

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

Answer **all** questions.

Question 1

- (a) The Receipts and Payments account of Dr. Niranjana, a medical practitioner, for the year ended 31st March, 2009, is as under:

Receipts	Rs.	Payments	Rs.
To Cash and Bank balance as on 1.4.2008 b/f	3,640	By Rent of the clinic	30,000
To Visiting fees	56,800	By Repairs to clinic	3,580
To Consultancy fees (2007-08)	3,39,480	By Purchase of equipment	12,500
To Salary received from Medical College	24,000	By Salary to staff	72,000
To proceeds of LIP matured received	56,850	By Sundry expenses	4,360
To Dividend from Indian companies	2,840	By Purchase of medicines	13,200
To Interest from debentures	4,320	By Repayment of Housing loan	17,640
To Interest from FD with companies	2,950	By Interest on Housing loan	9,360
To Interest from FD with Bank	3,810	By Income-tax (A.Y. 2007-08)	16,580
To Interest on saving bank with BOB	815	By House property tax	3,600
To Honorarium received from valuing answer books of a Medical College	16,500	By Investment in Bank deposits	30,000
		By Contribution to PPF	25,000
		By Premium on life insurance policy	9,520
		By Renovation of house	2,10,000
		By Purchase of NSC	15,000
		By Loan to a friend	18,000
		By Personal expenses	28,340
		By Cash & Bank balance as on 31.3.2009 c/f	15,675
	<u>5,34,355</u>		<u>5,34,355</u>

The Suggested Answers for Paper 5: Income Tax and Central Sales Tax are based on the provisions applicable for A.Y.2009-10, which is the assessment year relevant for November 2009 examination.

PROFESSIONAL EDUCATION (EXAMINATION — II) : NOVEMBER, 2009

Additional Information:

1. Dr. Niranjana is regularly following "Cash system of accounting". A cash payment of Rs.3,100 was given by a patient in appreciation of her medical service which was not accounted in the books of account.
2. She stays in a new house which she purchased on 31.3.2008. For this purpose, she borrowed Rs.1,20,000 from Corporation Bank. The annual letting value of the property is Rs.24,000.
3. Stock of medicines as on 31.3.2008 was of Rs.3,650 and as on 31.3.2009 was of Rs.2,800.
4. The rate of depreciation on medical equipment is 15%. The written down value of medical equipments brought forward from earlier year was Rs.24,000. She sold medical equipments for Rs.8,000 during the current year.
5. Dr. Niranjana purchase 18,000 shares of Hetal Ltd., who declared 1: 1 bonus shares on 1.1.2005. Dr. Niranjana sold 8,000 bonus shares in September, 2008 for Rs.1,40,000 through recognized stock exchange in India and on which STT is paid.
6. LIP premium paid in any year in respect of policy does not exceed 20% of capital sum assured.

Compute the total income and tax payable by Dr. Niranjana for the Assessment Year 2009-10.
(20 Marks)

- (b) Mr. Rakesh and Mr. Anish are brothers and they earned the following incomes during the financial year 2008-09. Mr. Rakesh settled in U.K. in the year 1975 and Mr. Anish settled in Surat. Compute the total income for the Assessment Year 2009-10.

Sr. No.	Particulars	Mr. Rakesh	Mr. Anish
1.	Interest on U.K. development bonds, 50% of interest received in India	25,000	20,000
2.	Dividend from British Company received in London	8,000	10,000
3.	Profit from a business in Mumbai, but managed directly from London	10,000	12,000
4.	Profit on sale of shares of an Indian company received in India	50,000	80,000
5.	Income from a business in Delhi	20,000	20,000
6.	Fees for technical services rendered in India, but received in London	1,00,000	-
7.	Interest on SB deposit in SBI, Bangalore	5,000	15,000
8.	Agricultural income from a land situated in Rajasthan	25,000	25,000
9.	Rent received in respect of house property at Bangalore	72,000	48,000
10.	LIP premium paid	-	25,000
11.	Premium paid to U.K. Life Insurance Corporation at London	15,000	-

(10 Marks)

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

Answer

(a) Computation of total income and tax payable by Dr. Niranjana for the A.Y. 2009-10

	Rs.	Rs.
1. Income from salaries		
Salary from medical college		24,000
2. Income from house property		
Self occupied residential house		
Net annual value	Nil	
Less : Deduction under section 24		
(a) 30% statutory deduction	Nil	
(b) Interest on capital borrowed for investment in house	9,360	(-) 9,360
3. Profits and gains from business or profession (See Note 1)		2,93,465
4. Income from Capital Gain (See Note 4)		Nil
5. Income from other sources (See Note 5)		28,395
Gross total income		3,36,500
Less : Deduction under chapter VI-A		
Under section 80C (See Note 6)		67,160
Total Income		2,69,340

Computation of tax liability

Income tax on Rs. 2,69,340		
On Rs.1,80,000		Nil
On balance Rs.89,340		8,934
		8,934
Add : Education cess @ 2%	179	
Add: Secondary and higher Education cess @ 1%	89	268
Tax payable		9,202
Tax payable (rounded off)		9,200

Notes :

1. Profits and gains from business or profession

Receipts during the year	
Visiting fees	56,800
Consultancy fees	3,39,480

PROFESSIONAL EDUCATION (EXAMINATION — II) : NOVEMBER, 2009

Consultancy fees (07-08) (See Note 9)	22,350	
Cash from client in appreciation to professional services	3,100	4,21,730
<i>Less : Expenditure during the year</i>		
Rent of the clinic	30,000	
Repairs to clinic	3,580	
Salary paid to staff	72,000	
Sundry Expenses	4,360	
Cost of medicines consumed (See Note 2)	14,050	
Depreciation (See Note 3)	4,275	1,28,265
Profits and gains from business or profession		2,93,465
2. Medicines Consumed		
Opening stock	3,650	
<i>Add : Medicine purchased during the year</i>	13,200	
	16,850	
<i>Less : Closing stock</i>	2,800	
Cost of Medicines Consumed	14,050	
3. Depreciation on equipment		
WDV as on 01 - 04 - 2008	24,000	
Addition during the year	12,500	
	36,500	
<i>Less : Sale price of asset sold (note 8)</i>	8,000	
	28,500	
<i>Less : Depreciation @ 15%</i>	4,275	
WDV as on 31-3-2009	24,225	
4. Income from Capital gain		
Full value of consideration (sale of bonus share)	1,40,000	
<i>Less : Expenses on transfer</i>	NIL	
Net sale consideration	1,40,000	
<i>Less : Cost of acquisition (as per section 55 cost of acquisition of bonus shares is always NIL)</i>	NIL	
Long term capital gain	1,40,000	
<i>Less : Exempt under section 10(38)</i>	1,40,000	
Taxable Long term capital gain		NIL

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

5. Income from other sources

(i)	LIC policy matured	56,850	
	Less : Exempt under section 10(10D)	56,850	Nil
(ii)	Dividend from Indian Companies	2,840	
	Less : Exempt under section 10(34)	2,840	Nil
(iii)	Interest from		
	Debentures	4,320	
	F.D. with companies	2,950	
	Bank FDR (P.N.B)	3,810	
	Saving bank (B.O.B)	815	11,895
(iv)	Honorarium for valuation of answer books		16,500
	Income from other sources		28,395

6. Computation of deduction under section 80C

LIC premium	9,520	
Contribution to PPF	25,000	
NSC deposit	15,000	
Repayment of principal amount of housing loan	17,640	
Deductible amount		67,160

7. As per Explanation to Section 10(10D) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy is fully exempt from tax. However, any sum received under an insurance policy issued on or after 1st April, 2003, is not exempt if the premium payable for any of the years during the term of the policy exceeds 20% of the actual capital sum assured.

8. It is assumed that equipment was purchased on or before 30-09-08.

9. Dr. Niranjana is following cash system of accounting. Hence, consultancy fees (07 -08) are charged to income in financial year 2008 - 09.

(b) Computation of total income of Mr. Rakesh and Mr. Anish for the A.Y. 2009-10

Sl. No.	Particulars	Mr. Rakesh Non-Resident	Mr. Anish Resident
1.	Interest on U.K. Development Bonds	12,500	20,000
2.	Dividend from British Company received in London	-	10,000
3.	Profit from a business in Mumbai but managed directly from London	10,000	12,000

PROFESSIONAL EDUCATION (EXAMINATION — II) : NOVEMBER, 2009

4. Profit on sale of shares of an Indian company received in India	50,000	80,000
5. Income from a business in Delhi	20,000	20,000
6. Fees for technical services rendered in India but received in London	1,00,000	-
7. Interest on SB Deposit in SBI Bangalore	5,000	15,000
8. Agricultural income from a land in Rajasthan [(Exempt u/s. 10(1))]	-	-
9. Rent received in respect of House property at Bangalore (See Note 1)	50,400	33,600
Gross Total income	2,47,900	1,90,600
<i>Less : Deduction under Chapter VI-A under section 80C</i>		
LIC Premium paid	-	25,000
Premium paid to U.K. life Insurance Corporation at London	-	-
Total Income	2,47,900	1,65,600

Notes :

- Income from House property

Rent Received	72,000	48,000
<i>Less : 30% Statutory Deduction</i>	21,600	14,400
	<u>50,400</u>	<u>33,600</u>
- Dividend received from British company in London, by a non-resident assessee is not taxable income, while the same received by a resident assessee is taxable and not entitled to deduction under section 10(34) of Income tax Act, 1961.
- Agricultural income from a land situated in the State of Rajasthan, is exempted under section 10(1) of Income tax Act, 1961 in case of both non-resident and resident assessee.
- Premium paid to U.K. Life Insurance corporation at London is not deductible under section 80C in case of non-resident assessee.

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

Question 2

- (a) Mr. Dhaval has an income from salary of Rs.3,50,000 and his minor children's income are as under:

Rs.

Minor daughter has earned the following income:

From a TV show 50,000

From interest on FD with a bank (deposited by Mr. Dhaval from his income) 5,000

Minor son has earned the following income:

From the sale of a own painting 10,000

From interest on FD with a bank (deposited by Mr. Dhaval from his income) 1,000

(6 Marks)

- (b) Who is an "Assessee"? Who is a "Deemed Assessee"? Who is an "Assessee in Default"? Explain with suitable examples. (9 Marks)

OR

Answer 2 (First Alternative)

- (a) **Computation of Gross Total Income of Mr. Dhaval**

	Amount (Rs.)	Amount (Rs.)
Income from Salary		3,50,000
Income from other sources		
Minor Daughter's income		
Income from T.V. show (See Note 1)		Nil
Interest income from FD with a Bank	5,000	
Less : Exempt under section 10(32)	1,500	3,500
Minor son's income		
Income from sale of self made painting (See Note 1)		Nil
Interest income from FD with a Bank	1,000	
Less : Exempt under section 10(32)	1,000	Nil
		3,500
Gross Total Income		3,53,500

PROFESSIONAL EDUCATION (EXAMINATION — II) : NOVEMBER, 2009

Note:

1. The income derived by the minor from manual work or from any activity involving exercise of his skill, talent or specialised knowledge or experience will not be included in the income of his parent. Hence, in the given case Rs.50,000 being the income of the minor daughter from TV show and Rs.10,000 being the income of minor son shall not be clubbed in the hands of Mr. Dhaval.

- (b) As per sub-section 7 of Section 2 of Income-Tax Act, 1961:

An Assessee

- (i) Is any person who is liable to pay tax or any other sum under the act.
- (ii) Is any person even who is not liable to pay Income tax but liable to pay FBT, interest and penalty, etc. under the Act.
- (iii) Is any person who is liable to pay tax on income of other persons, for example income of a minor clubbed in the income of parent whose income is higher.
- (iv) Every person who is deemed to be an assessee in default under any provisions of this Act. For example: a person, paying interest to another person, is responsible for deducting tax at source on this amount and to deposit the tax with the Government. If he fails in either of these duties i.e. if he does not deduct the tax, or deducts the tax but does not deposit it with the Government, he shall be deemed to be an assessee in default.
- (v) Is any person who sustained loss or refund due to him.

A Deemed Assessee

Is any person:

- (i) Who holds power of attorney on behalf of a non-resident who receives income in India.
- (ii) Legal representative in case of death of a person who is liable to pay tax during the previous year.

An assessee in Default

A person is said to be an assessee in default if he fails to comply with the duties imposed upon him under the Income-tax Act. Suppose an employer who pays salary or other person who pays interest, commission, professional fees etc. but does not deduct tax at source and deposit into government treasury.

Question 3

- (a) *An individual, who is an Indian resident, by recent amendment, is allowed to hold two different citizenship simultaneously. Is the citizenship a determining factor for residential status of an individual?* (6 Marks)
- (b) *Explain briefly about the surcharge with regards to the provisions of the Income-tax Act, 1961.* (5 Marks)

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

(c) Explain the term “Profit in lieu of salary”.

(4 Marks)

Answer 2 (Second Alternative)

- (a) Citizenship of a country and residential status of that country are separate concepts. A person may be an Indian national /citizen, but may not be a resident in India. On the other hand, a person may be a foreign national /citizen, but may be a resident in India. The citizenship of an individual has no role in determining the residential status of an individual.

The residential status of resident, non-resident, etc. are determined on the basis of number of days an individual actually stays in India during the previous year.

The provisions of section 6 of the Income tax Act, 1961 are the determining factor of residential status of an individual.

(b) Surcharge

- (1) In the case of every person being an individual, HUF, AOP, or BOI whose total income exceeds Rs.10,00,000, the amount of income-tax, is to be increased by a surcharge @ 10% on income tax.
- (2) In the case of artificial juridical person, surcharge @ 10% will be applicable on the total income.
- (3) In the case of firms, a surcharge @ 10% on total tax will be payable, where the total income exceeds Rs.1 crore.
- (4) In the case of domestic companies, the rate of surcharge is 10%, where the total income exceeds Rs.1 crore.
- (5) In the case of foreign companies, the rate of surcharge is 2.5%, where the total income exceeds Rs.1 crore.
- (6) No surcharge is payable in the case of co-operative society and local authority.

(c) Profit in Lieu of Salary

It includes the following:

- (i) The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment.
- (ii) The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the modification of the terms and conditions of employment. Usually, such compensation is treated as a capital receipt. However, by virtue of this provision, the same is treated as a revenue receipt and is chargeable as salary.
- (iii) Any payment due to or received by an assessee from his employer or former employer from an unrecognized provident fund or from an unrecognized superannuation fund to the extent to which it does not consist of employee's contributions or interest on such contributions.

PROFESSIONAL EDUCATION (EXAMINATION — II) : NOVEMBER, 2009

- (iv) Any payment due to or received by an assessee under a Keyman Insurance policy including the sum allocated by way of bonus on such policy.
- (v) Any amount, whether in lump-sum or otherwise, due to the assessee or received by him, from any person;
 - (a) before joining employment with that person, or
 - (b) after cessation of his employment with that person;
- (vi) Any other sum received by the employee from the employer.

Question 4

- (a) Choose the correct answer with reference to the provisions of Income-tax Act, 1961:
 - (i) A company, other than an Indian company, would be treated as a resident in India for the previous year 2008-09 if, during that year, its control and management is situated:
 - (a) Wholly in India
 - (b) Partly in India
 - (c) Wholly or partly in India
 - (d) None of the above.
 - (ii) Neelam Ltd. has given a laptop computer, owned by it, for the personal use of its employee, Sparsh. The value of this perquisite shall be:
 - (a) 10% per annum of the cost of the laptop computer
 - (b) 10% per annum of the written down value of the laptop computer
 - (c) Nil
 - (d) 10% of the salary.
 - (iii) The ceiling limit of deduction under section 24(b) in respect of interest on loan taken on 1.4.2007 for repairs of a self-occupied house is :
 - (a) Rs. 30,000 per annum
 - (b) Rs. 1,50,000 per annum
 - (c) No limit
 - (d) 30% of NAV
 - (iv) In the case of a non-resident engaged in the business of operation of aircraft, the income determined under section 44BBA is :
 - (a) 7.5% of turnover
 - (b) 10% of turnover
 - (c) 5% of turnover
 - (d) 20% of turnover

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

- (v) *Where there is a transfer of a capital asset by a partner to the firm by way of capital contribution or otherwise, the consideration would be taken as:*
- (a) *The market value of the capital asset on the date of transfer*
 - (b) *The cost less notional depreciation of the capital asset*
 - (c) *The value of the asset recovered in the books of the firm*
 - (d) *None of the above.*
- (vi) *Where a member of a HUF has converted or transferred his self-acquired property for inadequate consideration into joint family property, income arising there from is taxable:*
- (a) *As the income of the transferor - member*
 - (b) *In the hands of the HUF*
 - (c) *In the hands of the Karta of HUF*
 - (d) *Completely exempt from tax.*
- (vii) *Mr. Aarav incurred short-term capital loss of Rs. 10,000 on sale of shares through the National Stock Exchange. Such loss can be set-off:*
- (a) *Only against short-term capital gains*
 - (b) *Against both short-term capital gains and long-term capital gains*
 - (c) *Against any head of income*
 - (d) *Only against long-term capital gain.*
- (viii) *Share of profit of Mr. Abhishek, who is a partner in M/s. Amar & Co. is:*
- (a) *Exempt from tax*
 - (b) *Taxable as his business income*
 - (c) *Taxable as his salary*
 - (d) *Taxable as income from other sources.*
- (ix) *The due date for filing of a return of income for a company for Assessment year 2009-10 is :*
- (a) *31st July, 2009*
 - (b) *30th September, 2009*
 - (c) *31st October, 2009*
 - (d) *31st August, 2009*
- (x) *The deduction allowable in respect of the family pension taxable under "income from other sources" is:*
- (a) *33 1/3% of the pension*
 - (b) *30% of the pension or Rs.15,000 whichever is lower*

PROFESSIONAL EDUCATION (EXAMINATION — II) : NOVEMBER, 2009

(c) 33 1/3 % of the pension or Rs.15,000 whichever is less

(d) Nil

(1 Mark each)

(b) Fill in the blanks with reference to the provisions of the Income-tax Act, 1961:

(i) If an Individual's total income is Rs.10,10,000, the marginal relief available to him is

(ii) A surcharge @ 10% on total tax will be payable, where the total income of a registered firm exceeds Rs..... (10,00,000/1,00,00,000).

(iii) Fringe benefit tax an allowable item of business expenditure.

(iv) A private limited company incurred a capital expenditure of Rs.5,00,000 on 1.4.2008 for acquisition of patents and copyrights, such expenditure is(eligible for deduction in 5 years/subject to depreciation under section 32).

(v) Under section 54EC, capital gains are exempted if invested in the bonds issued by NHAI and RECL within a period of 6 months from the(date of transfer of the asset/end of the previous year). (1 Mark each)

Answer

(a) (i) (a) Wholly in India

(ii) (c) Nil.

(iii) (a) Rs.30,000 per annum

(iv) (c) 5% of turnover

(v) (c) The value of the asset recorded in the books of the firm

(vi) (a) As the income of the transferor - member

(vii) (b) Against both short-term capital gains and long-term capital gains

(viii) (a) Exempt from tax

(ix) (b) 30th September, 2009

(x) (c) 33-1/3% of the pension or Rs.15,000 whichever is less

(b) (i) Rs. 13,800

(ii) Rs. 1,00,00,000

(iii) is not

(iv) subject to depreciation under section 32

(v) date of transfer of the assets.

Question 5

Write short notes on any **three** of the following with reference to the provisions of Income-tax Act, 1961:

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

- (a) *Who are the persons and what are the circumstances which require maintaining books of accounts compulsorily? What are they? State the period for which such books are required to be kept and maintained.*
- (b) *Explain the exemption of income received in a transaction of “reverse mortgage” entered into by an individual with a bank.*
- (c) *Explain the time limit for issue of notice for scrutiny under section 143(2) of Income-tax Act, 1961.*
- (d) *Briefly discuss about the exception to the rule that income of an assessee for a previous year will be charged to tax in the subsequent assessment year. (5 Marks each)*

Answer

(a) Compulsory Maintenance of Accounts (Section 44AA)

Every taxpayer carrying on any business or profession (other than the professions specified below) must maintain the books of account prescribed by the Central Board of Direct Taxes in the following circumstances:

- (a) in cases where the income from the business or profession exceeds Rs.1,20,000 or the total sales turnover or gross receipts, as the case may be, in the business or profession exceed Rs.10,00,000 in any one of three years immediately preceding the accounting year; or
- (b) in cases where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed Rs.1,20,000 or his total sales turnover or gross receipts, as the case may be, in the business or profession are likely to exceed Rs.10,00,000 during the previous year ;
- (c) in cases where profits and gains from the business are calculated on a presumptive basis under section 44AD or 44AE or 44AF or 44BB or 44BBB and the assessee has claimed that his income is lower than the profits or gains so deemed to be the profits and gains of his business. In such cases, compulsory tax audit would also become necessary.

The professions notified so far are as the profession of authorised representative; the profession of film artiste (actor, camera man, director, music director, art director, editor, singer, lyricist, story writer, screen play writer, dialogue writer and dress designer); the profession of Company Secretary; and information technology professionals.

As per Rule 6F, every person carrying on legal, medical, engineering, or architectural profession or the profession of accountancy or technical consultancy or interior decoration or authorised representative or film artist shall keep and maintain the books of account and other documents specified in sub-rule (2) in the following cases :

- if his gross receipts exceed Rs.1,50,000 in any one of the 3 years immediately preceding the previous year ; or
- if, where the profession has been newly set up in the previous year, his gross receipts are likely to exceed Rs.1,50,000 in that year.

PROFESSIONAL EDUCATION (EXAMINATION — II) : NOVEMBER, 2009

The following books of account and other documents are required to be maintained.

- (i) a cash book;
- (ii) a journal, if accounts are maintained on mercantile basis ;
- (iii) a ledger;
- (iv) Carbon copies of bills and receipts issued by the person whether machine numbered or otherwise serially numbered, in relation to sums exceeding Rs.25;
- (v) Original bills and receipts issued to the person in respect of expenditure incurred by the person, or where such bills and receipts are not issued, payment vouchers prepared and signed by the person, provided the amount does not exceed Rs.50. Where the cash book contains adequate particulars, the preparation and signing of payment vouchers is not required.

In case of a person carrying on medical profession, he will be required to maintain the following in addition to the list given above:

- (i) a daily case register in Form 3C.
- (ii) an inventory under broad heads of the stock of drugs, medicines and other consumable accessories as on the first and last day of the previous year used for his profession.

The above books of account and documents shall be kept and maintained for a minimum of 8 years from the end of the relevant assessment year.

(b) Exemption of Income received in a transaction of Reverse Mortgage

- (i) The Finance Minister had, in his budget speech of Union Budget 2007- 08, announced that the National Housing Bank would introduce the reverse Mortgage Scheme. This scheme is for the benefit of senior citizens, who own a residential house property. In order to supplement their existing income, they can mortgage their house property with a scheduled bank or housing finance company, in return for a lump-sum amount or for a regular monthly / quarterly / annual income. The senior citizen can continue to live in the house and receive the regular income, without the botheration of having to pay back the loan.
- (ii) The loan will be given up to, say, 60% of the value of residential house property mortgaged. Also the bank / housing finance company would undertake a revaluation of the property once every 5 years.
- (iii) The borrower can use the loan amount for renovation and extension of residential property, family's medical and emergency expenditure etc. amongst others. However, he cannot use the amount for speculative or trading purposes.
- (iv) The bank will recover the loan along with the accumulated interest by selling the house after the death of the borrower the excess amount will be given to the legal heirs. However, before resorting to sale of the house, preference will be given to the legal heirs to repay the loan and interest and get the mortgaged property released.

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

- (v) The Finance Act, 2008 has inserted clause (xvi) in section 47 to clarify that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government would not amount to a transfer for the purpose of capital gains.
- (vii) Further clause (43) has been inserted in section 10 to provide that the amount received by the senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from Income Tax.
- (viii) Capital Gain Tax Liability would be attracted only on the stage of alienation of the mortgaged property by the bank / housing finance company for the recovering the loan.

(c) Time Limit for issue of Notice for Scrutiny under section 143(2)

With effect from Assessment Year 2008-09:

- (i) Section 143(2)(ii) provides that notice has to be served within a period of 12 months from the end of the month in which the return of income is furnished.
 - (ii) Since this limitation period is with reference to the end of the month, the last day of every month becomes a time barring date, which leads to administrative inconvenience.
 - (iii) Therefore, the Finance Act, 2008 now provides that notice under section has to be served on the assessee within a period of 6 months from the end of the financial year in which the return is furnished.
- (d) The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. However, in a few cases, this rule does not apply and the income is taxed in the previous year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:
1. **Shipping business of non-resident (Section 172)** - Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.
 2. **Persons leaving India (Section 174)** - Where it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of his departure from India is chargeable to tax in that assessment year.
 3. **AOP / BOI / Artificial Juridical Person formed for a particular event or purpose (Section 174A)** - If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or in the next year, he can make assessment of the income up to the date of dissolution as income of the relevant assessment year.

PROFESSIONAL EDUCATION (EXAMINATION — II) : NOVEMBER, 2009

4. **Persons likely to transfer property to avoid tax (Section 175)** - During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous year to the date, when the Assessing Officer commences proceedings under this section is chargeable to tax in that assessment year.
5. **Discontinued business (Section 176)** - Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that assessment year.

Question 6

- (a) *State the basic conditions to be fulfilled for exemption to penultimate sale for export under the Central Sales Tax Act, 1956.* (5 Marks)
- (b) *What is the time limit prescribed under the Central Sales Tax (Registration and Turnover) Rules, 1957 for submission of declaration in Form "C" or Form "F" to the Assessing Authority?* (5 Marks)
- (c) *Fill in the blanks in the light of the provisions of Central Sales Tax Act, 1956:*
 - (i) *The dealer aggrieved by an appealable order should normally file appeal within 90 days from the date of*
 - (ii) *Sale or purchase of ascertained goods shall be deemed to bea state, if the goods were within the state at the time theof sale was made.*
 - (iii) *The central sales tax rate on sale of undeclared goods to an unregistered dealer is*
 - (iv) *The certificate of CST registration is.....*
 - (v) *Where the goods sold are exempt from state sales tax, the applicable rate of CST is (Mark 1 each)*

Answer

- (a) Penultimate sale for export i.e. sale or purchase of any goods preceding the sale or purchase occasioning export of those goods out of the territory of India shall also be deemed to be in the course of export under section 5(3) of Central Sales Tax Act, 1956.

Exemption to penultimate sale for export is subject to the under mentioned conditions:

- (a) such sale or purchase took place, is for the purpose of complying with agreement or order in relation to export.
- (b) such sale or purchase took place, either after the order for export was obtained by the purchaser of such goods or after the agreement for export was entered into by him.
- (c) same goods which are sold in penultimate sale should be exported.
- (d) the dealer selling the goods furnishes to the prescribed authority in the prescribed

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

manner a declaration duly filled and signed by the exporter to whom the good are sold in a prescribed form (Form H) obtained from prescribed authority.

- (b) As per Rule 12(7) of Central Sales Tax (Registration and turnover) Rules, 1957, declaration in Form 'C' or Form 'F' shall be submitted to the prescribed authority within three months after the end of the period to which the declaration relates or certificate relates.

However, if the prescribed authority is satisfied that the person concerned was prevented by sufficient cause from furnishing such declaration or certificate within the aforesaid time that authority may allow such declaration or certificate to be furnished within such further time as that authority may permit.

- (c) (i) service of order
(ii) inside, contract
(iii) 10% or the sales tax rate of the appropriate state, whichever is higher.
(iv) non-transferable
(v) NIL

Question 7

- (a) State with proper reasons, whether the following statements are True/False with regard to having the provisions of the Central Sales Tax Act, 1956:
- (i) Mr. Ram of Jaipur an unregistered dealer sold goods to Shyam of Agra for Rs.1,00,000. Mr. Ram of Jaipur is not liable to pay CST.
 - (ii) The freight and insurance charges incurred by the assessee prior to the delivery of the goods at their place of business to their customers, form part of turnover.
 - (iii) A sales does not include a delivery of goods on hire-purchase or any system of payment by installment.
 - (iv) Profit motive is essential to call an activity a 'business' under the CST Act.
 - (v) 'Goods' includes shares and securities. (Mark 1 each)
- (b) Hetal, the proprietress of Aarav Enterprises is a registered dealer in Vadodara (Gujarat). From the under mentioned particulars relating to the quarter ended 31st March, 2009. Find out her taxable turnover and the tax payable under the Central Sales Tax Act, 1956:
- (a) Goods worth Rs.2,20,000 were invoiced to its against at NOIDA (U.P) while the goods were in transit, these were sold to Uttar Pradesh Government for Rs.2,41,020. The rate of tax in respect of such goods in the appropriate state is 12.5%.
 - (b) Sale to a 100% Export Oriented Undertaking (EOU), goods worth Rs. 20,20,000 in Mumbai. The rate of tax in the State is 1%.

The above selling prices are inclusive of the central sales tax. The dealer has submitted all necessary declarations, wherever required. (5 Marks)

PROFESSIONAL EDUCATION (EXAMINATION — II) : NOVEMBER, 2009

Answer

(a) (i) False

As per section 6 of CST Act, 1956, a dealer is liable to pay tax when he effects an inter state sale. Hence, Mr. Ram of Jaipur is liable to pay tax and also it is obligatory to have himself registered.

(ii) True

As per section 2(h), "Sale price" includes any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof. Therefore, insurance charges incurred by the dealer prior to delivery of goods to the buyer would form part of the turnover.

(iii) False

The definition of the term "sale" as per section 2(g) includes, *inter-alia*, a delivery of goods on hire-purchase. Therefore, a delivery of goods on hire-purchase is deemed to be a sale.

(iv) False

Profit motive is not essential to call an activity a 'business' under the Central Sales Tax Act, 1956. The definition of 'business' clearly mentions that for an activity to be called 'business' under Section 2(aa), profit motive is not necessary.

(v) False

As per Section 2(d) of CST Act, 1956, the definition of 'goods' does not include shares and securities.

(b) Computation of Taxable Turnover of Hetal

		Rs.
(i)	Sale of goods in transit to U.P Government $\frac{2,41,020 \times 100}{112.50}$	2,14,240
(ii)	Sale to 100% EOU $\frac{20,20,000 \times 100}{101}$	20,00,000
Total taxable turnover		22,14,240

Computation of CST payable by Hetal

	Rs.
(i) Tax on sale of goods in transit to U.P. Government (Rs.2,14,240 x 12.5%)	26,780
(ii) Tax on sale to 100% EOU (Rs.20,00,000 x 1%)	20,000
Total CST payable	46,780

Note:

- (a) Goods invoiced to a agent at Noida is not sale under section 6A of CST Act, under form 'F' but the goods in transit sold to U.P Government is taxable at the state rate of tax i.e. 12.5%.
- (b) No exemption is available on sale to 100% EOU.