

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi medium. If a candidate who has not opted for Hindi medium, answers in Hindi, his answers in Hindi will not be valued.

Answer **all** questions.

Wherever required, suitable assumptions may be made by the candidate and stated clearly in the answer.

Working notes should form part of the answer.

Qn 1. Answer any **five** out of the following six sub-divisions, with reference to the provisions of the Income-tax Act, 1961 for the assessment year 2009-2010 : **[5 x 2 = 10]**

- Whether the income derived from saplings or seedlings grown in a nursery is taxable under the Income-tax Act, 1961 ?
- When will tax not required to be deducted at source on interest payable to a resident on any bond or security issued by a company though the aggregate amount of interest exceeds Rs. 2,500, the basic exemption limit under section 193 of the Act ?
- When does a charitable trust require filing audit report alongwith return of income ?

State with reason, whether the following statements are True or False :

- A notice under section 143(2) of the Act for scrutiny/regular assessment shall not be issued on an assessee after the expiry of six months from the end of the financial year in which the return is furnished.
- Mr. X, Karta of HUF claims the HUF is non-resident as the business of HUF is transacted from UK and all the policy decisions are taken there.
- Mr. P, a shareholder of closely held company, holding 16% shares, received advances from that company which is to be deemed as dividend from an Indian Company, hence exempted under section 10(34) of the Income-tax Act, 1961.

Ans. 1(a) Income from nursery operation : - There was a judicial controvert wheather (or not) income from nursery operation would qualify as agricultural income within the definition given u/s 2 (1 A). with a view to giving finality to issue, section 2 (1A) has been amended with effect from assessment year 2009-10 so. As to provide that any income derived from saplings or seedlings gown in a nursery shall be deemed to be agricultural income. Accordingly, irrespective of wheather the basic operations have been carried out on land, such income will be treated as agricultural income, thus qualifying for exemption under section 10(1).

Ans (b) When interest will be payable to the person to whom may make an application no.13 to the assessing officer and obtain a certificate from him such certificates as may be appropriate, authorizing the payer not a deduct tax.

A person other than a company or firm may furnish a declaration in writing in duplicate in new form No.15G to the payer to the effect that there is no tax payable on his total income. In this case the payer shall not deduct any tax at sources the payer of the income is required to deliver to the commissioner one copy of declaration given under new form 15G on before the 7th day of month next following month in which the declaration in furnished to him.

Ans (c) If the total income of a charitable trust before exemption under sec. 11 and 12 exceeds the maximum amount not chargeable to tax, then the trust is under on obligation to furnish the return on income within the time allowed under section 139 (1) and when charitable firm claim exemption u/s 11 and 12, and its income exceeds Rs.1,50,000 then, it requires to get its account audited and file audit report along with return of income.

Ans (d) True :- A notice shall be served on the assessment under section 143 (2). The notice require the assessee to produce any evidence which the assessee may rely in support on the return. Such notice shall be served on the assessee within a period of 6 month from the end of the financial year in which return is furnished. This time limit is applicable with effect from April 01.2008

(Up to 31.3.2008 such notice can be served before the expiry of 12 month from the end of the month in which return was furnished.

Ans. (e) True :- A Hindu undivided family is said to be resident in India if control and management of its affairs is wholly or partly situated in India. A Hindu undivided family is non resident in India if control and management of its affairs is wholly or partly situated in India.

Note :- In order to determine whether a Hindu undivided family is resident or non resident, the residential status of the "karta" of the family during the previous year is not relevant. Residential status of the karta during the preceding years is considered for determining whether a resident family is "ordinarily resident".

Ans. (f) False : If dividend is covered by section 2(22) [not by clause (e) of section 2 (22)] and declared, distributed or paid after March 31st 2003 then it is not taxable in hands of share holder under section 10(34). On such dividend, the company declaring dividend will pay dividend tax under section 115(o)

If a loan or advance is given which is deemed as dividend under section 2(22)(e) then such loan or advance is taxable under section 56 as "dividend" in the hands of receipts.

Qn 2. Mr. X is a resident individual. His Profit and Loss account for the year ending 31st March, 2009 is given below :

To	Amount Rs.	By	Amount Rs.
General charges	35,650	Gross Profit	5,25,860
Insurance	3,500	Commission	6,800
Safety salary	1,12,560	Rent received	37,500
Donation to political party	1,000	Interest on debentures	
Fringe benefit tax	2,400	(Net amount Rs.22,450 plus TDS Rs. 2,550)	25,000
Depreciation	1,25,656	Agricultural income	45,000
Administrative expenses	42,500	Short-term Profit on sale	
Advance Tax	17,000	on investment	29,000
Net Profit	3,44,894	Dividend from	16,000
	<u>6,85,160</u>		<u>6,85,160</u>

- Depreciation has been calculated as per the Income Tax Rules at Rs. 75,000.
- He has deposited Rs. 35,000 in a notified scheme under Post Office Time Deposit Rules, 1981 for five year time.
- He had bought 200 shares of AB Co. Ltd. on 5.12.2007 @ Rs. 75 each. 150 shares of PQ Co. Ltd, on 3.8.2008 @112 each and 150 shares of AB Co. Ltd. on 05.09.2008 @ Rs. 60 each. He sold all the shares of AB Co. Ltd. on 15.12.2008 @ Rs. 98 each and sold the shares of PQ Co. Ltd. on 10.3.2009 @ Rs. 102 each. All shares were sold in National Stock Exchange through a registered broker.
- One of his life insurance policy was matured on 14.6.2008. The sum assured was Rs. 1,00,000 and amount received on maturity was Rs. 1,62,850.
- Donation to the political party represented the contribution made to a political party registered under section 29A of the Representation of the People Act, 1951.
- Income tax department refunds Rs. 42,580 (including interest of Rs. 1.470) which was directly credited in his personal savings account.
- He incurred expenditure of Rs. 40,000 on treatment of his dependent father who was suffering from specified disease as defined in rule HDD of Income Tax Rules, 1962. The payment of medical expenses was made by cheque and an amount of Rs. 7,500 was reimbursed to him by an insurance company.
- Bad debt of a business which was discontinued in earlier years, recovered during the year Rs. 15,000.

Compute total Income and Tax payable thereon by Mr. X for the assessment year 2009-2010.

Ans. 2 (W. N. 2)

Computation of Book Profit

Gross Profit as per profit and Loss a/c	5,25,860
Less : <u>Allowed Expenses</u> & Item to be less	
General charges	35650
Insurance	3500

Safety salary	112560	
Donation to a political party		
Depreciation	75000	
Administrative Expenses	<u>42500</u>	<u>2,69,210</u>
		2,56,650
Add : <u>Inadmissible expenses & Item to be added</u>		
Bad debt recovered.		
Book Profit		<u>15,000</u>
		<u>2,71,650</u>

(W.N. 1)

Fringe benefit tax is not deductible while calculating business income.

Computation of Total Income(1) Income from House Property

Rent received	37,500	
Less : deduction u/s 24		
1) 30% of N.AV i.e.	<u>11250</u>	26,250

(2) Income from capital gain (w.n.1) 4,200

(3) Income from PGBP (w.n. 2) 2,71,650

(4) Income from other sources

Profit on sale of investment	29,000	
Interest on debenture	25,000	
Commission received	6,800	
Interest income on income tax refund	<u>1,470</u>	<u>62,270</u>
		3,64,370

Less deduction u/s VI A

Political Part (80GGC)	10,000
Deposit in Post office notified scheme	35,000
Medical expenses (40,000 – 7,500)	<u>32,500</u>
Total income	<u>2,95,870</u>

Sec (80 GGC)

(W.N. 1)

Computation of income from Capital GainPeriod of holding

200 share A B Co. Ltd. purchase on 5.12.2007 and sold 15.12.2008 i.e. long term capital assets.

150 share P Q Co. Ltd. purchase on 3.8.2008 and sold 10.3.2009 i.e. short term capital assets.

200 share of A B Co. Ltd purchase on 5.12.2007 i.e. song term capital assets and hance arise long term capital gain as per see 10 (38) of income tax act any long term capital gain arise from share and securities which S.T.T are paid and transaction through recognized stock exchange capital gain tax are expert.

Calculation of short term capital gainSale Proceeds of

150 share PQ co. Ltd share	(150 x 102)	=	15300 /-
150 share of A B co. Ltd.	(150 x 98)	=	<u>14700 /-</u>
			30000

Less : Cost of acquisition

PQ Ltd.	(150 x 112)	=	16800	<u>25800</u>
AB Ltd.	(150 x 60)	=	<u>9000</u>	<u>4200 /-</u>

Short term.

Capital gain.

Computation of tax liability

Total income 295870 /-**Note : -**

- 1) Sum received from LIC is exempt
- 2) Commission received assumed as income from other sources.

(i) Income from capital gain (4200 x 15%)	=	630.00
<u>Tax on other income</u>		
First 150000	-	NIL
Next 141670	-	<u>14167</u>
		14167.00
		14797.00
Add : Education cess 3%		<u>444.00</u>
		15241.00
Less : T.D.S		<u>2550.00</u>
Net tax payable		<u>12691.00</u>

Qn. 3. (a) Mr. Ashok Kumar, an employee of a PSU furnishes the following particulars for the previous year ending 31.3.2009 :

	Rs.
(i) Salary Income for the year	5,25,000
(ii) Salary for Financial Year 2006-07 received during the year	40,000
(iii) Assessed Income for the Financial Year 2006-07	1,40,000

You are requested by the assessee to compute relief under section 89 c: the Income-tax Act, 1961, in terms of tax payable for assessment year 2009-10.

The rates of Income-tax for the assessment year 2007-08 are :

	Tax Rate (%)
On first Rs. 1,00,000	Nil
On Rs. 1,00,000 - Rs. 1,50,000	10
On Rs. 1,50,000 - Rs. 2,50,000	20
Above Rs. 2,50,000	30
Education cess	2

Ans. Computation of Tax liability

Salary income				5,25,000
Salary for F/Y 2006 – 07				<u>40,000</u>
				<u>5,65,000</u>
Tax on 5,65,000/-				
First	1,50,000	-	NIL	NIL
Next	1,50,000	-	10%	15,000
Next	2,00,000	-	20%	40,000
Balance	65,000	-	30%	<u>19,500</u>
				74,500
Add : Education cess 3%				<u>2,235</u>
Net tax payable				76,735

If income are received in that year then tax liability will be as follows : -

Assessed income for the F.Y 2006 – 07	1,40,000
Add : Salary of F.Y. 2006 – 07	<u>40,000</u>
	<u>1,80,000</u>
<u>Tax on 1,80,000 /-</u>	

First	1,00,000	-	NIL	NIL
Next	50,000		10%	5000
Next	30,000		10%	<u>6000</u>
				11000
Add : Education cess 2%				<u>220</u>
Total tax				11220 /-

Compute tax liability of assessed income for the F.Y. 2006 – 07.

Assessed income			1,40,000 /-
First	1,00,000	-	NIL
Next	40,000	-	4,000

			4,000
Add : Education cess 2%			<u>80</u>
Total tax			<u>4080</u>
Tax for 40,000 amount	=	11,220	- 4080
	=	7140	/-

Compute tax liability without addition of 40,000

<u>Total income 5,25,000 /-</u>			
First	1,50,000	NIL	NIL
Next	1,50,000	10%	15,000
Next	2,00,000	20%	40,000
Balance	25,000	30%	<u>7,500</u>
			62,500
Add : Education cess 3%			<u>1875</u>
Total tax.			64375

Extra tax paid due to 40,000 /-		76735 – 64375
	=	12,360 /-
Relief u/s 89	=	12360 – 7140
	=	5220 /-

(b) Mr. Kumar is the owner of a residential house which was purchased in 8 September, 1992 for Rs. 50,00,000. He sold the said house on 5th August, 2008 for Rs. 24,00,000. Valuation as per stamp valuation authority of the said plot of land was Rs. 35,00,000. He invested Rs. 8,00,000 in NHAI Bonds on 12th January, 2009. He purchased a residential house on 8th September, 2008 for Rs. 12,00,000. He gives other particulars as follows :

Interest on Bank Deposit	Rs. 32,000
Investment in public provident fund	Rs. 12,000

You are requested to calculate the taxable income for the assessment year 2009-2010 and the tax liability, if any. Cost inflation index for F.Y. 1992-93 and 2008-09 are 223 and 582 respectively.

Ans. Computation of taxable income for the assessment year 2009 – 2010 :-

Fair value of consideration	35,00,000
Indexed cost of acquisition (W.N. – 1)	<u>1,30,49,327</u>
Long term capital loss	<u>95,49,327</u>

(W.N. – 1) Cost of acquisition = 50,00,000

	2008 – 09
Indexed cost of acquisition = 50,00,000 x	-----
	1992 – 93

$$= 50,00,000 \times \frac{582}{223} = 1,30,49,327$$

Income from other sources :

Interest from Bank deposit	<u>32,000</u>	
Gross total income	32,000	
- Deduction U/s 80 C		
Contribution to public provident fund	<u>12,000</u>	
Total income	<u>20,000</u>	
(-) L.T. Capital Loss		<u>95,49,327</u>
Total Loss		95,29,327

Note : Since there is loss hence the investment in NHAI bonds and investment in residential house is immaterial. Since the deduction is available only in case of capital gains only.

Qn 4 (a)

- (i) Mr. Abhik, an individual made payment of health insurance premium to GIC in an approved scheme. Premium paid on his health Rs. 10,000 and his spouse Rs. 15,000 during the year 2008-09. He also paid health insurance premium of Rs. 25,000 on his father's health who is a senior citizen and not dependent on him. The payments have not been made by cash. Compute the amount of deduction under chapter VI-A of the Act, available to Mr. Abhik from his total income for the assessment year 2009-10.
- (ii) Mr. Abhik's father, who is a senior citizen had pledged his residential house to a bank under a notified reverse mortgage scheme. He was getting loan from bank in monthly instalments. Mr. Abhik's father did not repay the loan on maturity and given possession of the house to the bank to discharge his loan. How will the treatment of long-term capital gain be made on such reverse mortgage transaction ?

Ans. 4 (a) (i)

Particulars	Amount
Health insurance premium	
for himself 10,000	
for spouse <u>15,000</u>	25,000
	<u>15,000</u>
Less : Exemption u/s 80 D	<u>10,000</u>
Taxable amount	
Health insurance premium	25,000
Less : Exemption u/s 80D	20,000
Taxable amount	<u>5,000</u>

∴ Total deduction available u/s 80D = Rs.35,000.

Ans. 4 (a) (ii) Reverse Mortgage (Introduced by finance Act 2008)

Sec. 47 Any transfer of a capital asset in a transaction of reverse mortgage under ascheme mode and notified by the central government will not be rejaned as transfer for the purpose of section 45 and therefore no capital gain tax arise. And section 10(43) Any amount received by an individual as a loan, either in lumpsum or in instatement, in a trasaction of reverse mortgage referred to in clause 47 (Xvi) of Section 47 is exempt from income tax.

In view of the above provision, the answer will be as follows._

- (i) Since the mortgage of property by Mr. Abhik's father shall not the rejaned as transfer Under section 2(47) and therefore shall not liable to Longterm capital gain.
- (ii) And monthly instatement received by Mr. Abhik's father is also not taxable and cxempt Under section 10 (43).

- (b) Ms. Geeta is a resident individual, provides the following details of her 8 income/losses for the year ended 31.3.2009 :
- Salary received as a partner from a partnership firm Rs. 7,50,000.
 - Loss on sale of shares listed in BSE Rs. 3,00,000. Shares were held for 15 months and STT paid on sale.
 - Long-term capital gain on sale of land Rs. 5,00,000.
 - Rs. 51,000 received in cash from friends in party.
 - Rs. 55,000 received towards dividend on listed equity shares of domestic X companies.
 - Brought forward business loss of assessment year 2007-08 Rs. 12,50,000. / The return for assessment year 2008-09 was filed in time.

Compute gross total income of Ms. Geeta for the assessment year 2009-10 and ascertain the amount of loss that can be carried forward.

Ans. 4 (b)

Comutative of Gross total Income

Income under sec head PGBP

Salary for partnership firm	7,50,000	
Less : B/f business loss	<u>7,50,000</u>	NIL

Income under capital gains

Long-term capital gain on sale	5,00,000	
Long term loss sale of shares on which STT is paid	<u>NIL</u>	5,00,000

Income from other sources

Cash etc. from friends	51,000	
Dividend from domestic Company	<u>NIL</u>	<u>51,000</u>

G.I.T. 5,51,000

Note :

- Amount that can be c/f will be (12,50,000 – 7,50,000)
Rs. 5,00,000

Qn 5. Answer any **four** of the following five sub-divisions with regard to the provisions of the Income-tax Act, 1961 :

[4 x 4 = 16]

- Explain "Previous year" for undisclosed sources of Income.
- Define the meaning of "Infrastructure Capital Fund" as per section 2(26B) of the Income-tax Act, 1961.
- Explain the meaning of expression "advancement of any other object of general public utility" in the context of "Charitable Purpose" defined under section 2(15) of the Act.
- What is the meaning of 'Incorrect claim' apparent from any information > in the return of Income which needs prima facie adjustment under section 143(1) of the Act ?
- Enlist the installments of advance tax and due dates thereon in case of companies.

Ans. 5 (a) There are many occasions when the assessing office finds cash credit in the books of account, the source for which is not explained by the assessee to the satisfaction of the assessing officer. There are there items like investment in Jewellery etc. where the assessee is unable to offer satisfactory explanation. The income act contains a series of provisions to provide for these contingencies :

- Cash credits** (Section 68) : Where any sum is found credited in the books of the assessee and the assessee offers no explanation about the nature and the source of such credit or the explanation offered by the assessee is not satisfactory in the opinion of the assessing officer, the sum so credited may be charged as income of the assessee of that previous year.
- Unexplained investments** (Section 69) : Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of a/c and the assessee offers no explanations about the nature and the source of investments or the explanation offered by him is not satisfactory to the assessing officer, the value of the investments may be deemed to be the income of the assessee of such financial year.
- Unexplained money** etc. (Section 69 A) : Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and the same is not recorded in the books of account and

the assessee offers no explanation about the nature and source of acquisition of such money, bullion etc. or the explanation offered by him is not satisfactory to the assessing officer, the money and the value of bullion etc. may be deemed to be income of the assessee for such financial year. the assessee should be the owner of money or article and it should not be merely in possession of such articles.

- (iv) Unexplained expenditure (Section 69 C): Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or the explanation is not satisfactory to the assessing officer, the latter can treat such unexplained expenditure as the income of the assessee for such financial year.

Ans. 5 (b) The expression "infrastructure capital fund" means such fund operating under a trust deed (which is registered under the Registration Act), established to raise moneys by the trustees for investment by way of acquiring shares or providing long-term finance to any of the following enterprises or undertakings—

1. An undertaking wholly engaged in the business referred to in section 80-IA(4).
2. An undertaking wholly engaged in the business referred to in section 80-IAB(1).
3. An undertaking wholly engaged in the business of developing and building housing projects referred to in section 80-IB(10).
4. An undertaking wholly engaged in a project for constructing a hotel of not less than three-star category as classified by the Central Government.
5. An undertaking wholly engaged in a project for constructing a hospital with at least one hundred beds for patients

Ans. 5 (c) The amendment i.e., the proviso added by Finance Act, 2008 provides that THE ADVANCEMENT OF ANY OTHER OBJECT OF GENERAL PUBLIC UTILITY

- shall not be a charitable purpose
- if it involves the carrying on of any activity in the nature of trade, commerce or business,
- or any activity of rendering any service in relation to any trade, commerce or business,
- for a cess or fee or any other consideration
- irrespective of the nature or use or application or retention of the income from such activity

Therefore, if a trust carries on a commercial activity and uses the profits of the commercial activity for building a hospital, then it is not a charitable trust and it can not argue that it is carrying on commercial activity for advancement of any other object of general public utility. The use of profit from commercial activity in the hospital is of no avail.

Ans. 5 (d) Under the provisions of section 143(1) as applicable before April 1, 2008, there was no provision for correcting arithmetical mistakes or internal inconsistencies. This leads to an avoidable revenue loss. With an objective to reduce such revenue loss, section 143(1) has been amended by the Finance Act, 2008 to provide with effect from April 1, 2008 that the total income of an assessee shall be computed under section 143(1) after making the following adjustments (adjustments will be made only (the course of computerized processing without any human interface) to the total income in the return -

- any arithmetical error in the return; or
- an incorrect claim, if such incorrect claim is apparent from any information in the return,

"Incorrect claim"- The term "an incorrect claim apparent from any information in the return" has been defined. It means such claim on the basis of an entry, in the return -

- a. of an item, which is inconsistent with another entry of the same or some other item in such return;
- b. in respect of which, information required to be furnished to substantiate such entry, has not been furnished under the Act; or
- c. in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction,

Ans. (e) Advance tax is payable as follows :

	In the case of a corporate assessee
On or before June 15 of the previous year	Up to 15 per cent of advance tax payable
On or before September 15 of the previous year	Up to 45 per cent of advance tax payable
On or before December 15 of the previous year	Up to 75 per cent of advance tax payable

On or before March 15 of the previous year	Up to 100 per cent of advance tax payable
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Qn. 6 Answer any **five** of the following :

- Mr. X, a service provider who pays service tax regularly, was of the opinion that a particular service was not liable for service tax. He, therefore did not charge service tax in his bill. He received the bill amount without service tax. How will service tax liability of Mr. X be determined in such case ?
- Whether service tax return can be furnished after the due date ?
- How can the excess payment of service tax be adjusted ?
- Discuss the accountability of an "input service distributor" who may not be liable to pay service tax.
- Discuss the word "Transparency" in the context of VAT system.

When does a small service provider require to register under the Service Tax Act, but not liable to collect and pay Service Tax ?

Ans. 6 (a) In this care, Mr X of opinion that a particular service was not liable for service tax. When a particular service is not taxable then, no service tax shall be payable for the part or whole of the value of services. Hence in this care Mr X can accept will without service tax and he is not liable to pay service tax in such care.

Ans. 6 (b) Where the return in prescribed form is furnished after the due date for its submission, the person liable to furnish such return shall pay to the credit of the Central Government a fees for such delayed submission, computed as follows-

Period of delay in furnishing return	Fees to be paid
15 days from the due date	Rs. 500
Beyond 15 days but upto 30 days from the due date	Rs. 1,000
Beyond 30 days from the due date	Rs. 1,000 + Rs. 100 for every day from the 31 st day till the date of furnishing of return; subject to a maximum of Rs. 2,000

Proceedings to be deemed to be concluded it fees paid as above : Where the assessee has paid the amount as given above for delayed submission of return, the proceedings in respect of such delayed submission of return will be deemed to be concluded.

Ans. 6(c) Adjustment of excess payment of service tax : 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/quarter, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month/quarter, subject to the following conditions-

- excess amount paid is on account of reasons not involving interpretation of law, taxability, classification valuation or applicability of any exemption notification.
- Excess amount paid by an assessee having Centralised Registration, on account of delayed receipt of details of payments towards taxable services may be adjusted without monetary limit,
- In case other than specified in (b) above, the excess amount paid may be adjusted with a monetary limit of Rs. 1 lakh (amended w.e.f. 1-3-2008) for a relevant month/quarter,
- The details and reasons for such adjustment shall be intimated to jurisdictional Superintendent of Central Excise within a period of 15 days from the date of such adjustment.

Ans 6 (d) A input service distributor means an office of the manufacture or producer of final products or provider of output service. He receives invoices issued under rule 4A of service Tax Rules 1994 towards purchases of input services and irrues invoice, bill or, as the care may be, challan for the purposes of distributing credit of service tax paid on the said services to such manufacturer or producer or provider, as the care may be.

An input service distributor must follow the procedure prescribed in service tax (Registration of special category of persons) Rules, 2005 for purpose of obtaining registration.

Ans. 6(e) Transparency: The buyers are aware of the amount of tax paid by them while purchasing goods. The State Government also know the exact amount of tax collected at each stages. Thus, VAT system is transparent. This transparency helps in fixation of rate of tax and taking of other policy decisions.

Ans. 6 (f) Registration requirements – Under section 69(1) of the Act, every person liable to pay service tax must mandatorily make an application for registration to the designated Superintendent of Central Excise, within such time and in such manner and in such form as may be prescribed.

SMALL SERVICE PROVIDERS- The provisions regarding concessional tax treatment available to small service providers are given below –

- Registration – Registration is required only if value of taxable services exceeds Rs. 9,00,000 in a financial year. for instance, in the case of new service provider registration is not necessary so long as value of taxable services does not exceed Rs. 9,00,000.
- Exemption – Exemption is applicable if value of taxable services does not exceed Rs. 10,00,000.

Qn. 7. (a) Compute the VAT amount payable by Mr. A who purchases goods from a manufacturer on payment of Rs. 2,25,000 (including VAT) and earn 10% profit on sale to retailers ? VAT rate on purchase and sale is 12.5%. [3 M]

Ans	Purchase price (including VAT)	2,25,000
	(-) VAT paid	<u>25,000</u>
	Purchase Price (Exclusive VAT)	2,00,000
	(+) Profit Margin 10%	<u>20,000</u>
		2,20,000
	(+) VAT (12.5% of 2,20,000)	<u>27,500</u>
	Total invoice value	<u>2,47,500</u>
	Computation of VAT to be paid	
	VAT charged in invoice	27,500
	(-) Input credit (12.5% of 200000)	<u>25,000</u>
	VAT payable	<u>2,500</u>

(b) An unregistered "Service provider" provides following details in respect of taxable services provided during the Financial Year 2008-09 : [3 marks]

Date	Particulars	Amount
30.6.2008	Advance received from a customer	1,00,000
30.9.2008	Part payment received against a bill of Rs. 9,50,000 raised on a customer	5,00,000
31.12.2008	Money received against taxable services provided during December, 08	3,00,000
03 31.1.2009	Taxable service provided during January, 09	
31.3.2009	Taxable services provided during March, 09	2,00,000
31.1.2009	Taxable services rendered during January, 09	1,00,000
31.3.2009	Taxable services provided during March, 09	2,00,000

The service tax provider complies with the provisions of registration and collection of service tax as per service' tax laws. He gets registered during the year; He received the money against the bills raised during the months January' and March 2009. Compute the service tax liability of service provider for the year 2008-09 considering the rate of service tax @ 12.36%.

Ans. Computation of service tax liability of 'Service provider' for the 2008-2009.

Date	Particulars	Amount chargabel to servicetax
30.6.2008	Advance received from a customer (Note – 1)	Nil
30.9.2008	Part payment received against a bill (Note – 2)	500000
31.12.2008	Money Received against taxable service provided during December 08	300000
31.1.2009	Amount received for providiry service during January (Note-3)	100000

31.3.2009	Amount received for providory service during March (Note-3)	200000
	Total Amount chargeable to service tax	1100000

$$\begin{aligned}
 \text{Service tax liability @ 12.36\%} &= 1100000 \times \frac{12.36}{112.36} \\
 &= \text{Rs. } 121004 \\
 &\text{Or } 1210000 \text{ Rs.}
 \end{aligned}$$

Note – 1 Assume that, Service is not actually provide for receipt of advance payment Rs. 100000. hence will not be liable to Service tax.

Note – 2 Let us assume that client rays only rent bill amount in full & final settlement hence amount actually received is only liable to Service tax.

Note -3 Given amount for service providory has been received. Hence liable to service tax.

Qn 8. Answer any **three** of the following : **[3 x 3 = 9]**

- How the value of taxable services determined when the consideration against taxable services is received in other than monetary terms ?
- What are the sources of Service Tax Law ?
- How can an auditor play role to ensure that the tax payers discharge their tax liability properly under the VAT system ?
- Discuss the 'Subtraction method' for computation of VAT.

Ans. 8(a) Determination of value when consideration is wholly or partly not in money [Rule 3] : Where the consideration received is not wholly or partly consisting of money, the value shall be determined by the service provider in the following manner:-

- the value of such taxable service shall be equivalent to the gross amount charged by the service provider to provide similar service to any other person in the ordinary course of trade and the gross amount charged is the sole consideration;
- where the value cannot be determined in accordance with clause (a), the service provider shall determine the equivalent money value of such consideration which shall, in no case, be less than the cost of provision of such taxable service.

Ans. (b) Service tax was introduced in the year 1994 but there is no independent Act on service tax as yet. The body of service tax law comprises of the following :

1. Finance Act, 1994	Chapter V contains provisions on levy / collection, registration and other procedures like appeals, revision, rectification, interest and penalties, recovery and refunds, search and seizure etc. under the service tax law. Chapter V-A contains provisions on advance rulings.
2. Various Rules and Forms	Sections 94 and 96-1 of the Finance Act, 1994 empower the Central Government to make rules for carrying out the provisions of Service Tax. The various rules framed in exercise of these powers are as listed below : - Services Tax Rules, 1994 – It provides for registration, maintenance of records, self-assessment and provisional assessment, payment of tax, filing of returns, etc.; - CENVAT Credit Rules, 2004; - Export of Service Rules, 2005; - Service Tax (Registration of Special Category of Persons) Rules, 2005; - Service Tax (Determination of Value) Rules, 2006; - Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 - Service Tax (Advance Rulings) Rules, 2003; and - Works Contract (Composition Schedule for Payment of Service Tax) Rules, 2007. The aforesaid rules are amended from time to time. The rules have to be in conformity with the provisions of the Act; any rule contrary to the Act will be void.

3. Notifications	The notifications on service tax are issued by the Central Government/Central Board of Excise and Customs (CBEC) for the following purposes – (a) declaring date of enforceability of service tax provisions; (b) making/amending/rescinding rules relating to service tax; (c) granting or withdrawing exemptions from service tax u/s 93; (d) dealing with any other matter so as to facilitate governance of service tax matters.
4. Circular, Instructions, Office Letters	They are issued by CBEC to the Department administration for explaining the scope and gamut of Service Tax law. The Circulars/Instruction letters clarify the position of law, but they cannot go contrary to the law.
5. Orders	CBEC issues orders under Rule 3 of Service Tax Rules, 1994 to define jurisdiction of Central Excise Officers for the purposes of service tax. Central Government issues orders u/s 95 to remove difficulties while implementing amendments in the service tax law. Such orders are also published in the Official Gazette.
6. Trade Notices	Trade Notices are issued by Central Excise / Service Tax Commission rates for circulation among field officers and for dissemination in trade through trade associations. They deal with implementation & administration of provisions of service tax.

Ans. 8 (c) Whether the tax payers discharge their tax liability properly under the VAT system can be checked through a system of departmental audit with the help of auditors.

In this system a certain percentage of dealers will be taken up for audit every year on a scientific basis. If, however, evasion is detected on audit, the concerned dealer may be taken up for audit for previous periods. This audit wing will remain delinked from tax collecting wing to remove any bias. The audit team will conduct its work in time found manner. This protects the interest of tax-complying dealers against the unfair practices of tax – evaders. The systems will also bring in more equal competitors in the sphere of trade and industry.

Ans. 8 (d) Subtraction Method i.e. Value Added = Sales – Purchases :

- In this method, sales tax is levied at every stage of sale only on the amount of value made at that stage.
- The value addition, for the levy of VAT, is computed by deducting purchases (i.e. purchase price) from the sales (i.e. sale price). In other words, Value Added = Sales – Purchases.
- Since, in this method, tax is literally computed by applying tax rate to value added as computed in the manner given above, there is no need for any 'tax credit' because the purchases, which have already suffered tax, are not considered for taxation again.
- Formula for computation of tax liability : This method is generally followed when tax is not charged separately in the invoice i.e. the sales invoice shows sale price inclusive of tax. In such cases, the VAT liability is computed as follows –

$$\text{VAT liability at each stage} = \frac{\text{Rate of VAT}}{100 + \text{Rate of VAT}} \times \text{Taxable turnover (i.e. value added at each stage)}$$