TAXATION

Amendments made by Finance Act, 2010 (For A.Y. 2011-12) Relevant for May 2011 & Nov. 2011 Exams.

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Basic Concepts

☞ *Rates of Income Tax for Assessment Year 2011-12 [In the Case of Individual/HUF]*

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1. For woman, resident in India and below the age of 65 at any time during the previous year.

Upto ` 1,90,000	Nil
Next ` 3,10,000	10%
Next ` 3,00,000	20%
Balance Income	30%

2. For an individual (man or woman), resident in India who is of the age of 65 years or more at any time during the previous year

Upto ` 2,40,000	Nil
Next ` 2,60,000	10%
Next ` 3,00,000	20%
Balance Income	30%

3. Other Individual / HUF :-

Upto ` 1,60,000	Nil
Next ` 3,40,000	10%
Next ` 3,00,000	20%
Balance Income	30%

~~**Surcharge :** If total income exceeding ` 10,00,000, @ 10% of such Income Tax.~~

No surcharge is payable as it has been abolished for above persons.[w.e.f. A.Y. 2010-11]

Education cess : Education cess of 2% shall be levied on the Income tax.

Secondary and Higher Education cess :- 1% shall be levied on the Income tax.

Marginal Relief only in case of a company assessee (for surcharge) :

Marginal Relief : Marginal Relief shall be available and the total amount payable as income-tax and surcharge on total income exceeding ` 1 crore shall not exceed the total amount payable as income-tax on a total income of ` 1 crore by more than the amount of income that exceeds ` 1 crore.

☞ ***Rates of Income Tax for A.Y. 2011-12 [In case of firms, Local authority, Co-operative Society, Companies].***

	Amount of Tax	**Surcharge**
Firms/LLP	@ 30%	Nil
Local Authority	@ 30%	Nil
Co-operative Societies	Upto ` 10,000 @ 10% Next ` 10,000 @ 20% Balance Income @ 30%	Nil
Companies	Domestic Company @ 30%	@ ***7.5%*** on tax payable shall be levied where total income of the co. exceeds one crore rupees.
	Foreign Company 50% of specified royalties & fees for technical services and 40% on the balance of the total income.	@ ***2.5%*** on tax payable shall be levied where total income of the foreign company exceeds

For all assessee - Education Cess @ 2%, and 'Secondary and Higher Education Cess' @ 1% on income tax (inclusive of surcharge if applicable) shall be chargeable.

☞ **Income Section 2(24) :-** **Page 3**

(*17*) ***Value of shares received by a firm or a company for inadequate consideration or without consideration [w.e.f. 1-6-2010].***

Residential Status

☞ **Income deemed to accrue in India to a non-resident Section 9 :-**

Interest, Royalty and fees for technical services shall be included in his total income, whether or not,

(a) the non-resident has a residence or place of business connection in India; or

(b) the non-resident has rendered services in India.

Income from Salaries

☞ Gratuity Section 10(10) :-

(a) Government Employee :-

Any death cum-retirement gratuity received by Government employees is wholly exempt from tax.

(b) Employees covered by the payment of Gratuity Act, 1972 :-

Exemption is least of the following :-

(i) ` 3,50,000 ***( `10,00,000 on or after 24th May, 2010)***; or

(ii) 15 days salary (out of 26 days) based on last drawn salary for each completed year of service or part of the year in excess of 6 months; or

(iii) Gratuity actually received.

***** Salary for this purpose means basis salary and dearness allowance.

(c) Any other employee which is not covered by Gratuity Act, 1972 :-

Exemption is least of the following :-

(i) ` 3,50,000 ***( `10,00,000 on or after 24th May, 2010)***; or

(ii) 15 days salary (out of 30 days) for every completed year of service (ignoring fraction)

(iii) Actual received

☞ **Rate of interest on recognised provident fund :** The rate of interest on RPF has been revised w.e.f. 1-9-2010 from 9.5% to **8.5%**. Thus, after this amendment, the interest credited in excess of **8.5% p.a.** shall be liable to income tax.

Profit and Gains of Business of Profession

☞ Proportionate Depreciation :-

Where in any previous year, there is :

(i) Succession of a proprietary concern / partnership firm by a company u/s 47;

(ii) Succession of any business e.g. transfer by HUF to member;

(iii) Amalgamation / Demerger.

(iv) ***conversion of private company/unlisted public company into limited liability partnership by satisfying conditions of section 47 (xiiib) [w.e.f. A.Y. 2011-12]***; and

(v) amalgamation or demerger of co-operative banks.

The deduction shall be apportioned between successor and predecessor in the ratio of the number of days for which asset were used by them.

The total deduction of depreciation to successor and predecessor shall not exceed the amount of depreciation as if such succession / amalgamation / Demerger did not take place.

☞ Actual Cost Section 43(1) :-

(xv) capital asset for the successor LLP, in case the predecessor company has claimed deduction under section 35AD	Nil

☞ Expenditure on Scientific Research **Section 35** :-

(B) In case of companies in specified business (in house) - Section 35(2AB)

- ***200%*** of any expenditure (other than expenditure on cost of land or building);
- companies engaged in the business of bio-technology; or any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule can claim weighted deduction under this section.

In case of contribution to outsiders -

Contribution to	Weighted deduction ***(w.e.f. A.Y. 2011-12)***
an approved research association which has, as its object, undertaking of scientific research related or unrelated to the bnusiness of assessee [sec. 35(1)(ii)]	175%
an approved university, college or other institution for the use of scientific research related or unrelated to the business of assessee [sec.35(1)(ii)]	175%
an approved university, college or an approved association which has as its object the undertaking of research in social sciences or statistical science related or unrelated to the business of assessee [sec.35(1)(iii)]	125%
a company to be used by such company for scientific research [sec.35(1)(iia)]	125%

☞ Investment-linked tax incentive for specified business **Section 35AD** :-

Specified business	Date of Commencement of business
Setting up and operating a cold chain facility, warehousing facility for storage of agricultural produce.	On or after 1-4-2009.
Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network	• On or after 1-4-2007, in the case of laying and operating & a cross-country natural gas pipeline network for distribution or storage. • In other cases, on or after 1-4-2009.
Business of building and operating anywhere in India a new hotel of 2 star or above category, ***a new hospital with at least 100 beds for patients, developing and building a housing project under a scheme for slum redevelopment or rehabilitation.***	***On or after 1-4-2010.***

Key Note :-

Where the assessee is carrying on business relates to laying and operating a cross country natural gas or Petroleum Oil pipeline network for distribution then such business :

"should make not less than one-third (for a natural gas pipeline network) or one-fourth (for petroleum product pipeline network) of its total pipeline capacity available for use on common carrier basis by any person other than the assessee or an associated person".

☞ Expenditure incurred under voluntary retirement scheme Section 35DDA :-

- Any assessee incurs expenditure for payment of sum under voluntary retirement scheme.
- Deduction shall be allowed of such expenditure in five equal annual installments starting from the P/Y in which amount paid.
- ***In the case of conversion of a private company/ unlisted public company into limited liability partnership (LLP) by satisfying the requirement of section 47(xiiib), this deduction will be avaliable to the successor LLP from the year in which conversion takes place [w.e.f. A.Y.2011-12].***

☞ Expenses not Deductible Section 40(a) :-

Nature of expenditure

(1) Salary, interest, royalty, fees for technical services payable outside India or in india to non-resident on which tax has not been paid or deducted at sources.

▶ Will be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

(2) Interest, Commission or brokerage, rent, fees for technical services, Fees for professioanl services, Royalty, Payment to contractors / sub-contractors payable to resident on which tax has not been paid or deducted at source.

Cases	Expenditure - Is it deductible in the current previous year	Is such expenditure deductible in any subsequent previous year
Case 1 - Tax is deductible but not deducted	No deduction in the current previous year	If tax is deducted in any subsequent year, the expenditure will be deducted in the year in which TDS will be deposited by the assessee with the Government.
Case 2 - Tax is deductible (and is so deducted) during the current Financial Year but it is not deposited on or before the due date of submission of return of income under section 139(1).	No deduction in the current previous year	If tax is deposited with the Government after the due date of submission of return of income the expenditure will be deductible in that year in which tax will be deposited.

(3) Rates of taxes levied on profits or gains of any business or profession

▶ Not deductible

(4) Wealth Tax

▶ Not deductible

☞ Compulsory Audit of Accounts Section 44AB :-

(1) Applicability in the case of :-

(a) Assessee carrying on any business where total sales or gross receipts exceeds ` *60,00,000*; or

(b) Assessee carrying on profession where gross receipts exceeds ` *15,00,000*; or

(c) Assessee carrying on business referred to u/s 44AD/AE/BB/BBB and declaring lower income than prescribed.

(2) Filing of report :-

The assessee has to furnish audit report of Chartered Accountant by 30th September of the relevant assessment year along with return.

(3) Other Point :-

If accounts are required to be audited under any other law, then it will be sufficient compliance if the assessee get the accounts audited under such law and furnish an audit report by the due date under such other law and a further report under this section.

(4) Consequence of non-compliance :-

If the audit report is not submitted alongwith return then AO may treat the return as defective return.

☞ Presumptive income in case of Specific Business or Profession Section 44AD/AE/AF :-

Particulars	*Section 44AD*	*Section 44AE*	*Section 44AF*
Eligible business	***Any business*** except the business of section 44AE (Gross receipt does not exceeds ` ***60 lakh***)	Persons carrying on business of plying, hiring and leasing goods carriages and not owning more than 10 goods carriages at any time during the P/Y.	***[Presumptive income scheme for retail business merged with section 44AD, Section 44AF has been deleted. (w.e.f. A.Y. 2011-12)].***
Eligible assessee	Individual, HUF, Firm (not being a LLP)	Any Assessee	
Minimum amount of presumptive income	8% or more of gross turnover or gross receipts	In case of **Heavy** goods vehicle - ` ***5,000*** per month or part of a month. **Others** - ` ***4,500*** per month or part of a month ***[w.e.f. A.Y. 2011-12]*** Income shall be considered from the date of ownership.	

Capital Gains

☞ Transactions which are not considered as transfer **Section 47** :-

(17) Transfer of captial asset or intangible asset by a private limited company or a non listed company to Limited Liability Partnership shall not be regarded as a transfer. Correspondingly, any transfer of a share or shares held in a company by a shareholder shall also not be treated as a transfer on conversion of the above company to a Limited liability Partnership [Section 47(xiiib)] ***[w.e.f. A.Y. 2011-12]***.

These conditions are as follows:

(a) the total sales, turnover o gross receipts in business of the company should not exceed ` 60 lakh in any of the three preceding previous years;

(b) the shareholders of the company become partners of the LLP in the same proportion as their shareholding in the company;

(c) no consideration other than share in profit and capital contribution in the LLP arises to the shareholders.

(d) the erstwhile shareholders of the company continue to be entitled to receive at least 50% of the profits of the LLP for a period of 5 years from the date of conversion;

(e) all assets and liabilities of the company become the assets and liabilities of the LLP; and

(f) no amount is paid, either directly or indirectly, to any partner out of the accumulated profit of the company for a period of 3 years from the date of conversion.

☞ Cost Inflation Index (CII) as notified by Central Government is as under :-

Financial Year **2010-11**	**711**

Income from Other Sources

☞ Specific Income **Section 56(2)** :-

(10) ***Where an individual or a Hindu undividend family receives, in any previous year, from any person or persons on or after the 1.10.2009.***

(a) any sum of money, **without consideration**, the aggregate value of which exceeds ` 50,000 then Taxable income = The whole of the aggregate value of such sum.

(b) Any immovable property

(i) **Without consideration**, the stamp duty value of which exceeds ` 50,000 then taxable income = the stamp duty value of such property.

(ii) ~~**For a consideration** which is **less than the stamp duty value** of the property by an amount exceeding ` 50,000 then taxable income = the stamp duty value of such property - such consideration.~~ **[Not Applicable]**

(c) Any property other than immovable property -

(i) Without consideration the aggregate fair market value of which exceeds ` 50,000 then taxable income = the whole of the aggregate fair market value of such property.

(ii) For a consideration which is less than the aggregate fair market value of the property by an amount exceeding ` 50,000 then taxable income = the aggregate fair market value of such property - such consideration.

Key Note :-

(1) Property means :-

(i) immovable property being land or building or both;

(ii) shares and securities

(iii) Jewellery;

(iv) Archaeological collections;

(v) drawings;

(vi) Paintings;

(vii) sculpture; or

(viii) any work of art;

(ix) bullion [w.e.f. 1-6-2010]

(11) Value of shares received by a firm or a company for inadequate consideration or without consideration Section 56(2)(viia) [w.e.f. 1-6-2010]:

Where a firm or a company not being a company in which the public are substaintially interested, receives, in any previous year, from any person or persons, on or after the 1-6-2010, any property, being shares of a company not being a company in which the public are substaintly interested,–

(a) without consideration, the aggregate fair market value of which exceeds ` 50,000, the whole of the aggregate fair market value of such property;

(b) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding ` 50,000, the aggregate fair market value of such property as exceeds such consideration.

Exception :-

However, the transactions undertaken for business reorganization, amalgamation and demerger which are not regarded as transfer shall the excluded from the application of section 56(2)(viia)

Set off and Carry Forward of Losses

☞ **Carry forward of loss/depreciation in the case of conversion of a company into LLP Section 72A(6A) :- [w.e.f. A.Y. 2011-12]**

In the case of succession of business, whereby a company (i.e., a private limited company or unlisted public limited company) is succeeded by a limited liability partnership fulfilling the conditions laid down in section 47(xiiib),

the accumulated loss and the unabsorbed depreciation (including unadjusted capital expenditure on scientific research) of the predecessor company, shall be deemed to be the loss or as the case may be, allowance for depreciation of the successor limited liability partnership for the previous year in which business reorganisation was effected and the other provisions of the Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

In other words, accumulated loss shall be allowed for fresh 8 years and unabsorbed depreciation will be allowed to be carried forward indefinitely.

When conditions of section 47(xiiib) are not complied :- The benefit of set-off of business loss/ unabsorbed depreciation availed by the LLP would be deemed to be the profits and gains of the LLP chargeable to tax in the previous year in which the LLP fails to fulfill any of the conditions.

Deduction

☞ **Deduction in respect of subscription to long-term infrastructure bonds Section 80CCF :- [w.e.f. A.Y. 2011-12]**

Applicability :- An individual or HUF

Nature of Payment :- Amount paid or deposited during the previous year 2010-11 as subscription to notified long-term insfrastructure bonds.

Quantum of Deduction :- Maximum ` 20,000.

Key Note :-

This deduction will be over and above the existing overall limit of tax deduction on savings of upto ` 1,00,000 under section 80C, 80CCC and 80CCD of the Act.

☞ **Deduction of Medical Insurance Premium Section 80D :-**

Applicability :- Individual or HUF.

Nature of payment :- Mediclaim insurance policy and any contribution made to the ***Central Govt. Health Scheme (CGHS)*** taken :-

(1) In case of individual, in the name of individual, his spouse, parents (whether dependent or not) and dependent children.

(2) In case of HUF, in the name of any member.

Quantum of deduction :-

	Individual		HUF
	Taxpayer, spouse and dependent children `	Parents of the taxpayer whether dependent or not `	Any member of family `
Maximum amount deductible	15,000	15,000	15,000
Additional amount which is deductible when policy is taken on the health of a senior citizen (i.e., resident in India and 65 years or more)	5,000	5,000	5,000

Conditions :-

(i) Premium can be paid by any mode other than cash.

(ii) Payment shall be made out of income chargeable to tax.

(iii) Payment as per GIC scheme or any other insurance as approved by Central Govt.

☞ Deductionin respect of donation for scientific research or rural development Section 80GGA :-

Applicability :- All assessee (provided no P.G.B.P. Income)

Quantum of Deduction :- 100% of sum paid to such institutions.

The following sums paid shall be deducted :-

(i) Sums paid in the previous year to a ***research association*** or to a University, Collecge or other institution to be used for scientific research, provided that such association, university, college or institution, etc. is approved for the purpose.

(ii) Sums paid in the previous year to an approved university, college or ***an approved research association which has as its object the undertaking of research in social sciences or statistical research***.

(iii) Sums paid by the assessee in the previous year to a rural development fund set-up and notified by the Central Government for the purpose of section 35CCA.

(iv) Sums paid to the National Urban Poverty Eradication Fund set-up and notified by the Central Government.

(v) Sums paid to a public sector company, local authority or an approved association or institution for carrying out any eligible project or scheme for promoting social and economic welfare or uplift or the public, as may be specified by the Central Government on the recommendations of the National Committee. The National Committee consists of person of eminence in public life.

☞ **Deduction in respect of Profits and gains from certain industrial undertakings other than Infrastructure development undertakings Section 80-IB :-**

(1) Nature of undertakings :- Operation of ship, Hotels, Industrial research, Production of mineral oil, ***Developing and building housing projects (approved by the local authority on or after 1-4-2005),*** Multiplex theatres, Convention centre, Operating and maintaining a hospital in rural area, hospital located in certain areas, undertaking engage in the business of processing, preservation and packaging of fruits or vegetables or integrated business of handling, storage and transportation of food grains also extended to certain other products

☞ **Deduction in the case of hotels and convention centre in NCR and hotels located in specified districts having a world heritage site Section 80-ID :-**

(1) Nature of undertaking :- The taxpayer is engaged in the business of hotel or convention centre located in the specified area ***(such hotel should start functioning or conventions centre should be constructed at any time during the period from 1.4.2007 to 31-7-2010).***

Income of Charitable Trust

☞ **Charitable Purpose Section 2(15) :-**

It is defined to include

relief of the poor,

education,

medical relief,

Preservation of environment (including watersheds, forests and wildlife),

preservation of monuments or places or objects of artistic or historic interest and

the advancement of any other object of general public utility.

However, the advancement of any other object of general public utility shall not be a charitable purpose if it involves the carrying on of -

(a) If it involves the carrying on of :

(i) any activity in the nature of trade, commerce or business, or

(ii) any activity of rendering of any service in relation to any trade, commerce or business, for a fee or cess or any other consideration, irrespective of the nature of use of application of the income from such activity, or the retention of such income, by the concerned entity ***and***

(b) ***If the total receipts from any such activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business exceeds ` 10 lakh in the previous year.***

☞ **Commissioner of Income-tax empowered to cancel registration Section 12AA(3) :-**

The Commissioner is empowered to cancel the registration of trust granted under both section 12A and Section 12AA, if the activities of the trust are not genuine or are not being carried out in accordance with the objects of the trust or institution. [w.e.f. 1-6-2010]

Return of Income

☞ **Return of income of certain associations & institutions Section 139(4C) :-**

The following associations or institutions are required to furnish a return of income if before giving effect to the exemption allowed u/s 10, their respective income exceeds the maximum amount which is not chargeable to tax :-

(i) Scientific research association or research association. [w.e.f. A.Y.2011-12]
(ii) News Agency
(iii) Professional instituion (whome object is promotion of law, medicine, accountancy, engineering etc.)
(iv) University, Hospital.
(v) Institution existing for the development of khadi or village industries or both.
(vi) Trade union or association of trade income.

Tax Deducted at Source

☞ **Submission of quarterly TDS/TCS return**

In respect of tax deducted/collected on or after April 1, 2010, quarterly TDS/TCS statements shall be submitted in the following forms –

Form No.		**Due Date**
Form No. 24Q	For tax deduction from salary under section 192.	within 15 days from the end of each quarter. However, fourth quarter return should be submitted on or before May 15 of the immediately preceding financial year.
Form No. 27Q	For tax deduction when deductees are non-resident (not being a company), foreign company and persons who are resident but not ordinarily resident.	
Form No. 26Q	For tax deduction in any other case.	
Form No. 27EQ	For tax collection at source.	

☞ Exemption limit (upto which tax is not deductible :-

Section		Applicable upto 30-6-2010	Applicable from ***1-7-2010***
194B	Winnings from lottery/crossword puzzles	` 5,000	` 10,000
194BB	Winnings from horse race	` 2,500	` 5,000
194C	Payment to contractor (single contract)	` 20,000	` 30,000
194C	Payment to contractor (aggregate consideration for a financial year)	` 50,000	` 75,000
194D	Insurance commission	` 5,000	` 20,000
194H	Commission / brokerage	` 2,500	` 5,000
194-I	Rent	` 1,20,000	` 1,80,000
194J	Professional fees / Technical fees / Royalty (each separately)	` 20,000	` 30,000

☞ Consequences of failure to deduct tax at source or pay **Section 201** :-

Rate of interest	Period of which interest is payable
1 % (per month or part of a month)	1 % (per month or part of a month) From the date of which tax was deductible to the date on which tax is actually deducted.
1.5 % (per month or part of a month)	From the date on which tax was actually deducted to the date on which tax is actually paid

☞ Tax collection at source (TCS) **Section 206C** :-

Every person, being a seller, shall collect from the buyer of goods specified in section 206C(1) tax at source. Tax will also be collected by a person who grants lease or a licence in respect of parking lot or toll plaza or mine or quarry, to another person (not being a public sector company).

P.1. Raj Ltd. furnishes the following particulars for the P.Y.2010-11. Compute the deduction allowable under section 35 for A.Y. 2011-12, while computing its income under the head "Profits and gains of business or profession".

	Particulars	`
1.	**Amount paid to Indian Institute of Science, Bangalore, for scientific research**	**1,00,000**
2.	**Amount paid to IIT, Delhi for an approved scientific research programme**	**2,50,000**
3.	**Amount paid to X Ltd., a company registered in India which has as its main object scientific research and development, as is approved by the prescribed authority**	**4,00,000**
4.	**Expenditure incurred on in-house research and development facility as approved by the prescribed authority**	
(a)	**Revenue expenditure on scientific research**	**3,50,000**
(b)	**Capital expenditure (including cost of acquisition of land `5,00,000) on scientific research**	**7,50,000**

P.1. Solution :- Computation of deduction under section 35 for the A.Y. 2011-12.

Particulars	`	**Section**	**% of weighted deduction**	**Amount of deduction (`)**
Indian Institute of Science	1,00,000	35(1)(ii)	175%	1,75,000
IIT, Delhi	2,50,000	35(2AA)	175%	4,37,500
X. Ltd.	4,00,000	35(1)(iia)	125%	5,00,000
Expenditure incurred on in-house research and development facility				
Revenue expenditure	3,50,000	35(2AB)	200%	7,00,000
Capital expenditure (excluding cost of acquisition of land `5,00,000)	2,50,000	35(2AB)	200%	5,00,000
Deduction allowable under section 35				**23,12,500**

P. 2. Anil Ltd. commenced operations of the business of a new three-star hotel in Delhi, on 1.4.2010. The company incurred capital expenditure of ` 80 lakh during the period January, 2010 to March, 2010 exclusively for the above business, and capitalized the same in its books of account as on 1st April, 2010. Further, during the P.Y.2010-11, it incurred capital expenditure of ` 3 crore (out of which ` 2.50 crore was for acquisition of land) exclusively for the above business. Compute the deduction under section 35AD for the A.Y. 2011-12, assuming that Anil Ltd. has fulfilled all the conditions specified in section 35AD and has not claimed any deduction under Chapter VI-A in respect of certain incomes".

P.2. Solution :-

The amount of deduction allowable under section 35AD for A.Y. 2011-12 would be–

Particulars	**`**
Capital expenditure incurred during the P.Y.2010-11 (excluding the expenditure incurred on acquisition of land) = ` 300 lakh – ` 250 lakh	50 lakh
Capital expenditure incurred prior to 1.4.2010 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2010	80 lakh
Total deduction under section 35AD for A.Y.2011-12	**130 lakh**

P.3. A Pvt. Ltd. has converted into a LLP on 1.4.2010. The following are the particulars of A Pvt. Ltd. as on 31.3.2010 –

(1) Unabsorbed depreciation ` 15 lakh

Business loss ` 45 lakh

(2) WDV of assets

Plant & Machinery (15%)	` 60 lakh
Building (10%)	` 90 lakh
Furniture (10%)	` 10 lakh

(3) Cost of land (acquired in the year 2000) ` 50 lakh

(4) VRS expenditure incurred by the company during the previous year 2008-09 is ` 80 lakh. The company has been allowed deduction of ` 16 lakh each for the P.Y.2008-09 and P.Y.2009-10 under section 35DDA.

(i) Assuming that the conversion fulfills all the conditions specified in section 47(xiiib), explain the tax treatment of the above in the hands of the LLP.

(ii) If the conversion on 1-7-2010, explain the tax treatment of the above in the hands of the LLP.

P.3 Solution :-

(i) As per section 72A(6A), the LLP would be able to carry forward and set-off the unabsorbed depreciation and business loss of A Pvt. Ltd. as on 31.3.2010. However, if in any subsequent year, say previous year 2011-12, the LLP fails to fulfill any of the conditions mentioned in section 47(xiiib), the set-off of loss or depreciation so made in the previous year 2010-11 would be deemed to be the income chargeable to tax of P.Y.2011-12.

The aggregate depreciation for the P.Y.2010-11 would be –

Plant & Machinery	` 9 lakh (15% of ` 60 lakh)
Building	` 9 lakh (10% of ` 90 lakh)
Furniture	` 1 lakh (10% of ` 10 lakh)

In this case, since the conversion took place on 1.4.2010, the entire depreciation is allowable in the hands of the LLP.

(ii) If the conversion taken place on 1.7.2010, the depreciation shall be apportioned between the company and the LLP in proportion to the number of days the assets were used by them. In such a case, the depreciation allowable in the hands of A Pvt. Ltd. and the LLP would be calculated as given below –

In the hands of A Ltd. (for 91 days)

Plant & Machinery	$\frac{91}{365} \times 900000$	2,24,384
Building	$\frac{91}{365} \times 900000$	2,24,384
Furniture	$\frac{91}{365} \times 100000$	24,932

In the hands of the LLP (274 days)

Plant & Machinery	$\frac{274}{365} \times 900000$	6,75,616
Building	$\frac{274}{365} \times 900000$	6,75,616
Furniture	$\frac{274}{365} \times 100000$	75,068

Note :

(1) The cost of acquisition of land in the hands of the LLP would be the cost for which A Pvt. Ltd. acquired it, i.e., ` 50 lakh.

(2) The LLP would be eligible for deduction of ` 16 lakh each for the P.Y. 2010-11, P.Y. 2011-12 and P.Y. 2012-13 under section 35DDA.

P.4. Mr. A, a dealer in shares, received the following without consideration during the P.Y. 2010-11 from his friend Mr. B –

(1) Cash gift of ` 1,75,000 on his anniversary, 15th April, 2010.

(2) Bullion, the fair market value of which was ` 60,000, on his birthday, 19th June, 2010.

(3) A plot of land at Faridabad on 1st July, 2010, the stamp value of which is ` 5 lakh on that date. Mr. B had purchased the land in April, 2005.

Mr. A purchased from his friend C, who is also a dealer in shares, 1000 shares of X Ltd. @ ` 400 each on 19th June, 2010, the fair market value of which was ` 600 each on that date. Mr. A sold these shares in the course of his business on 23rd June, 2010.

Further on 1st November, 2010. Mr. A took possession of property (building) booked by him two years back at ` 20 lakh. The stamp duty value of the property as on 1st November, 2010 is ` 32 lakh.

On 1st March 2011, he sold the plot of land at Faridabad for ` 7 lakh.

Compute the income of Mr. A chargeable under the head "Income from other sources" and "Capital Gains" for A.Y.2011-12.

P.4. Solution :- Computation of income from other sources of Mr. A for the A.Y. 2011-12.

	Particulars	`
(1)	Cash gift is taxable under section 56(2)(vii), since it exceeds ` 50,000	1,75,000
(2)	Bullion has been included in the definition of property w.e.f. 1.6.2010. Therefore, when bullion is received without consideration after 1.6.2010, the same is taxable, since the aggregate fair market value exceeds ` 50,000	60,000
(3)	Stamp value of plot of land at Faridabad, received without consideration, is taxable under section 56(2)(vii)	5,00,000
(4)	Difference of ` 2 lakh in the value of shares of X Ltd. purchased from Mr. C, a dealer in shares, is not taxable as it represents the stock-in-trade of Mr. A. Since Mr. A is a dealer in shares and it has been mentioned that the shares were subsequently sold in the course of his business, such shares represent the stock-in-trade of Mr. A.	
(5)	Appreciation in the value of immovable property between the time of its booking and its actual registration is outside the scope of section 56(2)(vii).	
Income from other Sources		**7,35,000**

Computation of "Capital Gains" of Mr.A for the A.Y. 2011-12

Sale Consideration	7,00,000
Less : Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(vii) as per section 49(4)]	5,00,000
Short-term capital gains	2,00,000

Note– The resultant capital gains will be short-term capital gains since for calculating the period of holding, the period of holding of previous owner is not to be considered.

P.5. The gross total income of Mr. X for the A.Y. 2011-12 is ` 7,00,000. He has made the following investments/payments during the F.Y.2010-11 –

	Particulars	`
(1)	Contribution to PPF	50,000
(2)	Payment of tuition fees to Cambridge School, Noida, for education of his daughter studying in Class V	36,000
(3)	Repayment of housing loan taken from HDFC	40,000
(4)	Contribution to approved pension fund of LIC	15,000
(5)	Subscription to notified long-term infrastructure bonds	35,000
Compute the eligible deduction under Chapter VI-A for the A.Y.2011-12.		

P.5. Solution :- Computation of deduction under Chapter VI-A for the A.Y. 2011-12.

	Particulars	`
Deduction under section 80C		
(1)	Contribution to PPF	50,000
(2)	Payment of tuition fees to Cambridge School, Noida, for education of his daughter studying in Class V	36,000
(3)	Repayment of housing loan taken from HDFC	40,000
		1,26,000
Deduction under section 80CCC		
(4)	Contribution to approved pension fund of LIC	15,000 **1,41,000**
As per section 80CCE, the aggregate deduction under section 80C, 80CCC and 80CCD has restricted to ` 1 lakh		1,00,000
Deduction under section 80CCF		
(5)	Subscription to notified long-term infrastructure bonds, ` 35,000, but reduced to `20,000, being the maximum deduction allowable under section 80CCF	20,000
Deduction allowable under Chapter VIA for the A.Y.2011-12		**1,20,000**

Service Tax

☞ Service Tax extended to the Continental Shelf & Exclusive Economic Zone of India [Notification No. 14/2010-S.T., dated 27-2-2010] :

The Central Government has extended provisions of Chapter V of the Finance Act, 1994, to the following areas in the continental shelf and exclusive economic zone of India for the following purposes mentioned correspondingly –

Area	Purpose for which service tax law extended
1. Whole of continental shelf and exclusive economic zone of India	Any service provided for all activities pertaining to construction of installations, structures and vessels for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof.
2. Installations, structures and vessels within the continental shelf and the exclusive economic zone of India, constructed for the purposes of prospecting or extraction or production of mineral oil and natural gas.	Any service provided or to be provided by or to such installations, structures and vessels and for supply of any goods connected with the said activity.

Definitions of India for import/export rules :

"India" includes the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof.

☞ Rule 6(2) of Service Tax Rules, 1994 :

Quantum of service tax reduced for e-payment from ` 50 lakh to ` 10 lakh

Proviso to rule 6(2) has been amended to provide that an assessee shall deposit the service tax electronically through internet banking if he has paid the total service tax of ` 10 lakh or more (including the amount of service tax paid by utilisation of CENVAT credit) in the preceeding financial year. ***(w.e.f. 1-4-2010).***

☞ E-filing of Returns :-

E-filing of returns made mandatory for assessees paying service tax of ` 10 lakh or more in the previous year :-

The facility of e-filing of returns was earlier optional for the assessees. Proviso inserted to rule 7(2) has now made the electronic filing of returns mandatory for the assessee who has paid total service tax ` 10 lakh or more including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year. ***(w.e.f. 1-4-2010)***.

☞ Special rate for payment of Service Tax :-

➢ **Games of Chance Service [Section 65(105)(zzzzn)]** :-

Rate	Condition
Rs 6000/- on every Rs 10 lakh (or part of Rs 10 lakh) of aggregate face value of lottery tickets **printed** by the organising State for a draw	If the lottery scheme is one where the guaranteed prize payout is more than 80%.
Rs 9000/- on every Rs 10 lakh (or part of Rs 10 lakh) of aggregate face value of lottery tickets **printed** by the organising State for a draw.	If the lottery or lottery scheme is one where the guaranteed prize payout is less than 80%.

Note : In case of **Online Lottery**, the aggregate face value of lottery tickets will be the aggregate value of tickets **Sold**.

Exemption from Service Tax

☞ **Exemption to transmission of electricity :-**

Exemption from service tax has been provided to the taxable service provided to any person, by any other person for transmission of electricity.

☞ Exempts the taxable service provided to any person, by a distribution licencee, a distribution franchisee, or any other person by whatever name called, authorized to distribute power under the Electricity Act, 2003, for distribution of electricity, from the whole of service tax.

P.1. Raj Private Limited provided architect services of the value of ` 1,10,00,000 in the financial year 2009-10 and of ` 60,00,000 in financial year 2008-09. For the month of April, 2010, their value of taxable services is ` 3,00,000. What is the due date for payment of service tax?

P.1. Solution:- Service tax paid by Raj Private Limited in the financial year 2009-10 is ` 11,33,000 (10.30% of ` 1,10,00,000). Proviso to rule 6(2) of the Service Tax Rules, 1994 has been amended to provide that an assessee shall deposit the service tax electronically through internet banking if he has paid the total service tax of ` 10 lakh or more (including the amount of service tax paid by utilisation of CENVAT credit) in the preceding financial year. Therefore, Raj Private Limited is required to make the e-payment of service tax in the financial year 2010-11.

The due date for payment of service tax by a company is the 6th day of the month, if the duty is deposited electronically through internet banking immediately following the calendar month in which the payments are received, towards the value of taxable make the e-payment of the service tax by 6th May, 2010.

P. 2. Arun Ltd. is engaged in providing consultancy in software engineering. It provided the taxable services of the value of ` 1,20,00,000 in the financial year 2009-10 and of ` 80,00,000 in financial year 2008-09. Arun Ltd. is of the opinion that e-filing of return is optional for the assessees and it does not wish to file its return electronically. You are required to advice Arun Ltd. whether it should file the return electronically or otherwise for the financial year 2010-11.

P.2. Solution :- The facility of e-filing of returns was earlier optional for the assessees. Proviso inserted to rule 7(2) of the Service Tax Rules, 1994 has now made the electronic filing of returns mandatory for the assessee who has paid total service tax of ` 10 lakh or more including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year. Service Tax paid by Arun Ltd. in the financial year 2009-10 is ` 12,36,000 (10.30% of ` 1,20,00,000). Therefore, it is mandatory for Arun Ltd. to file the return electronically for the financial year 2010.11.

P. 3. M/s. Gulbahar Lotteries, established on 10-10-2010, is a distributor of lotteries organized by the State of Rajasthan. On account of festivals, two schemes of lotteries were announced as follows–

Particulars	Super Dhamaka	Bumper Dhamaka
Total No. of tickets proposed under the scheme	10,60,000	80,000
Face Value per ticket	100	500
Value of guaranteed prize payouts	70%	90%
Actual No. of tickets payouts	9,80,000	72,500
Mode of conducting the scheme	Printed (10,60,000 tickets)	Online

Though M/s. Gulbahar Lotteries receives commission, however, it has learnt that there is some composition scheme under service tax law to discharge its service tax liability. If wishes to opt therefore tand asks you to compute its service tax liability thereunder.

P.3. Solution :- M/s. Gulbahar Lotteries can very well opt for the composition scheme for payment of service tax. The service tax liability shall be as under –

Particulars	Super Dhamaka	Bumper Dhamaka
Total No. of tickets (In case of Super Dhamaka scheme, the total no. of tickets printed shall be taken; while in case of Bumper Dhamaka, since the lottery is conducted online, hence, the actual no. of tickets sold shall be taken)	10,60,000	72,500
Face Value per ticket	100	500
Aggregate face value of lottery tickets	10,60,00,000	3,62,50,000
Value of guaranteed prize payouts	70%	90%
Service Tax payable (for every Rs. 10 lakhs or part thereof)	9,000	6,000
No. of Units of Rs. 10 lakhs or part thereof **[Any part of Rs. 10 lakhs shall be fully covered]**	106	37
Service Tax payable	9,54,000	2,22,000
Total Service Tax		11,76,000
Add : EC and SHEC @ 3%		35,280
Total Service Tax Liability		12,11,280

Taxable Services (only for IPCC-May/Nov., 2011 Exam)

(1) Commercial Training & Coaching Service [Section 65(105) (zzc)] :-

Means : Any Institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field with or without issuance of a certificate & includes coaching or tutorial classes.

Includes :
- Coaching or training center providing commercial coaching by sending individuals to the premises of service receivers.
- Postal coaching (including the amount of postal charges).
- A computer-training institute,
- Commercial training or coaching services provided for preparing applications for Board examinations and competitive exams.
- Payment made by employers hiring an outside commercial training or coaching centre for imparting training to their employees.
- Any centre or institute, by whatever name called, where training or coaching is imparted for consideration, whether or not such centre or institute is registered as a trust or a society or similar other organisation under any law for the time being in force and carrying on its activity with or without profit motive and the expression “commercial training or coaching” shall be construed accordingly.

Excludes : Pre-school coaching,
Sports,
Vocational training institutes,
Recreational training institute,
Individuals providing servies at the premises of a service receiver,
Certain recognised institutes have delegated some part of training to other coaching centers.
If the training is essential part of courses of such certificate, such training will be exempt,
Issuing certificate under any law,
Sale value of standard textbooks which are priced and shown separately in invoice.
Donation or grant-in-aid.

Note :-

(i) "computer training institute" means a commercial traning or coaching centre which provides coaching or training relating to computer software or hardware;

(ii) "recreational training institute" means a commercial training or coaching centre which provides coaching or training relating to recreational activities such as dance, signing, martial arts, hobbies.

(iii) “Vocational training institute” means an Industrial Training Institute (ITI) / Industrial Training Centre (ITC) affiliated to the National Council for Vocational Training, offering courses in designated trades as notified under the Apprentices Act, 1961.

List of designated trades :-	
• cutting and tailoring trades	• beautician trades
• agricultural trades	• electrical trades
• glass and ceramic trades	• heat engine trades
• hi-tech trades	

(iv) ***Exemption :-*** The above exemption from the service tax has been extended to the commercial training or coaching centre services provided in relation to "Modular Employable Skill courses" provided by a vocational training provider registered under 'Skill Development Initiative Scheme' with the Directorate General of Employment and Training. Ministry of Labour and Employment.

(2) Legal Consultancy Service [w.e.f. 1.9.2009] - [Section 65(105) (zzzzm)]

Means : Taxable service means any service provided or to be provided to a business entity, by any other business entity, in relation to advice, consultancy or assistance in any branch of law, in any manner.

Includes : "Business Entity" includes an association of persons, body of individuals, company or firm, but does not include an individual.

Excludes : Appearance before statutory authorities not covered :- Any service provide by way of appearance before any court, tribunal or authority shall not amount to taxable.

Note :-

Service Provider	Service Receipient	Whether taxable
Business Entity	Business Entity	Yes
Business Entity	Individual / Government / Charitable association	No
Individual	Business Entity	No
Individual	Individual	No

(3) Information Technology software service [Section 65(105) (zzzze)] :-

Means : It means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data procesing machine or any other device or equipment.

Taxable Services : If the above service is provided in the course, or furtherance, of business or commerce, it is chargeable to service tax.

The scope of the taxable services has now been expanded to tax such service even if the service provided is used for purposes other than business or commerce. ***(w.e.f. 1-7-2010)***.

Includes : It includes the following -

(a) development of information technology software;

(b) study, analysis, design and programming of information technology software;

(c) adaptation, upgradation, enhancement, implementation and other similar services related to information technology software;

(d) providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the startup phase of a new system, specifications to secure a database, advice on proprietary information technology software;

(e) providing the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products;

(f) providing the right to use information technology software supplied electronically.

Excludes :- It does not include services provided to -

(i) government or

(ii) charitable institutions.

Exemption :- Exemption to right to use the packaged/canned software subject to certain specified conditions

The taxable service of providing the right to use the packaged/canned software, pre-packed in retail packages intended for single use has been exempted from the service tax under 'information technology software services' subject to the following conditions:-

1. The document providing the right to use such software is packed along with the software.

2. **(a)** **In case of import :** The importer has paid the custom duty on the entire amount received from the buyer.

   (b) **In case of domestic production :** The manufacturer/duplicator/the person holding the copyright to software has paid the excise duty on the entire amount received from the buyer.

3. The benefit under the following notifications has not been avialed:-

   - Notificaiton No. 17/2010 CE dated 27.02.2010.
   - Notificaiton No. 31/2010 Cus dated 27.02.2010.

(4) Practicing Chartered Accountant [Section 65(105) (s)] :-

Means : A person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the Chartered Accountants Act, 1949 and includes any concern.

Taxable Service : Means any service provided or to be provided to any person by a practicing Chartered Accountant in his professional capacity, in any manner.

Includes : Service tax is payable on following services

(i) Accounting and auditing;

(ii) Cost accounting and cost auditing;

(iii) Secretarial auditing;

(iv) Certification under Companies Act;

(v) Certification for exchange control purpose under FEMA; and

(vi) Certification in respect of valuation of instruments or assets under wealth tax.

(vii) Verification of declaration of compliance for obtainin certificate of commencement of business under the Companies Act.

Excludes : Fee charged for representing a client before any statutory authority in the course of proceeding under any law is exempt.

(5) Consulting Engineer Service [Section 65(105) (g)] :-

Means : A professionally qualified engineer, any body corporate, any other firm

Taxable Service : Means any service provided or to be provided to any perosn, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering.

Includes : Advice or consultancy or technical assistance in any discipline of engineering ***including hardware and software*** engineering.

Excludes : Service provided on transfer of technology is exempt from service tax to the extent of amount of cess paid on transfer of technology under the Research and Development Cess Act.

(6) Manpower Recruitment or supply Agency's Service [Section 65(105) (k)] :-

Means : Any person engaged in providing any service, in any manner for recruitment or supply of manpower, temporarily or otherwise, to ***any person***.

Includes : (a) pre-recruitment screening.

(b) verification of the credentials and antecendents of the candidate, and

(c) authenticity of documents submitted by the candidate.

(d) Educational institutions (such as universities, IIMs, IITs) fall within the definition of 'manpower recruitment or supply agency', and service tax is liable on services provided by such institutions in relation to campus recruitment.

Exemption : If this service is provided to a goods transport agency for use in GTA service, it will be exempt.

(7) Cargo Handling Service [Section 65(105) (zr)] :-

Means : Loading, Unloading, Packing or Unpacking of cargo

Includes : Services of packing together with transportation of cargo or goods, with or without one or more other services like loading unloading, unpacking, under cargo handling service. With this amendment, packing with transportation will be classifiable under cargo handling service only.

Excludes :
(i) Handling of Export Cargo
(ii) Handling of Passenger Baggage
(iii) Mere transportation of goods
(iv) Handling of Agricultural produce
(v) Handling of Goods meant for cold storage.
(vi) Storage, Washing etc. of empty containers of Shipping lines.

Exemption : If this service is provided to a goods transport agency for use in GTA service, it will be exempt.

(8) Customs House Agent Service [Section 65(105) (h)] :-

Means : A person holding “Customs House Agent” license granted under the regulations made under Sec. 146 of Customs Act providing service in relation to entry or departure of conveyance or import or export of goods.

Taxable Service: Means any service provided or to be provided to any person by a custom house agent in relation to the entry or departure of conveyance of the import or export of goods.

Includes : The activity of CHA relates to the entry or departure of conveyance or import or export of goods at any Customs station. Therefore the activity of the CHA is limited to the Customs Station, it cannot extend beyond it.

Excludes : Remibursement of Customs Duty (Actual basis).

P.1. Indian Institute of Management, Delhi offered "Modular Employable Skill Courses" for the month of June, 2010. It is registered under Skill Development Initiative Scheme' with the Directorate General of Employment and Training, Ministry of Labour and Employment. Revenue raised the demand for the service tax on the services provided by it.

Examine whether the demand raised by Revenue is correct in law.

P.1. Solution :- No, the demand raised by the Revenue is not vaild in law. Notification No. 23/2010-ST dated 29.04.2010 has exempted the commercial training or coaching centre services provided in relation to "Modular Employable Skill courses" provided by a vocational training provider registered under "Skill Development Initiative Scheme" with the Directorate General of Employment and Training, Ministry of Labour and Employment. Therefore, Indian Institute of Management, Delhi is not liable to pay service tax.

P. 2. Adarsh & Co. is engaged in providing legal consultancy services. The said services were brought under the service tax net with effect from September 1, 2009. Compute the service tax payable for the financial year 2009-10 from the following particulars :- (Service tax has been charged separately)

Particulars	**Amount (`)**
Amount received for the services rendered in the first quarter of the financial year 2009-10	13,00,000
Amount received for the services rendered for the services rendered in last two quarters of the financial year 2009-10	19,50,000
Advance received for the services to be rendered in the month of April, 2010.	7,50,000

P.2. Sol. : Computation of the service tax payable by Adarsh & Co. :-

Particulars	Amount `
Amount received for the services rendered in the first quarter of the financial year 2009-10 (as the service tax was not levied on the said service during the said period)	Nil
Amount received for the services rendered for the services rendered in last two quarters of the financial year 2009-10	19,50,000
Advance received for the services to be rendered in the month of April, 2010.	7,50,000
Total	27,00,000
Less : Exemption under notification No. 6/2005 ST dated 01.03.2005	10,00,000
Value of taxable service	17,00,000
Service tax @ 10%	1,70,000
Add : Education cess @ 2%	3,400
Add : Secondary and higher education cess @ 1%	1,700
Service tax payable	1,75,100

P.3. Santosh Software Systems is an information technology software company. The receipts during financial year 2010-11 are as under :-

Particulars	Amount (`)
Receipts for development of information technology software	12,00,000
Receipts for implementation related to information technology software	4,50,000
Receipts for providing the right to use information technology software supplied electronically	8,50,000
Receipts for programming of information technology software	2,50,000
Receipts for providing right to use the packaged software on which the amount of excise duty has been paid and benefit and benefit under Notification No. 17/2010 CE dated 27.02.2010 has not been availed.	6,50,000

Determine the value of taxable services and amount of service tax payable by Santosh Software Systems for the financial year 2010-11.

In financial year 2009-10, it has provided the taxable services of value of ` 28 lakh. The amount of service tax has been charged separately.

P.3. Solution :- Computation of the value of taxable services and amount of service tax payable by Santosh Software Systems for the financial year 2010-11:-

Particulars	**Amount (`)**
Receipts for development of information technology software	12,00,000
Receipts for implementation related to information technology software	4,50,000
Receipts for providing the right to use information technology software supplied electronically	8,50,000
Receipts for programming of information technology software	2,50,000
Total value of taxable service	27,50,000
Service tax @ 10% (` 16,00,000 × 10%)	2,75,000
Add: Education cess @ 2% (` 1,60,000 × 2%)	5,500
Add: Secondary and higher education cess @ 1% (` 1,60,000 × 1%)	2,750
Service tax payable	**2,83,250**

Note :

1. Receipts for providing the right to use the packaged software on which the excise duty has been paid and benefit under Notification No. 17/2010 CE dated 27.02.2010 has not been availed are exempt from service tax vide Notification No. 02/2010 dated 27.02.2010. Therefore, receipts of ` 6,50,000 are not liable to service tax.

P. 4. Anand Mohan is a qualified Chartered Accountant. He acquired the certificate of practice from the ICAI in November, 2010. For the quarter ended on March, 2011, his receipts are as follows :-

Particulars	**Amount (`)**
Certification of documents under Export and Import Policy of Government of India	3,00,000
Preparation of the financial statement of ABC Ltd.	8,00,000
Representation of the client before ITAT	3,50,000
Receipts for tax consultancy provided in the month of Dec., 2010	6,00,000
Filling of Return & Other Documents	3,00,000
Providing Coaching to Students	9,00,000

Using the above information, calculate the value of taxable services for the quarter ended on March, 2011. The above receipt are exclusive of service tax.

P.4. Sol. : Calculation of the value of taxable services for the quarter ended on March, 2011:-

Particulars	Amount `
Certification of documents under export and Import Policy of Government of India	3,00,000
Preparation of the financial statement of ABC Ltd.	8,00,000
Representation of the client before ITAT	Nil
Receipts for tax consultancy provided in the month of December, 2010	6,00,000
Filling of Return & Other Documents	3,00,000
Providing Coaching to Students (Not taxable under this head)	
Value of taxable services	20,00,000

Note :

1. The taxable services provided by a practising Chartered Accountant in his professional capacity, to a client, relating to representing the client before any statutory authority in the course of proceedings initiated under any law for the time being in force, by way of issue of notice, is exempt from the whole of service tax leviable thereon.

P. 5. Mr. Sushil, a consulting engineer provides the following particulars in respect of various services rendered by him during the quarter ending December 2010 :

Particulars	Amount (`)
1. Professional advice to one of his friend	35,000
2. Consultancy services in computer hardware engineering	75,000
3. Technical assistance in computer hardware & software engineering	1,25,000
4. Advice in relation to metallurgical engineering	40,000
5. Consultancy in relation to setting up of a power project	80,000

` 5,000 has been paid by him as cess payable under section 3 of the Research and Development Cess Act, 1986 in respect of the above-mentioned services. Compute the service tax payable by Mr. Sushil for the quarter ending December, 2010. Service tax has been charged separately by Mr. Sushil and is not included in any of the receipts mentioned above. Mr. Sushil is not entitled to the benefit of small service provider available under Notification No. 6/2005 ST dated 01.03.2005.

P.5. Sol. : Computation of service tax payable :-

Particulars	Amount `
Professional advice to one of his friend	35,000
Consultancy services in computer hardware engineering	75,000
Technical assistance in computer hardware & software engineering	1,25,000
Advice in relation to metallurgical engineering	40,000
Consultancy in relation to setting up of a power project	80,000
Total	3,55,000
Less : Cess payable under section 3 of the Research and Development Cess Act, 1986	5,000
Value of taxable services	3,50,000
Service tax @ 10%	35,000
Add : Education cess @ 2%	700
Add : Secondary and higher education cess @ 1%	350
Service tax payable	36,050

Note :

1. Advice to friend is taxable as service rendered to any person is taxable.
2. Consultancy and technical assistance in relation to both computer hardware and software engineering are taxable.
3. Advice in relation to any branch of engineering is taxable.
4. Cess payable under section 3 of the Research and Development Cess Act, 1986 is exempt.

P.6. Amarnath Consultants is engaged in providing manpower recruitment and supply agency's services. For the financial year 2010-11. following information is available :-

Particulars	Amount (`)
Amount received for pre-recruitment screening of the prospective candidates	7,00,000
Amount received for verification of the credentials of the candidates	6,00,000
Amount received for supply of contractual employees to big business houses	9,00,000
Amount received for manpower recruitment services provided to Munna Transporters-a goods transport agency.	3,00,000

On the basis of the above information, compute the service tax payable by Amarnath Consultants under the category of Manpower recruitment and supply agency's services' for the financial year 2010-11.

Note : Amarnath Consultants enjoys a good reputation among its clients. Resultancy, its aggregate value of taxable services amounted to ` 35 lakh in the financial year 2009-10. Further, the amount of service tax has been charged separately.

P.6. Sol. : Computation of service tax payable by Amarnath Consultants under the category of Manpower recruitment and supply agency's services for the financial 2010-11 :-

Particulars	Amount `
Pre-recruitment screening of the prospective candidates	7,00,000
Verification of the credentials of the candidates	6,00,000
Supply of contractual employees to big business houses	9,00,000
Value of taxable service	22,00,000
Service tax @ 10% = ` 22,00,000 × 10%	2,20,000
Add : Education cess payable @ 2% = ` 2,20,000 × 2%	4,400
Add Secondary and education cess payable @ 1% = ` 2,20,000 × 1%	2,200
Amount of serivce tax payable	2,26,600

Note :

1. Notification No. 1/2009 ST dated 05.01.2009 has exempted the services provided by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise provided to a goods transport agency for transportation of goods by road in the said goods carriage from the whole of the service tax. Therefore, ` 3,00,000 would not be in the value of the taxable services.
2. Exemption from services tax under Notification No. 6/2005-ST dated 01.03.2005 is not available to Amarnath Consultants for the financial year 2010-11 because the aggregate value of taxable services exceeds ` 10 lakh in the preceding financial year 2009-10.

P.7. Anil Cargo Ltd. is engaged in providing 'cargo handling services'. In June, 2011, it received an amount of ` 2,00,00,000 for the services rendered. Calculate the value of taxable service under 'cargo handling services' providing brief reasons where required with suitable assumptions based on the following break-up of the total receipts for the month of June, 2011 :

Receipts	`
Services in relation to export cargo and handling of passenger baggage	81,00,000
Storage and cleaning of empty containers of shipping lines	20,00,000
Packing and transport of cargo	15,00,000
Handling of agricultural produce	25,00,000
Mere transportation of cargo	29,00,000
Handling of goods stored in cold storage	10,00,000
Other receipts for providing cargo handling services	20,00,000

Note : The above receipts are exclusive of service tax

P.7. Sol. : Calculation of the value of taxable service under 'cargo handling services' of Anil Cargo Ltd. for June, 2011 :-

Particulars	Amount `
Total receitps for service rendered Less : Exemptions	2,00,00,000
1. Receipts in relation to export cargo & handling baggage of passenger	81,00,000
2. Charges received for storage, washing etc. of empty containers of shipping lines	20,00,000
3. Charges received in relation to handling of agricultural produce	25,00,000
4. Charges received for mere transportation of cargo	29,00,000
5. Handling of goods stored in cold storage	10,00,000
Value of taxable services under cargo handling services	35,00,000

Note :

1. The definition of 'cargo handling service' specifically excludes handling of export cargo or passenger baggage. Hence, they do not form part of taxable services.
2. The taxable service provided to any person by a cargo handling agency in relation to agricultural produce or goods intended to be stored in a cold storage from payment of service tax.
3. Activity of storing/washing/repairing and handling empty containers for the shipping lines does not come within the purview of 'Cargo Handling Services'.
4. The definition of 'cargo handling service' specifically excludes mere transportation of goods. Hence, they do not form of part taxable services.

P.8. M/s. Prashant Clearing Agencies, a Customs House Agent licensed under Customs Act, had total gross receipts of the year from various services of Rs. 50 lakhs, which includes –

(a) Reimbursement of Customs Duty : Rs. 4 lakhs (actual basis) ;

(b) Charges for Transporting the goods from owned warehouse to place of customers : Rs. 3.5 lakhs;

Compute the value of taxable service under 'Customs House Agent Service' falling u/s 65(105)(h); and the service tax, if any, payable thereon by M/s. Prashant Clearing Agencies for CHA service only. The above receipts are exclusive of service Tax.

P.8. Sol. : The relevant issues are answered herein below –

Particulars	**Amount** `
Total Gross Receitps of the year from various services	50,00,000
Less : Reimbursement of customs duty – as reimbursement claimed on actual basis, hence, excludible assuming separately shown in invoice	–4,00,000
Less : Transportation of goods from warehouse owned by CHA to customer's premises [CHA services extend only to the customs station. Hence, charges for transportation after customs clearance do not fall under this service. They may fall under other services.]	–3,50,000
Taxable Value	42,50,000
Service Tax thereon @ 10.3%	4,37,750

Value Added Tax

Stock Transfer :-

Inter-State transfer do not involve sale and, therefore they are not subjected to sales-tax. The same position continues under VAT.

However, the tax paid on :

(i) inputs used in the manufacture of finished goods which are stock transferred; or

(ii) purchases of goods which are stock transferred will be available as input tax credit after retention of 2% (earlier it was 4%) of such tax by the State Governments.

P.1. Mr. Suresh purchases goods valuing ` 2 lakh (excluding VAT @ 12.5%) from Gujarat and transfers the same to his branch located at Delhi. Discuss the tax consequences of stock transfer under the VAT scheme.

P.1. Solution :-

Input VAT on purchase from Gujarat (2,00,000 × 12.5%)	25,000
Less: Retention of 2% of such tax by the Gujarat state gov. (2,00,000 × 2%)	4,000
Net Input Credit available	**21,000**

Some Important Tips for the Examination

Do's

1. **Starting Question Should be Correct :** First Read the Question Paper thoroughly. Choose from that question that's you know very well. Because you first impersonation should be good.
2. **Start each Question or his part from a fresh Page :** As like if you are going to solve Q. No. 3 part (a), it should be mention on the top of the page in Center with Bold Letter. After that for Q. No. 3 (b) always use new page and mention full Q. No. in place of only (b).
3. **True or False Question :** Always start your Answer from the heading True or False and reason should be given from the Second Line.
4. **Optional Question :** Start this Question with Your Heading **"Correct Answer –( )"** and reason should be given from the Second Line.
5. **Final Answer :** After properly solve your question again read the last part of Question and find that what is the demand of Question, if in question asked for exempt Amount, your Answer end point should be in Bold Letter "Exempt Amount Rs. ....".
6. **Theoretical Question :** Always Answer point to point and try your best that starting point of your answer should be fully correct. As like for any question, if you know only three points fully confident out of 5 point your answer should be start from that point.

Don't

1. **Start from a Large Question :** If you are not fully confident that you may solve that question correctly, never start from this question.
2. **Marking of the Question at left side of Answer Book :** Always Mark your Answer No. most visible place, due to this it's clear in the mind of Examiner that your answer is for this particular No. of Question.
3. **True/False Question :-** Never start your answer with YES/NO. It should be TRUE/FALSE.

Best of Luck