

Qn. 1. (A) Choose the most appropriate answer from the given options in respect of the following having regard to the provisions of the relevant direct, tax laws

(i) Income-tax in India is charged at the rate(s) prescribed by —

- (a) The Finance Act
- (b) The Income-tax Act
- (c) The Central Board of Direct Taxes
- (d) The Ministry of Finance

Solution: (a) The Finance Act

(ii) Under the Income-tax Act, 1961, depreciation on machinery is charged on —

- (a) Purchase price of the machinery
- (b) Market price of the machinery
- (c) Written down value of the machinery
- (d) All of the above.

Solution: (c) Written down Value of the machinery

(iii) Income accruing in India in previous year is taxable for —

- (a) Resident
- (b) Not ordinarily resident
- (c) Non-resident
- (d) All of the above.

Solution (d) All of the above

(iv) Sandeep purchased a house for his residential purpose after taking a loan in January, 2007. During the previous year 2008-09, he paid interest on loan Rs. 1,67,000. While computing income from house property, the deduction is allowable to the extent of —

- (a) Rs. 30,000
- (b) Rs. 1,00,000
- (c) Rs. 1,67,000
- (d) Rs. 1,50,000

Solution: (d) Rs. 1,50,000

(v) Which of the following is an 'asset' under section 2(ea) of the Wealth-tax Act, 1957 —

- (a) Equity shares in a company
- (b) Balance in provident fund
- (c) Motor car held as stock-in-trade —
- (d) Jewellery for personal use.

Solution: (d) Jewellery for personal use

(B) Re-write the following sentences after Filling-in the blank spaces with appropriate word(s)/figure(s) :

(i) Deduction for bad debt is allowed to an assessee carrying on business in the year in which the debt is _____ as bad.

(ii) Deduction available under section 80GG towards rent paid shall not exceed Rs. _____ per month.

(iii) It is obligatory for an assessee to pay advance tax where the amount of tax payable is Rs. _____ or more.

(iv) A belated return of income can be filed at any time before the expiry of _____ from the end of relevant assessment year.

(v) Wealth-tax is levied on the net wealth of a person as on 31st March, this date is known as _____ date.

Solution: (i) declared **(ii)** 2000 **(iii)** 5000 **(iv)** 1 year **(v)** Valuation date.

(C) Rajan is an employee of a private limited company and gets the following emoluments during the previous year ended on 31st March, 2009:

Salary: Rs.96,000;

Salary in lieu of leave: Rs.6,000;

Entertainment allowance: Rs. 10,000; and

Commission: Rs.8,000.

Rajan's son studies in a school which is owned and maintained by the company. The cost of education in a similar school in the locality is Rs.22,000 per year, but the company charges Rs.4,000 from Rajan. Salary of a domestic servant provided to Rajan by the company is Rs. 6,000 and the same is paid by the company. The company purchases a computer on 1st April, 2008 for Rs. 50,000 which is given to Rajan for office and private use. The company purchases a refrigerator for Rs.20,000 on 30th June, 2008 for personal use of Rajan. Rajan and the company both contribute Rs. 1.2,000 towards recognised provident fund. Rajan deposits Rs.40,000 towards public provident fund. Rajan earns Rs.1,00,000 by way of rent from a vacant plot, of land. Compute the taxable income and tax liability of Rajan for the assessment year 2009-10.

Solution

(I) Income from salary		
Salary		96,000
Salary in lieu of leave		6,000
Entertainment allowance		10,000
Commission		8,000
<u>Perquisites</u>		
Domestic servant	6,000	
Computer	NIL	
Refrigerator	NIL	6,000
Benefit to cost of education (22,000- 4,000)		18,000
Contribution to PF (in excess of 12%)		480
Gross Salary		<u>1,44,480</u>
(-) deduction U/S 16		
Professional Tax	NIL	
Entertainment allowance	NIL	<u>NIL</u>
Total Amount		1,44,480
(II) Income from house Property		1,00,000
Gross total Income (I + II)		
(-) Deduction U/S 80 C – 80 U		
U/S 80 C (Contribution to PPF)		40000
Total Income		2,04,480

Computation of tax liability

Upto Rs. 1,50,000		NIL
Next 54,480	10%	<u>5,448</u>
	Total Tax liability	5,448
+ 3% education cess		<u>163</u>
		<u>5611</u>
Total tax liability = Rs. 5610		

QN.2. (A) From the following profit and loss account of Vinay for the year ended 31st March, 2009, compute his total income and tax liability for the assessment year: 2009-10:

	Rs.		Rs.
Interest on capital	12,000	Gross profit	5,10,000
Insurance	2,000	Brokerage	30,000
Bad debts	30,000	Bad debts recovered	15,000
Depreciation	34,000	(earlier allowed as deduction)	
Advance tax	25,000	Sundry receipts	18,000
General expenses	12,000	Interest on debentures	
Advertisement	5,000	(gross) [TDS Rs,4,120]	40,000
Salary (including salary to Vinay Rs.20,000)			
Interest on loan	85,000		
Net profit	8,000		
	4,00,000		
	<u>6,13,000</u>		<u>6,13,000</u>

Additional information :

- (i) The amount of depreciation allowable as per income-tax rules is Rs. 42,000.
- (ii) General expenses include Rs.5,000 given as contribution to a political party.
- (iii) Vinay pays Rs. 5,200 as premium on his own life insurance policy of Rs. 50, 000.
- (iv) Loan was obtained for payment of income-tax,

Solution

(I) Income from business	Rs.	Rs.
Net profit for the year		4,00,000
Add: Expenses not allowed under <u>Income tax act</u> but debited to P & L A/C		
Intt. On capital	12,000	
Depreciation as per books of a/c	34,000	
Advance tax	25,000	
General Expenses	5,000	
Salary to Vinay	20,000	
Intt on loan	8,000	1,04,000
Less: Income not allowed but <u>Credited to P& L a/c</u>		
Intt. On debentures	40,000	
Depreciation as per Income tax Act	42,000	82,000
Total Income		4,22,000
(II) Income from Salary		20,000
(III) Income from other sources		
Interest on debenture		40,000
Gross total income [I + II + III]		4,82,000
Less: Deduction U/S 80C – 80U		
(i) Premium on life insurance policy (80C)		5,200
(ii) Contribution to political party Sec (80 GGC)		5,000
Total Income		4,71,800

Computation of tax liability

Tax liability	Rate	
Upto Rs. 150,000	NIL	NIL
Next 1,50,000	10%	15,000
Next 1,71,800	20%	<u>34,360</u>
		49,360
Less: Advance tax Paid		25,000
Less: TDS		<u>4,120</u>
		20,240
Add: 3 % education cess		<u>607</u>
		<u>20847</u>

Total tax liability = 20850

(B) Write short notes on **any two** of the following :

- (i) Taxation of zero coupon bonds
- (ii) Share of profit from partnership firm
- (iii) Exemption of income of newly established units in special economic zone.

Solution (i) Transfer of zero coupon bond will be subject to capital gain tax: The profits arising on the transfer of such zero coupon bond shall be chargeable under the head "capital gains". Further, section 2(42A) has been amended to provide that if such zero coupon bonds are held for not more than 12 months, such capital asset shall be treated as short-term capital asset and hence shall be subject to short-term capital gain. On the other hand, where these bonds are held for more than 12 months, such capital gain shall be treated as long-term capital gain.

Taxability of long-term capital gain from zero coupon bonds [Proviso to section 112 (1)] The long-term capital gain on zero coupon bonds shall be chargeable to tax at minimum of the following two:

- (a) 20% of long-term capital gain after indexation of cost of such bonds,
- Or
- (b) 10% of long-term capital gain before indexation of cost of such bonds,

Solution (ii) Share of profit - Section 10(2A) provides that in the case of a partner (including a minor admitted for the benefit of the firm) of a firm, his share in the total income of the firm shall be exempt from tax.

Remuneration or interest- If condition of section 184 and section 40(6) are satisfied then interest, salary, bonus, commission or remuneration paid/ payable by the firm to partners is taxable in the hands of partners (to the extent these are allowed as deduction in the hands of the firm).

The following points one should note —

1. *Remuneration is not taxable under the head "Salaries"*- Remuneration is not taxable in the hands of partners under section 15 under the head "Salaries" (Explanation 2 to section 15). It is taxable as business income.
2. *Expenses are deductible under sections 30 to 37-* Any expenditure incurred in order to earn salary/interest income can be claimed as a deduction under sections 30 to 37 from such income. For instance, if a partner borrows money to make his capital contribution to the firm and he has received interest on his capital contribution, the amount of such interest will be taxed under the head "Profits and gains of business or profession", but the interest paid by him on the borrowed money will have to be allowed as a deduction.
3. *Consequences when remuneration/interest is disallowed in firm's hands-if* salary/ interest is disallowed in the hands of firm under section 40(b) and/ or section 184, then the same is not taxable in the hands of the partners. Likewise, if a part of salary/interest is not allowed as deduction in the hands of the firm, that part of salary/interest is not taxable in the hands of the partners. The cumulative impact of the aforesaid provision is that in the hands of partners the entire remuneration/ interest (excluding the amount disallowed in the assessment of partners) is chargeable to tax.

Solution (iii) the deduction under this section shall be allowed as under for a total period of 15 relevant assessment years.

1.	For the first 5 consecutive assessment years beginning with the assessment year relevant to the previous year in which the unit begins to manufacture such articles or things or provide services	100% of the profits and gains derived from the export of such articles or things or from services
2.	Next 5 consecutive assessment years	50% of such profits or gains
3.	Next 5 consecutive assessment years	So much of the amount not exceeding 50% of the profits as is debited to profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to Special Economic Zone Reinvestment Reserve Account to be created and utilised for the purpose of the business of the assessee in the manner laid down in sub-section (2) below.

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

- (i) Unabsorbed depreciation of any year can be carried forward for set-off for an unlimited period of time.
- (ii) An individual is not liable to pay fringe benefit tax. ?
- (iii) The entire amount of winning from lotteries is taxable at a special rate of income-tax.
- (iv) Income of minor child is included in the income of his parents under the Income-tax Act, 1961 in all cases.
- (v) When the prize is given partly in cash and partly in kind, income-tax will be deducted from cash only.

Solution

- (i) True: Unabsorbed depreciation of any year can be carried forward for set off for an unlimited period of time.
- (ii) True: Individual is not liable to fringe benefit tax.
- (iii) True: The entire amount of winning from lotteries is taxable at the rate of 30%.
- (iv) False: Income of minor child is not included in the income of his parents in all cases. Any income of minor child U/S 80U, manual work done and in case of activity involved special skills is not clubbed in the hands of parents.
- (v) False: When the prize is given partly in cash and partly in kind, Income tax is deducted from both cash and kind.

Qn.3. (A) Distinguish between **any three** of the following:

- (i) Gross total income' and 'total income'.
- (ii) Recognised provident fund' and 'statutory provident fund'.
- (iii) 'Compulsory best judgment assessment' and 'discretionary best judgment assessment',
- (iv) 'Exemptions' and 'deductions'.

Solution

(i) Gross Total Income: As per section 14, all income shall, for purposes of Income-tax and computation of total income, be classified under the following heads of income:

- (i) Salaries,
- (ii) Income from House Property,
- (iii) Profits and Gains of Business or Profession,
- (iv) Capital Gains,
- (v) Income from Other Sources.

Aggregate of incomes computed under the above 5 heads, after applying clubbing provisions and making adjustments of set off and carry forward of losses, is known as Gross Total Income (GTI). [Section 80B(5)]

Total Income: The total income of an assessee is computed by deducting from the gross total income, all deductions permissible under Chapter VIA of the Income-tax Act i.e., deductions under sections 80C to 80U.

Solution (ii)

Particulars	SPf	RPF
1. Employee's/ assessee's contribution	Deduction u/s 80C is available from gross total income subject to the limit specified therein	Deduction u/s 80C is available from gross total income subject to the limit specified therein
2. Employer's contribution	Fully exempt from tax	Exempt upto 12% of salary. Amount in excess of 12% is included in gross salary.
3. Interest on Provident Fund	Fully exempt from tax	Exempt u/s 10 upto 9.5% p.a. Interest credited in excess of 9.5% p.a. is included in gross salary
4. Repayment of lump sum amount on retirement/ resignation/ termination	Fully exempt u/s 10(11)	Exempt subject to certain conditions. See Note 2.

Solution (iii) Best Judgment Assessment: In a best judgment assessment the assessing officer should really base the assessment on his best judgement i.e. he must not act dishonestly or vindictively or capriciously. There are two types of judgement assessment:

1. Compulsory best judgement assessment made by the assessing officer in cases of non co-operation on the part of the Assessee or when the Assessee is in default as regards supplying informations.
2. Discretionary best judgement assessment is done even in cases where the assessing officer is not satisfied about the correctness or the completeness of the accounts of the Assessee or where no method of accounting has been regularly and consistently employed by the Assessee.

Solution (iv)

Exemption – All receipts which give rise to income, are taxable under the Income tax -Act unless it is specifically provided that it does not form part of total income such incomes which do not form party exempt from tax. As per sec. 10 to 13A, certain incomes are either totally exempt from tax or exempt upto a certain limit therefore, there incomes to the extent there are exempt, are not included in the total income of an assessee for computation of his total income.

Deduction:- The aggregate of income computed under each head, after giving effect to the provisions for clubbing of income and set off of loss is "Gross total Income". In computing the total income of an assessee certain deductions are permissible under sec. 80C to 80U from "Gross total Income". But Deductions cannot exceed Gross total Income and to get deduction, It is Assessee's duty to place relevant material before the said authority along with Return.

QN. 3(B) What is the time-limit for deposit of 'tax deducted at source' (TDS) to the credit of Central Government?

Solution

TIME LIMIT FOR DEPOSITE OF TDS TO THE CREDIT OF CG

Section under which deduction is made	Person	Time limit of de Central Government
(1) Sum deducted under sections 193, 194A, 194C, 194D, 194E, 194G, 194H, 194-1, 194J, 195, 196A to 196D	(A) Tax deducted by or on behalf of the Government (B) Tax deducted by or behalf of any other person: (i) if the amount is credited to the account of the payee as on the date upto which the account of such persons are made (ii) in any other case	Same day of deduction: within 2 months, of the expiration of the month in which that date falls. within one week for the last day of the month in which the deduction is made
(2) Sum deducted under sections 192, 194, 194B, 194BB, 194EE, 194F and 194K	(A) Tax deducted by or on behalf of Government (B) Tax deducted by or on behalf of other person	Same day of deduction Within one week from the last day of the month in which deduction made,

Qn. 4(A) What are the special provisions for computing profits and gains of retail business ?

Solution: Section 44AF - Special provisions for computing profits and gains of retail business :

(1) Notwithstanding anything to the contrary contained in Sections 28 to 43C, in the case of an assessee engaged in retail trade in any goods or merchandise, a sum equal to 5% of the total turnover in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession":

Provided that nothing contained in this sub-section shall apply in respect of an assessee whose total turnover exceeds an amount of 40 lakhs rupees in the previous year.

(2) Any deduction allowable under the provisions of sections 30 to 38 shall be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section(1) subject to the conditions and limits specified in Section 40(b).

(3) The written down value of any asset used for the purposes of the business referred to in sub-section(1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the total turnover or the income from the said business shall be excluded.

(5) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if the keeps and maintains such books of accounts and other documents as required u/s 44AA and gets his accounts audited and furnishes a report of such audit as required u/s 44AB.

(B) What are the provisions relating to clubbing of income arising to spouse from the assets transferred ?

Solution: Income from assets transferred to the spouse [Section 64(I)(iv)]: In computing the total income of an individual, all such income as arises directly or indirectly, subject to the provisions of section 27(i) (i.e. deemed owner), to the spouse of such individual from assets (*other than house property*) transferred directly or indirectly to the spouse of such individual *otherwise than for adequate consideration or in connection with an agreement to live apart* shall be included.

As per this provision, if an individual transfers any asset *other than house property* to his/her spouse, the income from such an asset shall be included in the total income of the transferor. This provision is not applicable to house property because in that case transferor is deemed to be the owner of the house property and the annual value of the property is taxed in the hands of the transferor as per section.27.

The income from the transferred assets shall not be clubbed in the following cases:

- (i) If the transfer is for adequate consideration;
- (ii) the transfer is under an agreement to live apart;
- (iii) if the relationship of husband and wife does not exist, either at the time of transfer of such asset or at the time of accrual of the income.

(C) Alka is carrying on textile business. Compute her net wealth from the following — details of her assets and also determine her wealth-tax liability for the assessment year 2009-10 :

	Market Value
(i) Land in rural area (it lies within 8 kms. from a municipality having a population of more than 10,000; land was purchased in 1990; construction is permissible.	48,00,000
(ii) Land in urban area (held as stock-in-trade since 2001)	35,50,000
(iii) Motor cars	8.60,000
(iv) Aircraft for use of employees and auditors	1,25,00,000
(v) Bank balance	12.00,000
(vi) Guest house situated in rural area	10,50,000
(vii) Residential flats of identical size provided to employees near the factory (salary of employees does not exceed Us.5.00,000 in a year)	30.00,000
(viii) Residential house given to general manager (whose annual salary is Rs. 15,00,000)	25,00,000
(ix) Cash in hand as per cash book	2,00,000
(x) Two residential houses; let-out on rent (value of each being Rs.22 lakh; one is let-out for 250 days during the financial year 2008-09).	

Alka has taken a loan of Rs.24,00,000 for acquiring the aircraft; Rs.5,50,000 for and; and Rs.4,00,000 for residential house given to general manager

Solution:

Computation of not wealth of Alka for the Assessment year 2009-10

i. Land in Rural Area (Lies within 8 Kms from a Municipality)	48,00,000
ii. Land in Urban Area (held as SIT)	---
iii. Motor car	8,60,000
iv. Aircraft for use of employees and auditors	1,25,00,000
v. Bank Balance	---
vi. Guest house situated in Rural Area	10,50,000
vii. Residential flats to employees (salary does not exceed Rs. 500000)	--
viii. Residential house given to general manager	25,00,000
ix. Cash in hand as per books	---
x. Two residential house let out on rent but one house is let out for less than 300 days.	22,00,000
Gross wealth	2,39,10,000
Less: <u>Loan taken for</u>	
Acquisition of air craft	24,00,000
Urban land	----
Residential house to General Manager	<u>4,00,000</u>
Total	2,11,10,000
Tax [i.p. 1% on the amount in excess of Rs. 15,00,000] $19610000 \times 1\%$	1,96,100

Qn.5.(A) Anurag sells a plot of land on 8th July, 2008 for Rs.40 lakh and paid brokerage on its sale @1%. He purchased this plot on 19th December, 1986 for Rs.4.20,000. On 1st February, 2009, he purchased a residential house for Rs.15 lakh. He owns one residential house an 8th July, 2008. The cost inflation index for 1986-87 was 140 and for 2008-09 is 582. Find out the amount of capital gains chargeable to tax for the assessment, year 2009-10. Suppose Anurag sells the new residential house before 1st February. 2012, what will be the taxable amount of capital gains and

in which year it will be charged to tax? If Anurag purchases any other residential house before 1st February, 2011, what will be the taxable amount of capital gains and in which year it will be charged to tax ?

Solution: (A) Computation of capital gains chargeable to tax for A/Y 2009-10

Sales Consideration	40,00,000
Less: Expenses an transfer [brokerage @ 1%]	4,00,000
Less: Indexed cost of acquisition $\left(\begin{array}{r} 420000 \times 582 \\ \hline 140 \end{array} \right)$	17,46,000
	18,54,000
(-) Exemption U/S 54	<u>15,00,000</u>
LT CG	3,54,000

If Anurag sells the new residential house before 1st Feb 2012 the taxable amount is whole sales consideration and it is taxable in A/Y 2013 -14

If Anurag purchase any other residential house before 1st Feb 2011, than taxability is not arise in A/Y 2012 -13.

(B) Danny has the following investments in the previous year ended 31st March, 2009:

- Rs.7,160 received as interest on securities of Karnataka government.
- Rs.9,000 received as interest on securities of a listed paper manufacturing company.
- Rs.7,200 received as interest on the unlisted securities of a sugar company.
- Rs.30,000. 11% securities (unlisted) of a textile company.
- Rs.20,000, 10% Tamil Nadu government loan,
- Rs.50,000, 13.5% listed debentures of Dolly Ltd.

Interest on ail securities is payable on 30th June, and, 31st December. The bank charges 1/5% commission on net realisation of interest as collection charges.

Danny also received Its.15, 000 as director's fee from a company. His other incomes are — winnings from horse race: Rs.25,000 (gross); and interest on post office savings bank account : Rs. 6,000.

Find out taxable income of Danny from other sources for the assessment year 2009-10.

Solution: Computation of Income from other sources for the A/Y 2009 -10

	Amount
Director Fees	15,000
Winning from horse race	25,000
Interest from post office saving bank account	6,000
11% securities (unlisted) of a textile company	3,300
10% Tamil nadu Govt. loan	2,000
13.5% listed debentures of Dolly Ltd.	6,750
Intt. On securities of Karnataka Govt.	7,160
Intt. On a listed paper mfg. Co.	9,000
Intt. On the unlisted securities of a sugar company	<u>7,200</u>
	81410
Less: Deduction Bank Charges 1.5%	1,221
Total Income	80,189

(C) "Loss under any head of income for any assessment, year can be set-off against the income from other heads of income but when it has to be carried forward for being set-off, it can only be set-off from income under the same head." Explain.

Solution: Where in respect of any Assessment year, if after setting off losses against income under the same head the net result of the computation under any head of income, other than 'capital gains' is a loss, the assess shall be entitled to have the amount of such a loss set off against his income, if any, available, for that assessment year under any other head. But If the losses could not be set off under the same head or under different heads in the same assessment year, such losses are allowed to be carried forward to be claimed as set off from the income of the subsequent Assessment Year for eg;- A loss under the head house property, if could not be set off or was not wholly set off in the same assessment year, will be allowed for be carry forward and set off only under the head Income from house property similarly Business losses other speculation business can be carry forward and set off under the head PGBP.

Where in respect of any assessment year, the net result of the computation under the head “Capital Gains” is a loss to assessee, whether short term or long term. Such loss shall be separately carried forward, further such carried forward short term capital loss can be set off in subsequent assessment year from income under the head capital gains, whether short term or long term, but brought forward long term capital loss shall be allowed to be set off only from long term capital gain.

QN. 6 (A) Rohit is the owner of a house property, its municipal valuation. is Rs.80,000. It has been let-out for Rs. 1,20,000 per annum. The local taxes payable by the owner amount to Rs.16,000, but as per agreement between the tenant and the landlord, the tenant has paid the amount direct to the municipality. The landlord, however, bears the following expenses on tenant's amenities:

	Rs.
Extension of water connection	3,000
Water charges	1,500
Lift maintenance	1,500
Salary of gardener	1,800
Lighting of Stairs	1,200
Maintenance of swimming pool	750
The landlord claims the following deductions :	
Repairs and collection charges	7,500
Land revenue paid	1,500

Compute the taxable income of Rohit from the house property for the assessment year 2009-10.

Solution:

Computation of Income from House Property of Rohit

Actual Rent Value		1,20,000
Less: Expenses net by Rohit an amenities provided to the tenant's		
Water charges	1,500	
Lift Maintenance	1,500	
Salary of gardener	1,800	
Lighting of stairs	1,200	
Maintenance of Swimming pool	750	
Extension of water connection	3,000	9,750
Annual Rent		1,10,250
Net Annual value (Municipal rent value Rs. 80,000 or Rs. 1,10,250 which ever is higher)		1,10,250
Less: Statutory deduction @ 30%		33,075
Taxable income from House Property		77,175

(B) What are 'capital assets' ? What items are not included in capital assets ?

Solution: Capital asset means property of any *kind* held by the assessee, whether or not connected with his business or profession, but does not include:

(i) *any stock-in-trade*, consumable stores or raw materials held for the purposes of his business or profession as these will be taxed under the head "profits and gains of business or profession";

(ii) *personal effects*, that is to say, movable property (including wearing apparel and furniture), held for personal use by the assessee or any member of his family dependent on him. However, the following assets shall not be treated as personal effects though these assets are moveable and may be held for personal use:

- (a) jewellery;
- (b) archaeological collections;
- (c) drawings;
- (d) paintings;
- (e) sculptures; or
- (f) any work of art.

(iii) *agricultural land in India*, which is not an urban agricultural land. In other words, it must be a rural agricultural land;

(iv) 6.5% Gold Bonds, 1977, 7% Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government;

(v) Special Bearer Bonds, 1991, issued by the Central Government;

(vi) Gold Deposit Bonds issued under the Gold Deposit Scheme 1999.

QN.7. Attempt **any four** of the following :

(a) "Service tax is generally payable by the service provider, but there are certain situations in which service receiver is liable to pay service tax." Explain.

(b) What are the due dates for payment of service tax by different assessees?

(c) Indicate the amount of interest payable for late payment of service tax and the amount of penalty payable for late filing of return of service tax.

(d) Explain the provisions regarding submission of return under service tax.

(e) What is the basis of calculation of service tax payable? Explain the provisions governing valuation of taxable services.

(f) Choose the most appropriate answer from the given options in respect of the following;

(i) What would be the value of taxable service, if gross amount charged by a service provider on 5th March, 2009 is Rs.9,000 —

(a) Rs.8,010

(b) Rs.8,160

(c) Rs.9,000

(d) Rs.8,100.

(ii) If Raj has collected any amount of service tax from Brij which is not required to be collected. Raj shall pay the amount so collected to —

(a) Brij

(b) The Central Government

(c) Keep it with himself

(d) None of the above.

(iii) E-payment of service tax is compulsory in the case of an assessee who had paid service tax in the preceding financial year equal to at least —

(a) Rs.10 lakh

(b) Rs.40 lakh

(c) "Rs.50 lakh

(d) Rs.1 crore.

(iv) Upto what amount, the value of all taxable services provided by a service provider during a financial year is exempt from payment of service tax —

(a) Rs.4 lakh

(b) Rs. 8 lakh

(c) Rs.10 lakh

(d) Rs.12 lakh.

v) If a corporate assessee has paid Rs.15,000 as excess service tax during; the previous half-year ending period, this excess amount can be adjusted against its subsequent tax liability —

(a) Equally every month

(b) Equally per quarter

(c) In one lump-sum

(d) Equally on half-yearly basis,

Solution (a) The general principle is that the person *providing a taxable service* is liable to pay service tax, but in certain specific situations, as Government may notify, persons *other than the person providing the taxable service* are liable for payment of service tax.

S. No.	Services	Persons liable for payment
1	Telecommunication	Provider of service
2	General Insurance	Insurer or reinsurer
3	Insurance Auxiliary	Insurance Agent
4	Any service provided from outside India and received in India	Receiver of service in India
5	Goods transport agency (GTA)	Person making payment of freight <i>i.e.</i> receiver of the service (if consignor or consignee of goods are in organized sector), or GTA <i>i.e.</i> provider of service (in other cases)
6	Sponsorship services	Receiver of services

7	Business auxiliary services of distribution of mutual fund	Receiver of service in India
8	Any other taxable service	Service provider

(B)

There have been frequent changes in the due dates for payment of service tax. The current law pertaining to due dates for depositing the service tax are summarized in the table given below:

Category of Assessee	Periodicity of Payment	Period	Due Date
Individuals, proprietary firms or partnership firms	Quarterly	April to June July to September October to December	5th (6th in case of e-payment of the month immediately following the said quarter)
		January to March	3 1st March
Others	Monthly	All months except March	5th (6th in case of e-payment) of the month immediately following the calendar month
		March	3 1st March

(C) The amount of interest payable for late payment of service tax is 13%.

Return of service tax has to be filed within the prescribed period. A late fee has to be paid along with the filing of return of service tax if the same is filed late.

Where the return is furnished late the person liable to furnish return is liable to pay to the Central Government a penalty, on the basis of period of delay subject to maximum of Rs. 2,000.

Period of delay from due date	Penalty to be paid
Upto 15 days	Rs. 500
16 to 30 days	Rs. 1,000
After 30 days	Rs. 1,000 + 100 per day in excess of 30 days upto maximum of Rs. 2,000

(D) Every person liable to pay service tax shall himself assess the tax due on the services provided by him and furnish a return in Form ST-3 (in triplicate) on a half-yearly basis. 'Half year' means 1st April to 30th September and 1st October to 31st March of financial year.

Without prejudice to the provisions of section 70, the Board may, by notification in the Official Gazette, frame a Scheme for the purposes of enabling any person or class of persons to prepare and furnish a return under section 70, and authorise a Service Tax Return Preparer to act as such under the Scheme.

The return has to be submitted by the 25th of the month following the particular half-year. Even a NIL return has to be filed if the assessee has not rendered any taxable service during a particular half year. There are no provisions under the Act which enable the filing of revised returns.

(E) As per section 66, service tax is to be charged @ 12% of the *value of taxable service* proved or to be provided. Hence, we have to determine the value of such taxable services so as to pay service tax.

As per section 67, the valuation of taxable service shall be determined as under:—

Situation	Valuation
(i) where the provision of service is for a consideration in money	gross amount charged by the service provider for such service provided or to be provided by him
(ii) where the provision of service is for a consideration not wholly or partly consisting of money	such amount in money, <i>with the addition of service tax charged</i> , as is equivalent to the consideration. In other words, it should be value of similar services provided to third party. If similar service is not provided to third party, it should be market value as determined by the assessee but it cannot be lower than the cost of provision of same.

(iii)	where the provision of service is for a consideration which is not ascertainable	the amount as may be determined in the prescribed manner
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(F)

- (i) (b) 8160
- (ii) (b) The central Government
- (iii) (c) Rs. 50 lakhs
- (iv) (c) Rs. 10 lakhs
- (v) (c) In one Lump-sum

PART—C

QN.8 Attempt, **any four** of the following :

- (i) How would you take input tax credit when goods purchased are transferred by the dealer to his branch in any other State ?
- (ii) A registered dealer can set-off the amount of input tax against the amount of his output tax." Explain.
- (iii) Explain the procedure of registration under "value added tax' (VAT).
- (iv) In what purchases input, tax credit is not allowed under VAT ?
- (v) What are the deficiencies in the design of VAT that has been adopted by the States in India? Give your opinion
- (vi) "Tax credit or invoice method has been adopted universally because; of the inherent advantages in the credit method of calculating tax liability? Explain,

Solution

(i) Stock/Branch transfers i.e. transfer of stock from head office to the branch or vice-versa (viz. Inter-State transfers) do not involve sale and, therefore, they cannot be subjected to sales-tax/VAT. However, if -

- (1) inputs are used in the manufacture of finished goods, which are stock/branch transferred; or
 - (2) goods purchased for re-sale are stock/branch transferred,
- then, tax paid on such inputs/goods will be available as input tax credit subject to retention of 4% out of such tax by the State Governments.

(ii) For claiming input tax credit dealer must be a registered dealer. A registered dealer can only set off the amount of input tax against the amount of his output tax. Further a registered dealer must purchase goods from another registered dealer who has not opted for composition scheme to claim credit of input tax. Apart from registration requirement the registered dealer must keep supporting evidences like VAT invoice of the purchases.

(iii) Any dealer whose gross annual turnover is above Rs.5 lakh will be liable to get compulsory registration. An existing dealer will be automatically registered under the VAT Act. A dealer registered under the VAT Acts is called a registered dealer.

Any other dealer may get himself voluntarily registered. On such a dealer Commissioner may impose any conditions as he thinks fit. If dealer fails to get registration he may be registered compulsorily by the commissioner.

Time limit

Application for registration must be made within 30 days from the date of liability to get registered.

Whom to apply

Application for registration must be made to the VAT Commissioner.

Exemption from registration

A small dealer with gross annual turnover not exceeding Rs.5 lakhs does not require registration. Further States may increase the above limit for the small dealers to Rs.10 lakhs.

Penalty

If a dealer who is liable to get himself registered, fails to do so then he shall be liable to penalty and he shall not be eligible for input tax credit related to the period prior to the compulsory 'registration.

Cancellation of registration

In the following cases registration can be cancelled:

- (i) In case of discontinuance of business; or
- (ii) In case of sale or disposal of business; or
- (iii) In case of shifting or transfer of business to a new state; or
- (iv) Annual turnover of the dealer falls below the specified amount.

(iv) Purchase in which input tax credit is not allowed under VAT :-

- i) purchases from unregistered dealer.
- ii) Purchase from registered dealer who opted for composition scheme.
- iii) Purchase of goods as may be notified by the state Government.
- iv) Purchase of goods where invoice does not show the amount of tax separately.
- v) Purchase of goods, which are being utilized in the manufacture of exempted goods.
- vi) Goods imported from outside the territory of India.
- vii) Inter state purchases.
- viii) Purchases of goods used for personal use/ consumption or provided free of charge as gifts.

(v) Deficiencies in the design of VAT that has been adopted by the States in India are as under:

- (1) Detailed records even by small traders: In order to ensure genuine availment of credit, VAT system requires maintenance of detailed accounting records even by all dealers. The small traders/firms find it difficult to do so since the accounting cost is higher than the benefit gained by them by maintaining such records. Hence, they object to the VAT system.
- (2) Problems due to different VAT rates, exemptions, concessions and composition schemes: The advantages of VAT can be achieved only if there is single rate of VAT without any exemptions, concessions and/or composition schemes.

The presence of different VAT rates, exemptions, concessions and/or composition schemes distorts the flow of audit trail introduced by VAT system and may result in cascading effect of taxation.

(Note: Composition schemes provide for lump sum payment of VAT at a lower rate on the total turnover, in full discharge of VAT liability, without any input tax credit.)

- (3) Matching Requirements v. Different rates of VAT: Due to varying fiscal and social needs, there are varying VAT rates in India. The presence of different VAT rates requires matching of purchases and sales, which is not only difficult but impractical as well.

However, if matching requirement is waived off, then, there will be scope for tax evasion by showing higher sales of goods bearing lower rate and lower sales of goods bearing higher rate.

- (4) Increase in investment and inflation: As compared to single-point taxation- at the time of last sale, VAT requires payment of tax at each stage of production/distribution. Since there may be time-gap in availment of credit on inputs and utilization of such credit against payment of VAT on sales, the dealers will have to carry tax paid stock, which would mean higher investment in stocks/working capital. This would increase interest cost and would increase the prices, thereby, causing inflation.

However, this criticism is not fully correct. Availability of credit/set-off of tax paid on inputs reduces cost of production and ultimately the sale price, thereby, putting a check over inflation. The price reduction is more than price increase due to interest cost. Thus, VAT is not inflationary in nature.

- (5) Non-integration of State VAT with Central VAT: Until the State VAT gets integrated with Central VAT and Central Sales Tax, the purchases from other states cannot be put at par with purchases from within the State because tax on inter-state purchases (i.e. CST) is not available as credit/set-off while tax on intra-state purchases (i.e. VAT) is available as credit/set-off.

Thus, VAT system doesn't rule out cascading effect and the neutrality as to source of purchases remains confined to within the State.

(vi) Tax credit or invoice method has been adopted universally because; of the inherent advantages in the credit method of calculating tax liability which are

- (i) Government gets the tax on ultimate sale price to consumer i.e. the tax paid by the consumer gets into Government Exchequer. The Revenue is collected at various stages on the amount of value addition made at the respective stages. Thus, there is no revenue leakage.
- (ii) This method checks evasion of tax. In order to avail credit of tax paid on purchases, the dealer will have to maintain purchase invoices. If the purchase invoices are not maintained, no credit will be available and the dealer will have to pay tax on the total sales value, thereby, leading to higher sale price or lower profits. A dealer not maintaining purchase invoices will lose either way. Thus, the possibility of tax evasion is minimum.
- (iii) If the profit margin is kept at constant level, then the credit/set-off provided under this method would eliminate cascading effect of taxation and would result in reduction of ultimate sale price. Thus, the industry and the trade would benefit.