

INTERMEDIATE EXAMINATION

(REVISED SYLLABUS - 2008)

GROUP - I

Paper-7 : APPLIED DIRECT TAXATION

- Q1. (a) Choose the correct answer with reference to the provisions of the Income-tax Act, 1961. Surcharge of 10% is payable by an individual where the total income exceeds :
- (i) Rs.7,50,000
 - (ii) Rs.8,50,000
 - (iii) Rs.10,00,000
 - (iv) None of these
- (b) Additional surcharge (Education cess) of 2% is payable on
- (i) Income-tax
 - (ii) Income-tax plus surcharge, if any
 - (iii) Surcharge
 - (iv) Not payable by any assessee
- (c) Write short notes on: "Income accruing" and "Income due". Can an income which has been taxed on accrual basis be assessed again on receipt basis?
- (d) Write short notes on: Association of persons
- (e) Difference between Application of Income and Diversion of Income
- (f) Write short notes on: Basis of charge.

Answer 1.

- (a) (iii) when the income exceeds Rs. 10,00,000
- (b) (ii) i.e. income tax plus surcharge if any
- (c) 'Accrue' refers to the right to receive income, whereas 'due' refers to the right to enforce payment of the same. For e.g. salary for work done in December will 'accrue' throughout the month, day to day, but will become 'due' on the salary bill being passed on 31st December or 1st January. Similarly, on Government securities, interest payable on specified dates arise during the period of holding, day to day, but will become due for payment on the specified dates.
- Income which has been taxed on accrual basis cannot be assessed again on receipt basis, as it will amount to double taxation. For example, when a loan to a director has already been treated as dividend under section 2(22)(e) and later dividend is declared, distributed and adjusted against the loan, the same cannot be treated as dividend income again.
- (d) When persons combine together for promotion of joint enterprise they are assessable as association of persons (AOP) when they do not in law constitute a partnership.
- In order to constitute an association, persons must join in a common purpose, common action and the object of the association must be to produce income. It is not enough that the persons receive the income jointly. Co-heirs, co-legatees or co-donees joining together for a common purpose or action would be chargeable as an association of persons.

- (e) **Application of Income** : An obligation to apply income, which has accrued or has arisen or has been received amounts to merely the apportionment of income. Therefore the essentials of the concept of application of income under the provisions of the Income Tax Act are:
1. Income accrues to the assessee
 2. Income reaches the assessee
 3. Income is applied to discharge an obligation, whether self-imposed or gratuitous.

Diversion of Income : An obligation to apply the income in a particular way before it is received by the assessee or before it has arisen or accrued to the assessee results in diversion of income. The source is charged with an overriding title, which diverts the income. Therefore the essentials are the following :

1. Income is diverted at source,
2. There is an overriding charge or title for such diversion, and
3. The charge / obligation is on the source of income and not on the receiver.

Examples of diversion by overriding title are -(a) Right of maintenance of dependants or of coparceners on partition (b) Right under a statutory provision (c) A charge created by a decree of a Court of law.

- (f) Section 4 of the Income-tax Act provides that income-tax shall be charged (a) for any assessment year at the rate or rates specified in the annual Finance Act for that year (b) in respect of the total income of the previous year of every person.

Thus income-tax is levied for every assessment year at rates specified in the relevant Finance Act.

The liability to tax arises by virtue of the charging section alone and it arises at the close of the previous year, though quantification of the amount payable is postponed. It therefore follows, that the liability to tax is not dependent upon assessment. In respect of income chargeable to tax, tax shall be deducted at source or paid in accordance with the relevant provisions. Further, though the Finance Act naturally prescribes the rates of tax, in respect of certain incomes, the Income-tax Act itself has prescribed specific rates. For example, Section 112 in the case of long term capital gains @ 20%; Section 115BB in the case of winnings from lotteries, etc @ 30%.

Q2. (a) What does the term “substantial interest” denote under Income-tax Act?

Answer 2. (a)

The term ‘substantial interest’ is relevant under the Income-tax Act, 1961. Section 2(32) says that in relation to a company means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits, carrying not less than 20% of the voting power. In the case of a non-corporate entity, a person can be said to have substantial interest if 20% or more share or profit is held by him.

Q2. (b) Define the term “assessee” and state in this connection the different classes of assessee under the Income-tax Act, 1961.

A single letter of enquiry was issued by the Income-tax Department to Mr. Shoumik of Pune. In this letter there was no specific mention of any provision of the Income-tax Act. Can Mr. Shoumik be treated as an “assessee” under the Income-tax Act ?

Answer 2. (b)

Assessee means a person by whom any tax or any other sum of money is payable under the Act. It includes every person in respect of whom any proceeding has been taken for the assessment of his income or assessment of fringe benefits. It includes a person who is assessable in respect of the income of any other person or of the loss sustained by him or by such other person or of the amount of refund due to him or to such other person.

This term also includes every person who is deemed to be an assessee or an assessee in default under any provision of this Act.

Under the Income-tax Act, the different classes of assessee are : (a) Individual, (b) Hindu undivided family, (c) Partnership firms, (d) Companies, (e) Association of Persons (AOP) or body of individuals (BOI) whether incorporated or not (f) Local Authority, and (g) every artificial juridical person not falling within any of the preceding category.

According to sec 2(7) of the Income-tax Act, 1961, where any proceeding is initiated against a person according to the relevant provisions of the Act, such a person is termed as an "assessee". It is to be noted here that a simple enquiry letter issued by the Income-tax Department to a person without reference to any specific provision of the Act does not constitute any proceeding under the Act and as such the person cannot be treated as an "assessee" within the ambit of section 2(7) of the Act. In the given problem, Mr. Shoumik cannot therefore, be treated as an "assessee".

Q2. (c) What are the exceptions to the general rule that income of the previous year alone is taxed in an assessment year? Discuss.

What are the exceptions to the rule that the income of the previous year is chargeable to tax in the immediately following assessment year?

Answer 2. (c)

1. Shipping business of nonresident [Section 172]
2. Persons leaving India [Section 174]
3. AOP or BOI or Artificial Juridical Person formed for a particular event or purpose [Sec. 174A]
4. Persons likely to transfer property to avoid tax [Section 175]
5. Discontinued business [Section 176]

Q3. (a) Chocos Ice-cream Private Limited gives you the following details for the accounting year ended 31st March, 2009 :

Paid up equity share capital is divided into shares of Rs.10 each.

Sarvashri Ray Gandhi, Dikesh Ranka, Prasant Shroff and Tanmay Shah are registered shareholders, each holding 10,000 equity shares fully paid up.

Reserves of accumulated profits on 1st April, 2008 were Rs. 40 lakhs.

Current year's surplus was Rs. 10 lakhs.

Current liabilities and provisions at year end amounted to Rs.1 lakh.

Fixed assets consisted of only one item, viz., office buildings (at cost) of Rs. 11 lakhs.

Preliminary expenses not written off (at year end) Rs. 40,000.

Current assets on 31st March, 2009 amounted to Rs. 30 lakhs.

Loans and advances granted in the year and outstanding at year end were Rs. 13,60,000.

These included :

- (a) trade deposit of Rs. 1 lakh given to Ray Gandhi. He supplied a 'softy' ice machine in April, 2009 and the advance was adjusted against the cost of machinery supplied ;**
- (b) loan of Rs. 3 lakhs given to Dikesh Ranka on 10th January, 1999, out of which Rs. 1 lakh was repaid by him on 30th March, 2009**
- (c) loan of Rs. 3 lakhs given to Smt. Kanta Prasant Shroff at the specific request of Shri Prasant Shroff;**
- (d) loan of Rs. 4 lakhs to Tanmay Shah (H.U.F.) who are the beneficial owners of shares registered in the name of Tanmay Shah.**

Required :

**Discuss the tax implications of the above transactions in the hands of :
Shareholders and Chocos Ice-cream Private Ltd.**

Answer 3. (a)

Loans to shareholders of closely held companies to the extent the said company possesses accumulated profits are to be treated as "deemed dividend" under section 2(22) (e) of the Income-tax Act. Each of the shareholders in the present case holds an equal interest viz. 25% of the equity capital of the company and thus come within the scope of the above statutory provision.

- (i) Trade deposit of Rs. 1,00,000 to Ray Gandhi adjusted against the supply of machinery/ goods does not amount to dividend. The trade deposit represents deposit in the ordinary course of its business by the company.
- (ii) Rs. 3,00,000 given to Dikesh Ranka will be deemed to be dividend. Even though Rs. 1,00,000 had been repaid by the shareholder by the end of the accounting year, the deeming is for the distribution and the availability of accumulated profits. In the present case the entire advance of Rs. 3,00,000 will be taxed as deemed dividend. It is not exempt under section 10(33) in the hands of the shareholder.
- (iii) Rs. 3,00,000 given to Smt. Kanta will also be treated as deemed dividend since the advance was made at the specific request of the beneficial shareholder viz. Shri Prasant Shroff.
- (iv) The amount of loan given to Tanmay Shah (HUF) is also liable to tax as deemed dividend as beneficial ownership of shares in the company vest in HUF and it is only registered in the name of Tanmay Shah. Section 2(22)(e) covers any person who is beneficial owner of shares having substantial interest in the company.

Thus in the following cases, shareholders will be assessed for deemed dividend in respect of the amounts received as given below :

Dikesh Ranka	Rs. 3,00,000
Prasant Shroff	Rs. 3,00,000
Tinmay Shah	Rs. 4,00,000

In the hands of the company, there will be no tax liability under section 115-O, since that section does not include any distribution under section 2(22) (e) as dividend for its coverage. Also it may be noted that the company has accumulated profits much more than the amount advanced as loan to various shareholders.

Q3. (b) State the activities and operations, income from which is not deemed to accrue or arise in India.**Answer 3. (b)**

Explanation 1 to section 9(1)(i) lists out income which shall not be deemed to accrue or arise in India. They are given below :

1. In case of a business of which all the operations are not carried out in India [Explanation 1(a) to section 9(1)(i)]

In the case of a business of which all the operations are not carried out in India, the income of the business deemed to accrue or arise in India shall be only such part of income as is reasonably attributable to the operations carried out in India. Therefore, it follows that such part of income which cannot be reasonably attributed to the operations in India is not deemed to accrue or arise in India.

2. Purchase of goods in India for export [Explanation 1(b) to section 9(1)(i)]

In the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export.

3. Collection of news and views in India for transmission out of India [Explanation 1(c) to sec.9(1)(i)]

In the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India for transmission out of India.

4. Shooting of cinematograph films in India [Explanation 1(d) to sec.9(1)(i)]

In the case of a non-resident, no income shall be deemed to accrue or arise in India through or from operations which are confined to the shooting of any cinematograph film in India, if such non-resident is –

- (i) an individual, who is not a citizen of India or
- (ii) a firm which does not have any partner who is a citizen of India or who is resident in India; or
- (iii) a company which does not have any shareholder who is a citizen of India or who is resident in India.

Q3. (c) Mr. John had estates in Rubber, Tea and Coffee. He derives income from them. He has also a nursery wherein he grows and sells plants. For the previous year ending 31.3.2009, he furnishes the following particulars of his sources of income from estates and sale of Plants. You are requested to compute the taxable income for the Assessment year 2009-2010 :

	Rs.
(i) Manufacture of Rubber	5,00,000
(ii) Manufacture of Coffee grown and cured	3,50,000
(iii) Manufacture of Tea	7,00,000
(iv) Sale of plants from Nursery	1,00,000

Answer 3. (c)**Computation of taxable income of Mr. John for A.Y. 2009-10**

Particulars	Non-Agr. Inc Rs.	Agr. Inc. Rs.
(a) Income from manufacture of rubber (Rule 7A) Business income is 35% of Rs.5,00,000 Agricultural income is 65% of Rs.5,00,000	1,75,000	3,25,000
(b) Income from growing and curing of coffee (Rule 7B) Business income is 25% of Rs.3,50,000 Agricultural income is 75% of Rs.3,50,000	87,500	2,62,500
(c) Income from manufacture of tea (Rule 8) Business income is 40% of Rs.7,00,000 Agricultural income is 60% of Rs.7,00,00	2,80,000	4,20,000
(d) Income from sale of plants in nursery is agricultural income, assuming that plants from nursery were grown on land in the nursery Nil (CIT v. Soundarya Nursery 241 ITR 350 (Mad))		1,00,000
	5,42,500	11,07,500

Q4. (a) State the provisions relating to the exemption in respect of long-term capital gains on transfer of listed Equity Shares.**Answer 4. (a)**

Section 10(38) says that any income arising from the transfer of a long term capital asset being equity shares in a company or a unit of an equity oriented fund is exempt from tax, subject to following conditions.

- (a) The transaction of sale is entered into after the introduction of securities transaction tax; and
- (b) Such transaction is chargeable to securities transaction tax.

The proviso to section 10(38) says that the income though exempt from tax is to be taken into account while computing book profit and income tax payable under section 115 JB (applicable for companies).

- (ii) Exemption in respect of encashment of leave salary.

Q4. (b)

(i) Write short notes on: Taxability of Retrenchment Compensation received by Workmen.

(ii) Describe the following exempt incomes which do not form part of the total income under the Income-tax Act, 1961: Retrenchment Compensation.

Answer 4. (b)

As per section 10(10B), any compensation received by a workmen at the time of retrenchment is exempt to the extent of the lowest of the following :

- (i) any amount calculated in accordance with the provisions of section 25F(b) of the Industrial Disputes Act, 1947; or
- (ii) Such amount as notified by the Government i.e Rs.5,00,000; or
- (iii) The actual amount received.

Under the Industrial Disputes Act, 1947 the workman is entitled to retrenchment compensation equal to 15 days average pay for every completed year of continuous service or any part thereof in excess of six months.

Any compensation in excess of aforesaid limits is taxable as salary or profits in lieu of salary. However, the aforesaid limit is not applicable in cases where compensation is paid under any scheme approved by the Government, having regard to the need for extending special protection to the workmen in the undertaking to which the scheme applies.

For the purposes of this clause, compensation received at the time of closing down of an undertaking or transfer of ownership or management of the undertaking shall be deemed to be retrenchment compensation.

Q4. (c) What tax benefits are derived by an Industrial Undertaking, which is established in Free Trade Zone? Enumerate the conditions which are required to be satisfied by such a unit.

Answer 4. (c)

Profits and gains derived by an undertaking which begins to manufacture or produce articles or things or computer software in any special economic zone is eligible for deduction under section 10A. The quantum of deduction is as under :

- (a) 100% of the profits derived from export of such articles or things or computer software for five consecutive assessment years beginning with the assessment year in which the undertaking begins to manufacture or produce such articles or things or computer software.
- (b) 50% of such profits and gains for further two consecutive assessment years.
- (c) Not exceeding 50% of the profits for the next three consecutive assessment years subject to the amount debited to profit and loss account and credited to Special Economic Zone Re-investment Allowance Reserve Account.

The following conditions have to be satisfied -

- (a) The undertaking must commence production or manufacture of articles or things or computer software after 01-04-2003 in any special economic zone.
- (b) It should not have been formed by the splitting up or the reconstruction, of a business already in existence.
- (c) It is not formed by the transfer to new business of machinery or plant used for any purpose. However, any machinery or plant so transferred to the new business if does not exceed 20% of the total value of machinery or plant then it would be deemed that this condition has been complied with by the undertaking.
- (d) No deduction is admissible unless the return of income is furnished on or before the due date specified in section 139(1).
- (e) An assessee may make a declaration in writing for any assessment year for not applying the provisions of section 10A and such declaration must be furnished before the due date for filing the return specified in section 139(1).

Q5. (a) What are the benefits available to a 100% Export Oriented unit (E.O.U. Discuss the eligibility conditions for availing such benefits under section 10 B of the Income-tax Act, 1961.

Answer 5. (a)

As per section 10B, 100% of profits and gains derived by an assessee from a 100% export oriented undertaking from the export of articles or things or computer software is deductible for 10 consecutive assessment years beginning with the assessment year in which the undertaking begins to manufacture or produce articles or things or computer software. The assessee must satisfy the following conditions.

- (i) It manufactures or produces any article or thing during the previous year ;
- (ii) It has not been formed by the splitting up, or the reconstruction of, a business already in existence;
- (iii) It is not formed by the transfer to a new business of machinery or plant previously used for any purpose. Further, where the total value of plant or machinery transferred to the new unit does not exceed 20% of the total value of plant or machinery used in the new business, this condition will be deemed to have been complied with.
- (iv) For the purpose of getting deduction under this section the assessee must furnish his return of income on or before the due date specified in section 139(1).

Further, in computing the depreciation allowance on any assets in the assessment years, following the relevant assessment years, the written down value of the assets will be computed as if the assessee had claimed and had been allowed the depreciation in accordance with the provisions of the Act during each one of the assessment years.

The term 100% EOU means an undertaking which has been approved as such by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of Industries (Development and Regulation) Act, 1951 and the rules made thereunder.

No deduction will be allowed under section 80-IA or section 80-IB in relation to profits and gains of the undertaking coming under the provisions of section 10B.

Q5. (b) Explain the provisions relating to tax exemption to political parties. What are the obligations of the political parties under the provisions of Income Tax Act, 1961?

Answer 5. (b)

Section 13A of the Income-tax Act grants exemption from tax to political parties in respect of their income specified below :

- (i) Income from house property ;
- (ii) Income from other sources ;
- (iii) Income by way of voluntary contributions received by the political parties from any person; and
- (iv) Capital gains.

The aforesaid four categories of income would qualify for exemption without any monetary or other limit and the income so exempted would not even be includible in the total income of the political party for purposes of assessment. The incomes, if any, derived by the political party by way of profits and gains of business and profession would not, however, qualify for tax exemption.

The tax exemption will be applicable only if the following conditions are fulfilled.

- (i) The political party must be registered under section 29A of the Representation of the People Act, 1951. A political party not registered will not be eligible for the exemption. The treasurer of such political party or any other person must submit for every financial year a report under section 29C(3) of the Representation of People Act, 1951. Otherwise, exemption shall not be available to the political party for such financial year.
- (ii) The political party must keep and maintain such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom.
- (iii) The political party must keep and maintain such records in respect of each such voluntary contribution which is in excess of Rs.20,000/- with details of the amount received, the name and address of the person who has made the contribution.
- (iv) The accounts of the political party must be audited by a chartered accountant who is authorised under section 288 of the Income-tax Act to appear as an authorised representative in Income-tax proceedings before any Income-tax authority.

Political parties are under an obligation to file their return of income as per the provisions of section 139(4B) and should also apply to the Assessing Officer for the allotment of a permanent account number.

Q5. (c) Write short note on : Keyman Insurance Policy.

Answer 5. (c)

Explanation to section 10(10D) says 'Keyman Insurance Policy' means a life insurance policy taken by a person on the life of another person who is or was an employee of the first mentioned person or is or was connected in any manner whatsoever with the business of the first mentioned person.

Any sum received under an insurance policy, including the sum allocated by way of bonus on such policy, is exempt from tax. But this exemption does not apply to any sum received under a keyman insurance policy.

Therefore, the sum received under a keyman insurance policy including the sum allotted by way of bonus on such policy is taxable. Section 2(24)(xi) covers directly the receipt of sum under a keyman insurance policy within the definition of income. Also, as per section 17(3) any sum received by an employee under the Keyman Insurance Policy is deemed to be profits in lieu of salary.

Similarly, for persons on receipt of income from business, profession or vocation, any sum received under a keyman insurance policy, including bonus, has been deemed to be income chargeable under the head "Profits and gains of business or profession" – Section 28 Clause (vi).

Q6. (a) Mani is employed in a public company and is paid a sum of Rs.6,00,000 on Voluntary Retirement from service. The normal age of retirement in the company is 60 and John, who was 45 at the time of retirement had completed 20 years of service. His monthly salary at the time of retirement was as follows :

	Rs.
Basic pay	10,000
Dearness allowance (50 p.c. includible for pension)	6,000
H.R.A.	3,000
Conveyance allowance	800

What is the amount of compensation taxable under the Act?

Answer 6. (a)

Under section 10(10C) read with Rule 2BA the compensation received by an employee at the time of voluntary retirement from service is exempt to the extent prescribed under the guidelines issued by the Government and approved by the Chief Commissioner/Director General of Income-tax. The limits prescribed under the guidelines are the lowest of the following :-

- (i) 3 months 'salary for each completed year of service :

Salary for this purpose includes dearness allowance if the terms of employment so provide but not other allowances or perquisites i.e.,

$$\text{Rs. } 10,000 + 3,000 = 13,000$$

$$\text{Salary} = 13,000 \times 3 \times 20 \text{ (years)} = \text{Rs. } 7,80,000$$

- (ii) Actual compensation received Rs. 6,00,000

- (iii) Monetary limit Rs. 5,00,000

Hence, a sum of Rs.5 lakhs will be exempt and the balance of Rs.1,00,000 will be taxed.

Q6. (b) State the conditions for claiming exemption in the case of an infra-structural company.**Answer 6. (b)**

Section 10(23G) providing exemption to infrastructure capital company or infrastructure capital fund has been omitted by the Finance Act, 2006 w.e.f. the assessment year 2007-08.

If an entity is engaged in infrastructure development, it is eligible for deduction under section 80-IA. Students may note that the question seeks 'exemption' in the case of infrastructural company and not 'deduction' and hence the provisions of section 80-IA could not be referred here.

Q6. (c) Write short notes on: Venture capital fund**Answer 6. (c)**

Income of venture capital fund set up to raise funds for investment in venture capital undertakings is exempt from tax under section 10(23FB).

The expression "venture capital fund" has been defined to mean a fund, operating under a trust deed registered under the provisions of the Registration Act, 1908, or operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963 and which has been granted a certificate of registration under the Securities and Exchange Board of India Act, 1992 and regulations made thereunder and which fulfils the conditions as may be prescribed with the approval of Central Government, by Securities and Exchange Board of India by notification in the official gazette.

Thus the following conditions are to be satisfied.

- The fund should be operating under a trust deed duly registered under the Indian Registration Act, 1908 or operating as a venture capital scheme made by UTI.
- The fund should have obtained certificate of registration and SEBI Act, 1992 and
- It must fulfill the condition as may be specified by SEBI, with the approval of the Central Government.

Q7. (a) State whether True or False, with reasons, having regard to the provisions of the Income-tax Act, 1961 (Answers without reasoning will not be given any mark) –

Where the Commissioner of Income-tax is satisfied that the activities of the charitable trust, which has been accorded registration is not genuine, he can cancel the registration by passing an order in writing.

Answer 7. (a)

True. As per section 12AA(3), the Commissioner has power to cancel the registration of the trust, by passing a written order, where he is satisfied, inter alia, that the activities of the trust are not genuine. However, the trust should be given a reasonable opportunity of being heard.

Q7. (b) When a charitable trust can avail benefits under section 11 & 12 of the Income Tax Act, 1961?

Answer 7. (b)

A charitable trust can avail the benefits under section 11 & 12 of the Act if it satisfies the following conditions –

- (i) The trust has been granted registration by the Commissioner of Income-tax under section 12AA of the Income-tax Act on an application in the prescribed form (Form 10A) before the expiry of one year from the date of its creation.
- (ii) The property from which income is derived should be held under a trust or other legal obligation.
- (iii) The property should be held for charitable or religious purposes. According to section 2(15), charitable purpose includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.
- (iv) In the case of a charitable trust created on or after 1.4.1962, the further conditions are:
 - (a) the trust should not be created for the benefit of a particular religious community or caste;
 - (b) no part of the income should enure, directly or indirectly, for the benefit of the settlor or other specified persons ; and
 - (c) the property should be held wholly for charitable purposes.

The conditions mentioned in (b) and (c) would also apply to religious trusts created on or after 1.4.1962.

- (1) Where the total income of the trust without giving effect to sections 11 & 12 exceeds Rs. 50,000, then the accounts of the trust have to be audited and an audit report in Form No. 10B must be filed along with the return of income.
- (2) At least 85% of the income is required to be applied for the approved purposes.
- (3) 15% of the income, which can be accumulated or set apart, should be invested or deposited in the forms or modes specified in section 11(5).

Q7. (c) Distinguish between foregoing of salary and surrender of salary.

Answer 7. (c)

Foregoing of salary – Waiver by an employee of his salary is foregoing of salary. Once salary accrues, subsequent waiver does not absolve him from liability to income-tax.

Surrender of salary – If any employee surrenders his salary to the Central Government under the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961, the surrendered salary would not be included in computing his taxable income, whether he is a private sector/public sector or Government employee.

Q7. (d) Write short note on: Specified Employee

Answer 7. (d)

As per section 17(2)(iii) the following person shall be “specified employee”.

- (i) An employee who is a director of a company. It is immaterial whether he is a full time director or a part-time director, whether he is a nominee of management, workers, Govt. or financial institution. It is also not material whether or not he is a director throughout the previous year.
- (ii) An employee who has a substantial interest in the company. A person has a substantial interest in a company if he is a beneficial owner of equity shares carrying 20% or more of the voting power of the company. For determining whether a person has a substantial interest in a company, it is the beneficial ownership that is relevant rather than the legal ownership.
- (iii) An employee (not covered by above) whose income chargeable under the head ‘salaries’ (excluding all benefits or amenities not provided by way of monetary payment) exceeds Rs. 50,000.

For computing the limit of Rs. 50,000, the following items have to be excluded/deducted.

- 1. All non-monetary benefits and
- 2. Monetary benefits which are not taxable u/s. 10

Where salary is received from more than one employer during the relevant previous year, the aggregate salary from all the employers is to be considered for determining the above ceiling limit of Rs. 50,000.

Q8. (a) Under what circumstances and to what extent is the provision of medical facilities or assistance by an employer not treated as a perquisite in the hands of an employee?

Answer 8. (a)

The provision of medical facilities/assistance will amount to perquisite but the value thereof will be exempt if the following conditions are satisfied :

- (i) The value of any medical treatment provided in any hospital maintained by the employer is exempt.
- (ii) Any sum paid by the employer towards expenditure actually incurred by an employee on his medical treatment or the medical treatment to any member of his family.
 - (a) in any hospital maintained by government or any local authority or any other hospital approved by the government.
 - (b) in respect of prescribed disease or ailments in any hospital approved by the Chief Commissioner of Income-tax.
- (iii) Premium paid by an employer to effect or keep in force an insurance on the health of the employee or any member of his family.

- (iv) Any sum paid by the employer in respect of expenditure incurred by the employee on his medical treatment or the medical treatment of any member of his family to the extent to which it does not exceed Rs. 15,000 per year.
- (v) Any expenditure incurred or paid by the employer on medical treatment of the employee or any member of his family outside India and
 - (a) Travel and stay outside India of the employee or any member of his family for such treatment.
 - (b) Travel and stay abroad of one attendant who accompanies the patient in connection with treatment.

These are subject to the following conditions :

- (A) The expenditure on medical treatment and stay shall be excluded from perquisite only to the extent permitted by R.B.I. and
- (B) The expenditure on travel shall be excluded from perquisite only in the case of employees whose gross total income does not exceed Rs. 2 lakhs (before including the said expenditure).

Q8. (b) Mr. X and Mr. Y are working for M/s. Gama Ltd. As per salary fixation norms, the following perquisites were offered :

- (i) For Mr. X, who engaged a domestic servant for Rs.500 per month, his employer reimbursed the entire salary paid to the domestic servant i.e. Rs.500 per month.
- (ii) For Mr. Y, he was provided with a domestic servant @ Rs.500 per month as part of remuneration package.

You are required to comment on the taxability of the above in the hands of Mr. X and Mr. Y, who are not specified employees.

Answer 8. (b)

In the case of Mr. X, it becomes an obligation which the employee would have discharged even if the employer did not reimburse the same. Hence, the perquisite will be covered under section 17(2)(iv) and will be taxable in the hands of Mr. X. This is taxable in the case of all employees.

In the case of Mr. Y, it cannot be considered as an obligation which the employee would meet. The employee might choose not to have a domestic servant. This is taxable only in the case of specified employees covered by section 17(2)(iii). Hence there is no perquisite element in the hands of Mr. Y.

Q9. (a) State the difference between Capital Receipts and Revenue Receipts.

Answer 9. (a)

Capital Receipts	Revenue Receipts
1. Any amount received towards fixed capital or for fixed asset is capital receipt.	1. Amount received towards working capital or for floating asset is a revenue receipt.
2. Any receipt towards substitution of a source of income is a capital receipt.	2. Any receipt towards substitution of income is a revenue receipt.
3. The amount received as a compensation for surrender of any rights of ownership is a capital receipt.	3. Any compensation received for the loss of future profit is a revenue receipt.

Notes:

- (i) **Nature of receipt in the hands of the recipient** : Whether a receipt is a capital receipt or a revenue receipt is determined by its nature, in the hands of the recipient and not its character in the hands of the payer.
- (ii) **Not based on records** : The nature of receipt should not be based on the name given to the amount received by the assessee in his records.
- (iii) The capital receipt may be received in instalments and the revenue receipts may be received in lump sum.

Q9. (b) Define Royalty.**Answer 9. (b)**

“Royalty” for the purpose of Section 9(1)(vi) has been defined as the **consideration for**

1. **The transfer of all or any rights** in respect of a patent, invention, model, design, secret formula or process or trade mark in similar property.
2. The Imparting of any information covering the working of or the use of a patent, invention, model, design, secret formula or process or trade mark or similar property.
3. The **use of any** patent, invention, model, design, secret formula or trademark or similar property.
4. The imparting of any information regarding technical, industrial, commercial or scientific knowledge or skill.
5. The use or right to use any industrial, commercial or scientific equipment other than the amount referred to u/s 44BB (i.e.) from the business of prospecting, extraction or, production of mineral oils.
6. The transfer of all or any rights in respect of any copyright ~ literary artistic or scientific work, including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting but not consideration for the sale, distribution or exhibition of cinematographic films, or
7. The **rendering** of services in connection with any of the above activities.

Royalty includes any lump sum consideration but excludes consideration, which would constitute income by way of capital gains.

Q9. (c) State the procedure for computing Agricultural Income and Business Income of the same assessee.**Answer 9. (c)**

Agricultural produce is used as a raw material in a manufacturing concern :

If agricultural produce is used as a raw material in a manufacturing concern, for the purpose of Income Tax, it will be treated as follows :

1. **Deductible Expense = Average Market Price** : Where agricultural produce is used as raw material in manufacturing operations, the **average market price of the agricultural produce consumed** during the previous year shall be **debited to the manufacturing account** of the business. No other deduction towards agricultural operations shall be allowed. [Rule 7]

2. Average market price is Equivalent to:

- (a) **Where it is determinable:** Average Price at which raw material has been sold;
- (b) **Where it is not determinable:** Expenses of cultivation + Land revenue / Rent + Reasonable profit as determined by the Assessing Officer.

Q10. (a) Discuss the year of chargeability of Salary**(b) Place of accrual of salary****Answer 10.****(a) Sec.15: Year of Chargeability of Salary**

- Due or receipt whichever falls earlier: Salary is taxable on due basis or on receipt basis, whichever is earlier. Hence,
 - (a) salary due in a previous year is taxable, even if it not received.
 - (b) Salary received in a previous year is taxable, even if it is not due.
 - (c) Arrears of salary received during the current previous year shall be taxable in the current year if not charged to tax in an earlier previous year.
- No double taxation: once salary is taxed on due/receipt basis, it will not be taxed again on receipt/falling due, as the case may be.
- The assessee can claim relief u/s 89(1) for arrears or advance salary.
- Loan from employer is not salary. Advance salary is taxable, while advance against salary is not taxable.
- For Government employees, the period of chargeability of salary is from March to February. For example, salary from 1st March 2008 to 29th February 2009 is chargeable as Income of the Assessment Year 2009-10.

(b) "Place of accrual of salary"

- The place of accrual of salary is the place of employment.
- Service rendered in India: U/s 9(1)(ii), salary earned in India is deemed to accrue or arise in India even if –
 - (a) it is paid outside India,
 - (b) it is paid or payable after the contract of employment in India comes to an end.
- If an employee gets pension paid abroad in respect of services in India, the same will be deemed to accrue or arise in India
- Leave salary paid abroad in respect of leave earned in India is deemed to accrue or arise in India.
- Services rendered outside India : Sec.9(1)(iii) provides that income chargeable under the head "Salaries" payable by the Government to a citizen of India for service provided outside India will be deemed to accrue or arise in India.
- U/s 10(7), any allowance or perquisites paid or allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempted.

Q11. Discuss the provisions relating to Medical Treatment facilities.**Answer 11.****MEDICAL FACILITIES**

- Fixed medical allowance is fully taxable
- Medical payments include reimbursements also [circular no.603/6.6.1991]
- W.e.f. A.Y.2006-07, Medical Reimbursement is subject to Fringe Benefit Tax except first aid facilities in hospital or dispensary run by the employer.

MEDICAL TREATMENT IN INDIA

1. Local treatment to employee or any member of his family in:
 - Hospital maintained by employer
 - Government Hospital
 - Notified hospital for prescribed diseases [Sec. 17(2)(v)]

Family includes spouse, children(whether dependent or independent) and parents, brothers and sisters wholly dependent on the employee.
2. Group Medical insurance paid u/s36(1)(ib) & Medical Insurance paid u/s 80D- which are approved by the Central Govt. or IRDA w.e.f.A.Y.2007-08.
3. Any other medical expenditure reimbursed subject to a maximum of Rs. 15,000

MEDICAL TREATMENT ABROAD (for the patient and the attendant)

If the employee underwent medical treatment abroad and the expenditure is met by the employer, the exemption will be subject to the following:

1. Medical treatment and stay expenses abroad(both for the patient and the attendant) is exempt from tax, subject to the maximum amount permitted by the Reserve Bank of India.
2. Travel expenditure of the patient and the attendant:

Gross Total Income, before including reimbursement of Foreign Travel Expenditure	Amount of Exemption
Upto Rs. 2,00,000	Fully exempted
Above Rs. 2,00,000	Fully taxable

3. Computation of exemption for foreign travel expenditure

- Step 1 :** Compute Gross Total Income of the assessee without considering foreign travel reimbursement but after set-off loss and unabsorbed depreciation.
- Step 2 :** If the Gross Total Income does not exceed Rs. 2 lakhs, Foreign Travel Reimbursement is not taxable otherwise fully taxable.
- Step 3 :** If Foreign Travel reimbursement is taxable as per Step 2, recomputed the income under the head Salary after including foreign travel reimbursement and Gross Total Income must also be recomputed.

Q12. Discuss the provisions relating to accommodation facilities.**Answer 12.****1. Value of Unfurnished Accommodation:** Explanation 1 to Sec.17(2), Rule 3(1)

Nature of Perquisite	Taxable Value of Perquisite
Provided by Central Govt. or State Govt.	Licence fee determined by the Government Less: Rent recovered from employee

Provided by Employer other than Central or State Government

(a) owned by employer	In cities having population exceeding 25 lakhs as per 2001 census 15% of Salary Less Rent actually paid by employee In cities having population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census : 10% of Salary Less Rent actually paid by employee In other places : 7.5% of Salary Less Rent actually paid by employee
(b) taken on lease by the employer	Rent paid by the employer or 15% of Salary whichever is lower Less Rent recovered from employee
(c) Accommodation in a hotel	24% of salary paid/payable or actual charges paid/payable whichever is lower Less Amount paid or payable by the employee

Hotel Accommodation: Accommodation provided in a hotel will not be a taxable perquisite if the following two conditions are fulfilled :

- The period of such accommodation does not exceed 15 days
- Such accommodation has been provided on the transfer of the employees from one place to another.

2. Value of Furnished Accommodation

Particulars	Rs.
Value of unfurnished accommodation as above	xxx
Add : Value of Furniture provided :	
• If owned by employer, 10%p.a. of original cost of such furniture	xxx
• If hired from third party, then Actual hire charges	
Less : Any charges paid or payable by the employee	(xxx)
Value of Furnished Accommodation	xxx

Note : Furniture includes Television sets, radio, refrigerator, other household appliance, air-conditioning plant or equipment.

3. Valuation not applicable:

- (a) Employees working at mining site, onshore oil exploration site, offshore site, project execution site, dam site, power generation site.
- (b) Conditions to be fulfilled:
- The accommodation should be of a temporary nature, and
 - Plinth area should not exceed 800 square feet
 - Accommodation should be located at least 8 kms away from local limits of municipality/ cantonment or located in a remote area

Remote area means area located at least 40 kms away from town having a population not exceeding 20,000 based on latest published All-India census.

4. Valuation of accommodation in case of Employees on transfer :

- (a) For the first 90 days of transfer : Where accommodation is provided both at existing place of work and in new place, the accommodation, which has lower value, shall be taxable.
- (b) After 90 days : Both accommodations shall be taxable.

5. Salary for Valuation of Accommodation facilities :

Salary includes	Salary excludes
• Basic Salary • D.A.(if considered for retirement benefits) • All taxable allowances • Bonus or commission or ex-gratia • Any other monetary payment	• Other D.A • Employer's contribution to PF • Exempted allowances • Perquisites u/s 17(2) • Perquisites u/s 17(2)(iii) or its provisions

Q13. Discuss the provisions relating to perquisites and other facilities provided to an employee and his household, other than accommodation facilities.

Answer 13.

The nature of perquisites and the taxable value of perquisites as applicable to an employee-assessee are :

Rule	Nature of Perquisite	Taxable Value of Perquisite(TVP)
3(3)	Service of sweeper, gardener or watchman or personal attendant	Actual cost to the employer Less: Amount paid by employee
3(4)	Supply of gas, electricity or water for household consumption	Procured from outside agency Amount paid to outside agency Resources owned by employer himself Manufacturing cost per unit Less: amount paid by the employee

Rule	Nature of Perquisite	Taxable Value of Perquisite(TVP)
3(5)	Education facilities to members of his household (a) free education to children in the school maintained by the employer or the school sponsored by the employer (b) other schools (c) for other members of the household	If the cost of education per child does not exceed Rs. 1,000 p.m.- then not taxable For points (b) & (c) In other case, cost to the employer Less: amount recovered from employee
3(7)(i)	Housing Loan/Vehicle Loan- for acquiring capital assets and not for repairs. SBI Rate = SBI Rate prevailing on the first day of the previous year Other Loans	Interest charged by employer is equal to or higher than SBI rates. It is not a taxable perquisite Interest charged is lower than SBI rates: Interest charged at SBI rates on maximum outstanding balance Less: Interest paid by the employee on that loan Similar treatment as above. Exceptions : (a) Medical loan for treatment of diseases specified in Rule 3A except loan reimbursed by medical insurance (b) Loan not exceeding Rs. 20,000 in aggregate
3(7)(vii)	Use of any movable asset other than computer or laptops or other assets already mentioned	10% of Actual Cost if owned by the employer; or Actual rental charge paid/payable by the employer Less: Amount recovered from employee

Q14. (a) State the provisions relating to transfer of movable asset to employees.

Answer 14. (a)

3(7)(viii)	Computers & Electronic Items	Motor Car	Other Assets
	Actual Cost Less: Depreciation @50% for every completed year under WDV method	Actual Cost Less: Depreciation @20% for every completed year under WDV method	Actual Cost Less: Depreciation @10% for every completed year under SLM method
	Value of the Asset Less: Amount recovered from employee	Value of the Asset Less: Amount recovered from employee	Value of the Asset Less: Amount recovered from employee
	Value of the perquisite	Value of the perquisite	Value of the perquisite

Note :

- (a) Electronic gadgets include computer, digital diaries and printers, but excludes washing machines, microwave ovens, hot plates, mixers, ovens, etc.
- (b) Transfer of Assets, which are 10 years old, shall not attract tax liability.
- (c) Member of household includes : Spouse(s), children and their spouses, parents, servants and dependents.
- (d) Completed year means actual completed year from the date of acquisition of the asset to the date of transfer of such asset to the employees.

Q14. (b) State the treatment of tax on non-monetary benefits paid by employer**Answer 14. (b)**

The treatment of tax on non-monetary benefits paid by an employer are :

1. Payment of tax by employer on non-monetary perquisites :

- (a) U/s 192(1A), the employer may, at his option, pay income tax on the whole or part of perquisite provided by way of non-monetary payments.
- (b) Such payment of tax is not taxable as a perquisite in the hands of the employee [Sec. 10(10CC)]
- (c) The payment of income tax in such case is not allowable as expenditure in the hands of the employer. [Sec. 40(a)(v)]
- (d) Such tax shall be determined at the average rate of income tax computed on the basis of the rates in force for the financial year, on the income chargeable under the head "Salaries" including non-monetary payments. The tax so payable shall be construed as if it were, a tax deductible at source, from income under the head "Salaries" and shall be subject to the provisions of Chapter XVII [COLLECTION AND RECOVERY OF TAX].

2. Determination of tax payable by employer u/s 192(1B) i.e. Tax on Non-monetary benefits :

Step 1: Average Rate of Income Tax =

$$\frac{\text{Tax on Income under "Salaries" (including non – monetary benefits)}}{\text{Income under the head Salaries}} \times 100$$

Step 2: Tax payable on Non-monetary benefits = Average Rate of Income Tax (Step 1) × Value of Non-monetary benefits

Q15. (a) Discuss the taxability of perquisites provided by employers who are subject to FBT (Fringe Benefit Tax).**Answer 15. (a)**

Taxability of other perquisites provided to employee or his household members by an Employer who is not liable to pay FBT [Rule 3]

Taxability of Motor Car Benefits [Rule 3(2)(A)]

Owner of Car	Expenses borne by	Purpose	Taxable Value of Perquisite
1(a) Employer	Employer	Fully official	Not a perquisite provided the documents as specified in Rule 3(2)(B) are maintained.
1(b) Employer	Employer	Fully private	Total of : (i) Actual expenditure on car (ii) Remuneration to chauffeur (iii) 10% of the cost of car (normal wear & tear) Less: Amount charged from employee
1(c)(i) Employer	Employer	Partly official and partly personal	Cubic Capacity of Car Engine upto 1.6 litres Rs. 1,200 p.m + Rs.600 p.m. for chauffeur Cubic Capacity of Car Engine above 1.6 litres Rs. 1,600 p.m. + Rs.600 p.m. for chauffeur
1(c)(ii) Employer	Employee	Partly for official and partly for personal	Cubic Capacity of Car Engine upto 1.6 litres Rs.400 p.m + Rs.600 p.m. for chauffeur Cubic Capacity of Car Engine above 1.6 litres Rs. 600 p.m. + Rs. 600 p.m. for chauffeur
2(i) Employee	Employer	Fully official use	Not a perquisite provided the documents as specified in Rule 3(2)(B) are maintained.
2(ii) Employee	Employer	Partly official and partly personal	Subject to Rule 3(2) (B)Actual expenditure incurred Less: Car cubic capacity upto 1.6 litres [i.e. value as per 1(c)(i)] OR Car cubic capacity upto 1.6 litres above 1.6 litres [i.e. value as per 1(c)(i)]
3(i) Employee owns other auto-motive but not car	Employer	Fully official use	Not a perquisite provided the documents as specified in Rule 3(2)(B) are maintained.
3(ii) Employee owns other auto-motive but not car	Employer	Partly for official and partly for personal	Subject to Rule 3(2) (B)Actual expenditure incurred by employer Less: Rs.600 p.m.

Note :

1. Using cars from pool of cars owned or hired by Employer :

The employee is permitted to use any or all cars for both official and personal use :

For one car	Valued as per 1(c)(i)
For more than one car	Valued as per 1(b) as if fully used for personal purpose

2. Documents to be maintained for claiming 'not taxable perquisite' or higher deduction wherever applicable [Rule 3(2)(B)]

- (a) Employer should maintain complete details of journey undertaken for official purpose, which includes date of journey, destination, mileage and amount of expenditure incurred thereon.
- (b) Certificate of supervising authority of the employee, wherever applicable, to the effect that the expenditure incurred for wholly and exclusively for performance of official duties, should be provided.

Q15. (b) Discuss the taxability of any other benefits provided to an employee-assessee by the employer.

Answer 15. (b)

The taxability of any other benefits may be discussed on the following lines:

Rule	Nature of Perquisite	Taxable Value of Perquisite(TVP)
3(6)	Transportation of goods or passengers at free or concessional rate provided by the employer engaged in that business (other than railways/airlines)	Value at which offered to public Less: amount recovered from the employee
3(7)(ii)	Traveling, touring, accommodation and other expenses met by the employer other than specified in Rule 2B. (this shall be calculated only for the period of vacation)	Amount recovered by employer or Value at which offered to public Less: amount recovered from the employee
3(7)(iii)	Free meals during office hours Free meal in remote area or offshore installation area is not a taxable perquisite	Actual cost to the employer in excess of Rs. 50 per meal or tea or snacks Less: amount recovered from the employee. Tea or non-alcoholic beverages and snacks during working hours is not taxable.
3(7)(iv)	Value of any gift or voucher or taken other than gifts made in cash or convertible into money (e.g. gift cheques) on ceremonial occasion	Value of gift In case the aggregate value of gift during the previous year is less than Rs. 5,000 , then it is not a taxable perquisite
3(7)(v)	Expenditure incurred on credit card or add on card including membership fee and annual fee	Actual expenditure to employer is taxable Less: amount recovered from employee If it is incurred for official purpose and supported by necessary documents then it is not taxable.
3(7)(vi)	Expenditure on club other than health club or sports club or similar facilities provided uniformly to all employees	Actual expenditure incurred by the employer Less: amount recovered from employee If the expenditure is incurred exclusively for official purposes and supported by necessary documents then it is not taxable. Initial fee of corporate membership of a club is not a taxable perquisite
3(7)(ix)	Any other benefit or amenities or service or right or privilege provided by the employer other than telephone or mobile phone	Cost to the employer Less: amount recovered from employee

Note : Members of household includes: spouse(s), children and their spouses, parents, servants and dependents.

Q16. (a) State the difference between Contracts of service vs. Contract for service**Answer 16. (a)**

Basis	Contract of Service	Contract for Service
Meaning	Employer-employee relationship	In this contract, a person offers his services to any person who is willing to pay the charges therefor
Control	Control and supervision vests with the employer. The employee is bound to follow the employer's directions	The day-to-day control is normally absent in the case of contract for service
Execution of work	Employee works under the close supervision of his employer who determines the manner of execution of work (control over what should be done and how)	The person executing the job is answerable only for the work to be carried out in accordance with the terms of contract. He has discretion to do the work in his own way. (control over what should be done and now how to do it)
Remuneration	An employee works for remuneration, which may be paid monthly or in lump sum or any suitable basis as per agreement	The person rendering the service is entitled to the fruits of his labour and also liable for the losses
Charge of tax	Income from salaries	Profits & Gains from Business or Profession
Example	Kajol, an actress, is an employee of RK Productions Pvt.Ltd. She gets a remuneration of Rs.8 lakhs p.m. She acts in several films but the producers pay the fees for those services directly to the studios. Here, employer-employee relationship exists between Kajol and RK Productions. Hence her remuneration will be assessed as salary.	Shahrukh is an actor. He acts in several films at a time with remuneration ranging from Rs.10 crores to Rs.40 crores. The producers of films pay him directly for his services. There is no employer-employee relationship between the producers and Shahrukh.

Q16. (b) Discuss the taxability of Provident Fund receipts.**Answer 16. (b)**

The taxability of provident funds are as follows :

Particulars	Statutory	Recognized	Unrecognized	Public
Constituted under	Provident Funds Act, 1952	EPF and Misc, Provisions Act, 1952 & recognized by the Commi-ssioner of PF and CIT	Not recognized by the Commissioner of Income Tax	Public Provident Fund Act, 1968 Account in SBI or Post Offices

Particulars	Statutory	Recognized	Unrecognized	Public
Contribution by	Employer and Employee	Employer and Employee	Employer and Employee	All assessees independently
Assessee's Contribution	Deduction u/s 80C	Deduction u/s 80C	No Income Tax Benefit	Deduction u/s 80C
Employer's Contribution	Not taxable	Amount exceeding 12% of salary is taxable	Not taxable at the time of contribution	Not applicable
Interest credited	Fully exempted	Exempted upto 9.5% p.a. Any excess is taxable	On Employee's contribution taxable under the head "Other Sources" On Employer's contribution not taxable at the time of credit	Fully exempt
Withdrawal at the time of retirement/ resignation/ termination, etc	Exempted u/s 10(11)	Exempted u/s 10(12) Subject to conditions	E m p l o y e e ' s contribution and interest thereon is not taxable . E m p l o y e r ' s contribution and interest thereon is taxable as Profits in lieu of Salary, under "Salaries"	Exempted u/s 10(11)

Note : Sum received by an Employee under approved Superannuation Fund is also exempt from tax u/s 10(13).

Question 17(a) Discuss the chargeability of Income from House Property
(b) Discuss Deemed Owner

Answer:

(a) The chargeability of Income from House Property is based on [Section 22]:

1. The basis of chargeability under the head income from house property is **Annual Value**.
2. The property must consist of Building or Lands Appurtenant thereto.
3. The assessee must be the owner of such property.
4. The property may be used for any purpose other than the assessee's business or profession.

(b) DEEMED OWNER [Section 27]

1. **Owner:** An Individual shall be considered as owner of a property when the document of title to the property is registered in his name.
2. **Deemed Owner:** Under the following circumstances, Income from House Property is taxable in the hands of the Individual, even if the property is not registered in his name

- (a) Where the Property has been transferred to **spouse for inadequate consideration** other than in pursuance of an agreement to live apart.
- (b) Where the Property is transferred to a **minor child for inadequate consideration (except a transfer to minor married daughter)**
- (c) Where the Individual holds an **impartible estate**.
- (d) Where the Individual is a **member** of Cooperative Society, Company, or other Association and has been allotted a house property by virtue of his being a member, even though the property is registered in the name of the Society / Company / Association.
- (e) Where the property has been transferred to the individual's name as part performance of a contract u/s 53A of the Transfer of Property Act, 1882. (i.e. Possession of the Property has been transferred to Individual, but the Title Deeds have not yet been transferred).
- (f) Where the Individual is a **holder of a Power of Attorney** enabling the right of possession or enjoyment of the property.
- (g) Where the property has been constructed on a **leasehold land**.
- (h) Where the **ownership** of the Property is under **dispute**.
- (i) Where the property is taken on a lease for a period of not less than 12 years, then the lessee shall be deemed as the owner of the property.

Q18. (a) Discuss the taxability of Recovery of Unrealized Rent

- (b) Receipt of Arrears of Rent**
- (c) Treatment of Unrealised Rent**
- (d) Interest on Loan**

Answer 18.

(a) Recovery of unrealized rent [Section 25AA]

1. **Chargeability** : Recovery of Unrealized Rent is chargeable to tax as "Income from House Property".
2. **Year of Taxability** : Unrealized Rent recovered is taxable in the financial year in which it is recovered.
3. **Non Subsistence of Ownership** : It will be taxable in the hands of Individual even if he does not own the property to which such rent pertains.
4. **Deduction** : No deduction will be allowed against such receipt.

(b) Receipt of Arrears of Rent [SECTION 25B]

1. **Meaning** : Arrears of Rent means the incremental rent relating to earlier financial years which has not been offered to tax in those financial years itself, but received during the current financial year,
2. **Changeability** : Receipt of Arrears of Rent will be chargeable to tax under the head Income from House Property only.
3. **Year of receipt** : It is taxable as income of the financial year in which he receives the arrears of rent.
4. **Nonsubsistence of ownership** : It is taxable in the hands of the Individual even if he does not own the prop" at the time of receipt of arrears of rent.

5. **Deduction** : A standard deduction of 30% of the amount of arrears received will be allowed as deduction

(c) Unrealized rent (rule 4)

Unrealized Rent means the rent not paid by the tenant to the owner and the same shall be deducted from the Actual Rent Receivable from the property before computing income from that property, provided the following conditions are satisfied:

1. The tenancy is bonafide.
2. The defaulting tenant should have vacated the property.
3. The assessee has taken steps to compel the defaulting tenant to vacate the property.
4. The defaulting tenant is not in occupation of any other property owned by the assessee.
5. The assessee has taken all reasonable steps for recovery of unrealised rent or satisfies the Assessing Officer that such steps would be useless.

(d) Interest on loan u/s 24(b)

1. **Purpose of loan** : The loan shall be borrowed for the purpose of **acquisition, construction, repairs, renewal or reconstruction of the house property.**
2. **Accrual basis** : The interest will be allowed as a deduction on accrual basis, even though it is not paid during the financial year.
3. **Interest on interest** : Interest on unpaid interest shall **not be allowed as a deduction.**
4. **Brokerage** : Any brokerage or commission paid for acquiring the loan **will not be allowed as a deduction.**
5. **Prior period interest** : Prior Period Interest shall be allowed in **five equal installments commencing from the financial year in which the property was acquired or construction was completed.**

Note : Prior period interest means the interest from the date of borrowal of the loan upto the end of the financial year immediately preceding the financial year in which acquisition was made or construction was completed.

6. **Interest on fresh loan to repay existing loan**: Interest on any fresh loan taken to repay the existing loan **shall be allowed as a deduction. [Circular 28 / 20.9.1969]**
7. **Inadmissible interest** : Interest payable outside India without deduction of tax at source and in respect of which no person in India is treated as an agent u/s 163 shall NOT be an allowable expenditure. **[Section 25]**
8. **Certificate** : The assessee should furnish a **certificate from the person from whom the amount is borrowed.**

Q19. (a) A Company issued discount coupons to its shareholders which entitled them to purchase the products of the Company at a discount. The Assessing Officer feels that this is a disguised dividend. What are the arguments for and against such a treatment?

(b) Discuss the taxability of Family Pension.

Answer 19. (a)

Arguments for treating discount coupons as Deemed Dividend u/s 2(22) (e):

- i. Entitlement to such coupons arises only on account of shareholding and therefore coupons can be considered as release of profits otherwise than by way of actual disbursement.

- ii. The Company suffers a reduction in the gross value of sales to the extent the discount coupons are used and therefore it can be inferred that the assets to that extent get released indirectly in favour of the shareholders.

Arguments against treating discount coupons as Deemed Dividend u/s 2(22) (e) :

- i. Issue of discount coupons is a managerial decision and can be revoked at its discretion and therefore it cannot be treated at par with dividend.
- ii. There is no certainty that each shareholder will use the discount coupons. The coupons may be used or may not be used or it may be given to others who in turn may or may not use them. Again, it may be used wholly or partly.
- iii. The discount coupons do not necessarily confer any vested right in favour of the Shareholder and it does not create any liability for the Company to the Shareholder.

Answer 19. (b)

1. Meaning: Family pension means pension received by the family members of the deceased employee.
2. Taxability: It is chargeable to tax under the head 'Income from Other Sources'.
3. Deduction u/s 57: Least of the following is allowed as a deduction
 - (a) 33 1/3 % of gross pension
 - (b) Rs.15,000
4. Exemptions :
 - (a) Family pension received by family members of Army personnel who are recipient of gallantry awards [Section 10(18)].
 - (b) Family pension received by the widow or children or nominated heirs of a member of the armed forces (including paramilitary forces) whose death has occurred in the course of operational duties [Section 10(19)].

Q20. Compute Total Income for the Assessment Year 2009-10

Subhash discloses following particulars of his receipts during the financial year 2008-2009 :

(i) Salary income earned at Pune but received in Srilanka	2,50,000
(ii) Profits earned from a business in Kenya which is controlled in India, half of the profits being received in India.	2,20,000
(iii) Income from property, situated in Nairobi and received there	75,000
(iv) Income from agriculture in Bangladesh and brought to India	68,000
(v) Dividend-paid by an Indian company but received in London on 15 May 2008.	22,000
(vi) Interest on USA Development Bonds and one half of which was received in India	44,000
(vii) Past foreign untaxed income brought to India	2,10,000
(viii) Gift of \$ 1000 from father, settled in USA, received in India	80,000
(ix) Land sold in Delhi, consideration received in Canada, resulting into capital gain	2,50,000
(x) Income from structure-designing constancy service, set up in Germany, controlled from India, profits being received outside India	4,00,000

(xi) **Loss from foreign business, controlled from India, sales being received in India (-) 2,00,000**

Determine his taxable income for the previous year 2008-2009 if he is (i) resident and ordinarily resident, (ii) resident but not ordinarily resident, (iii) non-resident.

Solution :

Particulars of Income Rs	ROR Rs	RNOR Rs	NR
(i) Salary earned at Pune but received at Sri Lanka: Salary is deemed to accrue or arise at a place where services are rendered, place of receipt being immaterial [Sec. 9(1)(ii)]. Hence, it is taxable in all cases	2,50,000	2,50,000	2,50,000
(ii) Profits earned from a business in Kenya, controlled in India:			
(a) One half of profits are taxable on receipt basis	1,10,000	1,10,000	1,10,000
(b) Other half profits—from foreign business controlled in India (in case of resident and ordinarily resident, place of control is of no relevance)	1,10,000	1,10,000	—
(iii) Income from property in Nairobi and received there: Income accruing or arising outside India	75,000	—	—
(iv) Income from agriculture in Bangladesh and brought to India: It is not income received in India as receipt means first receipt. Hence, it is not taxable in case of “not ordinarily resident” and “non-resident”. In case of “ordinarily resident”, it is income accruing or arising outside India. Hence, it is taxable. It should be noted that it is not agricultural income/ as it is not derived from land, situated in India, and hence not derived from under Sec. 10(1).	68,000	—	—
(v) Dividend paid by an Indian company but received in London: Dividend paid by an Indian company is deemed to accrue or arise in India. However, any dividend paid, declared or distributed by a domestic company on or after 1st April 2004 is exempt from tax under Sec. 10(34). Therefore, such dividend is not taxable.	—	—	—
(vi) Interest on USA Development Bonds:			
(a) One half is taxable on receipt basis	22,000	22,000	22,000
(b) Other half is taxable only in case of “ordinarily resident” as it is foreign income accruing or arising outside India	22,000	—	—
(vii) Past untaxed foreign income brought to India. It is not income received in India. Furthermore, it is not the income of the previous year 2008-2009. Hence, it is not taxable in any case.	—	—	—

(viii) Gift from a relative is not taxable.	—	—	—
(ix) Capital gain is deemed to accrue or arise in India [Sec. 9(1)(i)]	2,50,000	2,50,000	2,50,000
(x) Income from consultancy profession, set up outside India, profits being received outside India: Taxable in case of "ordinarily resident", as income accruing arising outside India and received outside India [Sec. 5(1)(c)] In case of "not-ordinarily resident", as it is not income from profession set up in India, control and management applies to business and not to professions. Hence, it is not taxable [Sec. 5(1) (c) r. w. Proviso]	40,000	—	—
(xi) Loss from foreign business, controlled from India: Income includes loss also. Profits are imbedded in sales. As sales were received in India, the place of control and management is not relevant. Business loss can be set off against business profits and thereafter against the income of any other head except income from salary and chance winnings (Sec. 70)	(-)2,00,000	(-)2,00,000	(-)2,00,000
Total income	11,07,000	5,42,000	4,32,000

Q21. (a) Mr. Som owns two houses, which are occupied by him for his own residence. The detailed particulars of houses and his other incomes for the previous year 2008-2009 are given below :

Particulars	House A Rs.	House B Rs.
Fair rent	5,00,000	5,00,000
Municipal value	4,20,00	4,50,000
Standard rent	4,50,000	6,20,000
Municipal taxes paid	50,000	60,000
Interest on loan for the FY 2008-2009	1,60,000	2,20,000
Date of loan	1.12.1998	1.04.2000
Date of completion	31.03.2001	31.03.2002
Certificate of interest attached with return of income	No	Yes

Mr. Som earns income from other sources amounting to Rs 2,00,000

Compute his total income and advise him which house should be opted for self-occupation.

Solution :**Computation of income from house property under different options**

Particulars	House A Rs.	House B Rs.
(a) Assuming both properties are self-occupied (SO)		
Annual value	Nil	Nil
Less : Interest on loan	(-) 30,000	(-) 1,50,000
Loss from house property	(-) 30,000	(-) 1,50,000
(b) Assuming both properties as deemed let out (DLO)		
Gross annual value	4,20,000	6,00,000
Less : Municipal taxes paid	(-) 50,000	60,000
Net annual value	3,70,000	5,40,000
Less : Permissible deduction :		
(i) Statutory deduction : 30% of Net annual value	(-) 1,11,000	(-) 1,62,000
(ii) Interest on loan	(-) 1,60,000	(-) 2,20,000
Income from house property	99,000	1,58,000
(c) Criteria for selection of house for self-occupied : Lowest taxable income	Option I	Option II
Income from house A	(-) 30,000	99,000
Income from house B	1,58,000	(DLO)
	(DLO)	(SO)
Income from other sources	2,00,000	2,00,000
Total income	3,28,000	1,49,000

Conclusion : House B should be treated as self-occupied.

Q21. (b) Dr.(Ms) Priyanka Chopra is the owner of a big house consisting of three units. Unit I consist of 40% area and Unit II and III are equal dimension, each occupying 30% area. The construction of house was completed on 1 April 2003 at a cost of Rs. 10,00,000. The municipal value of the house for the previous year 2008-2009 has been fixed at Rs. 2,00,000. Municipal taxes have been levied and paid @ 15% of rateable value. The rent under the Rent Control Act is Rs. 1,50,000. Unit I is let out @ 10,000 p.m. for residential purposes. Unit II is self-occupied. Unit III is used by her for her professional purposes. The rent did not pay two months rent and conditions of Rule 4 are satisfied. She paid ground rent, Rs. 9,000; interest on loan, taken during 1999-2000 for the construction of the house and payable during the PY 2008-2009 Rs. 1,50,000; insurance premium, Rs. 6,000. She spent Rs. 30,000 on repair of the house. Depreciation for the clinic portion is Rs. 15,000. Her gross receipt from professional during the previous year 2008-2009 amount to Rs. 5,60,000.

Compute her gross total income for the assessment year 2009-2010

Solution :**Computation of Income from House Property for the Assessment Year 2009-2010**

Particulars	House Let-out Rs.	House Self-occupied Rs.
Gross annual value :		
(a) ALV : House let out		
(i) 40% of municipal value : Rs. 80,000 or		
(ii) 40% of the standard rent : Rs. 60,000		
ALV is restricted to Rs. 60,000		
(b) Actual rent for 40% portion for 10 months : Rs. 1,00,000	1,00,000	Nil
Gross annual value		
Less : Municipal taxes paid by the owner for 40% Portion	12,000	Nil
Net annual value	88,000	Nil
Less : Deduction from net annual value (Sec. 24)		
1. Statutory deduction: 30% of net annual value	(-) 26,400	
2. Interest on loan: 40% of Rs. 1,50,000	(-) 60,000	(-) 30,000
Taxable income	1,600	(-) 30,000
Computation of Taxable Income from Profession :		
Gross professional income		5,00,000
Less : Expenses for 30% portion used for profession		
1. Municipal taxes (Sec. 30)	9,000	
2. Repair : 30% of Rs 30,000 (Sec. 30) *	9,000	
3. Ground rent : 30% of Rs 9000 (Sec. 30) *	2,700	
4. Interest on loan : 30% of Rs. 1,50,000 [Sec. 36(1)(iii)] *	45,000	
5. Insurance premium : 30% of Rs 6000 (Sec.30) *	1,800	
6. Depreciation (Sec. 32)	15,000	
	82,500	82,500
		4,17,500
Computation of total income:		
1. Income from house property:		
(a) Let out	1600	
(b) Self-occupied	(-) 30,000	
	(-) 28,400	(-) 28,400
2. Income from profession		4,17,500
Gross Total Income/Total Income		3,89,100

Q22. (a) Mr. Z has joined ICC Ltd. on 1st July 2005 in the scale of Rs.15,000-1,500-21,000-2,500-31,000. Compute gross salary for the previous year 2008-09.

Solution :

Previous Year: 2008-09

Salary for (i) April 2008 to June 2008 = $18,000 \times 3 = 54,000$

(ii) July 2008 to March 2009 = $19,500 \times 9 = 1,75,500$

Gross Salary

2,29,500

Workings :

Previous Year	April to June	July to March
2005-06	Nil	15,000
2006-07	15,000	16,500
2007-08	16,500	18,000
2008-09	18,000	19,500

Q22. (b) Mr. Kabir is getting a salary of Rs. 12,000 p.m. w.e.f. 1.4.2008. He is promoted w.e.f. 31.12.2007 and got arrears of Rs. 75,000. Bonus for the year 2008-09 is Rs. 15,000 remains outstanding but bonus of Rs. 12,000 for the year 2007-08 was paid on 1st January 2009. In March 2009, he got two months salary i.e. April and May 2009 in advance. Compute the gross salary for the assessment year 2009-10.

Solution:

Gross Salary for the Assessment Year 2009-10	
Salary: Rs.12,000 × 12	1,44,000
Arrears of Salary	75,000
Bonus for the year 2008-09: (Receivable)	—
Bonus for the year 2007-08: (Received)	12,000
Advance of Salary: April & May 2009 ($12,000 \times 2$)	24,000
Gross Salary	<u>2,55,000</u>

Q23. (a) X, is employed at Delhi as Finance Manager of R Ltd. The particulars of his salary for the previous year 2008-09 are as under: Basic Salary Rs. 16,000 p.m. Dearness allowance Rs. 12,000 p.m. Conveyance Allowance for personal purpose Rs. 2,000p.m.; Commission @2% of the turnover achieved which was Rs. 9,00,000 during the previous year and the same was evenly spread. HRA Rs.6,000 pm. The actual rent paid by him Rs. 5,000 pm for an accommodation at till 31.12.08. From 1.1.08 the rent was increased to Rs. 7,000 pm. Compute taxable HRA.

Note : If there is an increase in rent paid, it is advisable to calculate the exemptions separately based on the time period. Rent before and after increase.

Salary for HRA (for 9 months) = Basic Pay + DA(considered for retirement benefits) + Commission (if received as a fixed percentage on turnover as per terms of employment)

= $(16,000 \times 9) + (12,000 \times 9) + (2\% \text{ of } 9,00,000 \times 9/12) = 2,65,500$

Taxable HRA: (April to December 2008). Total time = 9 months

Particulars	Rs.	Rs.
Amount received during the financial year for HRA		54,000
Less : Exemption u/s 10(13A) Rule 2A. Least of the followings:		
(a) Actual amount received	54,000	
(b) 50% of Salary	1,32,750	
(c) Rent paid less 10% of Salary	18,450	18,450
[5,000 × 9 – 10% of 2,65,500]		
Taxable HRA		35,550

Salary for HRA (for 3 months) = Basic Pay + DA(considered for retirement benefits) + Commission
(if received as a fixed percentage on turnover as per terms of employment)

$$= (16,000 \times 3) + (12,000 \times 3) + (2\% \text{ of } 9,00,000 \times 3/12) = 88,500$$

Computation of Taxable HRA :

Particulars	Rs.	Rs.
Amount received during the financial year for HRA	18,000	
Less: Exemption u/s 10(13A) Rule 2A. Least of the followings :		
(a) Actual amount received	18,000	
(b) 50% of Salary	44,250	
(c) Rent paid less 10% of Salary		
[7,000 × 3 – 10% of 88,500]	12,150	12,150
Taxable HRA		5,850

Q23. (b) Z is employed in A Ltd. As on 31.3.09, his basic salary Rs. 6,000 p.m. He is also entitled to a dearness allowance of 50% of basic salary. 70% of the dearness allowance is considered for retirement benefits. The company gives him HRA Rs. 3,000 pm. With effect from 1/1/09 he receives an increment of Rs.1,000 in his basic salary. was staying with his parents till 31.10.2008. From 1.11.08 he takes an accommodation on rent in Delhi and pays Rs. 2,500 pm as rent for the accommodation. Compute taxable HRA for the assessment year 2009-10.

Computation :

Salary for the purpose of HRA shall cover the time period for which the assessee, who is in receipt of HRA, resided in a rented accommodation and the rent paid by such assessee, is more than 10% of salary.

Salary for HRA (for 5 months) = Basic Pay + DA(considered for retirement benefits) + Commission
(if received as a fixed percentage on turnover as per terms of employment)

Basic Pay = (5,000 × 2) + (6,000 × 3)	28,000
DA = 50% of Basic Pay × 70% forming part of retirement benefits	
[50 % × 28,000 × 70%]	<u>9,800</u>
Total Salary for HRA	37,800

Computation of Taxable HRA :

Particulars	Rs.	Rs.
Amount received during the financial year for HRA ($3,000 \times 12$)		36,000
Less: Exemption u/s 10(13A) Rule 2A.		
Least of the followings:		
(d) Actual amount received	36,000	
(e) 50% of Salary	18,900	
(f) Rent paid less 10% of Salary $[2,500 \times 5 - 10\% \text{ of } 37,800]$	8,720	8,720
Taxable HRA		<u>27,280</u>

Q24. (a) Mr. Hari retires on 15th October 2008, after serving 30 years and 7 months. He gets Rs. 3,80,000 as gratuity. His salary details are given below :

FY 2008-09 Salary Rs. 16,000 pm D.A. 50% of salary. 40% forms part of retirement benefits.

FY 2007-08 Salary Rs. 15,000 pm D.A. 50% of salary. 40% forms part of retirement benefits

Determine his gross salary in the following cases:

- (i) He retires from government service**
- (ii) He retires from seasonal factory in a private sector, covered under Payment of Gratuity Act, 1972.**
- (iii) He retires from non-seasonal factory, covered by Payment of Gratuity Act, 1972**
- (iv) He retires from private sector, not covered by payment of Gratuity Act**

Computation:

- (i) The amount of gratuity received as a Government employee is fully exempt from tax u/s 10(10)(i)**
- (ii) As an employee of a seasonal factory, in a private sector, covered under the Payment of Gratuity Act, 1972**

Solution :

Computation of Taxable Gratuity

Particulars	Rs.	Rs.
Amount received as Gratuity		3,80,000
Less: Exemption u/s 10(10)(ii) Least of the followings:		
(i) Actual amount received	3,80,000	
(ii) $7/26 \times \text{Last drawn salary} \times \text{No. of years of completed service}$ or part thereof in excess of 6 months $[31 \times 7/26 \times 24,000]$	2,00,308	
(iii) Maximum Limit	3,50,000	<u>2,00,308</u>
Taxable Gratuity		<u>1,79,692</u>

(iii) As an employee of a non-seasonal factory, covered by Payment of Gratuity Act, 1972

Computation of Taxable Gratuity

Particulars	Rs.	Rs.
Amount received as Gratuity		3,80,000
Less: Exemption u/s 10(10)(ii) Least of the followings:		
(i) Actual amount received	3,80,000	
(ii) $15/26 \times \text{Last drawn salary} \times \text{No. of years of completed service or part thereof in excess of 6 months}$ $[15/26 \times 31 \times 24,000]$	4,29,231	
(iii) Maximum Limit	3,50,000	3,50,000
Taxable Gratuity		30,000

Note : Salary = Basic Pay + Dearness Allowance

In case of seasonal employment, instead of 15 days, 7 days shall be considered.

(iv) As an employee of a private sector, not covered by Payment of Gratuity Act, 1972

Computation of Taxable Gratuity

Particulars	Rs.	Rs.
Amount received as Gratuity		3,80,000
Less: Exemption u/s 10(10)(iii) Least of the followings:		
(i) Actual amount received	3,80,000	
(ii) $1/2 \times \text{Average salary} \times \text{No. of fully completed years of service}$ $[1/2 \times 18,720 \times 30]$	2,80,800	
(iii) Maximum Limit	3,50,000	2,80,800
Taxable Gratuity		99,200

Note: Salary = 10 months average salary preceeding the month of retirement.

= Basic Pay + Dearness Allowance considered for retirement benefits + commission
(if received as a fixed percentage on turnover)

Salary for the months December '06 till September '07 shall have to be considered.

Basic Salary :	Rs.
December '07 to March '08 = $15,000 \times 4$	= 60,000
April '08 to September '08 = $16,000 \times 6$	= 96,000
Total Basic Salary	1,56,000
Add: D.A. [50% of 1,56,000 $\times$ 40%, forming part of superannuation benefits]	31,200
Salary for 10 months	1,87,200

Therefore, **Average salary for 10 months** = $1,87,200/10 = 18,720$

Q24. (b) Mr. Surya was an employee of IAWCI. After 38 years of service, he retired on 29.2.09. He was drawing a monthly salary of Rs. 15,000 in 2007, Rs. 16,500 in 2008 and Rs. 18,000 from 1.1.09 to 29.2.09. On retirement he received a gratuity of Rs. 4,00,000. Compute taxable gratuity.

Computation: Assuming employee **not covered** by Payment of Gratuity Act, 1972

Computation of Taxable Gratuity

Particulars	Rs.	Rs.
Amount received as Gratuity		4,00,000
Less: Exemption u/s 10(10)(iii) Least of the followings:		
(i) Actual amount received	4,00,000	
(ii) $1/2 \times \text{Average salary} \times \text{No. of fully completed years of service}$ $[\frac{1}{2} \times 18,000 \times 38]$	3,42,000	
(iii) Maximum Limit	3,50,000	3,42,000
Taxable Gratuity		58,000

Note: Salary = 10 months average salary preceeding the month of retirement.

= Basic Pay + Dearness Allowance considered for retirement benefits + commission (if received as a fixed percentage on turnover)

In this case, Average salary for 10 months preceeding the month of retirement is Rs. 18,000 only.

Q25. (a) Mr. King is getting a salary of Rs. 5,400 pm since 1.1.08 and dearness allowance of Rs. 3,500 pm, 50% of which is a part of retirement benefits. He retires on 30th November 2008 after 30 years and 11 months of service. His pension is fixed at Rs. 3,800 pm. On 1st February 2009 he gets 3/4ths of the pension commuted at Rs. 1,59,000. Compute his gross salary for the previous year 2008-09 in the following cases :

(i) If he is a government employee, getting gratuity of Rs. 1,90,000

(ii) If he is an employee of a private company, getting gratuity of Rs. 1,90,000

(iii) If he is an employee of a private company but gets no gratuity.

Computation :

Previous Year 2008-09. Tenure of Service: 1.4.08 to 30.11.08 = 8 months

Post-retirement period: December '08 to March '09 = 4 months

Particulars	Case (i)	Case (ii)	Case (iii)
Salary	43,200	43,200	43,200
D.A	28,000	28,000	28,000
Taxable Gratuity	Exempted	82,750	Nil
Uncommuted Pension $[(3,800 \times 2) + (950 \times 2)]$	9,500	9,500	9,500
Commuted Value of Pension	Exempted	88,333	
Gross Salary			

Case(ii) Gratuity received by an employee of a private company

	Rs.	Rs.
Actual amount received		1,90,000
Less: Exempted amount(least of the followings):		
(i) Actual amount received	1,90,000	
(ii) $\frac{1}{2} \times \text{Avg. Salary} \times \text{No. of years of Completed service}$ $[\frac{1}{2} \times 7,150 \times 30]$	1,07,250	
(iii) Maximum Limit	3,50,000	<u>1,07,250</u>
Taxable Gratuity		<u>82,750</u>
Commutated Value of Pension		
(Non-govt employee, gratuity received)		
Actual commuted value of pension received	1,59,000	
Less: Exempted u/s 10(10A)		
1/3rd of Full Value of Commuted Pension $[\frac{1}{3} \times 2,12,000]$	70,667	
Full Value of Commuted Pension		
Amount received on commutation		
Percentage of pension commuted $= \frac{1,59,000}{75\%} = 2,12,000$		
Taxable Commuted Value of Pension	88,333	
Case(iii) Commuted Value of Pension		
(Non-govt employee, gratuity not received)		
Actual commuted value of pension received	1,59,000	
Less: Exempted u/s 10(10A)		
$\frac{1}{2}$ of Full Value of Commuted Pension $[\frac{1}{2} \times 2,12,000]$	1,06,000	
Full Value of Commuted Pension		
Amount received on commutation		
Percentage of pension commuted $= \frac{1,59,000}{75\%} = 2,12,000$		
Taxable Commuted Value of Pension	53,000	

Q25. (b) Mrs. Vandana retires on 16th October 2008 after 30 years and 8 months of service. Salary structure is given below :

FY 2008-09	Salary Rs. 15,000 pm	D.A. Rs. 7,500 pm
FY 2007-08	Salary Rs. 12,000 pm	D.A. Rs. 6,000 pm

40% of dearness allowance forms a part of superannuation benefits. Record of Earned Leave is given below :

Leave allowed for one year of completed service -20 days; Leave taken while in service-150 days; Leave encashed during the year-60 days.

Determine the gross salary in the following cases:

- (i) He retires from government service
- (ii) He retires from the service of Delhi Municipal Corporation
- (iii) He retires from the service of Life Insurance Corporation of India
- (iv) He retires from private sector

Particulars	Case(i)	Case(ii)	Case(iii)	Case(iv)
Salary for 6 months & 16 days	98,000	98,000	98,000	98,000
Dearness Allowance	49,000	49,000	49,000	49,000
Taxable amount of Leave encashment	Exempted	1,24,980	1,24,980	1,24,980
Gross Income from Salary	1,47,000	2,71,980	2,71,980	2,71,980

Working Notes :

Average monthly salary for 10 months, prior to retirement:

Salary of 6 months 16 days: (1st April 2008 to 16th October 2008) = 98,000

Salary of 3 months 14 days: (14th December 2007 to 31st March 2008) = 41,600

Total Basic Salary 1,39,600

Add : Dearness allowance

For 6 months 16 days: (1st April 2008 to 16th October 2008) = 49,000

For 3 months 14 days: (14th December 2007 to 31st March 2008) = 20,800

Total D.A. 69,800

D.A. [40% of 69,800, forming part of retirement benefits] 27,920

Total salary of 10 months **1,67,520**

Average Salary = $\frac{1,67,520}{10} = 16,752$

Taxable amount of Leave Encashment :

Amount of encashment received :		
$(30 \times 20) - (150 + 60) \times (15,000 + 7,500) / 30 =$	2,92,500	
Less: Exempted u/s 10(10AA) [Least of the followings]		
(i) Actual amount received	2,92,500	
(ii) 10 months salary (preceeding the month of retirement)	1,67,520	
(iii) Leave credit on the date of retirement [$(30 \times 20) - (150 + 60) \times (16,752 / 30)$]	2,17,776	
(iv) Maximum Limit	3,00,000	1,67,520
Taxable amount of Leave encashment	1,24,980	

Q26. (a) Ms. Parineeta retired from service after 28 years from ABC Ltd. Leave sanctioned by employer 45 days p.a. Leave availed during service 400 days. Leave encashment received : Rs. 4,30,000. Average salary for 10 months preceeding the month of retirement Rs. 15,000. Compute taxable amount of Leave encashment for the Previous year 2008-09.

Computation : Since leave sanctioned by the employer is more than 30 days p.a., the following calculation is required, to determine the amount of leave credit on the date of retirement.

Particulars	Rs.
(i) Leave credit available on the date of retirement = Total Leave sanctioned during tenure of employment – Total leave availed during service = $[(28 \times 45) - 400]$	860 420
Less : Excess leave sanctioned by the employer $[(45 - 30 \text{ days}) \text{ per year} \times 28]$	
Leave credit on the basis of 30 days credit for completed years of service	440
(ii) Leave salary on the basis of 30 days credit = Step (i) $\times$ Average Salary = $440 \times (15,000/30)$	2,20,000

Computation of Taxable Leave Salary on Retirement

Particulars	Rs.	Rs.
Amount Received on Leave Encashment		4,30,000
Less: Exemption u/s 10(10AA): Least of the followings:		
(i) Actual amount of Leave encashment received	4,30,000	
(ii) Average salary of the individual for the past 10 months $\times$ 10 months	1,50,000	
(iii) Maximum Limit	3,00,000	
(iv) Leave at credit at the rate of 30 days p.a. for every Completed year of service as calculated in Step (ii)	2,20,000	1,50,000
Taxable Value of Leave Encashment		2,80,000

Q26. (b) Calculate the perquisite value of the expenditure on medical treatment, which is assessable in the hands of an employee of a company, inclusive of the conditions to be satisfied :

Gross total income, inclusive of salary Rs. 2,00,000

- (a) amount spent on treatment of the employee's wife in a hospital maintained by the employer Rs. 20,000
- (b) amount paid by the employer on treatment of the employee's child in a hospital Rs. 14,000
- (c) medical insurance premium reimbursed by the employer on a policy covering the employee, his wife and dependent parents Rs. 7,000
- (d) (i) amount spent on medical treatment of the employee outside India Rs. 2,50,000
(ii) amount spent on travel and stay abroad Rs. 90,000
- (e) amount spent on travel and stay abroad of attendant Rs. 60,000

Answer 26. (b)

Nature of Perquisites	Amount Taxable	Taxability/Non-taxability
Treatment of employee's wife in a hospital	Nil	Fully exempted
Maintained by employers	Nil	Not taxable: since the amount is less than Rs. 15,000
Reimbursement of expenses incurred on treatment of employee's child in hospital	Nil	Not taxable: since medical insurance premium referred to u/s 80D is paid on the employee and members of his family
Reimbursement of medical insurance premium paid	Nil	Not taxable: since medical insurance premium referred to u/s 80D is paid on the employee and members of his family
Medical treatment outside India	Nil	It is assumed that the whole of such expenditure is permitted by RBI
Amount spent on travel and stay abroad for the employee (herein referred as the patient)	Nil	Not taxable: as the Gross total income does not exceed Rs. 2,00,000
Amount spent on travel and stay abroad of the attendant	Nil	Not taxable : as the Gross total income does not exceed Rs. 2,00,000

Q27. (a) R submits the following information regarding his salary income for the year 2006-07: Basic salary Rs. 15,000 p.m.; D.A(forming part of salary) 40% of basic salary; City Compensatory Allowance Rs. 300 p.m.; Children Education Allowance Rs. 400 pm per child for 3 children; Transport Allowance Rs. 1,000 p.m. He is provided with a rent free unfurnished accommodation which is owned by the employer. The fair rental value of the house is Rs. 24,000 p.a. Compute the gross salary assuming accommodation is provided in a city where population is (a) exceeding 25 lakhs (b) exceeding 10 lakhs but not exceeding 25 lakhs (c) less than 10 lakhs

Computation of Income from Salary

Particulars	Amount	Amount
Basic salary $15,000 \times 12$		1,80,000
D.A. (40% of 1,80,000)		72,000
City Compensatory Allowance (fully taxable) (300×12)		3,600
Children Education Allowance		
Actual amount received $(400 \times 12 \times 3)$	14,400	
Less : Exemption u/s 10(14)		
@ Rs. 100 per month per child subject to a maximum of 2 children $(100 \times 12 \times 2)$	2,400	12,000
Transport Allowance	12,000	
Actual amount received $(1,000 \times 12)$	9,600	2,400
Less: Exemption u/s 10(14) @ Rs.800 p.m. (800×12)		
Gross Income from Salary u/s 17(1)		2,70,000
Add : Value of Unfurnished accommodation u/s 17(2) rule 3(1) explanation 1		
Case (a) Population exceeding 25 lakhs		
15% of salary		
Salary = Basic pay + DA (forming part of retirement benefits) + all other taxable allowances = $1,80,000 + 72,000 + 3,600 + 12,000 + 2,400 = 2,70,000$		40,500
Total Income from Salary		3,10,500

Note: Case (b): where population is exceeding 10 lakhs but not exceeding 25 lakhs

10% of Salary shall be considered as the value of taxable perquisite

$$= 10\% \text{ of Rs. } 2,70,000 = \text{Rs. } 27,000$$

Case (c) : where population is less than 10 lakhs

7.5 % of salary shall be considered as the value of taxable perquisite

$$= 7.5\% \text{ of Rs. } 2,70,000 = \text{Rs. } 20,250$$

Q27. (b) Mr. Kushal submits the following information regarding his salary income which he gets from ABC Ltd. Basic salary Rs. 15,000 pm; D.A. 40% of basic salary (forming part of retirement benefits); City Compensatory Allowance Rs. 300 pm; Children Education Allowance Rs. 400 pm (for 3 children); Transport allowance Rs. 1,000 p.m; Reimbursement of Medical Expenses Rs. 25,000. He is also entitled to HRA of Rs. 6,000 p.m. from 1.4.2008 to 31.8.2008. He was paying a rent of Rs. 7,000 p.m. for a house in Delhi. From 1.9.2008 he was provided with an accommodation by the company for which the company was paying the rent of Rs. 5,000 pm. The company charged him Rs. 1,000 pm as rent for the accommodation. Compute gross salary for the a.y. 2009-10.

Computation of Income from Salary

Particulars	Amount	Amount
Basic salary $15,000 \times 12$		1,80,000
D.A. (40% of 1,80,000)		72,000
City Compensatory Allowance (fully taxable) (300×12)		3,600
House Rent Allowance (April to August 2008)		
Actual amount received $(6,000 \times 5)$	30,000	
Less : Exemption u/s 10(13A) Rule 2A		
Least of the followings :		
(a) Actual amount received	30,000	
(b) 50% of salary	52,500	
(c) Rent paid – 10% of Salary		
$[7,000 \times 5 - 10\% \text{ of } 1,05,000]$	24,500	
	<u>24,500</u>	5,500
Note : Salary for HRA (5 months)		
Basic salary : $15,000 \times 5 =$		75,000
D.A. = 40% of 75,000 =		<u>30,000</u>
Total		<u>1,05,000</u>
Children Education Allowance		
Actual amount received $(400 \times 2 \times 3)$	14,400	
Less: Exemption u/s 10(14)		
@ Rs. 100 per month per child subject to a maximum of 2 children	<u>2,400</u>	12,000
$(100 \times 12 \times 2)$		

Transport Allowance		
Actual amount received (1,000 × 12)	12,000	
Less: Exemption u/s 10(14) @ Rs.800 p.m. (800 × 12)	<u>9,600</u>	2,400
Gross Income from Salary u/s 17(1)		2,75,500
Add: Value of Unfurnished accommodation u/s 17(2) rule 3(1) explanation 1 Assuming Population exceeding 25 lakhs (as accommodation provided in a Metro city) 15% of salary for 7 months (September 2008 to March 2009) Salary = Basic pay + DA (forming part of retirement benefits) + all other taxable allowances = [(15,000 × 7) + (40% of 1,05,000) + (300 × 9) + {(400 × 9 × 3) - (100 × 9 × 2)} + {(1000 - 800) × 9}] = 1,60,500		<u>24,075</u>
Total Income from Salary		<u>2,99,575</u>

Q28. (a) Mr. Sambhu was provided an accommodation in a hotel by his employer for 22 days before providing him a rent free accommodation which is owned by the employer. The hotel charges paid Rs. 6,000. Salary for the purpose of accommodation for the period of 22 days is Rs. 11,000. Compute the value of accommodation.

Computation :

In case of accommodation provided to the assessee on account of transfer, which is exceeding 15 days cumulatively, such shall be taxable as a perquisite. The company recovered Rs. 1,000 from the employee. Compute taxability.

Lower of the following :

- (i) 24% of salary paid/payable = 24% of 11,000 = 2,640
(ii) Actual charges paid/payable = 6,000

Less Amount paid or payable by the employee 1,000
Taxable value of perquisite **1,640**

Q28. (b) Value of unfurnished accommodation (computed) Rs. 50,000. Cost of furniture provided by the employer Rs. 80,000. Hire charges of furniture provided in the accommodation Rs. 500 p.m. Amount recovered from employee Rs. 200 p.m. Compute taxability.

Computation: Value of Furnished Accommodation (provided at Concessional rates)

Particulars	Rs.
Value of unfurnished accommodation as above	50,000
Add: Value of Furniture provided:	
• 10%p.a. of original cost of such furniture	8,000
• If hired from third party, then Actual hire charges	6,000
Less: Any charges paid or payable by the employee (200 × 12)	(2,400)
Value of Furnished Accommodation	61,600

Q29. Mr. Ritesh is provided with an accommodation in Kolkata since April 2008. Salary Rs. 40,000 p.m. Cost of furniture provided Rs. 80,000. On 1st September, 2008, following a promotion with a increase in Salary by Rs. 15,000, he was transferred to Jharkhand (population less than 25 lakhs but more than 10 lakhs), and was also provided an accommodation there. Mr. Ritesh was allowed to retain the Kolkata accommodation till March, 2009. Compute taxability.

Computation:

Phase 1: Value of Furnished Accommodation (Kolkata) (April to September 2008)

Particulars	Rs.
Value of unfurnished accommodation (15% of 40,000 × 6 months)	36,000
Add : Value of Furniture provided :	
• 10%p.a. of original cost of such furniture (10% of 80,000 × 6 months)	8,000
Value of Furnished Accommodation	44,000

Phase 2: Valuation of accommodation (October 2008 to December 2008)

- (a) For the first 90 days of transfer: Where accommodation is provided both at existing place of work and in new place, the accommodation, which has lower value, shall be taxable.
 (b) After 90 days: Both accommodations shall be taxable.

Computation for the first 90 days of transfer: (October 2008 to December 2008)

Lower of :

- (i) Value of accommodation at existing place of work
 (ii) Value of accommodation at new place

Value of accommodation at existing place of work (Kolkata)

15% of salary for 3 months (i.e. 90 days) = 15% of 55,000 × 3 months = 24,750

Add: Cost of furniture provided: 10% of 80,000 × 3 months = 24,000

Total Value of Perquisite **48,750**

Value of accommodation at new work place(Jharkhand)

10% of salary for 3 months (i.e. 90 days) = 10% of 55,000 × 3 months = 16,500

Therefore, the assessee shall be assessed to tax on Rs. 16,500 (being the lower)

Phase 3 : Valuation of accommodation (after 90 days) (January 2009 to March 2009)

For Kolkata accommodation: 15% of 55,000 × 3 months = Rs.24,750

Add : Cost of furniture provided: 10% × 80,000 × 3 months = Rs.24,000

Total value of perquisite **Rs.48,750**

For Jharkhand accommodation: 10% of 55,000 × 3 months = Rs.16,500

Total value of perquisite:

Particulars	Taxable value of perquisite
Phase 1: Accommodation in Kolkata	44,000
Phase 2: Accommodation in Jharkhand (being the lower during 90 days)	16,500
Phase 3: Accommodation in Kolkata	48,750
	16,500
Total Value of Taxable Perquisite	1,25,750

Q30. (a) Mr. E is employed with N Ltd. he also gets the services of sweeper and watchman. Determine his gross salary in the following cases:

- 1) His salary is Rs. 4,200 pm. Employer provides the services of sweeper and watchman. He pays them Rs. 600 pm and Rs. 500 pm;
 - 2) His salary is Rs. 4,200 pm. Sweeper and watchman are engaged by N at the rates given in clause(1) above but their wages are reimbursed by the employer;
 - 3) His salary is Rs. 4,210 pm. Employer provides the services of sweeper and watchman at the above rates but he recovers from N Rs. 200 pm and Rs. 300 pm respectively.
- E has paid employment tax of Rs. 400.

Computation :

Particulars	Case (1)	Case (2) [Ref.Sec.17(2)(iv), Rule 3(3)]	Case (3) [Ref.Sec.17(2)(iii) Rule 3(3)]
Salary	50,400	50,400	50,520
Wages of sweeper	Sec.17(2)(iii) not taxable	7,200	4,800
Wages of watchman	Sec.17(2)(iii) not taxable	6,000	2,400
Gross salary	50,400	63,600	57,720

Working Note :

Case (1): He is a non-specified employee. Perquisites provided by employer u/s 17(2)(iii) are not chargeable to tax :

Salary :	$4,200 \times 12$	= 50,400
Less: Professional tax paid u/s 16(iii)		= 400
Monetary income not exceeding Rs. 50,000		= 50,000

Case (2): If the facility is engaged by the employee but reimbursed by the employer, it is an obligation of employee, discharged by employer u/s 17(2)(iv), it is always taxable.

Case (3): He is a specified employee, as his monetary income, chargeable under the head "salaries" exceeds Rs. 50,000.

Gross salary;	$4,210 \times 12$	= 50,520
Less: Professional tax paid u/s 16(iii)		= 400
Monetary income exceeding Rs.50,000		Rs. 50,120

Q30. (b) G Ltd. provides electricity to its employee, P. Annual consumption as per meter reading comes to 2,250 units. Determine the value of the perquisite in the following cases:

- 1) Electricity meter is in the name of P and the rate of electricity is Rs. 3 per unit
- 2) Electricity meter is in the name of G Ltd. the rate of electricity is Rs. 3 per unit.
- 3) G Ltd. is a power-generating company. Manufacturing cost is 90 paise per unit but supplied to public @ Rs. 2 per unit. However, it charges 30 paise per unit from employees.

Solution : With reference to Rule 3(4)

- 1) Perquisite value of free electricity is Rs. 6,750 ($2,250 \times 3$). As the electric meter is in the name of the employee, it is his obligation to pay the bill. However, as the bill has been paid

by the employer, it is an obligation of employee, discharged by the employer. It is always taxable u/s 17(2)(iv).

2) Perquisite value of free electricity will be Rs. 6,750. It shall be assessed to tax, if the employee is a specified employee as per Sec. 17(2)(iii)

3) Perquisite value of electricity supplied = $2,250 (0.90 - 0.30) = \text{Rs. } 1,350$

Q31. Mr Sudhir Sharma, resident in India, for the year ending on 31 March 2009. Compute his income from business and his gross total income for the assessment year 2009-2010.

Profit & Loss Account for the year ended 31.3.09

Expenditure	Rs.	Receipts	Rs.
To Purchases	1,90,000	By Sales less returns	5,69,300
To Salaries and wages	1,40,000	By Bad debts recovered,	2,000
To Trade expenses	1,000	allowed in earlier years	
To Purchase of trademarks	50,000	by the Assessing Officer	
To Registration of trademarks	2,000	By Interest on securities (gross)	892
To Rent, rates and taxes	5,000	By Dharmada, mandir and	2,000
To Discount allowed	1,500	gaushala receipts	
To Household expenses	6,000	By Refund on income tax	1,008
To Advertisement bill paid in cash	30,000	By Proceeds of life insurance	43,500
To Income tax	10,000	policy on maturity	
To Sales tax paid	3,000		
To Purchased technical know-how	12,000		
To Expenses incurred on income	15,100		
tax and sales tax proceedings			
To Contribution paid to a trust for	1,000		
staff welfare			
To Staff welfare expenses incurred	700		
To OYT deposit	5,000		
To Postage and telegrams	1,300		
To Donation to National Defence Fund	2,500		
To life insurance premium on the	2,000		
life of the assessee			
To interest on capital	5,000		
To interest on loan taken to pay	500		
income tax			
To wealth tax	500		
To audit fee	1,000		
To entertainment expenditure	30,000		
To gifts and present to five customers,	15,000		
costing Rs 3,000 each			
To expenses on apprentice training	4,000		
To emergency risk insurance	200		
To fire insurance premium for stock	200		
To provision for bad and doubtful debts	3,000		
To reserve for pecuniary losses	5,000		
To net profit	76,000		
Total	6,18,700		6,18,700

Computation of Gross Total Income for the Assessment Year 2009-2010

Particulars	Rs.	Rs.
Income from Business		
Net profit as per profit and loss account		76,000
Add: Expenses inadmissible in computing profits and gains from business or profession:		
Purchase of trademarks	50,000	
Household expenses [Sec. 37(1)]	2,500	
Advertisement bills paid in cash [Sec. 37(1) r.w. Sec. 40A(3)]	30,000	
Income tax [Sec. 40(a)(ii)]	10,000	
Purchase of technical know-how	12,000	
Contribution to a Trust for staff welfare fund [Sec. 40A(9)]	1,000	
Donation for National Fund [Sec. 37(1)]	2,500	
Life Insurance premium [Sec. 37(1)]	2,000	
Interest on capital [Sec. 36(1)(iii)]	5,000	
Interest on loan to pay income tax [Sec. 37(1) r.w. 40(a)(ii)]	500	
Wealth tax [Sec. 40(a)(iii)]	500	
Provision for bad and doubtful debts [Sec. 37(1) r.w. 36(1)(vii)(2)]	2,000	
Reserve for pecuniary losses [Sec. 37(1)]	6,000	
	1,24,000	1,24,000
		2,00,000

Less:

(a) Income not relating to business or profession: [Sec. 28(i)]		892
Interest on government securities		
(b) Dharada, mandir and gaushala receipts		2,000
(c) Refund of income tax		1,008
(d) Proceeds of L.I.P.: It is not a business receipt and exempt [Sec. 10(10)]		43,500
(e) Depreciation on trademarks; 25% of Rs	50,000	12,500
(f) Depreciation on know-how: 25% of 12,000	3,000	59,400
Income from business		1,40,600

Statement of Gross Total Income for the Assessment Year 2009-2010

1. Income from business	1,40,600
2. Income from other sources— Interest on securities	892
Gross total income	1,41,492

Note:

1. Bad debts deducted in earlier years and now recovered, has been rightly included in the profit and loss account as business income [Sec. 41(4)].
2. Since payment of income tax is not deductible, its refund cannot be taxed as deemed profits [Sec. 41(1)].
3. OYT (own your telephone) deposit is an allowable deduction in the year in which it is paid.
4. "Dharmada", "mandir" and "gaushala" receipts are customarily levies by trader for charitable purposes. Amount received under these heads are not trading receipts. The fact that the amount collected under these heads are spent for other purposes would amount to breach of trust but it would not affect the initial nature and character of the receipt. Such receipts are not taxable
5. The assessee is entitled to the deduction in respect of donation to National Defence Fund under Sec. 80G.
6. Life insurance paid by assessee on his life is allowed to be deducted in imputing total income under Sec. 80C.
7. Any payment on advertisement exceeding Rs. 20,000 should be made by on account payee cheque or account payee bank draft. Since the payment has been made in cash, 20% of advertisement has been disallowed [Sec. 37(1) r.w. Sec. 40A(3)]. 'Crossed cheque' requirement has been amended by 'account payee' cheque. It is operative from 13-07-2007.
8. From the assessment year 2000-2001, intangible assets also fall within the scheme of depreciation. Hence, depreciation has been allowed on trademarks and know-how.
9. Registration expense of trademarks is revenue expenditure, allowed under Sec. 37(1).

Q32. Dr L.Kochagaway is a renowned medical practitioner. He furnishes his receipts and payments account for the financial year 2008-2009 :

Receipts	Rs.	Expenditure	Rs.
To Balance b/d	35,000	By Rent of clinics:	
To Consultation fees :		2006-2007	13,600
2006-2007	25,000	2007-2008	44,800
2007-2008	1,80,000	2008-2009	26,600
2008-2009	2,62,000		85,000
	4,67,000	By Electricity and water	12,000
To Visiting fees	1,30,000	By Purchase of professional books	18,000
To Loan from bank for	2,25,000	By Household expenses	97,800
professional purposes		By Municipal taxes paid in respect	12,000
To Sale of medicines	1,73,000	of property	
To Gift/presents from patients	15,000	By purchase of motor car	2,45,000
To Remuneration from articles	26,000	By Telephone Charges	10,000
published in professional		By fire insurance in respect of	3,200
magazines		property	
To rent from house property	96,000	By surgical equipment	44,700

Receipts	Rs.	Expenditure	Rs.
To Interest on Post Office National Savings Certificates	17,000	By advance income tax	43,000
		By salary and perquisite to compounder	72,000
		By Entertainment expenses	16,000
		By Purchase of X-ray machine	2,00,000
		By Expenses of income-tax proceedings	15,000
		By Life insurance premium	25,000
		By Gifts to wife	25,000
		By Interest on loan	12,000
		By Loan a/c—instalment paid	25,000
		By Donation to Political Party	2,500
		By Car expenses	36,000
		By Purchase of medicines	1,05,000
		By Balance c/d	79,800
	11,84,000		11,84,000

Compute his income from profession and gross total income for the assessment year 2009-2010 after taking into account the following additional information :

1. One-third of the car expenses are in connection with personal use.
2. Depreciation on motor car is allowed at the rate of 15%.
3. The construction of the house property was completed in March 2004. It was let out for residential purposes.
4. Expenses on income tax proceeding include Rs. 1,000 paid for the preparation of return of income.
5. Receipts outstanding from patients for 2008-2009, amount to Rs. 8,000.
6. Closing stock of medicines is Rs. 8,000 but its current market price is Rs. 12,000.
7. Books purchased include annual publications of Rs. 12,000, purchased in December 2008.

Solution :

(a) Computation of Income from Profession for the Assessment Year 2009-2010 :

Particulars	Rs.	Rs.
(a) Receipt from profession :		
1. Consultation fees: [Sec. 28(i)]: (Rs. 25,000 + Rs. 1,80,000 + Rs. 2,62,000)	4,67,000	
2. Visiting fees [Sec. 28(i)]	1,30,000	
3. Sale of medicines [Sec. 28(i)]	1,73,000	
4. Gifts and presents from patients [Sec. 28(iv)]	15,000	
5. Remuneration from articles published in professional magazines [Sec. 28(i)]	26,000	
	8,11,000	8,11,000

(b) Closing stock of medicines		8,000
Total receipts and closing stock		8,19,000
Less: Expenses allowable:		
1) Rent of clinic [Sec. 30]	85,000	
2) Electricity and water [Sec. 37(1)]	12,000	
3) Salary of compounder [Sec. 37(1)]	72,000	
4) Entertainment expenses [Sec. 37(1)]	16,000	
5) Expenses on income-tax proceedings [Sec. 37(1)]	15,000	
6) Interest on loan [Sec. 37(1)(iii)]	12,000	
7) Purchase of medicines [Sec. 37(1)]	1,05,000	
8) Car expenses [Sec. 37(1)] ($2/3 \times \text{Rs. } 36,000$)	12,000	
9) Depreciation on professional books:		
• Annual publications: $12,000 \times 100\% \times 50\%$	6,000	
• Other books: $6,000 \times 60\%$	3,600	
10. Depreciation on car [Sec. 32 r.w. Sec. 38] :		
15% of $2,45,000 \times 2/3$	24,500	
11. Depreciation on plant and machinery:		
(i) X-ray machine 2,00,000		
(ii) Surgical equipment <u>44,700</u>		
Depreciation @ 15% of 2,44,700		36,705
12. Telephone Charges		10,000
		4,09,805

Taxable profits from profession

(b) Computation of income from house property:	
Gross annual value on the basis of rental valuation	96,000
Less: Full municipal taxes paid by the owner	<u>12,000</u>
Net annual value	84,000
Less: Statutory deduction: 30% of net annual value	<u>25,200</u>
	<u>58,800</u>

Income from house property 58,800

Gross total income **4,67,995**

Less: Deduction u/s 80C (LIC premium paid) **25,000**

Less: Deduction u/s 80GGC 2,500

Actual amount of donation to political party

Total Income **4,40,495**

Total Income rounded off u/s 288A **4,40,490**

Notes:

1. Purchase of motor car is capital expenditure. Hence, it is not deductible. Depreciation has been allowed on motor car.
2. Plant includes books and surgical equipment. Depreciation on professional books is allowed @ 60% but annual publications are written off @ 100%. However, as annual publications have been put to use for less than 180 days during the year, depreciation has been allowed @ 50%. The assessee can claim depreciation on surgical equipment at general rate.
3. Contribution of articles to periodicals and magazines constitutes income from vocation of the assessee.
4. Expenses in income-tax proceedings are wholly deductible [Sec. 37(1)].
5. One-third of car expenses and proportionate depreciation in respect of motor car have been disallowed as they are in connection with the personal use of the assessee.
6. Interest on Post Office National Saving Certificates is exempt from income tax [Sec. 10(15)].
7. Profits and gains of the business or profession are computed according to the method of the accounting regularly followed by the assessee (Sec. 145). Since the assessee has adopted cash system of accounting, "Income" is tax-able on receipt basis and "expenditure" is allowed to be deducted on payment basis, irrespective of the previous year to which the receipt of payment belongs. Receipts outstanding for the previous year 2008-2009 will not be taken into consideration.
8. Profits and gains of business profession is required to be computed according to the system of accounting regularly followed by the assessee but if the income cannot be properly deduced therefrom, the Assessing Officer may compute the income on such basis and in such manner as he may deem fit [Proviso to Sec. 145(1)].
In view of this, the Assessing Officer may take into account the value of closing stock while determining profits even under cash system of accounting
9. Donation to Political Party is allowed to be deducted from gross total income under Sec. 80GGC.

Q33. (a) XY & Co., a partnership concern had established an undertaking for manufacturing computer software in Free Trade Zone. It furnishes the following particulars of its second year operations, ending on 31-03-2009 :

Particulars	Rs (in lakh)
Total sales of business	100.00
Export sales	80.00
Profit of the business	10.00

Out of the total sales, realisation of sale of Rs. 5 lakh is difficult because of the deficiency of the buyer. Realisation of rest of the sales is received in time.

The plant and machinery used in the business had been depreciated @ 15% on SLM basis of depreciation and depreciation of Rs 3 lakh was charged to the Profit and Loss Account.

Compute the taxable income of XY & Co; for the assessment year 2009-2010.

Solution:

Particulars	Rs (in lakh)
Profit of business	10,00,000
Add : Depreciation charged on SLM basis	30,000
	1,30,000
Less : Depreciation on WDV basis @ 15% of 17,00,000 – [Sec Note below]	2,55,000
	10,45,000
Less : Deduction under Sec. 10A : $10,45,000 \times 75 \div 100$	7,83,750
Taxable income	2,61,250

Note :

	Rs.
1. Computation of Depreciation :	
Total purchase price of machine : $3,00,000 \times 15 \div 100$	20,00,000
Less : Depreciation in the first year @ 15%	3,00,000
WDV at the end of first year	17,00,000
Less: Depreciation for second year @ 15%	2,55,000
WDV at the end of second year	14,45,000
2. Export Turnover:	
Export Sales	80,00,000
Less: Remittance not received due to insolvency of buyer	5,00,000
	75,00,000

Q33. (b) B Ltd. owns a new industrial undertaking, located in industrially backward State. It has been approved 100% EOU by the Board, constituted by the Central Government. It is engaged in the export of computer software and started functioning from the previous year 2004-2005.

During the first three years it earned a profits and claimed deduction under Sec. 10B. During the fourth year it suffered a loss of Rs 10 lakh.

It furnishes the following particulars for the previous year 2008-2009.

	Rs (in lakh)
(i) Business profit	40
(ii) Export sales – FOB	100
(iii) Domestic sales	50
(iv) Receipt of convertible foreign exchange in India :	
(a) Receipt up to 30 September 2009	70
However, foreign exchange of Rs 10 lakh is on account of sale to a foreign customer in India and Rs 5 lakh is on account of reimbursement of freight, insurance, relating to export and expenses incurred in Malaya in foreign exchange in providing technical services.	

- (b) Receipt in November 2009 but approved by the competent authority 10
- (c) Receipt in January 2010 but competent authority has not granted its approval 10
- (v) Converted foreign exchange kept in Malaya in State Bank of India in a separate account with the approval of RBI. 10

Compute its total income in the following cases :

- (a) it claims deduction under Sec. 10B;
- (b) it revises its option under Sec. 10B(8) and wants not to claim deduction under Sec. 10B. it proposes to claim deduction under Sec. 80 IB.

Solution :

- (i) Claiming deduction under Sec. 10B

	Rs. (in lakh)
Business profits	40
Less : Deduction for export profits :	20
	20
Less : Carried forward business loss [Sec. 72 (2)]	10
Total income	10

Working Note :

1. Export turnover :

Convertible foreign exchange received up to 30 September 2009

Less : (i) Convertible foreign exchange received from a foreign customer for sale in India	70
(ii) Reimbursement of foreign insurance relating to export and expenses incurred in foreign exchange outside India in providing technical services.	(-) 10
	(-) 5

Q34. (a) Mekon Ltd., an Indian company, starts an industrial undertaking on 1 April 2008. During the previous year, it earns profits of Rs 80 lakh before allowing any deduction for wages. Compute its total income for the previous year 2008-2009 taking into account the following employment schedules of workers :

Date of employment	Number of workers	Status of workers	Rate of wages
1-5-2008	90	Casual	300 p.m.
1-6-2008	20	Regular	4000 p.m.
1-7-2008	10	Regular	4000 p.m.

Computation of total income for the AY 2009-2010

Particulars	Rs.	Rs.
Profits before allowing deduction for wages		80,00,000
Less: Wages paid to workers [Sec. 37(1)] :		
(i) $90 \times \text{Rs } 3000 \times 11$	29,70,000	
(ii) $20 \times \text{Rs } 4000 \times 10$	8,00,000	
(iii) $10 \times \text{Rs } 4000 \times 9$	3,60,000	(-) 41,30,000
Business Profits and Gross Total Income		38,70,000
Less: Deduction in respect of employment of new workmen [Sec. 80 JJAA] 30% (Rs. 4000 $\times$ 10 $\times$ 10)		(-) 1,20,000
Total Income		37,50,000

Q34. (b) Mr. R has developed an improved economical model of a motor cycle and got it patented on 31-3-2008 under the Patent Act, 1970. He allowed Z Ltd. to use his patent rights and licenses has been granted to it under the Patent Act, 1970. He has received royalty of Rs. 8,00,000 during the previous year 2008-2009. However, the royalty in accordance with the terms and conditions of the license settled by the Controllers under the said Act is Rs. 2,80,000.

He has incurred Rs. 1,00,000 expenses in developing his invention and getting it patented. Compute his total income for the assessment year 2009-2010 (i) if he is resident in India, (ii) non-resident India.

Computation of Total Income for the Assessment Year 2009-2010

Particulars	(i) Rs.	(ii) Rs.
Income from other sources	8,00,000	8,00,000
Less : Expenses	1,00,000	1,00,000
Gross Total Income (GTI)		
Less : Deduction for respect of royalty on patent (Sec. 80-RRB)		
Least of the followings :		
(a) Income from royalty 5,00,000; or		
(b) Royalty under the terms of license settled by the Controller 2,80,000;		
(c) Maximum limit Rs. 3,00,000		
Whichever is less, is to be deducted	2,80,000	xxx
Total Income	2,20,000	7,00,000

Q35. (a) Mr. J is suffering with 60% locomotor disability which is certified by medical authority. He is employed as Techni-cal Supervisor with Air Tel at a salary of Rs. 20,000 p.m.

Particulars	Rs.
(i) Income from government securities	20,000
(ii) Long-term capital loss	(-) 40,000
(iii) Short-term capital gain (Sec. 111A)	1,00,000
(iv) Insurance commission (gross)	1,00,000
(v) Interest on Saving Fund a/c from bank	10,000

He has incurred the following expenses :

(i) Medical insurance paid by cheque for his father, resident in India and 70 years	18,000
(ii) Deposit with LIC for maintenance of father, mainly dependant on him for support and maintenance and suffering from low-vision with a severe disability of 80 %, as per certificate of the medical authority	
(iii) Rent paid for the year 2008-2009 for accommodation hired by him.	40,000

Compute his total income for the assessment year 2009-2010.

Computation of Total Income for the assessment year 2009-2010

Particulars	Rs.	Rs.
1. Income from salaries		2,40,000
2. Income from capital gains :		
(a) Short-term capital gains (Sec. 111A)		
(b) Long-term capital loss to be carried forward		1,00,000
3. Income from others sources :		Nil
(a) Interest government securities	20,000	
(b) Interest on savings fund a/c with Bank	10,000	
(c) Insurance commission	1,00,000	1,30,000
Gross Total income		4,70,000
Less : Deductions under Chapter VIA:		
Medical insurance (Sec. 80D)	18,000	
Deduction in respect of maintenance including medical treatment of a department, a person with severe disability (Sec. 80DD)	75,000	
Deduction in case of a person with disability (Sec. 80U) :	50,000	
Deduction u/s 80GG :(Least of the followings)		
(a) (i) Rent paid less 10% of Adjusted Gross Total Income 40,000-23,300 = 16,700,		
(b) (ii) 25% of 2,33,000 Adjusted Gross Total Income = 58,250,		
(iii) 2,000 p.m. × 12 = 24,000	16,700	1,59,700
Whichever is less, is or be deducted		
Total income		3,10,300

Q35. (b) Following are the particulars of the two undertakings X and Y of C Ltd., an Indian company. Undertaking A commences its business on 1 January 2005 and is eligible to claim deduction u/s 80-IA.

Previous year	Particulars	X	Y
2004-2005	Business profits or loss before depreciation	(-) 6,00,000	14,00,000
	Depreciation	4,00,000	2,00,000
2005-2006	Business profits or loss before depreciation	5,00,000	2,00,000
	Depreciation	4,00,000	1,00,000
2007-2008	Business profits or loss before depreciation	8,00,000	10,00,000
	Depreciation	4,00,000	2,00,000
2008-2009	Business profits or loss before depreciation	28,00,000	12,00,000
	Depreciation	4,00,000	6,00,000

Compute the amount of deduction for X u/s 80-IA and total income of C Ltd. for all four previous years.

Computation of deduction u/s 80-IA for undertaking X

Particulars	2004-2005	2005-2006	2007-2008	2008-2009
Profits or loss before depreciation	(-) 6,00,000	5,00,000	8,00,000	28,00,000
Less: Depreciation	xxx	(-) 4,00,000	(-) 4,00,000	(-) 4,00,000
		1,00,000	4,00,000	24,00,000
Set-off of carry forward business loss		(-) 1,00,000	(-) 4,00,000	(-) 1,00,000
Set-off of carry forward depreciation		xxx	xxx	(-) 4,00,000
Profits eligible for deduction u/s 80-IA	Nil	Nil	Nil	19,00,000
Amount of deduction @ 100% of profits	Nil	Nil	Nil	19,00,000

Computation of profits of undertaking Y and total income of C Ltd.

Particulars	2004-2005	2005-2006	2007-2008	2008-2009
Profits or loss before depreciation:	14,00,000	2,00,000	10,00,000	12,00,000
Less: Depreciation of Y	(-) 2,00,000	(-) 1,00,000	(-) 2,00,000	(-) 6,00,000
	12,00,000	1,00,000	8,00,000	6,00,000
Profits of X after depreciation	Nil	1,00,000	4,00,000	24,00,000
Set-off of business loss of X	(-) 6,00,000			
Set-off of unabsorbed depreciation of X	(-) 4,00,000			
Gross Total Income	2,00,000	2,00,000	12,00,000	30,00,000
Less: Deduction u/s 80-IA	Nil	Nil	Nil	19,00,000
Total income of C Ltd.	2,00,000	2,00,000	12,00,000	11,00,000

Note:

1. Even though the business loss and unabsorbed depreciation of X were set-off during the PY 2005-2006 itself in computation of total income of C Ltd., for the purpose of deduction u/s 80-IA, they will still be carried forward on notional basis and set-off only against the profits of business eligible u/s 80-IA.
2. The deduction is available for a period of 10 consecutive assessment years out of 15 years from the commencement of business by the undertaking. Therefore, since all the carry forward losses and allowances have been set off by PY 2008-2009 and if profits are anticipated to be higher from PY 2009-2010 onwards, it will be to assessee's benefit to forego the deduction of Rs. 19,00,000 for the AY 2009-2010 and claim it for 10 years commencing AY 2010-2011.

Q36. (a) B Ltd. grows sugarcane to manufacture sugar. The data for the financial year 2007-08 is as follows :

Cost of cultivation of sugarcane	Rs. 6,00,000
Market value of sugarcane when transferred to factory	Rs. 10,00,000
Other manufacturing cost	Rs. 6,00,000
Sales of sugar	Rs. 25,00,000
Salary of Managing Director who looks after all operations of the Company	Rs. 3,00,000

Solution :

	Rs.
(1) Business Income :	
Sales of Sugar	25,00,000
Less : Market value of sugarcane when transferred to factory	10,00,000
Other manufacturing cost	6,00,000
Salary of Managing Director	3,00,000
	<u>6,00,000</u>
(2) Agricultural Income:	
Market value of sugarcane when transferred to factory	10,00,000
Less : Cost of cultivation	6,00,000
	<u>4,00,000</u>

Q37. (b) RP Bros., an HUF, furnishes the following particulars of its income and outgoing for the previous year 2008-2009. Receipts.

Receipts :

(i) Short-term capital gain	4,00,000
(ii) Gross winning from lottery	1,00,000
(iii) Sale consideration of 3/4th of agriculture produce, derived from land located in India, the balance produce has been kept for family use.	12,00,000
(iv) Net sale proceeds of wild grass and fruits from trees of spontaneous growth	50,000

Payments:

(i) Repair of tube-well	60,000
WDV of tube-well on 1-4-2007	10,00,000
(ii) Wages paid to agriculture labour	6,00,000
(iii) Manuring and spraying charges	50,000
(iv) Rent of the building, used for storing agriculture produce on site	50,000
(v) Petrol, repair, salary of driver and insurance of motor car.	1,50,000
WDV of motor car on 1-4-2007	2,00,000
50% use of the motor car is for personal purpose of the family	
(vi) LIP paid to insure members of the family	20,000
(vii) School fees paid for 3 children of the family @ Rs 15,000 per child	45,000
(viii) Purchase of infrastructure bonds, covered under Sec. 80C(2)(xix)	90,000
(ix) Deposit with LIC for maintenance of a dependant member with disability:	
Unabsorbed losses brought forward:	
AY: 1998-1999	40,000
AY: 1999-2000	5,00,000
AY: 2003-2004	1,00,000

Determine the total income of the HUF and its tax liability for the assessment year 2009-2010.

Computation of Total Income: AY 2008-2009

Particulars	Rs.	Rs.
Computation of net agriculture income for the purpose of aggregation to determine the rate of tax applicable to non-agriculture income of the HUF. Such computation is done under the head business profession :		
Sale proceeds of agriculture produce		12,00,000
Add : Market value of produce kept for family use :		4,00,000
$12,00,000 \times (4/3) \times (1/4)$		16,00,000
Less : Permissible deductions :		
(i) Repair of tube-well	60,000	
(ii) Wages	6,00,000	
(iii) Rent	50,000	
(iv) Petrol, repair, salary of driver — 50%	75,000	
(v) Manuring and spraying	50,000	
(vi) Depreciation on tube-well @ 10% on WDV	1,00,000	9,50,000
(vii) 50% depreciation on motor car: $(15\% \text{ of } 2,00,000) \times 50\%$	15,000	
Less : Carried forward : Losses :		
(i) Loss 1999-2000-not allowed		
(ii) Loss from AY 2000-2001	1,00,000	

Particulars	Rs.	Rs.
(iii) Loss from AY 2004-2005	45,000	<u>1,45,000</u>
Net Agriculture Income		5,05,000
(b) Computation of Total Income		
(i) Short-term capital gain		4,00,000
(ii) Income from other sources:		
(a) Winnings from lottery	1,00,000	
(b) Net sale proceeds of non-agriculture produce	50,000	1,50,000
Gross Total Income		
Less: 1. Contributions paid for approved savings [Sec. 80C(2)]:		
(i) LIP on the life of members	20,000	
(ii) School fees for 3 children of the HUF [Sec. 80(4)(c)]	Nil	
(iv) Purchase of infrastructure bonds	<u>90,000</u>	
	<u>1,10,000</u>	
But deduction restricted upto a maximum of Rs. 1,00,000		1,00,000
2. Deposit for maintenance (including medical treatment) of a dependant with disability (Sec. 80DD)		50,000
Total income		4,00,000

Computation of Tax Liability

(i) Income tax on winnings 30%		30,000
(ii) Income tax on non-agriculture + agriculture income: 3,00,000 + 5,05,000 at slab rates (Non-agricultural income = 3,00,000 = 5,50,000 – 1,00,000 – 1,00,000 – 50,000)		
(a) Income tax on 8,05,000 as if it is the total income	1,90,500	
(b) Income tax on agriculture income + exemption limit as if it is the total income: 5,05,000 + 1,10,000 =	1,31,500	
Income tax on non-agriculture income: a - b	60,000	60,000
Tax on total income		90,000
Add : (i) Surcharge on income tax		Nil
(ii) Education cess @ 2%		1,800
(iii) SHEC @ 1%		900
Tax payable		92,700

Q38. Discuss the exceptions of transfer.**Answer 38.****The exceptions of transfer are :**

Section Nature of transaction not considered as a Transfer

46(1) Distribution of a capital asset in specie on liquidation of a company by a liquidator to its shareholders is not a transfer.

47(1) Any distribution of capital assets on the total or partial partition of a HUF.

47(iii) Any transfer of a capital asset under a gift or will or an irrevocable trust.

Exception is also applicable in case of shares or securities received by employees from the company free of cost or at a concessional rate.

However, a provision has been added to provide that this clause shall not apply to transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under ESOS or ESOP of the company offered to such employees in accordance with the guidelines issued by the Central Government in this behalf.

47(iv) Transfer of any capital asset by a holding company to its 100% subsidiary company which is an Indian company.

47(v) When a transfer has been made by a 100% subsidiary to its Indian holding company.

Both the sections 47(iv) and (v) are subject to the restrictive conditions imposed under 47A(1), which is as follows:

- a) If within the course of 8 years from the date of transfer, holding company loses its 100% stake on the subsidiary company.
- b) If the transferee company transfers this capital asset as their stock-in-trade within 8 years.

In both the above cases, the earlier exemption so granted shall be withdrawn and there would arise incidence of capital gains, in the original year of transfer, which would be initiated as per Sec. 155 (7B) amendment proceedings.

47(vi) Transfer of a capital asset in a scheme of amalgamation where the amalgamated company is an Indian company. The conditions of Sec. 2(1B) of the Act, must be fulfilled:

- (a) All the property and liabilities of the amalgamating company or companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of amalgamation.
- (b) Shareholders holding not less than 75% in the value of shares in amalgamating company or companies (other than shares held therein immediately before the amalgamation or by a nominee for the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of amalgamation.

Amalgamation as per income-tax includes merger and absorption, provided the conditions of sec. 2 (1B) are satisfied.

47(via) Transfer of shares of an Indian company by an amalgamated foreign company to a foreign amalgamated company, provided the following conditions are satisfied :

- (a) The transfer of shares is under a scheme of amalgamation between two foreign companies;

- (b) At least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company;
 - (c) No tax is levied on such capital gain in the country where foreign amalgamating company is incorporated.
- 47(viaa) Transfer of capital asset by a banking company to a banking institution in a scheme of amalgamation sanctioned by the Central Government u/s 45(7) of the Banking Act 1949.
- 47(vib) Transfer of a capital asset by the Demerged Company to the Resulting Indian company, subject to : the fulfillment of the following conditions:
- (a) Transfer of capital asset should be from demerged company to a resulting company;
 - (b) Resulting company should be an Indian company;
 - (c) Transfer of capital asset should be made in a scheme of demerger.
- 47(vic) Transfer of shares of Indian company by a demerged foreign company in a demerger to a foreign company, shall not be treated as transfer provided the following conditions are fulfilled :
- (a) The shareholders holding not less than 75% in value of shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and
 - (b) No tax is levied on capital gain in the foreign country in which the demerged company is incorporated.
- The provisions of Sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred in this clause.
- 47(vica) Any transfer in a business reorganization, of a capital asset by the predecessor co-operative bank to the successor co-operative bank.
- 47(vicb) Any transfer by a shareholder, in business reorganization, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of allotment to him of any share or shares in the successor co-operative bank.
- 47(vid) Transfer/allotment of shares by the resulting company to the shareholders of the demerged company in a scheme of demerger. Only shares must be exchanged against shares.
- 47(vii) Allotment of shares in amalgamated company to the shareholders of amalgamating company, will not be considered as a transfer if :
- (a) The transfer is made in consideration of allotment to him of any share or share in the amalgamated company; and
 - (b) The amalgamated company is an Indian company.
- 47(viia) Transfer of shares/bonds or Global Depository Receipts (GDRs) referred to in Section 115AC (1), i.e., those bonds, shares or GDRs of a public company (being an Indian company) is/ purchased in foreign currency, outside India by a non-resident to another non-resident.
- 47(viii) Transfer of urban agricultural land in India effected before 1.3.1970
- 47(ix) Transfer of a capital asset being a work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print to Government or University or National Museum or National Art Gallery, National Archives or any other public museum or institution, as may be notified by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State or States.

- 47(x) Conversion of bonds or debentures, debentures-stock or deposit certificates in any form, of a company into shares or debentures of that company
- 47(xi) Transfer of membership of a recognized stock exchange in India by a person (not being a company) on or before 31st December 1998, to a company in exchange of shares allotted by that company, subject to the restrictions of Sec.47A(2)
- 47(xii) Transfer of capital asset being land of a sick industrial company made under a scheme prepared and sanctioned u/s 18 of the Sick Industrial Companies (Special Provisions) Act, 1985, where such sick industrial company is being managed by its worker's co-operative.
- Transfer should be made during the period commencing from the previous year in which the said company has become a sick industrial company u/s 17(1) of the Act and ending with the previous year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.
- 47(xiii) Transfer of capital assets or intangible assets or any transfer of capital asset in the course of demutualization or corporatisation of a recognized stock exchange in India, on succession of a firm concern by a company, provided the following conditions are fulfilled :
- All the assets and liabilities of the erstwhile firm or AOP/BOI, relating to the business immediately before succession become the assets and liabilities of the company;
 - All the partners of the firm before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of succession;
 - The partners are not in receipt of any other benefit, whether directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;
 - The aggregate of the shareholding in the company of the partners of the firm is not less than 50% of the total voting power in the company;
 - Their shareholding continues for a period of 5 years from the date of the succession;
 - The demutualization or corporatisation of a recognized stock exchange in India is carried out in accordance with a scheme of corporatisation which is approved by SEBI.
- 47(xiiia) Transfer of a capital asset being a membership right held by a member of a recognized stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognized stock exchange in accordance with a scheme of demutualization or corporatisation which is approved by SEBI.
- 47(xiv) Transfer of capital asset or intangible assets where a sole proprietary concern is succeeded by a company, provided the following conditions are fulfilled :
- All the assets and liabilities of the erstwhile sole proprietary concern, relating to the business immediately before succession become the assets and liabilities of the company;
 - The sole proprietor is not in receipt of any other benefit, whether directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;
 - The shareholding of the sole proprietor in the company is not less than 50% of the total voting power in the company;
 - His shareholding continues for a period of 5 years from the date of the succession;
- 47(xv) Any transfer under the Securities Lending Scheme, 1997 for lending of any securities under an agreement or arrangement, between the assessee and borrower of securities as per the guidelines issued by SEBI or RBI.

Q39. Shri Dubbawala Charitable Trust (Regd.) submits the particulars of its income/outgoing for the pervious year 2008-2009 as below :

	Rs.
(i) Income from property held under trust for charitable purposes: (Rs. 5,20,000 out of Rs 10,00,000 is received in PY 2009-2010)	10,00,000
(ii) Voluntary contributions (out of which Rs. 50,000 will form part of the corpus)	2,00,000

The trust spends Rs. 2,77,500 during the previous year 2008-2009 for charitable purposes. In respect of Rs. 5,20,000, it has exercised its option to spend it within the permissible time-limit in the year of receipt or in the year, immediately following the year of receipt.

The trust spends Rs. 2,00,000 during the previous year 2008-2009 and Rs. 1,00,000 during the previous year 2009-2010. Compute and discuss the chargeability of the income of the trust.

Solution :

Computation of taxable income and tax liability of the charitable trust for the PY 2008-2009/AY 2009-2010.

Particulars	Rs.
(i) Income from property held under trust for charitable purposes	10,00,000
(ii) Voluntary contributions (Rs 2,00,000 - Rs 50,000)	<u>1,50,000</u>
	11,50,000
Less: 15% set apart for future application	<u>1,72,500</u>
Balance	9,77,500
Less: Amount spent during the pervious year for charitable purposes	<u>2,77,500</u>
Balance	7,00,000
Less: Income not received during the previous year 2008-2009	<u>5,20,000</u>
Taxable income	<u>1,80,000</u>
Tax payable:	Rate of tax
1,10,000	Nil
40,000	10%
30,000	20%
	10,000
Add: Education Cess @ 2%	200
Add: SHEC @ 1%	<u>100</u>
	Tax payable
	10,300
(b) Previous year 2009-2010/AY 2010-2011	
Income received during the pervious year 2008-2009	5,20,000
(i) Amount spent for charitable purposes during PY 2008-2009	2,00,000
(ii) Amount spent for charitable purposes during 2009-2010	<u>1,00,000</u>
Taxable income	<u>2,20,000</u>

Q40. Dinesh Pally Cooperative Society Ltd. furnishes the following particulars of its income for the previous year ending on 31 March 2009:

(i) Interest on government securities	40,000
(ii) Profits from banking business	3,50,000
(iii) Income from purchase and sale of agricultural implement and seeds to its members	2,50,000
(iv) Income from marketing of agricultural produce of its members	4,00,000
(v) Profits and gains of business	2,20,000
(vi) Income from cottage industry	3,50,000
(vii) Interest and dividends (gross) from other cooperative societies	30,000

Compute total income of the society and calculate the tax payable by it for the assessment year 2009-2010.

Solution :

Dinesh Pally Cooperative Society Ltd.

Computation of income of the for the previous year 2008-2009 relating to the Assessment Year ending 2009-2010 :

Particulars	Rs.	Rs.
1. Profits and gains of business or profession:		
a) Banking business	3,50,000	
b) Income from purchase and sale of agricultural implements and seeds to its members	2,50,000	
c) Income from marketing of agricultural produce of its members	4,00,000	
d) Profits and gains of business	2,20,000	
e) Income from cottage industry	3,50,000	15,70,000
2. Income from other sources:		
a) Interest on government securities	40,000	
b) Interest and dividends from other cooperatives	<u>30,000</u>	<u>70,000</u>
Gross Total Income		16,40,000
Less: Deduction allowable from gross total income under Sec. 80P		
1. Banking business	3,50,000	
2. Income from purchase and sale of agricultural implement and seeds to its members	2,50,000	
3. Income from marketing of agricultural produce of its members	4,00,000	
4. Income from cottage industry	3,50,000	
5. Interest on government securities(not eligible for deduction)	Nil	
6. Interest and dividends from other cooperative societies	<u>30,000</u>	<u>13,80,000</u>
Total Income		2,60,000

Computation of Tax Liability:

Particulars	Rate	Rs.
On first Rs 10,000	10%	1,000
On next Rs 10,000	20%	2,000
On balance Rs 2,40,000	30%	<u>72,000</u>
Income tax payable		75,000
Add: Education cess @ 2 %		1,500
Add: SHEC @ 1 %		<u>750</u>
Tax payable		77,250

Q41. Following information is extracted from the books of Parthiv Ltd. Determine the taxable value of Fringe Benefits and ascertain the FBT Liability.

Expenses	Rs.
Lease Rent Paid	12,50,000
Vehicle Maintenance	8,00,000
Depreciation on: Motor Cars	3,00,000
Office Furniture	1,50,000
Guest House Building	2,00,000
Gifts	2,50,000
Tea, Coffee & Snacks	1,80,000
Communication Charges	4,00,000
Amenities to Employees	4,50,000
Education Assistance to Employees	50,000

Other Information :

- Lease Rent include Rs. 2,50,000 paid towards accommodation furnished to Managing Director, value of which is included as perquisite in his hands. Balance is attributable to Guest House of the Company used for accommodating visiting clients and other officials of the Company.
- Expenses on Tea, Coffee and Snacks includes Rs. 50,000 spent on Employees Training Programme conducted by the Company itself.
- Gifts includes Rs. 1,75,000 paid to the Sales Executives for achieving the target.
- Communication Charges comprises of Rs. 2,50,000 towards Telephone Charges and balance towards leased internet connection.

Determine value of Fringe Benefits and tax payable thereon.

Solution :

Assessee : Parthiv Ltd

Previous Year: 2008-09

Asst. Year: 2009-10

Computation of Taxable Fringe Benefits and Tax Payable thereon

Nature of Fringe Benefits	Expenditure Incurred	% considered for FBT	Value of FB
Lease Rent Paid :	2,50,000	—	—
For MD's Accommodation-Considered as Perquisite	10,00,000	20%	2,00,000
For Guest House (12,50,000 - 2,50,000)	8,00,000	20%	1,60,000
Vehicle Maintenance	3,00,000	20%	60,000
Depreciation on Motor Cars	1,50,000	—	—
Depreciation on Office Furniture	2,00,000	—	—
Depreciation on Guest House Building	2,50,000	50%	1.25.000
Gifts Tea, Coffee & Snacks: During Office Hours	1,30,000	—	—
Employees Training Programme	50,000	—	—
Communication Charges:			
Telephone Charges	2,50,000	20%	50,000
Internet Connectivity Charges	1,50,000	—	—
Amenities to Employees	4,50,000	100%	4,50,000
Education Assistance to Employees	50,000	50%	25,000
Total Value of Taxable Fringe Benefits			10,70,000
Tax on above at 30%			3,21,000
Add: Surcharge at 10%			32,100
(assuming Total Income exceeds Rs. 1 Crore)			
Tax and Surcharge Payable			3,53,100
Add: Education Cess @ 2%			7,062
Add: Secondary and Higher Education Cess @1%			3,531
Total Tax Payable (Rounded off)			3,63,690

Q42. R, S and T Ltd. (a widely held domestic company) are members in an AOP for the assessment year 2009-2010. They share profit and losses in the ratio 30%, 40% and 30%. Taxable business income of AOP is determined at Rs. 8,00,000. Per-sonal income of the partners are given below :

	Rs.
R - House property	90,000
S – Short-term capital gain	1,00,000

R deposits Rs 20,000 in CTDS-15-year account in Post Office in February 2009. S purchases NSC VIH-Issue for Rs 25,000 in December 2008.

Determine the tax liability of the AOP and its partners

Solution :

(a) Computation of tax liability of AOP for the assessment year 2009-2010

Allocation of AOP income among members :

Particulars	R Rs.	Y Rs.	T Ltd. Rs.
Business profit	2,40,000	320000	240000
Tax liability of AOP: $8,00,000 \times 33.99\%$	2,71,920		

Tax liability of members:

Particulars	R Rs.	Y Rs.	T Ltd. Rs.
Share income from AOP	2,40,000	320000	240000
AOP charged at maximum marginal rate	Exempt	Exempt	Exempt
Personal income of members	90,000	75,000	Nil
Personal income below taxable limit	Exempt	Exempt	X

Q43. The following details have been supplied by the Karta of an HUF. You are required to compute its total income and tax liability for the assessment year 2009-2010.

Particulars	Rs.
(i) Profits from business (after charging Rs. 1,00,000 salary to Karta for managing the business).	15,00,000
(ii) Salary received by the member of a family.	60,000
(iii) Director's fee received by Karta from B Ltd where HUF holds 20% shares but he became director because of his qualifications,	40,000
(iv) Rental income from house property (after deduction of municipal taxes Rs 2,000).	78,000
(v) Dividends (gross) from Indian companies	15,000
(vi) Long-term capital gain	80,000
(vii) Short-term capital gain	30,000
(viii) Donation to a school, which is an approved institution,	1,00,000
(ix) Deposits in Public Provident Fund	20,000
(x) NSC-VIII issues purchased on 15.3.2009.	40,000

Solution :**Computation of Total Income**

Particulars	Rs.	Rs.
(i) Income from house property:		
Gross annual value (Rs 78,000 + Rs 12,000)	90,000	
Less: Municipal taxes paid	<u>12,000</u>	
Annual value	78,000	
Less: Statutory deduction: 30% × 78,000	<u>23,400</u>	54,600
(ii) Profits and gains from business		15,00,000
(iii) Capital gains (a) long-term + (b) short-term		1,10,000
(iv) Income from other sources—gross dividends from Indian companies: Exempt [Sec. 10(34)]		Nil
Gross total income		
Less:		
1. Contribution to approved savings (Sec. 80C)		
(i) Deposits in Public Provident Fund	20,000	
(ii) NSC-VIII Issue	<u>40,000</u>	
	60,000	
2. Donation to recognised school:		
(a) Actual donation: Rs 1,00,000 or		
(b) 10% of modified total income of		
Rs 15,24,600 (16,64,600 - 80,000 - 60,000)		
whichever is less, is qualifying amount.		
Amount of deduction: : 50% of Rs. 1,00,000	<u>50,000</u>	<u>1,10,000</u>
Total income		<u>15,54,600</u>

Computation of tax liability :

Particulars of total income	Rate of income tax		Rs.
	Rs.	Rs.	
(a) Long-term capital gain	1,10,000	20%	22,000
(b) Balance of total income: Rs 14,44,600			
(i) First	1,10,000	Nil	—
(ii) Next	40,000	10%	4,000
(iii) Next	1,00,000	20%	20,000
(iv) Balance	11,94,600	30%	358,380
Gross income tax			3,80,380
Add: 1. Surcharge on income tax @ 10% surcharge			38,038
			4,18,418
2. Education cess @ 2% on the aggregate of income tax and			8,368
3. SHEC @ 1%			4,184
Tax payable			4,30,970

Q44. (a) Discuss the due dates for filing return of income.

(b) Mention the prescribed forms for filing return of income.

Answer 44.

(a) Prescribed time for filing return of Income :

Assessee	Due date for filing return
(a) Company	30th September
(b) Non-corporate assessee whose accounts are required to be audited under the Act or under any other law	
(c) Working partner of a firm whose accounts are required to be audited	w.e.f 1.4.08
(d) Any other assessee	31st July

(b) Prescribed Forms :

Forms	Applicability
ITR - 1	Return of Income for Individuals having salary and interest income and no other Income
ITR-2	Return of income for Individuals and HUFs having income from any source except from business or profession
ITR-3	Return of income for Individuals and HUFs being partners in Firms and not having Proprietary business or profession
ITR -4	Return of Income for Individuals and HUFs having Proprietary business or profession
ITR-5	Combined form of Return of Income and Fringe Benefits for Firms/AOP/BOI.
ITR-6	Combined Form for Return of Income and Fringe Benefits for Companies
ITR-7	Combined Form For Return of Income and Fringe Benefits For Charitable/Religious Trusts, Political parties and other Non-Profit Organisations
ITR-8	Stand alone form for Return of Fringe Benefits for persons who are not liable to file Return of income but are liable to file Return of Fringe-Benefits
ITR-V	Return of Income/Fringe Benefits transmitted electronically without digital signatures

Q45. Write short notes on :

- (a) Belated Return**
- (b) Revised Return**
- (c) Permanent Account Number**
- (d) Instances where PAN should be filed**

Answer 45.

(a) Sec 139(4): BELATED RETURN :

1. **Belated Return : [Section 139(4)] :** This is applicable to any person who has not furnished his return of income within the time allowed u/s 139(1) or in response to a notice issued u/s 142(1).

2. **Time limit** : The belated return can be filed either before:
 - (a) The expiry of one year from the end of the relevant Assessment Year, or
 - (b) Completion of assessment, whichever is earlier.
3. **Invalid Return** : Return of income filed after belated period will be treated as invalid.

(b) Sec.139(5) : REVISED RETURN

1. **Conditions:**
 - (a) There should be an omission or wrong statement in the original return filed.
 - (b) The original return should have been filed within the due date u/s 139(1) or within the time limit specified in the notice issued u/s 142(1).
2. **Time limit** : The revised return shall be filed before
 - (a) The expiry of one year from the end of the relevant Assessment Year, or
 - (b) Completion of assessment whichever is earlier.
3. **Significance of Revised Return** :
 - (a) The revised return will be **considered as having been filed when the original return was filed.**
 - (b) The **effective return for the purposes of assessment** is the return ultimately filed by the assessee.
 - (c) A revised return **replaces the original return.**
 - (d) The assessee is **entitled to furnish a second revised return** if the assessee discovers any omission or wrong statement in the revised return, provided such second revised return is filed within the time prescribed above.
 - (e) A return **filed in response to notice u/s 158BC cannot be revised.**
 - (f) **Intimation made u/s 143(1) will not be treated as assessment** for the purpose of this Section.

(c) SEC.139A: PERMANENT ACCOUNT NUMBER (PAN)

1. **Persons required to make application for allotment of Permanent Account Number** :
 - (a) **Total Income:** Any person whose total income exceeds the maximum amount not chargeable to tax before given exemptions u/s 10A / 10AA / 10B / 10BA and deductions under Chapter VI-A.
 - (b) **Business Assessee:** Any person carrying on business or profession whose turnover / gross receipts exceeds Rs.5,00,000/- in any previous year.
 - (c) **Trust/ Society:** Any person who is required to furnish a return of income of a Trust or Society u/s 139(4A).
 - (d) **Fringe Benefits:** Any Person who is liable to file a return of Fringe Benefits if he was not allotted a PAN earlier.
 - (e) **Obligation to Pay Tax/Duty:** Any person by whom **tax is payable under Income Tax Act, or any tax or duty is payable under any other law**, including importers and exporters whether any tax is payable by them or not.
 - (f) **AO's Discretion:** The Assessing Officer may allot to any other person (W.e.f. 01.06.2006) whether or not tax is payable by him, even without an application.
 - (g) **Collection of information:** W.e.f 01.06.2006, any person or class of persons, notified by the Central Government in its Official Gazette for collecting any information.

2. **One PAN Only:** No person who has already been allotted a PAN under the new series shall apply, obtain or possess another PAN.

(d) The PAN should be quoted in the following transactions :

- (i) **Matters relating to Interest of Revenue:** Return / Correspondence / Tax Challan / any other matter in the interest of Revenue.
- (ii) **All Quarterly returns of TDS / TCS (w.e.f. 01.06.2006)**
- (iii) **Transactions in Assets :**
 - Sale or Purchase of immovable property involving amounts in excess of Rs. 5,00,000.
 - Sale or purchase of Motor Vehicle other than Two Wheeler.
- (iv) **Transactions with Banks :**
 - Time Deposit in excess of Rs. 50,000 with Bank or Post Office Savings Bank.
 - Opening of a Bank Account.
 - Purchase of pay-order or demand draft or banker's cheque of an amount of RS. 50,000 or more by depositing cash on any day.
 - Deposit of cash in any bank account of Rs. 50,000 or more on any day.
- (v) **Transaction in Securities / Bonds / Units:**
 - Sale or Purchase of Securities exceeding Rs. 1,00,000.
 - Purchase of shares from company (public offer) for Rs. 50,000 or more during relevant previous year.
 - Purchase of mutual funds of Rs. 50,000 or more .
 - Purchase of bonds or debentures of company of Rs. 50,000 or more.
 - Purchase of RBI bonds of Rs. 50,000 or more.
- (vi) **Specific Expenses, Applications and Other Documents :**
 - Telephone Applications.
 - All TDS Certificates.
 - All TCS Certificates.
 - All Sales Tax Registrations.
 - Application for credit cards
 - Payment of Hotel Bill exceeding Rs. 25,000.
 - Expenses in cash exceeding Rs. 25,000 towards foreign travel.

Q46. Sania, a resident Indian, furnishes the details for the assessment year 2009-2010.

	Rs.
(1) Income from profession	1,04,000
(2) Share income from a partnership in country X (Tax paid in country X for this income in equivalent Indian rupees Rs 8,000)	40,000
(3) Commission income from concern in country Y (Tax paid in country Y at 20%) converted in Indian rupee)	30,000
(4) Interest from scheduled banks	20,000

Sania wishes to know whether he is eligible to any double taxation relief, if so, its quantum. India does not have any Double Taxation Avoidance Agreement with countries X and Y.

Solution :

(a) Computation of total income

Particulars	Rs.	Rs.
(a) Income from business :		
(i) Income from profession	1,04,000	
(ii) Share income in partnership firm in country X	40,000	1,44,000
(b) Income from other sources:		
(i) Interest from schedule bank	20,000	
(ii) Commission earned in country Y, assumed from other sources	30,000	50,000
Total income		1,94,000

(b) Computation of tax liability

Particulars	Rs.
Tax on total income of Rs. 1,94,000	9,300
Add: Surcharge on income tax	Nil
Education cess @ 2%	9,300
SHEC @ 1%	186
	93
	9,579
Less: Double taxation relief : 70,000 × 4.94	3,458
Tax payable	6,121
Rounded off u/s 288B	6,120

Note: (i) Average rate of tax in the foreign country : 20%

(ii) Average rate of tax in India : $\frac{9579}{194000} \times 100 = 4.94\%$

Q47. Sanjay discloses the following particulars of his income for the previous year 2008-2009.

	Rs.
(i) Profits and gains from business of collecting and processing of bio-degradable waste, started during PY 2008-2009	(+) 4,50,000
(ii) Loss from house property	(-) 6,00,000
(iii) Interest on Government Securities	(+) 1,50,000
(iv) Dividends received from foreign companies	(+) 2,50,000

The Assessing Officer wants to set-off the loss from house property against business profits and the balance amount against the income of Government Securities. Do you agree?

Solution :

Mode of Set-off opted by the Assessing Officer		Mode of set-off beneficial to the Assessee	
Particulars	Rs.	Particulars	Rs.
Loss from house property	(-) 6,00,000	Loss from house property	(-) 6,00,000
Less: Profits from bio-degradable waste	(+) 4,50,000	Less: Income from other sources—	
Unabsorbed loss from house property to be set-off against	(-) 1,50,000	Dividends received from foreign companies	(+) 2,50,000
Interest from government securities	(+) 1,50,000	Balance of loss from HP	(-) 3,50,000
Loss from house property	Nil	Profits from bio-degradable waste	(+) 3,50,000
Dividends from foreign companies	2,50,000	Interest on securities	(+) 1,50,000
		Gross total income	1,50,000
		Less: 100% deduction from business of bio-degradable waste (Sec. 80JJA)	1,50,000
		Resiceted upto GTI	
Total taxable income	2,50,000	Total taxable income	Nil

The Income-tax Act does not specify any particular mode of set-off either under intra-head or inter head adjustment. The assessee is free to adopt a mode of set-off which is most beneficial to him. The mode of set-off opted by the Assessing Officer is not tenable in law.

Q48. Following are the particulars of the income of Mr. Srikant for the previous year 2008-2009.

	Rs.
1. Income from house property	
(a) Property R	(+) 12,000
(b) Property J	(-) 20,000
2. Profits and gains from business:	
(A) Non-speculation:	
(i) Business X	40,000
(ii) Business Y	(-) 50,000
(B) Speculation:	
(i) Silver	40,000
(ii) Bullion	(-) 10,000
3. Capital gains:	
(i) Long-term capital gains	(+) 30,000
(ii) Short-term loss	(-) 10,000

4. Income from other sources:	
(i) Card games-loss	10,000
(ii) From the activity of owing and maintaining race horses:	
(a) Loss at Mumbai	(-) 50,000
(b) Profit at Kolkata	(+) 40,000
(iii) Dividend from Indian companies	10,000
(iv) Income by letting out plant and machinery	1,11,000
The following losses have been carried forward:	
(i) Long-term capital loss from the assessment year 2005-2006:	18,000
(ii) Loss from silver speculation from the assessment year 2005-2006 and which was discontinued in the assessment year 2006-2007	25,000

Compute the gross total income for the assessment year 2009-2010

Solution :

Computation of Gross Total Income for the Assessment Year 2009-2010

Particulars	Rs.	Rs.
1. Income from house property (+ 12,000 - 20,000)		(-) 8,000
2. Profits from speculation:		
(i) Silver-profit	40,000	
Less: Current year loss from bullion	(-) 10,000	
	30,000	
Less: Carried forward silver speculative loss surplus from speculation	(-) 25,000	
	5,000	
(ii) Add: Business profit X business	40,000	
(iii) Less: Business loss Y business	(-) 50,000	
	(-) 5,000	

Unabsorbed business loss may be set-off against the income of any other head except 'salaries' and 'winnings from lottery, card games, crossword puzzle, betting on race horses', etc.

3. Capital gains:

Long-term capital gains	30,000	
Less: Short-term capital loss	(-) 10,000	
Long-term capital gain	20,000	20,000

4. Income from other sources:

(i) Income by letting out plant and machinery	1,11,000
(ii) Card game-loss of Rs. 10,000	

Neither it can be set-off nor it can be carried forward

(iii) Profit from race horses at Kolkata	(+) 40,000	
Less: Loss from race horses at Mumbai	(-) 50,000	
Loss to be carried forward for next four assessment year	(-) 10,000	
(iv) Dividend from Indian companies: Exempt under Sec. 10(34)		Nil
Aggregated income after setting-off current year losses from house property, profit and business against income from other sources:		1,18,000
Less: Carried forward long-term capital loss, from the assessment year 2005-2006 to be set-off against long-term capital gains		<u>18,000</u>
Gross total income or total income as there is no deduction available from GTI		<u>1,00,000</u>

Q49. A Ltd. is engaged in the construction of residential flats. For the valuation date 31.3.2009, it furnishes the following data and requests you to compute the taxable wealth —

- Land in urban area (Construction is not permitted as per Municipal Laws in force) Rs. 55,00,000
- Motor-cars (used on hire by the company) Rs. 10,00,000
- Jewellery (Investment) Rs. 25,00,000. Loan taken for purchasing the same Rs. 20,00,000
- Cash Balance (as per books) Rs. 2,75,000
- Bank Balances Rs. 5,50,000
- Guest House (situated in a place which is 30 Kms away from the local limits of the municipality) Rs. 10,00,000
- Residential flats occupied by the Managing Director Rs. 15,00,000. The Managing Director is on whole time appointment and is drawing remuneration of Rs. 2,00,000 per month.
- Residential house were let out on hire for 200 days Rs. 10,00,000

The computation should be supported with proper reasoning for inclusion or exclusion.

Valuation Date : 31.03.2009 Computation of Taxable Wealth

Nature of Asset	Rs.	Reason
Land in Urban Area	NIL	Land in which construction is not permitted as per municipal law is not an asset u/s 2(ea)
Motor Cars	NIL	Motor cars used in business of hire is not an asset u/s 2(ea)
Jewellery	25,00,000	Not held as stock in trade
Cash Balance	NIL	Cash as per books - Not an asset U/s 2(ea)
Bank Balance	NIL	Not an asset u/s 2(ea)
Guest House	10,00,000	Asset u/s 2(ea)
Residential Flat occupied by MD	15,00,000	Asset u/s 2(ea) since Annual Gross Salary is greater than Rs. 5,00,000.
Residential House Let-out	10,00,000	Asset U/s 2(ea) as it is not let-out for a period > 300 days.
Total Assets		
Less: Debt incurred in relation to an asset: Loan for Jewellery	60,00,000 (20,00,000)	
Taxable Net Wealth	40,00,000	

Q50. (a) Hassan, a person of Indian origin was working in Australia since 1985. He returned to India for permanent settlement in June 2003 when he remitted the moneys into India. He furnished the following particulars of his wealth as on 31.3.2009. You are required to arrive at his wealth in respect of Assessment Year 2009-10.

- (i) Market Value of Residential house in Jharkhand (let-out for residence) Rs. 10,00,000 with Net Maintainable Rent p.a. of Rs. 1,20,000.
- (ii) Share in building owned by a firm in which Hassan is a Partner - used for business Rs. 5,00,000
- (iii) Motor-car purchased in April 2008, out of moneys remitted to India from Australia Rs. 4,00,000
- (iv) Value of interest in Firm excluding item (b) above Rs. 5,00,000
- (v) Shares in companies (quoted) Rs. 2,00,000
- (vi) Assets purchased out of amount remitted from Australia:
 - Jewellery purchased in March 2001 Rs. 5,50,000
 - Vacant land purchased in October 2000 Rs. 10,00,000
- (vii) Amount standing to the credit of NRE Account Rs. 15,00,000
- (viii) Cash on hand (out of sale proceeds of agricultural income) Rs. 65,000

Solution :

Assessee: Hassan Valuation Date: 31.3.2009 Computation of Net Wealth

Nature of Asset	Amount Taxable	Reasons
Residential House in Jharkhand	NIL	Not an Asset u/s 2(ea) - Let-out for whole year - Hence, not taxable
Share in the building owned by the firm	NIL	Not an asset u/s 2(ea), used for its own business - not chargeable to tax
Motor-car 4,00,000		
Less: Exempt u/s 5(v)-acquired out of money brought into India (4,00,000)	NIL	Asset u/s 2(ea). But, exemption available u/s 5(v), since acquisition out of money brought into India.
Value of Interest in a Firm	5,00,000	Assumed as deemed asset u/s 4(1)(b)
Shares in Companies	NIL	Not an asset u/s 2(ea)
Value of Jewellery	5,50,000	Asset u/s 2(ea) - Not entitled for exemption
Vacant Land	10,00,000	Asset u/s 2(ea) - Purchased in October 1999
Money in NRE A/c	NIL	Not an asset u/s 2(ea)
Cash in Hand in excess of Rs. 50,000	15,000	Asset u/s 2(ea), being an Individual
NET WEALTH	20,65,000	

Q50. (b) Abhishek, a person of Indian origin was working in Austria since 1990. He returned to India for permanent settlement in May 2008 when he remitted money into India. For the valuation date 31.3.2009, the following particulars were furnished. You are required to compute the taxable wealth. The reason for inclusion or exclusion should be stated –

- Building owned and let-out for 270 days for residence. Net maintainable rent (Rs. 1,00,000) and the Market Value (Excess of Unbuilt Area over Specified Area is 20% of the Aggregate Area) Rs. 30 lakhs
- Jewellery: (a) Purchased in April 2008 out of money remitted to India from Austria Rs. 12,00,000
(b) Purchased in May 2008 out of sale proceeds of motor-car brought from abroad and sold for Rs.40 lakhs.
- Value of interest in urban land held by a firm in which he is a partner Rs. 10 lakhs
- Bonds held in companies Rs.10 lakhs
- Motor car used for own business Rs. 25 lakhs
- Vacant house plot of 480 sq.mts. (purchased in Dec. 2001) market value of Rs. 20,00,000
- Cash in hand Rs. 45,000
- Urban land purchased in the year 2006 out of withdrawals of NRE Account Rs.15,00,000

Solution :

Assessee: Abhishek Valuation Date: 31.3.2009 Assessment Year: 2009-10

Computation of Net Wealth

Nature of the Asset	Rs.	Rs.	Reasons
Value of the House	18,50,000	18,50,000	Asset u/s 2(ea). Working Note 1
Jewellery: Purchased in April 2008	12,00,000	Nil	Asset u/s 2(ea). Purchased out of money brought into India
Less: Exempt u/s 5(v)	(12,00,000)		Purchased out of sale proceeds of assets brought into India
Jewellery			
Less: Exempt u/s 5(v)	(40,00,000)		
Interest in Urban Land held by firm	10,00,000	10,00,000	Deemed Asset u/s 4(1)(b)
Bonds held in companies	—	Nil	Not an asset u/s 2(ea)
Motor car		25,00,000	Asset u/s 2(ea). Not held as stock-in-trade
Vacant House Plot (480 sq. mts.)	20,00,000	Nil	Asset u/s 2 (ea) House/part of house/plot less than 500 sq.mts.
Less: Exempt u/s 5(vi)	(20,00,000)		
Cash in hand		Nil	Since not exceeding Rs. 50,000
Urban Land Purchased	15,00,000	Nil	Purchased out of money brought into India
Less: Exempt u/s 5(v)	(15,00,000)		
NET WEALTH		53,50,000	

(1) Working Notes: Valuation of Building :

Net Maintainable Rent(NMR) = Rs. 1,00,000

Capitalized Value of NMR = NMR × 12.5

(Owner of the land) = Rs. 1,00,000 × 12.5 = Rs.12,50,000

Add: Premium for excess of unbuilt area (20%)

over specified area = 40% of CNMR = Rs. 5,00,000

VALUE OF THE HOUSE

Rs.18,50,000