ \text{Rs. 70.00 (By Registered Post)} \end{array} \right.$

*Printed at Samrat Offset Works/1,000/September 2013*

EXECUTIVE PROGRAMME  
**TAX LAWS & PRACTICE**  
TEST PAPER 1/2013

**(This Test Paper is based on entire Study Lessons)**

*Time allowed : 3 hours*

*Max. Marks : 100*

**NOTE :** *Answer All Questions.*

**PART A**

**Question No. 1**

- (a) *Choose the most appropriate answer from the given options in respect of the following :*
- (i) *Under section 32 of the Income Tax Act, 1961, licences are depreciated @\_\_\_\_\_.*
- (a) *10%*
  - (b) *15%*
  - (c) *Nil rate*
  - (d) *25%.*
- (ii) *\_\_\_\_\_ is an honest and rightful approach to the attainment of maximum benefits of the taxation laws within their framework.*
- (a) *Tax Evasion*
  - (b) *Tax avoidance*
  - (c) *Tax Planning*
  - (d) *Any of the above*
- (iii) *Under section 10(10), the maximum amount of gratuity received which is not chargeable to tax shall be;*
- (a) *₹ 3,50,000*
  - (b) *₹ 3,00,000*
  - (c) *₹ 2,50,000*
  - (d) *₹ 10,00,000*
- (iv) *Loss from business can be set-off against other income in subsequent assessment year except:*
- (a) *Income from speculation business*
  - (b) *Income under the head house property*
  - (c) *Income under the head other sources*
  - (d) *Income under the head Salaries.*

(v) Every Domestic Company having total income exceeding ₹1 crore then the income tax shall be increased by the surcharge at the rate \_\_\_\_\_ on such Income Tax:

- (a) 5%
- (b) 10%
- (c) 7.5%
- (d) 2%

(1 mark each)

(b) State, with reasons in brief, whether the following statements are true or false:

- (i) When annual value of one self occupied house is nil, the assessee will be entitled to the standard deduction @20%.
- (ii) Special provisions of section 44AD for computing profits and gains of business on presumptive basis shall not be applicable if the total turnover of such retail trade exceeds rupees 40 lakhs.
- (iii) Zero coupon bond held for more than 12 months but less than 36 months treated as long term capital asset.
- (iv) The rate of Dividend Distribution Tax for financial year 2012-13 is 15%.
- (v) Interest free loan to an employee, where the amount of loan does not exceed ₹ 30,000 shall be treated as the tax-free perquisites. (1 mark each)

(c) Mr. Madhur submits the following information for previous year 2012-13 relevant to the assessment year 2013-14 :

1. Profit from Business A situated in Delhi	2,50,000
2. Profit from Business B situated in Bombay	80,000
3. Loss from Business C carried in New York (the business is controlled from India but profits are not received in India)	40,000
4. Unabsorbed depreciation of business C	35,000
5. Income from house property situated in India	15,000
6. Income from house property situated in London (rent received in London)	20,000

Find out the Gross Total Income of Madhur for the Assessment Year 2013-14.  
(5 marks)

(d) Discuss the scope of the provisions the Central Government may make under section 90(A)(1) of the Income Tax Act, 1961 in respect of an agreement between specified associations.  
(5 marks)

**Answer to Question No. 1(a)(i)**

- (d) 25%

**Answer to Question No. 1(a)(ii)**

- (c) Tax Planning

**Answer to Question No. 1(a)(iii)**

(d) ₹10,00,000

**Answer to Question No. 1(a)(iv)**

(d) Income under the head Salaries

**Answer to Question No. 1(a)(v)**

(a) 5%

**Answer to Question No. 1(b)**

- (i) **False**, when annual value of one self occupied house is nil, the assessee will not be entitled to the standard deduction @ 30% as the annual value itself is nil.
- (ii) **False**, computation of profits and gains of business on presumptive basis shall not be applicable if the total turnover of such retail trade exceeds rupees 1 crore.
- (iii) **True**, Zero coupon bond held for more than 12 months but less than 36 months treated as long term capital asset.
- (iv) **True**, The rate of Dividend Distribution Tax for financial year 2012-13 is 15%.
- (v) **False**, Interest free loan to an employee, where the amount of loan does not exceed ₹20,000 shall be treated as the tax-free perquisites.

**Answer to Question No. 1(c)**

**Computation of Gross Total Income  
For the Assessment Year 2013-14**

	₹
<b>Business Income</b>	
Business A (Profit)	2,50,000
Business B (Profit)	80,000
	3,30,000
Business C (Loss) ; (controlled from India but received out of India)	(-) 40,000
	2,90,000
Unabsorbed depreciation of business C	(-) 35,000
	2,55,000
<b>Income from house property</b>	
Property in India	15,000
Property in London	20,000
	2,90,000
<b>Gross Total Income</b>	<b>2,90,000</b>

**Answer to Question No. 1(d)**

The Central Government is empowered by section 90A to enter into an agreement with any specified association in the specified territory outside India and the Central Government has been authorized to make such provisions as may be necessary for adopting and implementing such agreement. The provisions may be made:

- (a) for granting relief in respect of
  - (i) income on which tax have been paid both under Income Tax Act, 1962 and Income-Tax Act prevailed in that specified territory or
  - (ii) income-tax chargeable under Income Tax Act, 1962 and under the corresponding law in force in that specified territory to promote mutual economic relations, trade and investment, or
- (b) for the avoidance of double taxation of income under Income Tax Act, 1962 and under the corresponding law in force in that specified territory.
- (c) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under Income Tax Act, 1962 or under the corresponding law in force in that specified territory, or investigation of cases of such evasion or avoidance, or
- (d) for recovery of income-tax under Income Tax Act, 1962 and under the corresponding law in force in that specified territory

Where the Central Government has entered into an agreement with the specified association of any specified territory outside India for granting relief of tax, avoidance of double taxation, then, the provisions of Income Tax Act, 1962 shall apply to the assessee to whom such agreement applies, to the extent they are more beneficial to him.

**Question No. 2**

- (a) Write short notes on the following:
  - (i) Cost of Acquisition
  - (ii) Amortisation of telecom license fee. (5 marks each)
- (b) Raghav sold gold ornaments on 16-07-2012 for a sum of ₹ 10,00,000. This gold was purchased in 1978 for ₹ 60,000 by his father. The fair market value of the gold as on 01-04-1981 was ₹ 1,00,000. His father gifted the gold to Raghav on 15-07-2012. He spent ₹2,00,000 till 31-07-2013 (the due date for filing of the return) on construction of a house property and deposited ₹ 5,00,000 on 31-07-2012 under capital gain scheme and spent a sum of ₹4,00,000 for construction of the house property till the stipulated time. Compute the capital gain chargeable to tax on this transaction for various relevant assessment year. CII-12-13;852.  
(5 marks)

**Answer to Question No. 2(a)(i)**

**Cost of Acquisition** is the price which the assessee has paid or the amount which the assessee has incurred, for acquisition of the asset. Expenses incurred for completing

the title are a part of the cost of acquisition. Cost of acquisition includes deemed cost of acquisition. Cost of Acquisition of goodwill of a business or a right to manufacture, produce or process any article or thing tenancy rights storage carriage permits or loom hours is:

- (i) In case of acquisition of such assets purchase from a previous owner, cost of acquisition means the amount of purchase price and;
- (ii) In any other case cost of acquisition shall be nil.

**Answer to Question No. 2(a)(ii)**

**Amortization of telecom license fee (Section 35ABB)**

Where any capital expenditure is incurred by the assessee for acquiring any right to operate tele-communication services and for which payment has actually been made to obtain a license, a deduction will be allowed in equal instalments over the period for which the license remains in force, subject to the following:

- (i) If such amount is paid before the commencement of such business, the deduction, shall be allowed for the previous years beginning with the previous year in which such business is commenced;
- (ii) If the fee is paid after the commencement of such business the deduction shall be allowed for the previous years beginning with the previous year in which the licensee fee is actually paid.

**Answer to Question No. 2(b)**

**Capital Gain for the Assessment Year 2013-14**

	₹	₹
Sale Consideration		10,00,000
Less : (i) Expenses on transfer	Nil	
(ii) Indexed cost of acquisition – ₹1,00,000 x 852/852	1,00,000	<u>1,00,000</u>
Long-term capital gain		9,00,000
Less : Exemption u/s 54F (₹ 9,00,000 x 7,00,000/10,00,000)		<u>6,30,000</u>
Taxable long-term capital gain		<u>2,70,000</u>

**Capital Gain for the Assessment Year 2016-17**

<b>Step 1</b>	Exemption already claimed u/s 54F in Assessment Year 2013 -14 (₹ 9,00,000 x 7,00,000/10,00,000)	6,30,000
<b>Step 2</b>	Exemption allowed based upon the actual amount spent within 3 years from the date of transfer of the original asset i.e., upto 15.7.2014 (₹ 9,00,000 x 6,00,000/10,00,000)	5,40,000
<b>Step 3</b>	Taxable long-term capital gain (1 – 2)	90,000

Since the property was gifted to Raghav by his father, indexation will be done from the date it is first held by the assessee i.e, 15.7.2012. However, the cost of acquisition will be the cost to the previous owner or the fair market value, as on 1,4,1981 whichever is higher because the previous owner has held the asset before 1.4.1981. The period of holding of the previous owner will be considered to determine whether it is a short-term capital gain or a long-term capital gain.

*Note* : In view of High Court decision in case of Manjula J. Shah and Arun Sungloo Trust the indexation has to be done from 1.4.1981. In this case, the indexed cost would be ₹1,00,000 x 852/100 = ₹8,52,000.

### Question No. 3

(a) *Re-write the following sentences after filling up the blank spaces with appropriate word(s)/figure(s):*

- (i) *An income derived from land situated in India is \_\_\_\_\_.*
- (ii) *Under section 44BB, \_\_\_\_\_ includes ships, aircraft, vehicles, drilling units, scientific apparatus and equipment used for the purposes of the business of exploration of mineral oils.*
- (iii) *No notice under section 143(2) shall be served on the assessee after the expiry of \_\_\_\_\_ from the end of financial year in which return is furnished.*
- (iv) *Senior citizen means an individual resident in India who is of the age of \_\_\_\_\_ years or more at any time during the relevant previous year.*
- (v) *The rate of Alternate minimum tax is \_\_\_\_\_.* (1 mark each)

(b) *Distinguish between the following:*

- (i) *“Defective return of income” and “Belated return of income”*
- (ii) *“Normal depreciation” and “Additional depreciation”.* (5 marks each)

### Answer to Question No. 3(a)

- (i) An income derived from land situated in India is **Agriculture Land**.
- (ii) Under section 44BB, **Plants** includes ships, aircraft, vehicles, drilling units, scientific apparatus and equipment used for the purposes of the business of exploration of mineral oils.
- (iii) No notice under section 143(2) shall be served on the assessee after the expiry of **6 months** from the end of financial year in which return is furnished.
- (iv) Senior citizen means an individual resident in India who is of the age of **60** years or more at any time during the relevant previous year.
- (v) The rate of Alternate minimum tax is **18.5%** .

### Answer to Question No. 3(b)(i)

#### Defective return of income and belated return of income

*Defective return [Section 139(9)]*

The Assessing Officer may intimate the defect to the assessee where he considers

that the return of income furnished by the assessee is defective. The Assessing Officer may give the assessee an opportunity to rectify the defect within a period of 15 days from the date of such intimation. If the defect is not rectified by the assessee within the period of 15 days or such further extended period, then the Assessing Officer shall treat the return as a invalid return. A return of income is regarded as defective return in case the return form has not been dully filled.

A return shall also be considered as defective return where the Self Assessment Tax has not been paid on or before the due date of filing of return.

*Belated return [Section 139(4)]*

If return is not furnished within the time allowed under section 139(1) or within the time allowed under notice issued under section 142(1), the person may, before the assessment is made, furnish the return of any previous year at any time before the end of one year from the end of relevant assessment year. If return is submitted after the due date of submission of return of income, the following consequences will be applicable.

- (i) the assessee will be liable for penal interest under section 234A.
- (ii) a penalty of ₹ 5,000 may be imposed under section 271F if belated return is submitted after the end of assessment year;
- (iii) If return of loss is submitted after the due date a few losses cannot be carried forward;
- (ib) If return is submitted belated, deduction under sections 10A, 10B, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID and 80-IE will not be available.

**Answer to Question No. 3(b)(ii)**

**Normal depreciation and Additional depreciation**

- (a) Normal depreciation is available in respect of all tangible assets and intangible asset such as building, machinery, plant, furniture, patent etc. while additional depreciation is available only in the case New Plant and Machinery.
- (b) Normal depreciation is available in respect of both types of assets—new and old while additional depreciation is available only in respect of new plant and machinery which is acquired and installed after March 31, 2005;
- (c) Normal depreciation is computed by applying different rates of depreciation prescribed for a particular asset while additional depreciation is computed by applying a uniform rate of depreciation viz. 20% of the actual cost of new plant & machinery.
- (d) The system of “block of assets” is quite relevant for computing normal depreciation while it is not relevant for computing additional depreciation;
- (e) Any plant & machinery which is used in business of the assessee is eligible for normal depreciation while certain plant & machinery, even if new, are not eligible for additional depreciation like ships and aircrafts, plant & machinery which was already used by a person either in India or abroad, plant & machinery which is used in any office premises or any residential accommodation or in a guest house, any office appliances or road transport vehicles or plant & machinery the

entire cost of which has already been allowed as deduction either by way of depreciation or otherwise.

**Question No. 4**

- (a) Explain in brief the Appealable orders before Commissioner (Appeals).  
(4 marks)
- (b) Examine the applicability of the provisions of section 40A(3) in the following cases:
- (i) Riyan purchases goods in cash from his brother for ₹ 40,000, whose market value is ₹ 35,000.
- (ii) Riyan purchases a building for ₹ 10,00,000 and makes the payment in cash.
- (iii) Riyan makes a purchase of goods of ₹ 60,000 and makes payment of ₹ 45,000 by account payee cheque and ₹ 15,000 in cash. (2 marks each)
- (c) Compute the net wealth of R from the following details as on 31-03-2013 for the assessment year 2013-14. The individual is engaged in the business of processing and selling of gold and silver articles and ornaments in India and outside India:

	₹
Bank Balance	4,30,000
Unaccounted cash balance	70,000
Gold articles	25,00,000
Jewellery made of silver	14,00,000
Guest house	35,00,000
Motor cars	6,40,000
Factory Building	8,00,000

R has taken a loan of ₹ 8,00,000 by mortgaging guest house for purchasing factory building. (5 marks)

**Answer to Question No. 4(a)**

**Appealable orders before Commissioner (Appeals) (Section 246A)**

Any assessee aggrieved by any of the following orders may appeal to the Commissioner (Appeals) against:

- (a) an order passed by a Joint Commissioner under section 115VP(3)(ii) or an order against the assessee where he denies his liability to be assessed under the Income Tax Act, under Section 143(3) except an order passed in pursuance of directions of Dispute Resolution Panel or Section 144 where assessee object to the amount of income assessed or amount of tax determined or amount of loss computed or status under which he is assessed;

- (aa) an order of assessment under Sections 115WE or 115WF where the assessee being an employer objects to the value of fringe benefits assessed;
- (b) an order of assessment, re-assessment or re-computation under Section 147 or Section 150;
- (ba) an order of assessment or reassessment under Section 153A;
- (c) an order of rectification made under Section 154 or Section 155 having effect of enhancing assessment or reducing refund or order refusing to allow claim made by assessee under these sections;
- (d) an order under Section 163 treating the assessee as the agent of a non-resident;
- (e) an order under Section 170(2) of 170(3) relating to succession of business otherwise on death;
- (f) an order made under Section 171;
- (g) an order under Section 185;
- (h) an order under Section 237;
- (i) a person deemed to be an assessee in default for not collecting the whole or any part of tax or after collecting the tax, failing to pay the same, may appeal before Commissioner (Appeals) on or after April 1, 2007;
- (j) an order imposing a penalty under Section 221, 271, 271A, 271F, 271FB, 272AA, Section 272, 272B, 272BB or Section 273;
- (k) an order of assessment made by an assessing officer under clause (c) of Section 158BC, in respect of search initiated under Section 132 or books of account, other documents or any assets requisitioned under Section 132A;
- (l) an order imposing a penalty under Sub-section (2) of Section 158BFA;
- (m) an order imposing penalty under Section 271 B or Section 271 BB;
- (n) an order made by a Joint Commissioner imposing a penalty under Section 271 C, Section 271 D or Section 271 E;
- (o) an order made by a Joint Commissioner imposing a penalty under Section 272AA and by a Joint Commissioner or Joint Director under Section 279A;
- (p) an order imposing a penalty under Chapter XXI of Income tax Act;
- (q) an order made by an Assessing Officer other than a Joint Commissioner under the provisions of this Act, in case of specified person or classes of persons.

**Answer to Question No. 4(b)(i)**

In this case, ₹ 5,000 shall be disallowed u/s 40A(2) and ₹ 35,000 shall be disallowed u/s 40A(3).

**Answer to Question No. 4(b)(ii)**

In this case, Riyan purchases a building for ₹ 10,00,000 and makes the payment in cash. Since he has purchased a capital asset therefore, section 40A(3) is not applicable.

**Answer to Question No. 4(b)(iii)**

In this case, Riyan makes a purchase of goods of ₹ 60,000 and makes payment of ₹ 45,000 by account payee cheque and ₹ 15,000 in cash. Section 40A(3) will not be applicable.

**Answer to Question No. 4(c)****Computation of Net wealth of R for the Assessment Year 2013-14**

	₹
Bank Balance	Not an asset
Unaccounted cash balance only in excess of ₹ 50,000	20,000
Gold Article (being Stock in trade hence Not an asset)	Not an asset
Jewellery made of silver (being Stock in trade hence Not an asset)	Not an asset
Guest house	35,00,000
Motor Cars	6,40,000
Factory Building	Not an asset
Gross Wealth	41,60,000
Less : Basic exemption	30,00,000
<b>Taxable Net Wealth</b>	<b><u>11,60,000</u></b>

*Note:*

1. Bank balance, Gold articles and Factory buildings are not taxable wealth.
2. Loan of ₹ 8,00,000 is not deductible for computing net wealth as factory building is not a taxable wealth.

**PART B****Question No. 5**

(a) *Re-write the following sentences after filling up the blank spaces with appropriate word(s)/figure(s):*

(i) *Return of service tax filed in Form No. \_\_\_\_\_*

(ii) *Every person whose aggregate value of taxable service exceeds ₹ \_\_\_\_\_ liable to pay Service tax electronically.*

- (iii) An assessee may submit a revised return in form No. ST-3 in triplicate to correct a mistake or omission within a period \_\_\_\_\_ from the date of submission of return under Rule 7.
- (iv) The provisions relating to valuation of taxable services tax are contained in section \_\_\_\_\_ of the Finance Act, 1994.
- (v) Service tax is leviable @ \_\_\_\_\_ plus education cess and SHEC of 3%.  
(1 mark each)
- (b) Write short notes on:
- (i) Services Tax Return
- (ii) Input VAT Credit (5 marks each)
- (c) When does a small service provider require to register under the Service Tax Act, but not liable to collect and pay service tax. (5 marks)

**Answer to Question No. 5(a)**

- (i) Return of service tax filed in Form No. **ST- 3**.
- (ii) Every person whose aggregate value of taxable service exceeds **10 lakh rupees** liable to pay Service tax electronically.
- (iii) An assessee may submit a revised return in form No. ST-3 in triplicate to correct a mistake or omission within a period **90 days** from the date of submission of return under Rule 7.
- (iv) The provisions relating to valuation of taxable services are contained in section **67** of the Finance Act, 1994.
- (v) Service tax is leviable @ **12%** plus education cess and SHEC of 3%.

**Answer to Question No. 5(b)(i)****Returns under Service Tax**

Rule 7 of the Service Tax Rules, 1994 return under Service Tax is required to be filed by every assessee on half yearly basis in Form ST-3 or Form ST-3A, as the case may be, along with a copy of the Form TR-6, in triplicate for the months covered in the half-yearly return.

Every assessee shall submit the half yearly return by the 25th of the month following the particular half-year.

Vide Notification No. 43/2011 dt. 25Aug 11, with effect from 1st October 2011, every assessee shall submit half yearly return electronically.

**Revision of Returns**

An assessee may submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of ninety days from the date of submission of the return under rule 7

**Answer to Question No. 5(b)(ii)****Input VAT Credit**

Tax paid on the earlier point is termed as, "input tax". This amount is adjusted against the tax payable by the purchasing dealer on his sales. This credit availability is called input tax credit. Input tax is the tax paid or payable in the course of business on purchase of any goods made from a registered dealer of the State. Output tax means the tax charged or chargeable under the Act, by a registered dealer for the sale of goods in the course of business.

In simple words, input tax is the tax a dealer pays on his local purchases of business inputs, which include the goods that he purchases for resale, raw materials, capital goods as well as other inputs for use directly or indirectly in his business. Output tax is the tax that a dealer charges on his sales that are subject to tax. The input tax credit is to be given for both manufacturers and traders for purchase of inputs/ supplies meant for both sales within the State as well as to other States, irrespective of when these were utilized or sold. This also reduces immediate tax liability.

Input tax paid in excess of 2% on inputs purchased within the State will be eligible for tax credit if goods are sent outside State on stock transfer basis. It is also to be noted that in certain cases, partial input tax credit is available in respect of input used for manufacture of exempted goods.

Input tax credit is allowable to a registered dealer for purchase of any goods made within the State from a dealer holding a valid certificate of registration under the Act. Input tax credit on capital goods is available for traders and manufacturers.

**Answer to Question No. 5(c)**

The small service providers must make the application in Form No. ST-1 within a period of 30 days of the date in the financial year on which the aggregate value of taxable services has exceeded ₹9 lakhs. Service tax is a tax imposed by the Central Government on taxable services. Taxable services means which is included in the list of taxable services under Section 65. But in the Act small service providers are exempted from paying service tax. 100% exemption from service tax has been granted to a provider of taxable service when aggregate value of taxable service rendered by him from one or more premises, does not exceed ₹10 lakhs in the preceding Financial Year.

**PART C****Question No. 6**

- (a) *Compute the invoice value to be charged and amount of tax payable under VAT by a dealer who had purchased goods for ₹ 2,00,000 and after adding expenses of ₹ 10,000 and profit of ₹ 25,000 had sold out the same.*

*The rate of VAT on purchases and sales is 12.5%. (5 marks)*

- (b) *On what type of purchases input tax credit is not available. Enumerate. (5 marks)*

(c) "A registered dealer can set off the amount of input tax against the amount of his output tax". Explain. (5 marks)

(d) Explain the procedure of registration under value added tax(VAT). (5 marks)

### Answer to Question No. 6(a)

#### Computation of Invoice value and VAT Payable

His value added is ₹ 35,000 (expenses ₹ 10,000 plus profit ₹25,000) Effectively tax is payable on ₹35,000 @ 12.5% i.e. ₹4,375.

This can also be confirmed by making detailed calculations as follows :

It is assumed that the purchase price is net i.e., exclusive of VAT. VAT paid on purchases is ₹25,000 @ 12.50% of ₹2,00,000. Thus Input Tax Credit (set off) available is ₹25,000.

The sales "Turnover" of the dealer will be ₹2,35,000 [Purchase price ₹2,00,000 + Expenses ₹10,000 + Profit ₹25,000].

VAT payable on 'turnover' of ₹2,35,000 @ 12.5% is ₹29,375. Input Tax Credit (Set off) available is ₹25,000.

Hence, net tax payable by cash is ₹4,375 (₹29,375 – ₹25,000). Effectively tax is payable on 'value added' of ₹35,000 @ 12.5% i.e., ₹4,375.

### Answer to Question No. 6(b)

Input tax credit is generally given for the entire VAT paid within the state on purchases of taxable goods meant for resale or manufacture of taxable goods. However, generally no credit is available in respect of purchases given below:

- (i) Goods purchased from unregistered dealers;
- (ii) Goods purchased from other states or countries;
- (iii) Purchases of goods used in manufacture of exempted goods;
- (iv) Purchases of goods used in manufacture of goods to be dispatched outside any state as branch transfer or consignments;
- (v) Purchases of goods in cases where the dealer does not have invoices showing amounts of tax charged separately by the selling dealer;
- (vi) Purchases from a dealer who has opted for composition scheme.
- (vii) Purchase of goods used for personal purposes/consumption or provided free of charge or gifts.
- (viii) Purchase of goods where the purchase invoice is not available with the claimant.
- (ix) On purchase of fuels used in generation of electricity including captive power

### Answer to Question No. 6(c)

VAT aims at providing set-off for the tax paid earlier and this is given effect through the concept of input tax credit. Set-off of the input tax credit in relation to any period

means setting off the amount of input tax by a registered dealer against the amount of his output tax.

Tax paid on the inputs is termed as input tax. This amount is adjusted against the tax payable by the purchasing dealer on his sales. This credit availability is called input tax credit. Input tax is the tax paid or payable in the course of business on purchase of any goods made from a registered dealer of the State. Output tax means the tax charged or chargeable under the Act by a registered dealer for the sale of goods, in the course of business. In other words input tax is the tax a dealer pays on his local purchases of business inputs, which include the goods that he purchases for resale, raw material, capital goods as well as other inputs for use directly or indirectly in his business and output tax is the tax that a dealer charges on his sales that are subject to tax. The input tax credit is to be given for both manufacturers and traders for purchases of inputs, supplies meant for both sale within the state as to other states, irrespective of when these were utilized or sold. This also reduces immediate tax liability. It is also to be noted that in certain cases partial input of tax credit is available in respect of input used for manufacture of exempted goods.

Input tax credit is allowable to a registered dealer for purchase of any goods made within the state from a dealer having a valid certificate of registration under the Act. Input tax credit on capital goods is available for traders and manufacturer.

#### **Answer to Question No. 6(d)**

#### **Registration of Dealer under VAT**

Every dealer upto the retailer level is required to be registered with sales tax department if he wants to avail the credit of input tax. However, a dealer with turnover below the specified amount (say ₹ 5 lac or ₹ 10 lac) need not to be registered compulsorily. He may opt not to register but pay a nominal tax under composition system. When VAT was introduced by the states almost all the dealers under the old system of sales tax have been automatically registered under the Vat Act. If the turnover of a new dealer crosses the specified limit, he is allowed 30 day period for registration from the date of liability to get registered. If the annual turnover of the dealer reaches the specified prescribed limit of turnover, his registration is compulsory. There are provisions of voluntary registration also. A dealer having annual turnover less than prescribed limit may opt for voluntary registration.

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**TEST PAPER 2/2013**

**(This Test Paper is based on ALL Study Lessons)**

*Time allowed : 3 hours*

*Max. marks : 100*

**NOTE :** *Answer All Questions.*

**PART A**

**Question No. 1**

- (a) *Choose the most appropriate answer from the given options in respect of the following*
- (i) *In what status Limited Liability Partnership is taxed under the Act:*
    - (a) *Individual*
    - (b) *LLP*
    - (c) *Firm*
    - (d) *Corporate.*
  - (ii) *Income earned and received outside India in 2002-03 but remitted to India in the financial year 2012-13, is taxable in the hands of*
    - (a) *Resident*
    - (b) *Resident but not ordinarily resident*
    - (c) *Non-resident*
    - (d) *None of the above.*
  - (iii) *Credit of Minimum Alternate Tax (MAT) in respect of excess amount of tax paid under section 115JB could be carried forward for-*
    - (a) *8 Assessment Year*
    - (b) *5 Assessment Year*
    - (c) *7 Assessment Year*
    - (d) *10 Assessment Year*
  - (iv) *The method of accounting for computing income is the method of accounting regularly employed by the assessee under the head:*
    - (a) *House Property*
    - (b) *Capital Gain*
    - (c) *Salaries*
    - (d) *Profits and gains from Business or profession*
  - (v) *A company is said to be a resident in India in previous year, if:*
    - (a) *It is a Indian company*

- (b) *The control and management is wholly situated in India*
- (c) *Either it is an Indian company or the control and management is wholly situated in India*
- (d) *It is both an Indian Company and the control and management is wholly situated in India.* (1 mark each)
- (b) *Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s):*
- (i) *The income of minor child shall be taxable in excess of ₹ \_\_\_\_\_ in the hands of parents..*
- (ii) *Provisions of section 44AD shall not apply where gross receipts exceed -- \_\_\_\_\_.*
- (iii) *Paintings are considered as \_\_\_\_\_ as per section 2(14) of Income Tax Act, 1961.*
- (iv) *Wealth Tax is levied on the net wealth of a person as on 31st March, this date is known as \_\_\_\_\_ .*
- (v) *It is obligatory for an assessee to pay advance tax where the amount of tax payable is ₹ \_\_\_\_\_ or more.* (1 mark each)
- (c) *An assessee used to file his return of income showing income from rent on receipt basis and was assessed accordingly up to the assessment year 2013-14. During the financial year 2012-13, he received a sum of ₹1,00,000 by way of enhancement for the last six years as the Government department (tenant) enhanced the rate of rent with retrospective effect. Will the sum of ₹ 1,00,000 be taxable in the assessment year 2013-14? Can it be spread over the last six years? Is there any provision of tax relief in such cases, like section 89(1) of the Income Tax Act, 1961? What are the provisions of the Act governing such cases?* (5 marks)
- (d) *Under what circumstances can an assessee appeal to the Appellate Tribunal.* (5 marks)

**Answer to Question No. 1(a)(i)**

- (c) Firm

**Answer to Question No. 1(a)(ii)**

- (d) None of the above

**Answer to Question No. 1(a)(iii)**

- (d) 10 Assessment Year

**Answer to Question No. 1(a)(iv)**

- (d) Profits and gains from Business or profession

**Answer to Question No. 1(a)(v)**

- (c) Either it is an Indian company or the control and management is wholly situated in India

**Answer to Question No. 1(b)**

- (i) The income of minor child shall be taxable in excess of ₹ 1,500 in the hands of parents.
- (ii) Provisions of section 44AD shall not apply where gross receipts exceed ₹ 1 crore.
- (iii) Paintings are considered as **Capital Assets** as per section 2(14) of Income Tax Act, 1961.
- (iv) Wealth Tax is levied on the net wealth of a person as on 31st March, this date is known as **Valuation date**.
- (v) It is obligatory for an assessee to pay advance tax where the amount of tax payable is ₹ 10,000 or more.

**Answer to Question No. 1(c)**

As per new section 25B the arrears of rent shall be taxable in the previous year in which such arrears are received. However, the assessee shall be allowed statutory deduction @ 30% of such amount received. Further, it is not necessary that the assessee should be owner of such house property in the previous year in which such arrears are received.

Thus, ₹ 70,000 (₹1,00,000 - 30% of ₹1,00,000 i.e.30,000) shall be chargeable to income tax under the head income from house property in the assessment year 2013-14.

**Answer to Question No. 1(d)****Appealable orders [Section 253(1) and (2)]**

Any assessee aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order.

1. An order passed by Commissioner (Appeals) under Section 154 ordering a rectification of mistake, or under Section 250 in connection with the disposal of an appeal or Section 271 imposing a penalty for failure to furnish return etc. or Sections 271 A or 272A.
2. An order passed by an assessing officer under Clause (c) of Section 158BC, in respect of search initiated under Section 132 or books of account other documents or any assets requisitioned under Section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997.
3. An order passed by a Commissioner under Section 12AA relating to registration of trust or under Section 263 relating to revision of orders prejudicial to revenue or under Section 272A penalty for failure to answer question, sign statements, allow inspection etc., on or under Section 154 rectifying a mistake, or an order passed by a Chief Commissioner, or a Director General or a director under Section 272A.
4. An order passed by an Assessing Officer under Sub-section (1) of Section 115VZC.
5. An order passed by a Commissioner for rejection of approval under Section 80G(5)(vi).

The Commissioner may, if he objects to any order passed by Commissioner (Appeals) under Section 154 or 250, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

**Question No. 2**

- (a) State the provisions regarding deduction of tax at source in respect of the following incomes:
- Rent.
  - Professional or technical fees.
  - Winning from horse races. (2 marks each)

- (b) From the following particulars submitted by Raju. Compute his income from other sources for the assessment year 2013-14.

Director's meeting fees received from Y Ltd.	4,000
Agricultural income from land situated in India	12,000
Agricultural income from Nepal	20,000

Interest:

(a) from bank on FDR (Net)	30,000
(b) on post office saving account	12,000
(c) on Government securities	6,500
(d) on Public Provident Fund	13,000
(e) on National Savings Certificate VIII issue	8,000
(f) Dividend from A Limited declared on 25-08-2012	35,000
(g) Lottery prize received after T.D.S	27,640
(h) Rent from Sub Letting of a flat (rent paid to landlord for the flat is ₹ 6,000)	12,000

Raju spent ₹600 for realizing the rent. He had also spent ₹10,000 for the purchase of lottery tickets and received the prize on one ticket. (5 marks)

- (c) Explain the provisions of "Belated Return" in the context of Income Tax Act, 1961. (4 marks)
- (d) Examine whether the following are assets under the provisions of the Wealth Tax Act, 1957:
- A commercial complex
  - A building occupied by the assessee for business purpose.
  - Aircrafts owned and used by the assessee for business purposes.
  - Land owned by the assessee situated outside a municipality but within a notified area.
  - Jewellery, bullion and utensils made of precious metals. (1 mark each)

**Answer to Question No. 2(a)(i)****TDS on Rent**

Any person other than an individual or a HUF, is responsible for paying to any resident in India, any income by way of the rent, amounting in aggregate to more than ₹1,80,000 in a financial year.

Tax is deducted @ 2% from rent of plant, machinery or equipment and @ 10% rent of land, building or furniture.

**Answer to Question No. 2(a)(ii)****TDS on Professional or Technical Fees**

Any person other than an individual or a HUF, is responsible for paying to any resident in India, any income by way of fees for professional, technical service, royalty or any sum referred to in clause (va) of section 28 which relates to non-compete payments for not carrying out any activity in relation to any business or not sharing any know-how patent, copyright, trade mark etc. shall deduct income tax on income comprised therein.

No tax is to be deducted if the amount or aggregate amount does not exceed ₹30,000. However, this threshold limit shall not apply where the payment is made to a director.

Tax shall be deducted @ 10%.

**Answer to Question No. 2(a)(iii)****TDS on Winnings from horse races**

Tax is deductible at source from any income by way of winnings from horse races under section 194BB @ 30%. TDS is applicable only when income by way of such winnings paid to a person exceeds ₹5,000.

**Answer to Question No. 2(b)****Computation of Income under the head "income from other sources"**

Sr. No.	Particulars	₹
(i)	Director's Meeting fees	4,000
(ii)	Agricultural Income from Nepal	20,000
(iii)	Interest on fixed deposits $\left(\frac{30,000 \times 100}{90}\right)$	33,333
(iv)	Post Office Saving Bank Account	Exempt
(v)	Government Securities	6,500
(vi)	PPF	Exempt
(vii)	NSC	8,000
(viii)	Dividend from A Ltd. & Z Ltd	Exempt
(ix)	Lottery 27,640 x 100/69	40,058
(x)	Rent Received	12,000
	Less : Rent-paid and expenses for realizing rent	<u>6,600</u>
	Income from other sources	<u>1,17,297</u>

**Answer to Question No. 2(c)****Belated Return under Section 139(4)**

Any person who has not furnished a return within the time allowed to him under sub-section (1), or within the time allowed under a notice issued under sub-section (1) of section 142, may furnish the return for any previous year at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Provided that where the return relates to a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.

**Answer to Question No. 2(d)**

- (i) **A commercial complex** : any property in the nature of commercial establishments or complexes shall not be included in the meaning of house hence not treated as an asset.
- (ii) **A building occupied by the assessee for business purpose** : any building occupied for the purposes of any business or profession shall not be included in the meaning of house hence not treated as asset.
- (iii) **Aircrafts owned and used by the assessee for business purposes** : Aircrafts other than used by the assessee for commercial purpose shall be included as an asset.
- (iv) **Land owned by the assessee situated outside a municipality but within a notified area** : land situated within the jurisdiction of a municipality whether known as notified area or by any other name shall be included under urban land hence treated as asset.
- (v) **Jewellery, bullion and utensils made of precious metals** : assets include jewellery, bullion, furniture, utensils etc. made of precious metal except held as stock in trade.

**Question No. 3**

(a) *State whether the following statement are True or False*

- (i) *An assessee shall be allowed deduction of payment of electricity bill of the house under the head Income from House Property.*
- (ii) *Deduction in respect of maintenance including medical treatment of a dependent who is a person of disability shall be allowed to a non- resident or a resident in India.*
- (iii) *Only 25% of Income from growing and manufacturing of rubber is liable to tax.*
- (iv) *Interest received on enhanced compensation is chargeable under the head Capital Gains.*
- (v) *Remuneration received by Member of Parliament are taxable under the head "Income from other sources".*

(1 mark each)

(b) Riya has a house property in Delhi whose particulars are as under:

	₹
Municipal Value	3,00,000
Standard Rent	3,12,000
Municipal Taxes Paid	50,000
Interest on money borrowed for acquiring the house after 01-04-2009	1,60,000
Period of occupation for own residence	2 months
Actual rent for 10 months	35,000 p.m

Compute the income from house property for assessment year 2013-14.

(5 marks)

(c) Is it compulsory to file a return of income? If so what is the time limit for submission of the return of Income.

(5 marks)

**Answer to Question No. 3(a)**

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

**Answer to Question No. 3(b)**

**Computation of Income from House Property**

	₹	₹
<b>Gross Annual Value:</b> (shall be higher of Expected Rent or Actual rent)		
Expected rent (Municipal Value ₹ 3,00,000 or Fair Rental Value ₹ 4,20,000 whichever is higher subject to standard rent of ₹ 3,12,000)	3,12,000	
Actual rent received or receivable (35,000X10)	3,50,000	3,50,000
Less : Municipal Taxes		50,000
<b>Net Annual Value</b>		3,00,000
Less : Deduction u/s 24		
Standard Deduction @30%	90,000	
Interest on money borrowed	1,60,000	2,50,000
<b>Income from house property</b>		50,000

**Answer to Question No. 3(c)**

It should be obligatory for the firm or company to file return of income in every case. Further, in respect of individual, HUF, AOP, BOI, Artificial juridical Person, filing of return of income shall be compulsory if their total income before allowing deductions under Sections 10A, 10B, 10BA or chapter VI-A exceeds the maximum amount which is not chargeable to income tax.

The time limit for filing of the return by an assessee if his total income of any other person in respect of which he is assessable exceeds the maximum amount not chargeable to tax, shall be as follows:

- (a) where the assessee is—
- (i) a company,
  - (ii) a person, other than a company whose accounts are required to be audited under the Income-tax Act or any other law, for the time being in force,
  - (iii) a working partner of a firm whose accounts are required to be audited under this Act or under any law for the time being in force, the 30th day of September of the Assessment Year.
- (b) In the case of an assessee being a company, which is required to furnish a report referred to in section 92E, the 30th day of November of the assessment year.
- (c) In the case of any other assessee, the 31st day of July of the Assessment Year.

**Question No. 4**

- (a) What do you mean by HUF. Is the share of income of HUF received by member taxable in his hands? (5 marks)
- (b) From the following particulars, calculate the taxable income of Suman for the assessment year 2013-14:

Salary per month	16,000
Dearness Allowance per month	6,000
Medical bill reimbursed (out of which ₹14,000 is spent on treatment of specified Ailment in a hospital approved by the Chief Commissioner)	42,000
Free telephone at residence	12,000
House Rent Allowance per month (Rent paid ₹ 5,000 p.m for a house in Delhi)	10,000

House property is let out on a monthly rent of ₹ 2,000. The annual value of the house property is ₹ 30,000. Municipal tax paid is ₹ 1800 for whole year. Repayment of house building loans taken from friends is ₹ 5,000 and from Life Insurance Corporation is ₹ 9,000 (which includes ₹ 6,000 on account of interest)

Interest on Savings Bank A/c	34,000
Interest on PPF A/c	2,000

<i>Income from units of Unit Trust of India</i>	<i>800</i>
<i>Life Insurance Premium</i>	<i>6,000</i>
<i>Contribution to PPF</i>	<i>6,000</i>
<i>Deposit in Account under National Savings Scheme, 1992</i>	<i>10,000</i>
<i>Interest accrued on (NSC VIII Issue)</i>	<i>34,000</i>
<i>The construction of the building was completed on 01-01-1993.</i>	

(10 marks)

**Answer to Question No. 4(a)**

The term 'Hindu undivided family' has not been defined in the Income-Tax Act. However, in general parlance it means an undivided family of Hindus. Creation of a HUF is a God-gifted phenomenon.

**A Hindu Joint Family consists of two types of members:**

- (i) *Coparceners*: The lineal descendants of a person upto the third generation of such person is known as coparceners. The coparceners acquire, on birth, ownership in the ancestral properties of such ascendant and have a right to claim partition of such property at any time.
- (ii) *Other members*: Such members include wives of male members of the family and other male members.

Any sum paid by an HUF to a member of the family out of its income is not deductible in computing the income of the family. However, such amount will not be included in the income of such individual whether the family had paid tax on its income or not [Section 10(2)].

**Answer to Question No. 4(b)****Computation of Taxable Income  
for the Assessment Year 2012-13**

	₹	₹	₹
1. <i>Income from salary</i>			
Basic Pay		1,92,000	
Dearness allowance		72,000	
Medical reimbursement (₹ 42,000 – 15,000 – 14,000)		13,000	
House Rent Allowance(₹ 1,20,000 – 1,20,000) <i>see note below</i>		Nil	
Taxable salary		2,77,000	
Less : Deduction		Nil	
Taxable Salary		<u>2,77,000</u>	2,77,000

	₹	₹	₹
<b>2. Income from House Property</b>			
Annual Value(Actual rent or Annual ratable value Whichever is higher)	30,000		
Less: Municipal Taxes Paid	<u>1,800</u>		
Net Annual Value	28,200	28,200	
Less: (i) Standard deduction @ 30%	8,460		
(ii) Interest on amount borrowed for construction	<u>6,000</u>	<u>14,460</u>	13,740
<b>3. Income from other sources</b>			
Interest on Savings Bank A/c		34,000	
Dividends on Units of UTI		Exempt	
Interest accrued on NSC VIII Issue		<u>34,000</u>	<u>68,000</u>
Gross Total Income :			3,58,740
Less : Deduction u/s 80C			<u>59,000</u>
<b>Total Income</b>			<b><u>2,99,740</u></b>

**Working Notes**

(1) Deduction u/s 80C

**Qualifying amount**

1. Life Insurance Premium	6,000	
2. Public Provident Fund	6,000	
3. Interest accrued on NSC	34,000	
4. National Savings Scheme, 1992	10,000	
5. Repayment of housing loan to LIC	<u>3,000</u>	59,000

(2) House rent allowance shall be exempt to the extent of minimum of the following 3 limits :

(i) ₹ 1,20,000

(ii) ₹ 1,80,000 – 26,400 = ₹ 1,53,600

(iii) ₹ 1,32,000 (50% of salary i.e., ₹ 2,64,000)

(3) Interest on loan taken for consideration of house property will be allowed as deduction under the head 'Income from house property' from annual value. On the other hand, repayment of principal amount to LIC will be eligible for deduction u/s 80C. Repayment of loan to a friend will not be eligible for deduction.

(4) Interest on Public Provident Fund is fully exempt.

(5) Interest accrued on NSC VIII Issue will be included under the head 'Income from other sources' and will also qualify for deduction u/s 80C.

**Part B****Question No. 5**

- (a) *What do you mean by 'Reverse Charge' and under which circumstances the service receivers are liable to pay service tax? Indicate such cases*  
(5 marks)
- (b) *What is the due date for payment of service tax? What is the rate of interest for delayed payment and penalty for default in payment of service tax? (5 marks)*
- (c) *State whether the following statements are True or False*
- (i) *Service tax is payable on issue of invoice or receipt of payment whichever is earlier.*
  - (ii) *Service tax is always paid by the service provider.*
  - (iii) *Separate returns will have to be filled if multiple services are provided.*
  - (iv) *Service tax is payable on the market value of services even if free services are provided.*
  - (v) *Separate registration under service tax has to be applied for every taxable service provided.*  
(1 mark each)

**Answer to Question No. 5(a)****Reverse Charge**

As per Section 68(1), every person providing taxable services i.e. provider of taxable service is liable to pay service tax at the rate specified in section 66B of the Finance Act, 1994 in such manner and within such period as may be prescribed.

Section 68(2), provides that in respect of the taxable services notified by the Central Government the service tax thereon shall be paid by such person as may be prescribed. Notification No. 30/2012 dated 20th June 2012 provides for the services where service tax shall be paid by service receiver or in the some case by both i.e. service receiver and service provider. The mechanism under which liability for payment of service tax is on the service receiver is known as **reverse charge**. Under this charge service receiver has to register himself under service tax. Further service receiver cannot claim general exemption limit of ₹10 Lakhs and he is liable to pay service tax even on small amount.

**Answer to Question No. 5(b)****Payment of Service Tax and Due date**

Section 68 provides that every person providing taxable services to any person should pay service at the rate specified in Section 66B. Rule 6 lays down the following rules for payment of service tax:

- (a) *In case of an individual and partnership firm* : The service tax received during any quarter shall be paid to the Government by the 5th of the month immediately following the relevant quarter or 6th of month/quarter where payment is made electronically.
- (b) *In case of others* : The service tax received during any calendar month should

be paid to the credit of the Central Government by the 5th of the month immediately following the relevant calendar month or 6th of month where payment is made electronically.

### **Interest on delayed payment of Service Tax**

Any person who has failed to pay the tax to the Government within the prescribed time limit, such person shall pay simple interest @ 18% p.a. for the period of delay.

However, where the service provider where taxable services does not exceed ₹60 lakhs during last financial year the rate of interest shall be reduced by 3% p.a.

### **Penalty for failure to pay Service Tax**

If any person who is liable to pay service tax has failed to pay within prescribed time limit, he will be liable to pay interest @ 18% p.a. and also penalty. Penalty for failure to pay service tax shall be ₹100 per day or 1% of such tax per month whichever is higher, starting from the first day after the due date till the date of actual payment of the outstanding amount of service tax. However, total amount of penalty shall not exceed 50% of amount of service

### **Answer to Question No. 5(c)**

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

### **Question No. 6**

(a) *State whether the following statement are True or False:*

- (i) *Input credit is payable on account of VAT paid on capital goods.*
- (ii) *TIN stand for Tax Payer's Identification Number and it is code number to identify a tax payer, having 11 digit numerals allotted for the entire country.*
- (iii) *A special Vat rate of 1% is prescribed for precious and semi precious metals.*
- (iv) *Haryana was the first state to implement VAT with effect from 1st April, 2003.*
- (v) *Under Zero rated sales, prior stage tax is set off against the 0% tax paid, and effectively the entire tax paid on purchases is eligible for refund.*  
(1 mark each)

(b) *Write Short Notes on the following:*

- (i) *Zero rating*
- (ii) *Rates of Value Added Tax.* (5 marks each)

**Answer to Question No. 6(a)**

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

**Answer to Question No. 6(b)(i)**

**Zero Rating** : Zero rating means that the tax payable on sale of a commodity is fixed at 0%. Though apparently, it looks similar to an exempt transaction, there is a significant difference between the two. While in an exempt transaction, the tax paid on input lapses i.e., it cannot be set off, under the Zero rated sales, prior stage tax is set off against the 0% tax paid, and effectively the entire tax paid on purchases is eligible for refund. Thus, Zero Rating is advantageous to the dealer compared to exempting of sale transactions. Generally, export sales are zero rated and thereby, exporters are granted refund of taxes paid by them on their inputs. Exporters gain significantly due to the Zero Rating.

**Answer to Question No. 6(b)(ii)****Rates of taxes under VAT**

To reduce the multiplicity of sales tax rates between various states in India it was recommended that VAT will have broadly four tax rates:

- (a) Zero percent rate on tax free goods for unprocessed agricultural goods and goods of special importance.
  - (b) 1% on precious and semi precious metals i.e. bullion etc.
  - (c) 4% for inputs used for manufacturing and on declared goods, capital goods and other essential items.
  - (d) 20% on luxury goods and
  - (e) 12.5% on other goods.
-

**TEST PAPER 3/2013**

**(This Test Paper is based on entire Study Lessons)**

*Time allowed : 3 hours*

*Max. marks : 100*

**NOTE :** *Answer All Questions.*

**PART A**

**Question No. 1**

- (a) *Choose the most appropriate answer from the given options in respect of the following :*
- (i) *Leave encashment is exempt to the extent of maximum of the following:*
- (a) ₹ 3,50,000
  - (b) ₹ 3,00,000
  - (c) ₹ 10,00,000
  - (d) ₹ 2,50,000
- (ii) *Any rent or revenue derived from land may be treated as agricultural income if-*
- (a) *it is derived from land*
  - (b) *the land is situated in India*
  - (c) *the land is used for agricultural purpose*
  - (d) *all the above conditions are satisfied*
- (iii) *Which of the following is covered under section 80D of the Income Tax Act, 1961-*
- (a) *Repayment of loan taken for higher education*
  - (b) *Medical treatment of handicapped dependent*
  - (c) *Medical insurance premium*
  - (d) *Reimbursement of medical expenses*
- (iv) *For Carry Forward of loss under various heads the assessee shall file a return of loss under section 139(3) of Income Tax Act, 1961 within the prescribed time limit except:*
- (a) *Loss under head Capital gain*
  - (b) *Loss under head Profits and Gains from business or profession*
  - (c) *Loss under head House property*
  - (d) *All the above*

- (v) *The deduction allowable in respect of interest on enhanced compensation taxable under the head 'income from other sources' is—*
- (a) 50%
- (b) 30%
- (c) 15%
- (d) Nil (1 mark each)
- (b) *Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s):*
- (i) *The assessee shall not be eligible for relief under section 89 in case he claimed exemption under section \_\_\_\_\_*
- (ii) *Under Section 2(22AAA), \_\_\_\_\_ means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government.*
- (iii) *Income of a minor child clubbed in the hands of parents, where it exceeds \_\_\_\_\_.*
- (iv) *Expenditure incurred in respect of preliminary expenses is allowed as deduction under section \_\_\_\_\_.*
- (v) *Exemption under section 54 is available in respect of \_\_\_\_\_.* (1 mark each)
- (c) *Capital gain arises in the previous year in which the transfer took place. Discuss. Are there any exceptions to this rule ?* (5 marks each)
- (d) *What is Transfer Pricing? Explain it with reference to relevant provisions of the Income Tax.* (5 marks)

**Answer to Question No. 1(a)(i)**

- (b) ₹3,00,000

**Answer to Question No. 1(a)(ii)**

- (d) all the above conditions are satisfied

**Answer to Question No. 1(a)(iii)**

- (c) Medical insurance premium

**Answer to Question No. 1(a)(iv)**

- (a) Loss under head House property

**Answer to Question No. 1(a)(v)**

- (a) 50%

**Answer to Question No. 1(b)**

- (i) The assessee shall not be eligible for relief under section 89 in case he claimed exemption under section **10(10C)** .

- (ii) Under section 2(22AAA), **Electoral Trust** means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government.
- (iii) Income of a minor child clubbed in the hands of parents, where it exceeds ₹1500 .
- (iv) Expenditure incurred in respect of preliminary expenses is allowed as deduction under section **35D** .
- (v) Exemption under section 54 is available in respect of **Residential house property**.

**Answer to Question No. 1(c)**

Capital gain arises in the previous year in which the transfer of the asset takes place even if the consideration for the transfer is received or released in later years. There are however, 3 exceptional cases where capital gain is taxable not in the year of transfer of the asset but in some other year. These exceptions are:

- (i) Damage or destruction of any capital asset by fire or other calamities
- (ii) Conversion of capital asset into stock-in-trade
- (iii) Compulsory acquisition of an asset.

**Answer to Question No. 1(d)**

The transfer price is the price which is arrived at when two associated or related enterprises deal with each other. Since, the enterprises involved are related entities, they can manipulate prices in a manner whereby the profits are transferred to the entity of the country, where the tax rates are lower. This would deprive the Government's revenue which would otherwise be payable by assessee.

With a view to provide a statutory framework which can lead to computation of reasonable, fair and equitable profits and tax in India, in case of such associated or related entities, a set of special provisions have been introduced in the Income Tax Act and Regulations.

Section 92 provides for computation of income from international transactions having regard to the principle of arm's length pricing. It is further provided that not only the income but the expenses or interest also to be determined at arm's length price. However, the provisions of arm's length price shall not apply if these result into reduction of income or increase of loss.

Arm's length price means a price which is applied or proposed to be applied in a transaction between persons other than associated enterprises in uncontrolled conditions.

As per Section 92C of the Income Tax Act, 1961 the arm's length price in relation to an international transaction shall be determined by any of the following methods :

- (a) Comparable uncontrolled price method;
- (b) Resale Price Method;
- (c) Profit split method;

- (d) Cost plus method;
- (e) Transactional Net Margin Method;
- (f) Such other method as may be prescribed by the Board

Out of the above the most appropriate method shall be adopted having regard to the nature of transaction or class of transactions or class of associated persons or functions performed.

There are provisions also under which arm's length price may be determined by the Assessing Officer in certain cases or he may refer the computation of the arm's length price to the Transfer Pricing Officer with the previous approval of the Commissioner. The Act also provides for maintenance, keeping of information and documents by persons entering into an international transaction.

### Question No. 2

- (a) *Compute the net wealth of Rajan, a resident individual, as on 31st March 2013 from the following particulars:*
- (i) *He has a house property at Delhi valued at ₹22,00,000 which is used for business purposes.*
  - (ii) *Vehicles for personal use – Motor car : ₹8,50,000; Motor Van : ₹4,50,000; and Jeep : ₹3,54,000*
  - (iii) *Cash in hand : ₹4,50,000*
  - (iv) *Jewellery : ₹15,60,000; and*
  - (v) *He had transferred an urban house plot in February 2013 in favour of his niece, which was not revocable during her life time. His niece died on 14th March, 2013 and Rajan could get the title of plot re-transferred to his name on 15th April, 2013. Market value of house plot as on 31st March, 2013 is ₹14,10,000. (7 marks)*
- (b) *Explain the provisions relating to taxation of Winning from Lotteries. (4 marks)*
- (c) *What are the provisions for inclusion of income of a minor child ? (4 marks)*
- (d) *Explain the Authority for Advance Rulings under the Income Tax Act, 1961? Who can seek Advance Ruling ? (5 marks)*

### Answer to Question No. 2(a)

#### Statement showing computation of Net Wealth of Rajan as on 31.3.2013

	₹
Motor Car	8,50,000
Motor Van	4,50,000
Jeep	3,54,000
Cash in hand (₹4,50,000 – 50,000)	4,00,000
Jewellery	15,60,000

Urban house plot	14,10,000
<b>Gross wealth</b>	<u>50,24,000</u>
Less : Deduction	<u>---</u>
<b>Net Wealth</b>	<u><u>50,24,000</u></u>

**Notes:**

- (i) Under Section 2(ea) of the Wealth-tax Act, the term 'assets' does not include, *inter alia* any house which the assessee may occupy for any business or profession carried on by him. Here the house property at Delhi is occupied by the assessee for business purpose.
- (ii) As per Section 4(5) of the Wealth-tax Act, the value of any asset transferred under an irrevocable transfer shall be liable to be included in computing the net wealth of the transferor as and when the power to revoke arises to the assessee. In this case on death of the niece of Mr. Rajan he is able to revoke the transfer which is on 14.3.2013. The actual time of transfer of property i.e. 15.4.2013 is immaterial.

**Answer to Question No. 2(b)**

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 are chargeable to tax as "income from other sources".

Although winning from lotteries is part of total income of the assessee, such income is taxable at a special rate @30%.

Deduction of any expenses, allowances or loss are not allowed from such winnings.

**Answer to Question No. 2(c)**

All income which arises or accrues to the minor child (not being a minor child suffering from any disability of the nature specified in Section 80U) shall be clubbed in the income of his parent. However, any income which is derived by the minor from manual work or from any activity involving application of his skill, talent or specialised knowledge and experience will not be included in the income of his parent. Further, the income of the minor shall be included in the income of that parent whose total income excluding income includible under this sub-section is greater, where the marriage of minor's parents subsists, otherwise the income of the minor will be includible in the income of that parent who maintains the minor child in the relevant previous year.

Once the income of the minor is included in the total income of any one parent, clubbing of income of the minor with the same parent will continue in subsequent years also, unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard that it is necessary so to do.

In case the income of an individual includes any income of his minor child in terms of this section [i.e. Section 64(1A)], such individual shall be entitled to exemption of the amount of such income or ₹1,500 whichever is less.

**Answer to Question No. 2(d)****Authority for advance rulings – Section 245O**

The Central Government shall constitute an authority for giving advance rulings, to be known as Authority for Advance Rulings. The Authority will consist of the following members appointed by the Central Government :

- (i) a chairman who will be a retired judge of the Supreme Court,
- (ii) an officer of the Indian Revenue Service who is qualified to be member of CBDT, and
- (iii) an officer of the Indian Legal Service who is qualified to be an Additional Secretary to the Government of India.

**Applicant for Advance Ruling**

As per Section 245N(b) of the Income Tax Act, the advance ruling under the income-tax act could be sought by :

- (a) A non-resident;
- (b) Resident having transactions with non-residents.
- (c) Specified categories of residents.

**Question No. 3**

- (a) State with reasons whether the following expenses are admissible as deduction while computing "Income from other Sources".
  - (i) Interest of ₹10,000 paid on money borrowed for purchasing of shares.
  - (ii) Expenditure of ₹20,000 incurred for purchase of lottery tickets.
  - (iii) An expenditure of ₹40,000 incurred for the activity of owning and maintaining race horses. (2 marks each)
- (b) Mr. Sahu, a Government employee and citizen of India, was sent to London on Official duty, on 01-06-2012. He stayed there upto 31-01-2013. The salary and allowance drawn by him during this period are given below:

	₹
4 months salary in India	2,00,000
8 months salary in London	3,60,000
Overseas allowance	2,40,000
Free residence in London (Rent ₹40,000 per month for 8 months)	3,20,000

He has a house property situated in Delhi which is self-occupied. During his stay in London his wife and children were staying in this property throughout the previous year. The fair rental value of the house is ₹56,000. He has Paid ₹6,000 as municipal taxes and ₹2,000 as ground rent during the year.

He received dividend from an Indian company amounting to ₹2,200.

*He has donated a sum of ₹60,000 to an institution to which section 80G is applicable.*

*Compute his Total Income for the assessment year 2013-14. (7 marks)*

*(c) What is Alternate Minimum Tax ? (2 marks)*

**Answer to Question No. 3(a)**

- (i) Interest on money borrowed of ₹10,000 for investment in securities can be claimed as a deduction. The interest can be claimed even if no income is earned by way of dividend on shares. However, dividend refer to in section 115(O) are exempt in the hands of shareholders, no deduction of any expense shall be allowed u/s 57.
- (ii) Expenditure of ₹20,000 incurred for purchase of lottery tickets: U/s 58(4), no deduction of any expenses, allowances or loss is allowed from winnings from lotteries.
- (iii) An expenditure of ₹40,000 incurred for the activity of owning and maintaining race horses is allowed as deduction.

**Answer to Question No. 3(b)**

**Computation of total income of Mr. Sahoo for the Assessment year 2013-14**

	₹	₹
<i>Income from salaries:</i>		
Salary in india		2,00,000
Salary in London		3,60,000
Overseas allowance		Exempt*
Value of free residence in London		<u>Exempt</u>
		5,60,000
<i>Less : Deductions</i>		<u>Nil</u>
Taxable Salary		5,60,000
<i>Income from House Property:</i>		
Self occupied House		Nil
<i>Income from other sources:</i>		
Dividend		<u>Exempt</u>
<b>Gross Total Income</b>		<b>5,60,000</b>
<i>Less : Deductions</i>		
U/s 80G		
50% of ₹ 56,000 in respect of Donation	<u>28,000</u>	<u>28,000</u>
<b>Total income</b>		<b><u><u>5,32,000</u></u></b>

\* Allowance and perquisites paid or allowed outside india by the government to a citizen of india for rendering services outside india are exempt u/s 10(7). However salary paid outside india shall be taxable.

**Answer to Question No. 3(c)**

Where the regular income tax payable for a previous year by a limited liability partnership is less than the alternate minimum tax payable for such previous year then the adjusted total income shall be deemed to be the total income of the LLP for such previous year and it shall be liable to pay income tax on such adjusted total income @ 18.5% plus education & SHEC @ 3%.

Adjusted total income shall be the total income as increased by deductions claimed, if any, under section 80H to 80RRB and deduction claimed, if any, under section 10AA.

Upto Assessment Year 2012-13, Alternate Minimum Tax (AMT) is levied on limited liability partnerships (LLPs). However, no such tax is levied on the other form of business organisations such as partnership firms, sole proprietorship, association of persons etc.

In order to widen the tax base vis-a-vis profit linked deductions, the provisions regarding AMT has been broadened to cover all person other than a company, who has claimed deduction under any section (other than section 80P) included in Chapter VI-A under the heading "C - Deductions in respect of certain incomes" or under section 10A, shall be liable to pay AMT.

**Question No. 4**

- (a) *Discuss the provisions regarding deductions allowable to an assessee in respect of the following:*
- (i) *Expenditure on treatment of a dependent being a person with disability.*
  - (ii) *Payment of interest on loan for higher education. (5 marks each)*
- (b) *Briefly explain and illustrate how the tax liability of an assessee is determined with reference to residence. (5 marks)*

**Answer to Question No. 4(a)(i)**

Where an assessee, **being an individual or a Hindu undivided family**, who is a resident in India, has, during the previous year,—

- (a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependent, being a person with disability; or
- (b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company subject to the conditions specified in Sub-section (2) and approved by the Board in this behalf for the maintenance of a dependent, being a person with disability, the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of rupees fifty thousand from his gross total income in respect of the previous year.

Provided that where such dependent is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "seventy-five thousand rupees", the words "one hundred thousand rupees" had been substituted.

**Answer to Question No. 4(a)(ii)**

The deduction of an amount actually paid by an individual during the previous year out of his income chargeable to tax by way of an interest on loan, taken by him from any financial institution or any approved charitable institution for the purpose of pursuing his higher education. The deduction will be available in computing the total income in respect of initial assessment years and the seven assessment years immediately succeeding the initial assessment year or until the interest thereon is paid by such individual in full, whichever is earlier.

The expression “**higher education**” is being defined to mean any course of study pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorised by the Central Government or State Government or local authority to do so.

**Answer to Question No. 4(b)**

Tax incidence *vis-a-vis* residence is indicated by the following chart:

## 1. Where tax incidence arises in case of:

	<i>Resident or Resident &amp; Ordinarily Resident</i>	<i>Resident but not ordinarily resident</i>	<i>Non-resident</i>
Income received in India (Whether accrued in or outside India)	Yes	Yes	Yes
Income deemed to be received in India (Whether accrued in or outside India)	Yes	Yes	Yes
Income accruing or arising in India (Whether received in India or outside India)	Yes	Yes	Yes
Income deemed to accrue or arise in India (Whether received in India or outside India)	Yes	Yes	Yes
Income received and accrued outside India from a business controlled or a profession set up in India	Yes	Yes	Yes
Income received and accrued outside India from a business controlled from outside India or a profession set up outside India	Yes	No	No
Income earned and received outside India but later on remitted to India (whether tax incidence arises at the time of remittance)	No	No	No

As the above table depicts, the first four incomes are chargeable to tax in India in respect of all assesses, irrespective of their residential status.

### PART B

#### Question No. 5

(a) State whether the following statements are True or False:

- (i) At present, service tax is levied under the Union Government's power to tax vide Entry 97 of List I of Schedule VII to the Constitution of India.
- (ii) A provider of service tax whose aggregate value of taxable service in a financial year exceeds ₹8 lakhs shall make an application for registration.
- (iii) Every assessee shall submit a return in Form ST-3.
- (iv) Taxable service of aggregate value of ₹10 lakh is exempt from the service tax leviable under section 66B.
- (v) The provisions of service tax extend to whole of India. (1 mark each)

(b) How excess payment of service tax can be adjusted? And what are conditions to be satisfied for adjustment of excess service tax. (5 marks)

(c) How point of taxation is determined under Point of Taxation Rules, 2011. (5 marks)

#### Answer to Question No. 5(a)

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

#### Answer to Question No. 5(b)

Where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month or quarter.

The adjustment of excess amount paid, shall be subject to the condition that excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification.

#### Answer to Question No. 5(c)

Point of taxation means the point in time when a service shall be deemed to have been provided. This Point of time will determine rate of service tax and due date of payment of service tax.

As per Rule 3 point of taxation shall be (a) the time when the invoice for service provided or to be provided is issued.(b) in case where payment is received before the

issue of invoice then the time when such payment is received and (c) where advance is received by the service provider the time of receipt of such advance.

Rule 4A of the Service Tax Rules, 1994, provides that every person providing taxable service shall issue invoice within 30 days of completion of service or receipt of payment towards value of such service whichever is earlier. Further proviso to Rule 3 of POT Rules, provides that where the invoice is not issue within 30 days of completion of service than the point of taxation shall the date of completion of such service.

### Question No. 6

(a) Write Short Notes on:

(i) Registration procedure

(ii) Rates of taxes under VAT. (5 marks each)

(b) "Tax credit or invoice method has been adopted universally because of the inherent advantages in the credit method of calculating tax liability" Explain. (5 marks)

(c) State, with reasons in brief, whether the following statements are correct or incorrect.

(i) VAT helps in checking tax evasion and in achieving neutrality.

(ii) Exempt Sale means that the tax payable on sale of a commodity is fixed at 0%.

(iii) As a result of introduction of VAT, the central sales tax has been phased out.

(iv) Under Tax credit method rate of tax applied to the difference between value of output and cost of input.

(v) Input tax credit is available in respect of goods purchased for manufacture of exempt goods. (1 mark each)

### Answer to Question No. 6(a)(i)

#### Registration under VAT

All dealers are required to get registration under the Vat law. Only then, he as a registered dealer can carry on his business of purchasing and selling goods on payment of VAT.

*Requirement for registration* : All dealers with gross turnover exceeding Rs.5 lakhs will get the registration. All existing dealers will automatically get registered under the Vat Act. New dealers will be allowed 30 days time from the date of tax liability to get registered. An application is to be made to the Commissioner for this purpose.

*Compulsory registration* : In case an assessee fails to get registration, he will be compulsorily registered by the Commissioner, after assessing his tax liability on the basis of evidence available with him. Failure to get registered will attract penalty for default and forfeiture of eligibility to avail input tax credit and set off of tax.

*Voluntary registration* : A dealer who does not require registration can voluntarily obtain it after satisfaction of the Commissioner regarding the requirement.

*Cancellation of registration* : A registration can be cancelled on:

- (i) discontinuance of business; or
- (ii) disposal of business; or
- (iii) transfer of business to a new location.

**Answer to Question No. 6(a)(ii)**

**Rates of taxes under VAT**

To reduce the multiplicity of sales tax rates between various states in India it was recommended that VAT will have broadly four tax rates:

- (a) Zero percent rate on tax free goods for unprocessed agricultural goods and goods of special importance.
- (b) 1% on precious and semi precious metals i.e. bullion etc.
- (c) 4% for inputs used for manufacturing and on declared goods, capital goods and other essential items.
- (d) 20% on luxury goods and
- (e) 12.5% on other goods.

**Answer to Question No. 6(b)**

Under tax credit method of VAT, amount of VAT payable is arrived at by subtracting total tax paid to the suppliers on inputs/purchases from the amount of total tax charged on the outputs/sales. The other methods — addition method and subtraction method are not practicable in the case of a manufacturer when the rate of tax is different on inputs and output.

The following are the advantages of using tax credit method :

- (a) Since under this method dealers are required to state the amount of tax in invoices, it makes cross-checking of tax paid at earlier stages more practicable.
- (b) Dealers at intermediate stages do not have any interest in tax rate because burden of tax is dependent on the tax rate at the final stage;
- (c) Under this method, through zero rating of exports, exports can easily be relieved of domestic indirect taxes.

**Answer to Question No. 6(c)**

- (i) **Correct**, VAT helps in checking tax evasion and in achieving neutrality.
- (ii) **Incorrect**, Zero rated Sale means that the tax payable on sale of a commodity is fixed at 0%
- (iii) **Incorrect**, CST is not yet phased out it is leviable @2%.

- (iv) **Incorrect**, under subtraction method rate of tax applied to the difference between value of output and cost of input.
  - (v) **Incorrect**, Input tax credit is not available in respect of goods purchased for manufacture of exempt goods.
-