Relevant for IPCC/PCC

November 2010

Income-tax, Service Tax & VAT

Highlights

- Amendments specifically applicable for November 2010 attempt
- Other relevant provisions alongwith question e.g. Section 35AD
- PCC & IPCC May 2010 questions & solutions
- Service Tax & VAT question bank alongwith solutions

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About the author

Author CA. Pankaj Saraogi is in teaching profession since last 2 years. He is well versed in Tax laws specially Income-tax and presently teaching the same to CA IPCC/PCC, CA Final & B. Com (H) Part II & III.

He qualified his CA Final in November 2006 with 10th Rank all over India and 4th Rank in NIRC-ICAI. He was also awarded by ICAI for securing highest marks in Direct Taxes – CA Final (86/100) in northern region. Besides CA, his qualifications include CS Final with 6th Rank in CS Foundation, M. Com, B. Com (H) from SRCC with 4th Rank & DISA (ICAI).

He started his career as article trainee with Shashi K. Garg & Co., followed by exposure in Direct Taxation in Price Waterhouse Coopers, Delhi. Presently he is working with L.D. Saraogi & Co. as Partner.

He has been speaker in various seminars organized by ICAI, CA Study Circles, etc.

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Amendments & other provisions

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INCOME-TAX

Income u/h Salaries

Motor Car

Motor Car owned or hired by Employer

<table>
<tr><td rowspan="3"><u>Used exclusively for official purpose</u>
Not a perquisite if specified documents maintained*</td><td rowspan="3"><u>Used exclusively for private purpose</u>
Aggregate of:
– Actual exp. on car
– Remuneration of chauffeur
– 10%pa of cost of car or actual hire charges, as the case may be</td><td colspan="2"><u>Used partly official and partly private purposes</u>

Running & maintenance exp. by</td></tr>
<tr><td>Employer
₹ 1,800pm for car upto 1.6ltrs. cc

₹ 2,400pm for car exceeding 1.6ltrs. cc</td><td>Employee
₹ 600pm for car upto 1.6ltrs. cc

₹ 900pm for car exceeding 1.6ltrs. cc</td></tr>
<tr><td colspan="2">₹ 900pm additional if chauffeur provided by employer</td></tr>
</table>

Owned by employee (and expenses incurred/reimbursed by employer)

<table>
<tr><td colspan="3"><u>Motor Car</u></td><td colspan="2"><u>Any other automotive</u></td></tr>
<tr><td>Used exclusively for official purpose
Not a perquisite if specified documents maintained*</td><td>Used exclusively for private purpose
Actual exp. incurred by the employer</td><td>Used partly official and partly personal
Actual exp. incurred by the employer less:
– 1800/2400pm*
– 900pm for chauffeur*</td><td>Used exclusively for official purpose
Not a perquisite if specified documents maintained*</td><td>Used partly official and partly personal
Actual exp. incurred by the employer less:
– 900pm*</td></tr>
</table>

Explanations:

i. If more than one motor car is provided by the employer (otherwise than wholly and exclusively in the performance of official duties), then:
   a. ***Value of 1st car*** : as if used partly for official purpose and partly for private purpose
   b. ***Value of other car(s)*** : as if used exclusively for private purpose

ii. *Specified documents to be maintained by employer:
   a. Complete details of journey undertaken for official purpose which may include date of journey, destination, mileage and the amount of expenditure incurred thereon
   b. A certificate by the employer to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

QFP 1. *Z has been provided with the benefit of car(s) by his employer B Pvt. Ltd. Compute the perquisite value for AY 2010-11*

a) Car (1.8 ltrs.) owned by B provided to Z for official work. Running expenses equals to 9,000 (including driver) borne by B.
b) Car (1.4 ltrs.) owned by B provided to Z for his personal use only. Car cost ₹ 4,00,000. Running & maintenance expenses ₹10,000.
c) Car (1.2 ltrs.) owned by B provided to Z partly for personal use and partly for official use. Running & maintenance expenses are ₹90,000 and driver's salary for the period is ₹30,000, both borne by B.
d) In case (c) above, what will be the answer in case log book is maintained specifying that 25% use was for personal purposes and remaining for official purposes.
e) In case (c) above, what will be the answer if expenses were borne by Z.
f) Car (1.1 ltrs.) owned by Z but running & maintenance expenses (₹28,000) met by B. Compute the taxable value of perquisite in following cases:
   a. Car used for personal purposes only
   b. Car used for official purposes only
   c. 30% for personal benefit and remaining for official purposes
   d. 20% for personal benefit and remaining for official purposes
g) Z provided with 2 cars for personal & official purposes

	BMW > 1.6 ltrs.	*Santro < 1.6ltrs.*
Cost of car	*6,50,000*	*2,00,000*
Running & maintenance	*55,000*	*25,000*
Driver's salary	*18,000*	*18,000*

Sweat Equity Shares

Value of ***sweat equity shares*** or specified securities (e.g. Employees' Stock Option Plan) allotted to employee by employer or former employer shall be taxable in the hands of employee.

Value of perquisite:* *Fair Market Value of shares on the date on which option is ***exercised*** by the employee.

"Sweat Equity Shares" means ***equity*** shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

Fair Market Value:
If securities are listed: Average of opening & closing prices on the recognized stock exchange (stock exchange recording highest volume of trading of that security) on the exercising date

If securities not listed: FMV as determined by merchant banker

Rent free accommodation

UNFURNISHED ACCOMMODATION

Private sector employees (i.e. other than CG/SG employees)

Accommodation	*Value of perquisite in hands of employee*	
owned by employer & provided to employee	Accommodation provided in a city where *population* as per 2001 census is: ≤ 10 lakhs > 10 lakhs but ≤ 25 lakhs > 25 lakhs	*Value of perquisite* — 7.5% of salary — 10% of salary — 15% of salary
taken on lease /rent by the employer & provided to employee	Lower of – Actual rent paid/payable by the employer – 15% of salary	

Salary *(to be taken on **due basis**)*

includes:

+ basic pay
+ DA (if under terms of employment)
+ taxable portion of allowances
+ bonus or commission
+ any other monetary payment

excludes:

– Other DA
– employer's contribution to PF
– lump-sum retirement benefits
– Exempt allowances
– perquisites u/s 17(2)

QFP 2. *Mr. Resy has provided you with following information for AY 2010-11*

Basic Salary	*₹6,000pm*
DA (20% is for retirement benefits)	*₹1,000pm*
Lunch Allowance	*₹300pm*
Children Education allowance (1 child)	*₹150pm*

(i) Compute the value of rent free accommodation provided to him in a city with population 6,00,000 (accommodation provided from Nov 2009 to Mar 2010).

(ii) What will be the answer in case ₹200pm is recovered from him by the employer in this regard?

(iii) What will be the answer in case accommodation is taken on rent by the employer @ ₹600pm and Mr. Resy was required to pay ₹400pm as rent to the employer?

(iv) What will be the answer if alongwith accommodation, Air conditioner costing ₹ 20,000 and television (taken on rent of ₹150pm) are provided to the Mr. Resy?

Central & State Government employees

License fee determined by CG or SG

Note: In case accommodation provided to CG/SG employee ***serving on deputation***, valuation of rent-free accommodation shall be made as if employee is a private sector employee and accommodation is owned by employer. i.e. as per population of city and salary of employee

FURNISHED ACCOMMODATION *(whether CG/SG or private sector employee)*

First compute value as if accommodation is unfurnished and then add the value of furniture as follows:

Furniture	Addition to be made
owned ***by employer***	10%pa of the ***original cost*** of the furniture less recovery, if any
taken on hire by the employer	actual hire charges payable by employer less recovery, if any

Furniture shall include TV sets, radio sets, refrigerators and other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets.

Concessional accommodation:

Value computed as per above provisions shall be reduced by the amount recovered from/paid by the employee.

Accommodation in a hotel:

Value of perquisite shall be ***lower*** of:

a. 24% of salary
b. Actual charges of hotel for the said period

There shall be no perquisite in hands of employee if accommodation provided for a period of ***maximum 15 days*** and that to on the ***transfer*** of employee from one place to another.

Accommodation at the time of transfer (***two accommodations*** on transfer):

On account of transfer, employee provided with accommodation at new place and is allowed to retain the accommodation at old place:

For the first 90 days – Value of one accommodation which has the lower value shall be taxable

Thereafter (i.e. 91 days onwards) – Value of both the accommodations shall be taxable

Nothing shall be taxable as rent-free accommodation perquisite: If

- accommodation located in a remote area ***or*** is of a temporary nature, ***and***
- provided to an employee working at a mining site/onshore oil exploration site/project execution site/dam site/power generation site/offshore site

Income u/h Profits & Gains of Business or Profession

Deduction in respect of expenditure on specified business

Section 35AD

Specified business	*Eligible assessee*	*Date of commencement of business on or after*
Setting up & operating a **cold chain facility** for agricultural produce, meat, poultry products, processed food, etc.	Any assessee	April 1, 2009
Setting up & operating a **warehousing facility** for storage of agricultural produce	Any assessee	April 1, 2009
Laying & operating a cross-country natural gas **pipeline network** for distribution including storage facilities	Indian company or consortium of such companies	April 1, 2007
Laying & operating a cross-country crude/ petroleum oil **pipeline network** for distribution including storage facilities	Indian company or consortium of such companies	April 1, 2009

Deduction

100% deduction of **capital expenditure** incurred during the previous year.

100% of capital expenditure incurred prior to commencement of business shall be allowed in year of commencement of business only if same has been capitalized on the date of commencement of business.

Capital expenditure ***shall not include*** land, goodwill & financial instrument.

Other provisions

1. Business should be new business i.e. should not be formed by splitting/reconstruction of old business.
2. Business should not be set up by transfer of old plant & machinery. Old plant & machinery should not be more than 20% of total plant & machinery used for the business.
3. Deduction u/c VI-A shall not be allowed in respect of such business for any assessment year.
4. Actual cost of the asset for which deduction has been allowed under section 35AD shall be taken as NIL.

QFP 3. *GAJ Ltd. commenced business of cold-chain facility on May 1, 2009. The company incurred capital expenditure of ₹90 lakh during the period January to April, 2009 exclusively for the above business, and capitalized the same in its books of account as on May 1, 2009. Further, during the previous year 2009-10, it incurred capital expenditure of ₹400 lakh (out of which ₹100 lakh was for acquisition of land) exclusively for the above business. Compute the deduction under section 35AD for the A.Y.2010-11, assuming that GAJ Ltd. has fulfilled all the conditions specified in section 35AD.*

Assets partly used for business purposes

Section 38

Expenses u/s 30-32 (repairs, insurance, taxes, depreciation, etc.) on assets being building, plant & machinery and furniture, used partly for business purposes and partly for other purposes, shall be allowed proportionately.

QFP 4. *Assessee purchased a car on 01/07/09 for ₹ 4,00,000 (depreciation rate 15%). He submitted with you the following statement for consideration:*

Income u/h PGBP (before car depreciation)	*2,00,000*
Less: Depreciation on car (as per books)	*45,000*
Income u/h PGBP	*1,55,000*

He further submitted that he used car 60% for business purposes and 40% for personal purposes. Compute his income u/h PGBP for AY 2010-11. Assume no other car is owned by assessee.

WDV in case of Assets used partly for Business & partly for *Agricultural purposes*

Where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act.

I.e. For computing opening WDV (WDV as on 01-04-2010), depreciation pertaining to agricultural activities shall be deemed to be allowed in prior years. E.g.

Opening WDV as on 01-04-2009	₹ 2,00,000
Add: Purchases as on 05-05-2009	₹ 1,00,000
Less: Sales	NIL
WDV	3,00,000
Depreciation @ 15%	45,000
Opening WDV as on 01-04-2010	2,55,000
Depreciation allowable in PY 2009-10 (40% of ₹ 45,000)	18,000

(that can be claimed for computing business profits (non-agricultural activity profits))

Earlier, depreciation amount of ₹ 45,000 was used to apportioned between agricultural activities (say 60%) and business activities (say 40%). In that case opening WDV as on 01-04-2010 had been ₹ 3,00,000 less 40% of 45,000 = ₹ 2,82,000.

Since income from agricultural activities is exempt, therefore, expenses pertaining to such activities shall not be allowed henceforth.

Note: This provision shall be applicable only in case of business activities vs. agricultural activities. In case asset used for business as well as for personal use, section 38 shall prevail.

Depreciation Rate

Rate of depreciation for new commercial vehicle which is acquired on or after the 1st day of January, 2009 but before the 1st day of October, 2009 and is put to use before the 1st day of October, 2009 for the purposes of business or profession shall be 50%.

Income u/h Capital Gains

Shares or any other security

Nature of share	***COA***	***POH***
Bonus share	Nil	From date of allotment
Normal share	Actual payment	From date of allotment OR From date of purchase
Right shares	Actual payment	From date of allotment
Right offer	Nil	From date of offer
Right share for other than offeree	Price for offer & actual payment to co.	From date of allotment
Sweat equity shares	FMV taken for FBT/Perquisite Valuation	From date of allotment

SERVICE TAX

Tax & return - electronically

Tax: Service tax shall be deposited electronically in case assessee has paid service tax of ₹ 50 lakhs or more in preceding year or current year. W.e.f. 01/04/2010 – Assessee has to deposit service tax electronically in case he has deposited service tax of ₹ 10 lakhs or more in the preceding financial year.

Return: W.e.f. 01/04/2010 – If assessee has deposited service tax of ₹ 10 lakhs or more in the preceding financial year, then he has to submit return electronically.

Contents of the Return

Month-wise details of:

i. amount received towards taxable service
ii. amount received in advance towards taxable service to be provided
iii. amount billed for exempted services and services exported without payment of tax
iv. amount billed for services on which tax is to be paid
v. abatement claimed – value
vi. notification number of abatement and exemption
vii. service tax payable
viii. education cess payable
ix. GAR-7/TR-6 challan date & number
x. credit details for service tax provider/recipient
xi. Name & identification of STR preparer

Documents:

i. copies of relevant GAR-7 challans
ii. Form ST-3A, in case of provisional assessment

First Return: list in duplicate of the following

i. all the records prepared or maintained by the assessee for accounting of transactions in regard to,-
   a. providing of any service, whether taxable or exempted;
   b. receipt or procurement of input services and payment for such input services;
   c. receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods;
   d. other activities, such as manufacture and sale of goods, if any.
ii. all other financial records maintained by him in the normal course of business.

ONLY FOR IPCC STUDENTS

Taxable Services

Section 65(105)

1. ***Commercial Training or Coaching Services*** {Section 65(105)(zzc)}
   - ⇒ shall mean any service provided or to be provided
   - ⇒ to any person,
   - ⇒ by any institute or establishment providing commercial training or coaching
   - ⇒ for imparting skill or knowledge or lessons
   - ⇒ on any subject or field,
   - ⇒ whether with or without issuance of a certificate,
   - ⇒ and
   - ⇒ includes
     - o coaching or tutorial classes
     - o computer training institute

Exemptions:

- ✓ sports
- ✓ preschool
- ✓ issuance of law recognized degree/certificate
  - o If institute/establishment not recognized by law at the time of conducting the course, then such service shall be taxable
- ✓ training or coaching forming essential part of course/curriculum of law recognized degree/certificate
  - o Exemption not available if charges directly paid to training centre
- ✓ vocational training – skills to enable person to seek employment (including self-employment)
- ✓ recreational training – dance, singing, etc.
- ✓ services by individuals at the premise of receiver

Clarifications/Explanations:

- ✓ Intention of profit motive is irrelevant. In either case service tax shall be leviable.

- ✓ ***Recreational training institute*** means a commercial training or coaching centre which provides coaching or training relating to recreational activities such as dance, singing, martial arts, hobbies.

- ✓ ***Computer training institute*** means a commercial training or coaching centre which provides coaching or training relating to computer software or hardware.

- ✓ ***Vocational training institute*** means a commercial training or coaching centre which provides vocational coaching or training that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching.
  - o Institutes offering following shall not be covered under vocational training institute (i.e. shall not be exempt) because they only improve the chances of success for a candidate possessing required skill and do not impart training to enable the trainee to seek employment or self-employment:
    - general course on improving communication skills;
    - how to be effective in group discussions or personal interviews;
    - personality development;
    - general grooming & finishing;
    - etc.

- ✓ ***Vocational training institute*** (w.e.f. 27/02/2010) means an Industrial Training Institute or an Industrial Training Centre affiliated to the National Council for Vocational Training, offering courses in designated trades as notified under the Apprentices Act, 1961
  - o W.e.f. 29/04/2010, service provided in relation to Modular Employable Skill courses approved by the National Council of Vocational Training, by a Vocational Training Provider registered under the Skill Development Initiative Scheme with the Directorate General of Employment and Training, Ministry of Labour and Employment, Government of India shall also be exempt

2. ***Legal Consultancy Services*** {Section 65(105)(zzzzm)}

⇒ shall mean any service provided or to be provided
⇒ to a business entity,
⇒ by any other business entity
⇒ in relation to advice, consultancy or technical assistance
⇒ in any branch of law, in any manner

⇒ However, any service provided by way of appearance before any court, tribunal or authority shall not amount to taxable service.

⇒ "Business entity" includes an association of persons, body of individuals, company or firm, but does not include an individual

Exemptions:
- ✓ Any service provided by way of appearance before any court, tribunal or authority
- ✓ The service provider and/or service recipient is an individual.

3. ***Mandap Keepers Services*** {Section 65(105)(m)}

⇒ shall mean any service provided or to be provided
⇒ to any person,
⇒ by a mandap keeper

⇒ in relation to the use of a mandap in any manner
⇒ including the facilities provided and
⇒ also the services provided as a caterer

Exemptions/Abatements:

✓ Use of precincts of a religious place as a mandap is exempt from levy of service tax.
  - Religious place means a place which is meant for conduct of prayers or worship pertaining to a religion

✓ Abatement of 40% of the gross amount charged if the following conditions are satisfied:
  - Catering services are also provided alongwith services of mandap whether ***by a hotel or by any other person***, &
  - Bill issued for this purpose indicates that it is inclusive of charges for catering services
    - Food means a substantial and satisfying meal.
    - Hotel means a place that provides boarding and lodging facilities to public on commercial basis.

Clarifications:

✓ Service tax is leviable on services provided by hotels/restaurants in relation to letting out of halls, rooms, etc. for organizing any official, social or business function under mandap keeper service.

✓ Dance, drama or music programme or competitions are social functions and allowing temporary occupation of a hall for a consideration for organizing such functions are liable to service tax under mandap keeper service.

✓ ***Mandap Keeper*** means a person who allows temporary occupation of a mandap.

✓ ***Mandap*** means any immovable property and includes any furniture, fixtures, light fittings and floor coverings therein let out for consideration for organizing any official, social or business function.

✓ ***Social function*** shall include marriage.

✓ ***Caterer*** means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion.

4. ***Information Technology Software Services*** {Section 65(105)(zzzze)}

⇒ shall mean any service provided or to be provided
⇒ to any person,
⇒ by any other person
⇒ in relation to information technology software
⇒ for use in the course, or furtherance, of business or commerce

Information technology software includes:

i. development of information technology software
ii. study, analysis, design and programming of information technology software
iii. adaptation, upgradation, enhancement, implementation and other similar services related to information technology software
iv. providing advice, consultancy and assistance on matters related to information technology software
v. providing the right to use ITS for commercial exploitation
vi. providing the right to use software components for the creation of and inclusion in other ITS products
vii. providing the right to use ITS supplied electronically

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

5. ***Services in respect of membership of Clubs or Associations*** {Section 65(105)(zzze)}

⇒ shall mean any service provided or to be provided
⇒ to its members,
⇒ by any club or association
⇒ in relation to provision of services, facilities or advantages
⇒ for a subscription or any other amount

Exemptions/Abatements:

✓ Club or association shall not include
  - any body established or constituted by or under any law
  - any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry
  - any person or body of persons engaged in activities having nature of public service and are of a charitable, religious or political nature
    - Charitable nature is to be determined on the basis of the facts and circumstances. Exemption under Income-tax Act shall have no relevance here.
  - any person or body of persons associated with press or media

✓ Such services provided by a RWA to its members shall be fully exempt provided that consideration received does not exceed ₹ 3,000/month/individual member. Otherwise it shall be fully taxable. (RWA may be a co-operative society also)

✓ Twenty seven export promotion councils have been exempted from service tax under this category e.g.
  - Federation of Export Promotion Council
  - Engineering Export Promotion Council
  - Sports Goods Export Promotion Council
  - The Plastics Export Promotion Council

PCC

May 2010

1. Answer the following with reasons having regard to the Provisions of the Income tax Act, 1961 for the Assessment Year 2010-11 : [5 x 2 = 10 marks]
   a) State the scope of total income in the case of an individual, whose residential status is 'non-resident' with reference to Section 5(2) of the Act.
   b) Mr. X a citizen of India received salary from the Government of India for the services rendered outside India. Is the salary income chargeable to tax?
   c) Mr. Anil earned ₹ 5,00,000 from sale of Coffee grown and cured (processed) by him. He claims the entire income as agricultural income, hence exempt from tax. Is he correct?
   d) What is the time limit for filing application seeking registration in the case of Charitable Trusts/Institutions under Section 12AA of the Act?
   e) In what status and tax rate Limited Liability Partnership (LLP) is taxed under the Act?

2. Mr. Raman (aged 70 years), Karta of a Hindu Undivided Family (HUF) furnishes the following information for the Financial Year 2009-10 : [20 marks]
   i. Income from the business of Poultry farming ₹ 4,00,000.
   ii. Income by way of winning from Horse race ₹ 30,000 (Horse race won on 28.2.2010)
   iii. Net profit from the business of dealing in Equity shares ₹ 88,500. (Computed after deducting Securities Transaction Tax (STT) of ₹ 11,500).
   iv. Brought forward business loss relating to discontinued automobile business ₹ 38,500 (relates to Assessment Year 2007-08).
   v. Payment of Life Insurance Premium (on self) ₹ 22,500.
   vi. Contribution to Pension Fund of LIC ₹ 17,500.
   vii. Contribution made in the name of a member of HUF in Public Provident Fund Account ₹ 20,000.
   viii. Interest income from Company deposits ₹ 15,100.
   ix. Housing Loan principal repaid ₹ 30,000.
   x. Interest on Housing loan ₹ 36,000 (actually paid ₹ 25,000).
   xi. The HUF gave the right to receive furniture rent of ₹ 26,000 per annum by M₹ Raman without transferring the ownership rights in her favour.

   The HUF owns a residential property which has three identical residential units. Unit 1 and Unit 2 are self-occupied by the members of the HUF for residential purpose. Municipal tax paid @ ₹ 5,000 per annum for each residential unit.

   Unit 3 is let out for a rent of ₹ 8,000 per month. The tenant paid the Municipal tax in respect of Unit 3 as per agreement.

   The Assessee realised ₹ 1,20,000 on 16.4.2009 as per court order towards arrear rent for the period from 1.1.2007 to 31.12.2008.

   Compute the Total Income and tax payable for the Assessment Year 2010-11.

3.
   a. Mr. John commenced a proprietary business in the year 2000. His capital as on 1.4.2008 was ₹ 6,00,000. [8 marks]
      On 10.4.2008 his wife gifted ₹ 2,00,000 which he invested in the business on the same date. Mr. John earned profit from his proprietary business as given below :
      Previous year 2008-09 = Profit ₹ 3,00,000
      Previous year 2009-10 = Profit ₹ 4,40,000

Compute the Income from business chargeable to tax in the hands of Mr. John for the Assessment Year 2010-11.

During the Financial Year 2009-10, he sold a vacant site which resulted in chargeable long-term capital gain of ₹ 5,00,000 (computed). The vacant site was sold on 20.12.2009.

Compute the total income and tax liability of Mr. John and the installments of advance tax payable for the Financial Year 2009-10.

b. Mr. Prakash has the following Assets which are eligible for depreciation at 15% on Written Down Value (WDV) basis : [7 marks]

01.04.2006	WDV of plant 'X' and Plant 'Y'	₹ 2,00,000
10.12.2009	Acquired a new plant 'Z' for	₹ 2,00,000
22.01.2010	Sold Plant 'Y' for	₹ 4,00,000
	Expenditure incurred in connection with transfer	₹ 10,000

Compute eligible depreciation claim/chargeable capital gain if any, for the Assessment Year 2010-11.

4.

a. State with reasons, whether tax deduction at source provisions are applicable to the following transactions and if so, the rate of tax deduction : [8 marks]

i. An Insurance Company paid ₹ 45,000 as Insurance Commission to its agent Mr. Hari.

ii. X & Co. (Firm) engaged in wholesale business assigned a contract for construction of its godown building to Mr. Ravi, a contractor. It paid ₹ 25,00,000 to Mr. Ravi as contract payment.

iii. AB Ltd. allowed a discount of ₹ 50,000 to XY & Co. (a firm) on prompt payment of its dues towards supply of automobile parts.

iv. Y & Co. engaged in real estate business conducted a lucky dip and gave Maruti car to a prize winner.

Note : Assume that all the facts given above relate to Financial Year 2009-10.

b. Mr. Banerjee furnishes you the following details for the year ended 31.3.2010: [6 marks]

Income (loss) from house property	₹
House-1	36,000
House-2-Self occupied	(20,000)
House-3	60,000
Profits and gains from Business or Profession	
Textile Business	2,00,000
Automobile Business	(3,00,000)
Speculation Business	2,00,000
Capital Gains	
Long-term capital gain from sale of shares (STT paid)	1,50,000
Long-term capital gain from sale of vacant site	2,00,000
Short-term capital loss from sale of building	1,00,000

(Note : Assume that the figures given above are computed and arrived at after considering eligible deductions).

Other sources :

Gift from a Friend (non-relative) on 5.6.2009	60,000
Gift from Maternal Uncle on 25.2.2010	1,00,000
Gift from Grandfather's Younger Brother on 10.2.2010	1,00,000

Compute the total income of Mr. Banerjee for the Assessment Year 2010-11.

5. Answer the following with reference to Income-tax Act, 1961 : [4 x 4 = 16 marks]
   i. Briefly explain the term 'Manufacture' defined in Section 2 (29BA).
   ii. In whose hands the income from an asset is chargeable to tax in the case of transfer which is not revocable during the life time of the beneficiary/transferee?
   iii. List the conditions for deduction under Section 80-1D for hotels located in specified district having "World Heritage Site".
   iv. State the provisions for self-assessment prescribed under Section 140A of the Act.

6. Answer the following : [5 x 2 = 10 Marks]
   i. Is Service tax payable on free-service ?
   ii. State the due dates for payment of Service tax in the case of an individual rendering taxable service.
   iii. A Company located in the State of Jammu & Kashmir rendered service in Delhi. Is the service provided by the Company liable for Service tax ?
   iv. Do you agree with the statement that 'Tax cannot be evaded under VAT system' ?
   v. Mr. Raj rendered taxable service in February, 2010. The amount was however realised on 18.4.2010. What is the due date for payment of Service tax ?

7. X & Co. received the following amounts: [6 marks]

Date of receipt	Nature of receipt	Amount	Time of providing Service
20.4.2009	For service	₹ 1,00,000	Services rendered in July, 2009
30.6.2009	Advance for service	₹ 5,00,000	Services were rendered in July and August, 2009
5.8.2009	For service	₹ 50,000	For services rendered in March, 2009
10.9.2009	Advance for service	₹ 3,50,000	A sum of ₹ 50,000 was refunded in April, 2010 after termination of agreement. For the balance amount, service was provided in September, 2009

Compute:
   i. The amount of taxable service for the first two quarters of the Financial Year 2009-10.
   ii. The amount of Service tax payable.

8.

a. Compute the VAT liability of Mr. P Kapoor for the month of October, 2009, using the 'Invoice method' of Computation of VAT. [3 x 3 = 9 Marks]

Purchases from the local market (Includes VAT @ 4%)	₹ 65,000
Storage cost incurred	₹ 750
Transportation Cost	₹ 1,750

Goods sold at a margin of 5% on the cost of such goods. VAT rate on Sales 12.5%.

b. State briefly about Provisional payment of Service tax.

c. What are the three variants of VAT? Which of these methods is most widely used and why?

Solutions

2. Computation of Total Income of HUF for AY 2010-11

Income from House Property (WN1)		
Unit 1 & 2 (Self-occupied)	(24,000)	
Unit 3 (Let-out)	55,200	
Arrears of rent (₹ 1,20,000 – 30%)	84,000	1,15,200
Income u/h Profits & Gains of Business or Profession (WN2)		4,50,000
Income from other sources (WN3)		71,100
Gross Total Income		6,36,300
Less: Deductions u/c VI-A		
Life insurance premium	22,500	
Contribution to pension fund of LIC (not allowed to HUF)	NIL	
Contribution to PPF	20,000	
Housing Loan principal repaid	30,000	72,500
Total Income		5,63,800

Computation of Tax Liability of HUF for AY 2010-11

Tax at special rates: Income on horse race winning (30,000 x 30%)		9,000
Tax at normal rates:		
On first ₹ 1,60,000	NIL	
On next ₹ 1,40,000 @ 10%	14,000	
On next ₹ 2,00,000 @ 20%	40,000	
On next ₹ 63,800 @ 30%	10,140	64,140
		73,140
Add: Education Cess @ 2% & SHEC @ 1%		2,194.20
Tax Liability		75,334.20
Tax Liability (R/o)		75,330

Working Notes:

1. Income from House Property

Particulars	Self-occupied	Let-out
GAV	NIL	96,000
Less: MT	NIL	NIL
NAV	NIL	96,000
Less: Deductions u/s 24		
SD @ 30%	NIL	28,800
Interest	24,000	12,000
Income from HP	(24,000)	55,200

2. PGBP

Poultry Farming	4,00,000
Income from share trading business	88,500
Less: Set off of automobile business loss	38,500
	4,50,000

3. Income from other sources

Income from Horse Race	30,000
Interest on company deposits	15,100
Rent of furniture	26,000
	71,100

3. a. Where asset transferred to spouse is invested in the proprietary business then proportionate share being calculated in following manner shall be clubbed in the hands of transferor:

$$\frac{Profits\ of\ the\ business\ x\ investment\ out\ of\ gift\ as\ on\ first\ day\ of\ PY}{Total\ Investment\ in\ the\ business\ as\ on\ first\ day\ of\ PY}$$

$$= \frac{4{,}40{,}000\ x\ 2{,}00{,}000}{11{,}00{,}000} = 80{,}000$$

Hence, Rs.80000 shall be clubbed in the hands of Mrs. John and balance Rs.360000 (plus Long term capital gain of Rs.500000) shall be taxable in hands of Mr. John

Computation of total investment in the business on 1-4-2009

Particulars	Amount
Investment as on 1-4-2008	Rs.600000
Add : Investment of gift from wife on 10-4-2008	Rs.200000
Add : Net profit earned during the year 2008-09 (assumed reinvested in the business)	Rs.300000
Total investment in the business as on 1-4-2009	Rs.1100000

Income arising from accretion to transferred asset shall not be liable to clubbing. Assume, Net profit earned during the year 2008-09 is retained in the business.

Computation of Advance Tax Liability of Mr. John for the previous year 2009-10

Particulars	Long term capital gain	Other income
Income	500000	360000
Tax rate	20%	Slab Rate
Tax on above	100000	26000
Add : Education cess & SHEC	3000	780
Advance tax payable	103000	26780

Advance tax to be paid on specified dates

Date	Advance tax on LTCG		Advance tax on income other than LTCG		Total
	Working	Amount (a) (a)	Working	Amount (b) (b)	(a + b)
15-09-2009		Nil	30% of Rs.26780	8034	8034
15-12-2009		Nil	30% of Rs.26780	8034	8034
15-03-2010	100% of Rs.103000	103000	40% of Rs.26780	10712	113712
Total		103000		26780	129780

3. b. Computation of Depreciation

Particulars	Amount
WDV as on 01/04/06	200000
Less : Depreciation @ 15%	30000
WDV as on 01/04/07	170000
Less : Depreciation @ 15%	25500
WDV as on 01/04/08	144500
Less : Depreciation @ 15%	21675
WDV as on 01/04/09	122825
Add : Purchase of Plant on 10/12/09	200000
	322825
Less : Sale Consideration restricted to Rs.322825	322825
WDV as on 31/03/10	Nil
Depreciation	Nil

Computation of Short Term Capital Gain for A.Y. 2010-11

Particulars	Amount	Amount
Full Value of Consideration on transfer of Plant Y		400000
Less : Deductions u/s 50(1)		
- Expenses on Transfer	10000	
- WDV of Plant X & Plant Y as on 01/04/2009	122825	
- Cost of Plant Z	200000	332825
Short Term Capital Gain		67175

4. b. Computation of total income of Mr. Banerjee for A.Y. 2010-11

Particulars	Amount	Amount
Income from House Property		
House 1	36000	
House 2	(20000)	
House 3	60000	76000
Profits and Gains from Business or Profession		
Textile Business	200000	
Speculation Business	200000	
Automobile Business	(300000)	100000
Capital Gains		
LTCG on sale of Shares [Exempt 10(38)]	Nil	
LTCG on sale of Site	200000	
STCG on sale of Building	(100000)	100000
Income from Other Sources		
Gift from Friend on 5/06/2009	60000	
Gift from Maternal Uncle, a relative [Exempt]	Nil	
Gift from Grand Father's Brother	100000	160000
Total Income		436000

7. Computation of value of taxable service and tax thereon

Particulars	Quarter1	Quarter2
Amount received on		
- 20/04/2009	100000	
- 30/06/2009	500000	
- 05/08/2009		50000
- 10/09/2009		350000
Total Receipt during the Quarter	600000	400000
Less : Service tax included therein		
[600000 * 10.3%/110.3%]	56029	
[400000 * 10.3%/110.3%]		37353
Value of taxable service	543971	362647
Service tax	56029	37353
- Service Tax	54397	36265
- Education Cess	1088	725
- SHEC	544	363

Notes:

1. Tax is payable on receipt basis
2. Treatment of refund of Rs.50000: W here an assessee has paid service tax in respect of a taxable service, which is not so provided by him, for any reason, the assessee may adjust the excess service tax so paid by him against his service tax liability for the subsequent period (calculated on a pro rata basis), provided the assessee has refunded the value of taxable service and the service tax thereon to the person from whom it was received.
3. It is assumed that receipts are inclusive of service tax. Further, it is assumed that assessee is not a small service provider.

8. a. Computation of Sale Price and Output VAT

Particulars	Amount
Raw material purchased from local market [Rs.65000 / 104 * 100]	62500
Storage cost	750
Transportation cost	1750
Cost of production	65000
Add : Profit earned @ 5% on Rs.65000	3250
Sale Price	68250
VAT @ 12.5% on sales	8531

Computation of VAT payable by P. Kapoor

Particulars	Amount
VAT on sale price	8531
Less : Set-off of VAT on local purchases	2500
Net VAT payable	6031

IPCC

May 2010

1. Mr. Dinesh Karthik, a resident individual aged 45, furnishes the following information pertaining to the year ended 31.3.2010: [16 Marks]

   a) He is a partner in Badrinath & Co. he has received the following amounts from the firm:
   Interest on capital at 15% ₹300000
   Salary as working partner (at 1% of firm's sales) ₹90000

   b) He is engaged in a business in which he manufactures wheat flour from wheat. The Profit and Loss account pertaining to this business (summarized form) is as under:

To	₹	By	₹
Salaries	120000	Gross profit	1250000
Bonus	48000	Interest on Bank FD	45000
Car expenses	50000	(Net of TDS 5,000)	
Machinery repairs	234000	Agricultural income	60000
Advance Tax	70000	Pension from LIC	
Depreciation :		Jeevandhara	24000
Car	300000		
Machinery	125000		
Net profit	432000		
	1379000		1379000

   Opening WDV of assets are as under:

	₹
Car	300000
Machinery	650000
(Used during the year for 170 days)	
Additions to machinery	
New purchased on 23.09.2009	200000
New purchased on 12.11.2009	300000
Old purchased on 12.4.2009	125000

   (All assets added during the year were put to use immediately after purchase)

   Of the total bonus amount, ₹ 15,000 was paid on 11.10.2009
   One-fifth of the car expenses are towards estimated personal use of the assessee.

   c) In March, 2008, he had sold a house at Chennai. Arrears of rent relating to this house amounting to ₹75000 was received in February, 2010.

   d) Details of his Savings and Investments are as under:

	₹
Life Insurance Premium for policy in the name of his major son employed in LMN Ltd. at a salary of ₹6 lacs p.a. Sum assured ₹200000	50000
Contribution to Pension Fund of National Housing Bank (this was met partially from out of premature withdrawal of deposit in Post Office Time Deposit made on 12.3.2006 Principal component ₹55000 and Interest ₹5000)	70000
Medical Insurance Premium for his father aged 70, who is not dependent on him	22000

You are required to compute the total income of Mr. Dinesh Karthik for the assessment year 2010-11 and the tax payable by him. Also indicate whether interest, if any, under sections 234A and 234B are payable, assuming that the return was filed on 28 th September, 2010. Computation of interest, if any, is NOT required.

2.

a) Mr. Tenzingh is engaged in composite business of growing and curing (further processing) Coffee in Coorg, Karnataka. The whole of coffee grown in his plantation is cured. Relevant information pertaining to the year ended 31.3.2010 are given below: [6 Marks]

	₹
WDV of Car as on 1.4.2009	3,00,000
WDV of Machinery as on 31.3.2009 (15% rate)	15,00,000
Expenses incurred for growing Coffee	3,10,000
Expenditure for curing Coffee	3,00,000
Sale value of cured Coffee	22,00,000

Besides being used for agricultural operations, the car is also used for personal use; disallowance for personal use may be taken at 20%. The expenses incurred for car running and maintenance are ₹50000. The machines were used in coffee curing business operations.

Compute the Income arising from the above activities for the assessment year 2010-11. Show the WDV of the assets as on 31.03.2010.

b) Mr. Raj Kumar sold a house to his friend Mr. Dhuruv on 1 st November, 2009 for a consideration of ₹2500000. The Sub-Registrar refused to register the document for the said value, as according to him, stamp duty had to be paid of ₹4500000, which was the Government guideline value. Mr. Raj Kumar preferred an appeal to the Revenue Divisional Officer, who fixed the value of the house as ₹3200000 (₹2200000 for land balance for building portion).The differential stamp duty was paid, accepting the said value determined. Assuming that the fair market value is ₹3200000, what are the tax implications in the hands of Mr. Raj Kumar and Mr. Dhuruv for the assessment year 2010-11? Mr. Raj Kumar had purchased the land on 1st June, 2006 for ₹519000 and completed the construction of house on 1st October, 2007 for ₹1400000.

Cost inflation indices may be taken as 519 for the financial year 2006-07, 582 for the financial year 2007-08 and 632 for the financial year 2009-10. [6 Marks]

3. From the following particulars of Income furnished by Mr. Anirudh pertaining to the year ended 31.3.2010, compute the total income for the assessment year 2010-11, if he is: [10 Marks]

(i) Resident and ordinary resident;
(ii) Resident but not ordinarily resident;
(iii) Non-resident:

Particulars	Amount (₹)
(a) Profit on sale of shares in Indian Company received in Germany	15000
(b) Dividend from a Japanese Company received in Japan	10000
(c) Rent from property in London deposited in a bank in London, later on remitted to India through approved banking channels	75000

(d) Dividend from RP Ltd., an Indian Company 6000
(e) Agricultural income from lands in Gujarat 25000

4. Answer the following questions with regard to the Provisions of the Income tax Act,1961: [3 x 4 = 12 Marks]
   i) State the concessions granted to transport operators from 1 st October, 2009 onwards in the context of Cash payments under section 40A(3) and deduction of tax at source under section 194-C.
   ii) What are the conditions to be fulfilled by a Charitable Trust under section 12A for applicability of exemption provisions contained in sections 11 and 12?
   iii) What are the particulars required to be furnished with the return of income, as per section 139(6)?

5. Provide brief answer to the following questions on Service tax: [4 x 2 = 8 Marks]
   i) Is Service tax payable in respect of services provided in the Indian territorial waters?
   ii) Is Service tax leviable on fee collected by Public authorities while performing statutory functions under the provisions of law?
   iii) Can an assessee file a revised Service tax return?
   iv) Explain the term "Commercial training or Coaching centre".

6.

a) Virat Kholi & Co., a partnership firm, is providing taxable legal consultancy services, for the second consecutive assessment year. The firm furnishes the following information relating to the services rendered, bills raised, amounts received relating to this service, for the year ended 31.3.2010. [8 Marks]

₹

i) Free services rendered to poor people (value of the services computed on comparative basis) 40000

ii) Advances received from clients for which no taxable service has been rendered so far 500000

iii) Service billed to clients Gross Amount (Service tax has been charged separately in all the bills; the firm follows mercantile system of accounting) 1200000

iv) The firm has received the following amounts during the year: Relating to taxable services rendered in March, 2009 (excluding service tax at applicable rates and TDS under section 194-J of the IT Act,1961 to the tune of ₹45320) 544680

Relating to taxable services rendered in current year 2009 (excluding Service tax at applicable rates and TDS under section 194-J or the IT Act,1961 to the tune of ₹120000) (*includes ₹50000 for appearance fee before Labour Court received from another firm) 980000*

Service tax has been separately received for applicable items in (iv) above.

You are required to compute the value of taxable services for the year ended 31.3.2010 and Service tax payable, briefly explaining the treatment of each item above.

b) Answer the following questions on Service tax: [3 x 3 = 9 Marks]
   i) What is the scope of taxable service in respect of membership of Clubs or Associations? State the exception to the same.

ii) Does a service provider have an option to pay Service tax at a rate different from the general rate applicable on gross value of taxable services, in the case of purchase and sale of foreign currency?

iii) What is the late fee payable for delay in furnishing the Service tax return? Can the same be waived?

7. Answer the following question on VAT: [4 x 2 = 8 Marks]

a) What are the items aggregated in the Addition method to calculate the VAT payable? When is this method mainly used?

b) Is any threshold exemption limit fixed for dealers to obtain VAT registration, as per the White Paper? If yes, why is the same provided?

c) Is the Vat chain continued when a purchasing dealer opts for VAT composition scheme? What is the loss to the seller and buyer opting for the composition scheme, and the subsequent buyers?

d) Can it be said that VAT brings about certainty to a great extent in the matter of interpretational issues? If so, how?

8.

a) Mr. X. a dealer in Mumbai dealing in consumer goods, submits the following information pertaining to the Month of March, 2010: [8 Marks]

i) Exempt goods 'A' purchased for ₹200000 and sold for ₹250000.

ii) Goods 'B' purchased for ₹225000 (including VAT) and sold at a margin of 10% profit on purchases (VAT rate 12.5%);

iii) Goods 'C' purchased for ₹100000 (excluding VAT) and sold for ₹150000 (VAT rate 4%);

iv) His unutilized balance in VAT input credit on 1.3.2010 was ₹1500.

Compute the turnover, Input VAT, Output VAT and Net VAT payable by Mr. X.

b) Answer the following questions on VAT: [3 x 3 = 9 Marks]

i) What are the merits of VAT in the context of tax evasion, neutrality and transparency?

ii) State the importance of VAT invoice/tax invoice in administering VAT.

iii) Discuss the tax consequences of Stock transfer under the VAT scheme

Solutions

1. Computation of total income of Dinesh Karthik for A.Y.2010-11

Particulars	Details	Amount	Amount
Income from House Property			
Receipt of Arrear Rent		75000	
Less : Standard Deduction u/s 24(a) [being 30% of above]		22500	52500
Profit & Gains of Business or Profession			
Net profit as per Profit & Loss A/c from Prop. Business		432000	
Add : Expenses disallowed but debited to Profit & Loss A/c			
Advance Tax	70000		
Depreciation as per Profit and Loss A/c [Rs.300000 + Rs.125000]	425000		
Unpaid Bonus	33000		
Personal Expenses relating to Car	10000	538000	
		970000	
Less : Expenses allowable under the head but not debited to Profit & Loss A/c			
Depreciation as per the Act	274750		
Less : Income not taxable under the head but credited to Profit & Loss A/c			
Interest on Bank FD	45000		
Pension from LIC Jeevandhara	24000		
Less : Income not taxable under the head but credited to Profit & Loss A/c			
Agricultural Income	60000	403750	
Income from Proprietorship Business		566250	
Add : Interest on Capital from Badrinath & Co. [Rs.300000/15%*12%] [Note 2]		240000	
Add : Salary from Badrinath & Co. [Note 2]		90000	896250
Income from Other Sources			
Interest on Bank FD [Rs.45000 + Rs.5000 (TDS)]		50000	
Pension from LIC Jeevandhara		24000	
Interest on Post Office Time Deposit		5000	79000
Gross Total Income			1027750
Less : Deduction u/s 80C			
LIC (Maximum upto 20% of sum assured)		40000	
Contribution to Pension Fund of National Housing Bank		70000	
		110000	
Subject to maximum of		100000	
Less : Deduction u/s 80D			
Medical Insurance Premium for father, a senior citizen [Maximum Limit]		20000	120000
Total Income (Rounded off u/s 288A)			907750

Note

1. Computation of Depreciation as per Income-tax Act

Particulars	Details	Amount
Block 1: Plant and Machinery @ 15%		
W.D.V. as on 1/4/2009	650000	
Add : Purchase during the year		
- On 12/04/2009	125000	
- On 23/09/2009	200000	
- On 12/11/2009	300000	
	1275000	
Less : Sale during the year	-	
	1275000	
Depreciation @ 15% [Rs.300000 * 15% * ½ + Rs.975000 * 15%]		168750
Additional depreciation @ 20% [Rs.200000 * 20% + Rs.300000 * 10%]		70000
		238750
(No additional depreciation is available on second-hand machinery)		
Block 2: Car @ 15%		
W.D.V. as on 1/4/2009	300000	
Add : Purchase during the year	-	
	300000	
Less : Sale during the year	-	
	300000	
Depreciation @ 15% [Rs.300000 * 15%]*4/5		36000
Depreciation allowed u/s 32		274750

2. Interest and remuneration to partner shall be taxable in the hands of partner, to the extent it is exempted in the hands of firm. Interest @ 12% is exempted in hands of firm. Further, it is assumed that salary to Mr. Karthik is an allowable expenditure in hands of Badrinath & Co.

Computation of tax liability of Mr. Dinesh Karthik for A.Y. 2010-11

Particulars	Amount
Tax on Rs.967750 (i.e. agro income Rs.60000 + non-agro income Rs.907750)	194325
Less : Tax on Rs.220000 (i.e. agro income Rs.60000 + maximum exempted limit Rs.160000)	6000
Tax liability	188325
Add : Education cess & SHEC @ 3%	5649.75
Tax and cess liability	193974.75
Less : TDS	5000
Advance tax payable	188974.75
Less : Advance Tax paid	70000
Tax and cess payable (Rounded off)	118970

Levy of interest u/s 234A and 234B

Interest u/s 234A : Under this section interest is payable for non filling of income tax return till the due date mentioned u/s 139(1). We assume that Mr. Dinesh is liable to file his income tax return on or before 30/9/2010. Since he filed his return of income on

28/09/2010 i.e. within due date of furnishing return of income, hence, interest u/s 234A is not applicable.
Interest u/s 234B : Under this section interest is payable if at least 90% of the advance tax due has not been paid till 31 st March of the previous year. In this case Mr. Dinesh is liable to pay advance tax of Rs.188970 but he has paid only Rs.70000, which is less than 90% of Rs.188970. Therefore, he is liable to pay interest u/s 234B @ 1% on Rs.118970 for 6 months i.e. April to September, 2010. Assuming tax alongwith interest has been paid on or before furnishing of return of income.

Note : Assessee is also liable to pay interest u/s 234C

2. a. Computation of income of Mr. Tenzingh for A.Y. 2010-11

Particulars	Rs	. Rs.
Sale value of cured Coffee		2200000
Less :		
Expenses incurred for growing Coffee	310000	
Expenditure for curing Coffee	300000	
Expenses on running & maintaining car incurred in business [Rs.50000 - Rs.10000]	40000	
Depreciation on Car [Note 1]	36000	
Depreciation on machine	191250	877250
		1322750
Less : Agricultural Income [75% of above]		992062.50
Profit and Gains of Business or Profession		330687.50

Computation of Written Down Value as on 31.03.2010

Particulars	Car	Machine
WDV as on 31.3.2009	-	1500000
Less: Depreciation actually allowed for PY 2008-09 [1500000*15%]	-	225000
W.D.V. as on 1/4/2009	300000	1275000
Add : Purchase	Nil	Nil
	300000	1275000
Less : Sale	Nil	Nil
WDV as on 31.03.2010	300000	1500000
Less : Depreciation for the year ending on 31.03.2010		
(1275000*15%)		191250
(300000*15%*80%)	36000	

Notes:

1. Depreciation on car is Rs.45000 but only 80% of this would be considered as a business expense.
2. As per amendment to section 43(6), where the income of the assessee is derived, partly from agriculture and partly from business and asset are used for both of said purposes then amount of depreciation shall be calculated as if entire income is derived from the business of the assesse under the head of Profit and Gains of

Business or Profession and depreciation so computed shall be deemed to be the depreciation actually allowed.

2. b. Tax Treatment in hands of Mr. Dhuruv

As per the newly introduced sec.56(2)(vii) w.e.f. 1/10/2009, If an immovable property is received for a consideration which is less than the stamp duty value of the property and the difference between the two exceeds Rs.50000 (inadequate consideration),the difference between the stamp duty value of such property and such consideration shall be taxed as the income of other sources for the recipient.

In this case, stamp duty value is Rs.3200000 and the consideration given to Mr. Raj Kumar is Rs.2500000. Therefore the difference between the two i.e. Rs.700000 shall be considered as income from other sources for Mr. Dhruv.

Tax Treatment in hands of Mr. Raj Kumar

Computation of Capital Gain for A.Y.2010-11

Particulars	Land	Building
Sale consideration	2200000	1000000
Less : Expenses on transfer	Nil	Nil
Net sale consideration	2200000	1000000
Less : Indexed cost of acquisition		
519000 * 632/519	632000	
Less : Cost of acquisition		1400000
Less : Indexed cost of improvement	Nil	
Less : Cost of improvement		Nil
Long term capital gain	1568000	
Short term capital gain		(400000)

Note: It is to be noted that in the given case land is a long term capital asset however building is a short term capital asset.

3. Computation of total income of Mr. Anirudh for the A.Y.2010-11

Particulars	ROR	RNOR	NR
Profit on sale of shares in Indian Company received in Germany	15000	15000	15000
Dividend from a Japanese Company received in Japan	10000	-	-
Rent from property in London deposited in a bank in London, later on remitted to India through approved banking channels	75000	-	-
Dividend from RP Ltd., an Indian Company	-	-	-
Agricultural income from lands in Gujarat	-	-	-
Income liable to tax in India	100000	15000	15000

Note:
1. Dividend from an Indian company is exempt u/s 10(34)
2. Agricultural income from a land situated in India is exempt u/s 10(1).

6. a. Computation of value of taxable service and tax thereon

Particulars	Details	Amount
Free services rendered to poor people		Nil
Advances received from clients		500000
Service billed to clients		Nil
Receipt of value of taxable services provided in March, 2009		Nil
Receipt of value of taxable services provided in current year 2009		
Net Receipt	980000	
Add : TDS	120000	
	1100000	
Less : Fee for appearance before Labour Court, an authority	50000	1050000
Value of taxable services		1550000
Service Tax thereon [Rs.1550000 * 10.3%]		159650
- Service tax		155000
- Education Cess		3100
- SHEC		1550

Note:

1. Free service is not taxable.
2. Service tax is payable on receipt of value of taxable service provided or to be provided. Thus, advance received shall be taxable.
3. Legal Consultancy service is covered under the purview of taxable service from 01-09-2009, hence receipt against services provided before such date is not taxable.
4. It is assumed that all service provided during the current year is provided on or after 01-09-2009.

If one assumes that services are provided evenly during the current year, then value of taxable services provided during the current year shall be reduced proportionately.

5. It is to be noted that service tax is separately charged in the bill and accordingly received.

8. a. Computation of turnover

Particulars	Exempted	12.5%	4%
Goods A Exempted	Nil		
Goods B [Rs.225000/112.5% * 100%] * 110%		220000	
Goods C			150000
Turnover	Nil	220000	150000
Output tax	Nil	27500	6000

Computation of VAT Payable

Particulars	Amount	Amount
Opening balance of unutilized Input Credit		1500
Add : Input Credit availed during the period		
On purchase of Goods A, being exempted	Nil	
On purchase of Goods B [Rs.225000/112.5% * 12.5%]	25000	
On purchase of Goods C [Rs.100000/104% * 4%]	4000	29000
Input credit available		30500
Less : Output VAT		
On sale of Goods B	27500	
On sale of Goods C	6000	33500
VAT Payable to the Government		3000

Service Tax Ques-Bank

1. (a) Is an unincorporated association, formed after 1st June, 2006, liable to pay any service tax?
   (b) Briefly explain the nature of service tax.
   (c) Explain as to how and when the amendments made in Finance Bill, in respect service tax matters come into force?

2. (a) What are the sources of service tax law?
   (b) Which Act and Rule govern the levy of service tax in India?

3. Will the payment to a hotelier of Rs.10,000 on behalf of an architect by a service receiver be included in the value of taxable services?

4. (a) Can it be said that if the taxable service is not capable of ascertainment, the same cannot form part of value of taxable services from May, 2006 onwards?
   (b) Briefly explain about the charge of service tax.
   (c) How is the value of taxable services determined when the consideration against taxable services is received in other than monetary terms?

5. Ms. Priya rendered a taxable service to a client. A bill for Rs. 40,000 was raised on 29.4.2009; Rs. 15,000 was received from the client on 1.5.2009 and the balance on 23.5.2009. No service tax was separately charged in the bill. The questions are:
   (a) Is Ms. Priya liable to pay service tax, even though the same has not been charged by her?
   (b) In case she is liable, what is the value of taxable service and the service tax payable?

6. J.C. Professionals, a partnership firm, gives the following particulars relating to the services provided to various clients by them for the half-year ended as on 30.09.09:
   (i) Total bills raised for Rs. 8,75,000 out of which bill for Rs. 75,000 was raised on an approved International Organisation and payments of bills for Rs. 1,00,000 were not received till 30.09.09.
   (ii) Amount of Rs. 50,000 was received as an advance from XYZ Ltd. on 25.09.09 to whom the services were to be provided in October, 09.

   You are required to work out the:
   (a) taxable value of services
   (b) amount of service tax payable.

7. Ms. Priyanka, a proprietress of Royal Security Agency received Rs.1,00,000 by an account payee cheque as advance while signing a contract for providing taxable service. She received Rs.5,00,000 by credit card while providing the service and another Rs.5,00,000 by a pay order after completion of service on January 31, 2010. All three transactions took place during financial year 2009-10. She seeks your advice about her liability towards value of taxable service and the service tax payable by her.

8. (a) Should service tax be paid even if not collected from the client or service receiver?
   (b) Where a service provider maintains books of accounts on mercantile basis relating to taxable services provided by him, will service tax be payable on accrual basis?
   (c) Is a service provider allowed to pay service tax on a provisional basis?
   (d) A particular service has been brought into the service tax net with effect from 1.6.2009. Mr. Vignesh has provided this service on 20.5.2009; the payment for the same was received on 10.6.2009. Is service tax payable on the same?
   (e) Mr. Saravanan has collected a sum of Rs. 15,000 as service tax from a client mistakenly, even though no service tax is chargeable for such service. Should the amount so collected be remitted to the credit of the Central Government?
   (f) Who is liable to pay e-payment of service tax?
   (g) Whether life insurer carrying on life insurance business has option to calculate service tax at different rate?
   (h) Mr. X, a service provider who pays service tax regularly, was of the opinion that a particular service was not liable for service tax. He, therefore, did not charge service tax in his bill. He received the bill amount without service tax. How will service tax liability of Mr. X be determined in such case?
   (i) How can the excess payment of service tax be adjusted?

9. (a) An assessee who has collected service tax from a client is unable to perform the service. Briefly explain the situations in which and the conditions subject to which he can adjust the service tax relating to above, against his forthcoming service tax liability.
(b) Who is liable to pay service tax in relation to services provided by a goods transport agency?
(c) Mr. Vasudevan has rendered freely, a service to a client which is taxable, but has not charged or received any fee from the client. Is service tax payable on such free service?
(d) What are the due dates for payment of service tax?

10. Ajay Ltd. has agreed to render services to Mr. Guru. The following are the chronological events:

Particulars	Rs.
Contract for services entered into on 31.8.2009	
Advance received in September, 2009 towards all services	60,000
Total value of services, billed in February, 2010	2,10,000
Above includes non-taxable services of	70,000
Balance amount is received in March, 2010	

When does the liability to pay service tax arise and for what amount? Contract contains clear details of services; consideration and service tax are charged separately, as mutually agreed upon.

11. Mr. Y, a consulting engineer raised a bill of Rs. 2,24,720 (including service tax) on his client for consulting services rendered by him in June, 2007. A partial payment of Rs. 1,68,540 was received by Mr. Y in March, 2008. Compute the service tax amount payable by Mr. Y and the due date by which service tax can be deposited.

12. (a) Is e-filing of service tax return permitted?
(b) Which are the documents to be submitted along with service tax return?
(c) What are the due dates for filing of service tax returns?
(d) Who are the persons liable to file service tax returns?
(e) Whether service tax return can be furnished after the due date?

13. (a) Can service tax return be revised by a person?
(b) Ms. Amrapali, a registered service provider did not render any services during the financial year 2009-10. Whether she is required to file service tax return?

14. A club exempt from payment of income-tax under the Income-tax Act, 1961 on the ground of being a public charitable institution will be compulsorily exempt from payment of service tax also. Examine the validity of the statement.

15. Discuss the special provision for payment of service tax in case of services provided in relation to purchase or sale of foreign currency including money changing.

16. List the documents to be submitted along with a service tax return.

17. Suyogya Consultancy Services (SCS) is engaged in providing management consultancy services during the financial year 2009-10. Examine, whether SCS shall be liable to pay the late fee for delay in furnishing the return for the half-yearly period ending September 30, 2009 in the following cases:-
(a) It files its return of service tax on October 26, 2009.
(b) It files its return on November 15, 2009.

18. Prahlaad has paid the amount of service tax for the quarter ending June 30, 2009 by cheque. The date of presentation of cheque to the designated bank is July 5, 2009 and it is realised by the bank on July 7, 2009? What is the date of payment of service tax in this case? Whether any interest and penalty is attracted in this case?

19. Explain the special provision for payment of service tax in case of an air travel agent.

20. State briefly whether the services provided by a person having a place of business in the State of Jammu and Kashmir providing services in any other place in India are taxable under the Finance Act, 1994 as amended?

Only for IPCC Students

21. With reference to legal consultancy services, state whether service tax is applicable in the following cases:
   i. Mr. Ramesh, an advocate, providing consultancy services to Omega Ltd. in relation to company law matters.
   ii. Mehta and Sons, a law firm, providing legal assistance to Omega Ltd. in relation to civil cases filed against the company.
   iii. Mehta and Sons providing advisory services to Mr. Kamlesh in respect of his property matters.
   iv. Mehta and Sons providing service of appearance before Sessions Court to Omega Ltd. in relation to criminal cases filed against the company.

22. With reference to commercial training or coaching services, state whether service tax is applicable in the following cases:
   i. Pinnacle Institute offering courses on personality development and grooming.
   ii. BTL Engineering College offering B.Tech to students. However, the college has been derecognized by the All India Council for Technical Education.

23. Aarush, a software consultant, has developed a software for Beta Ltd. He has raised a bill of Rs.2,50,000 on Beta Ltd. On 02.03.2010. A sum of Rs.1,50,000 was received from Beta Ltd. on 15.03.2010 and the balance on 23.06.2010. The questions are:
   i. Is the service provided by Aarush liable to service tax? If yes, then whether Aarush will be liable to pay service tax, even though the same has not been charged by him?
   ii. In case Aarush is liable to service tax, what is the value of taxable service and the service tax payable by him for the financial year 2009-10?

Solutions

1. (a) With effect from 01.05.2006, the Finance Act, 2006 inserted an explanation after section 65(121) of the Finance Act, 1994. The explanation states that taxable service includes any taxable service provided or to be provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration.
   Thus, an unincorporated association providing service to its members can also be a "person" for purpose of service-tax, and be liable to pay service tax.

   (b) Service tax is a tax on services. This is not a tax on profession, trade, calling or employment but is in respect of service rendered. If there is no service, there is no tax. Basically, service is a value addition that can be perceived but cannot be seen, as it is intangible; however, usage of some goods during the course of rendering the service would not mean that there is no 'service'. It is the predominant factor in each case, which is to be studied to arrive at a conclusion.

   (c) Amendments made by the Finance Bill, in respect of service tax matters, come into force from the date of enactment of the Finance Bill i.e., the date on which the Finance Bill receives the assent of the President of India. However, wherever it is specifically provided so in the Finance Bill, certain amendments like new taxable services introduced vide the Finance Bill and alteration in the scope of existing taxable services, become effective from a date to be notified after the enactment of the Finance Bill.

2. (a) There is no independent statute on service tax as yet. However, the sources of service tax law are:-
   (i) Finance Act, 1994
   (ii) Rules on service tax
   (iii) Notifications on service tax
   (iv) Circulars or Office Letters (Instructions) on service tax
   (v) Orders on service tax and
   (vi) Trade notices on service tax

   (b) Finance Act, 1994 and the rules made there under govern the levy of service tax in India. The significant rules relating to service tax are the Service Tax Rules, 1994, Service Tax (Determination of Value) Rules, 2006, Export of Services Rules, 2005 etc.

3. Service tax chargeable on any taxable service is on the basis of gross amount charged by service provider for such service provided or to be provided by him. It is not necessary that the service receiver should pay the consideration only to the service provider; any money paid to the third party is also includible. Hence, the hotel bill met by the client would be includible in the value of taxable services.

4. (a) No, it cannot be said so. With effect from 18.4.2006, the Finance Act, 2006 has introduced detailed provisions for valuation of taxable services. The provisions of section 67, as amended, state clearly that if the consideration for a taxable service is not ascertainable, the value of such service shall be the amount as may be determined in the prescribed manner.

   (b) Section 66 is the charging section of the Finance Act, 1994 ("the Act") which deals with the levy and collection of service tax. It provides the applicable rate of service tax which is to be levied on the value of various taxable services. The prescribed manner for collection and payment of tax is provided in the Service Tax Rules, 1994. With effect from 18.04.2006, the rate of service tax prescribed by section 66 is 12% of the value of taxable services referred to in section 65(105) of the Act.
   However, it may be noted that Notification No. 8/2009 ST dated 24.02.2009 exempted all the taxable services specified in sub-section (105) of section 65 of the Finance Act from so much of service tax leviable thereon under section 66 of the Finance Act, as is in excess of the rate of 10% of the value of taxable services. Therefore, the effective rate of service tax is 10%.

   (c) Section 67 of the Finance Act, 1994 as amended provides that if the consideration for a taxable service is not wholly or partly in terms of money, then the value of such service shall be such amount in money, with the addition of service tax charged, is equivalent to the consideration.

5. Section 68 of the Finance Act, 1994 casts the liability to pay service tax upon the service provider or upon the person liable to pay service tax as per rule 2(1)(d). This liability is not contingent upon the service provider

realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver. Hence, Ms. Priya is liable to pay service tax.

However, sometimes it may happen that the assessee is not able to charge service tax because of the nature of service or he fails to recover the service tax from the client / customer as he is not aware that his services are taxable. Hence, in these cases, the amount recovered from the client in lieu of having rendered the service will be taken to be inclusive of service tax and accordingly tax payable will be calculated by making back calculations.

The rates of service tax payable are:

Basic rate		10%
Education cess (2% of 10%)	=	0.20%
Secondary and higher education cess (1% of 10%)	=	0.10%
Effective rate of service tax	=	10.30%

Service tax is payable on receipt basis

Value of taxable service = $\frac{Gross\ amount\ charged\ X\ 100}{100+effective\ rate}$

Value of taxable service = $\frac{40{,}000\ X\ 100}{110.30}$ = Rs. 36,265

Service tax payable = $\frac{40{,}000\ X\ 10.30}{110.30}$ = Rs. 3,735

6. Computation of taxable value of services provided by the J.C. Professionals for the half year ending on 30.09.2009:

Particulars	Rs.	Rs.
Total bills raised		8,75,000
Less: Bill raised on an approved International Organisation (Note 1)	75,000	
Less: Bills for which payments have not been realized (Note 2)	1,00,000	1,75,000
		7,00,000
Add: Advance received for the services to be provided in October '09 (Note 3)		50,000
Taxable value of services		7,50,000
Computation of service tax payable		
Taxable value of services		7,50,000
Service tax @ 10%		75,000
Add: Education cess @ 2%		1,500
Add: Secondary and higher education cess @ 1%		750
Total Service tax payable		77,250

Notes:

1. Services provided to an International Organisation are exempt from the service tax vide Notification No. 16/2002 ST dated 02.08.2002.
2. Service tax is payable only when the value of taxable services is actually received [Rule 6 of the Service Tax Rules, 1994].
3. Any advance received for providing any taxable services forms part of the value of taxable service [Section 67 of the Finance Act, 1994].

7. Computation of taxable service of Ms. Priyanka for financial year 2009-10

Particulars	Rs.
Advance received by an account payee Cheque	1,00,000
Amount received while providing service through credit card	5,00,000
Amount received on completion of service by a pay order	5,00,000
Value of taxable service	11,00,000

Calculation of service tax liability

Particulars	Rs.
Service tax @10% on Rs.11,00,000	1,10,000
Add: (i) Education cess @ 2% on service tax	2,200
Add: (ii) Secondary and higher education cess @ 1% on service tax	1,100
Total service tax payable	1,13,300

Notes:

1. Money includes any cheque, pay order, currency, promissory note, letter of credit, draft, traveller's cheque, money order, postal remittance and other similar instruments but does not include currency that is held for its numismatic value.
2. Gross amount charged includes payment by credit card, cheque, deduction from account and any form of payment by issue of credit notes/debit notes and book adjustment.

8. (a) Section 68 of the Finance Act, 1994 casts the liability to pay service tax upon the service provider or upon the person liable to pay service tax as per rule 2(1)(d) of the Service Tax Rules, 1994. This liability is not contingent upon the service provider realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver.

(b) Service tax is not payable on accrual basis and the method of accounting is irrelevant for making payment of service tax. Service tax is payable to the Government only when any payment is received-whether in advance or after the bill is raised-from the client or service receiver for the taxable services provided.

(c) In case the assessee is unable to correctly estimate, at the time of the deposit, the actual amount of service tax for any month or quarter, he may make a written request to Assistant/Deputy Commissioner of Central Excise for making payment of service tax on provisional basis. The concerned officer may allow payment of service tax on provisional basis on such value of taxable service as may be specified by him.

(d) No service tax is payable for the part or whole of the value of services, which is attributable to services provided during the period when such services were not taxable. The time of receipt of payment towards the value of services will not be relevant for this purpose. For the service tax to be leviable, on the date on which the service was rendered, it should be exigible to the levy.
In the given case, Mr. Vignesh has provided the service on 20.05.2009 and has received the payment on 10.06.2009. Assuming that, the invoice was raised by Mr. Vignesh before 01.06.2009, he will not be liable to collect service tax.

(e) Section 73A of the Finance Act, 1994 casts an obligation on every person who has collected service tax from any recipient of service in any manner as representing service tax, to remit the same to the credit of the Central Government. On account of this provision, where any person has collected any amount, which is not required to be collected from any other person, in any manner as representing service tax, he should also immediately pay the amount so collected to the credit of the Central Government.
Hence, Mr. Saravanan has to remit the service tax collected by him on the non taxable services to the credit of the Central Government before the due date.

(f) With effect from 01.10.2006, the assessee who has paid service tax of Rs.50,00,000/- or above in the preceding financial year or has already paid service tax of Rs.50,00,000/- in the current financial year has to compulsorily deposit the service tax liable to be paid by him electronically. W.e.f. 01-04-2010 an assessee shall deposit the service tax electronically through internet banking if he has paid the total service tax of Rs. 10 lakh or more (including the amount of service tax paid by utilisation of CENVAT credit) in the preceding financial year.

(g) An insurer carrying on life insurance business who is liable for paying service tax has the option to pay an amount calculated @ 1% of the gross amount of premium charged by him towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66 of Chapter V of the Act.
However, such option is not available in cases where:

(i) the entire premium paid by the policy holder is only towards risk cover in life insurance; or

(ii) the part of the premium payable towards risk cover in life insurance is shown separately in any of the documents issued by the insurer to the policy holder.

(h) Section 68 of the Finance Act, 1994 casts the liability to pay service tax upon the service provider or upon the person liable to pay service tax as per rule 2(1)(d) of the Service Tax Rules, 1994. This liability is not contingent upon the service provider realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver. In this case, the amount received from the service receiver will be taken to be inclusive of service tax. Accordingly, service tax payable by the service provider shall be ascertained by making back calculations in the following manner:-

$$\text{Service tax payable} = \frac{Amt.recd.\ X\ service\ tax\ rate}{100 + service\ tax\ rate}$$

(i) Where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month or quarter, as the case may be. However, such an adjustment would be subject to the following conditions mentioned below:

(i) Self-adjustment of excess credit would not be allowed in case of reasons involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification.

(ii) Excess amount paid and proposed to be adjusted should not exceed Rs.1,00,000 for the relevant month or quarter except in case of assesses opting for centralized registration.

(iii) Adjustment can be made only in the succeeding month or quarter.

(iv) The details of self-adjustment should be intimated to the Superintendent of Central Excise within a period of 15 days from the date of such adjustment.

9. (a) An assessee may adjust excess payment of service tax against his liability of service tax for subsequent periods. Where an assessee has deposited service tax in respect of a taxable service which is not so provided by him either wholly or partially for any reason, he may adjust the excess service tax so paid by him (calculated on a pro rata basis) against his service tax liability for the subsequent period.

However, for carrying out such adjustment, the assessee must have refunded the value of taxable service and the service tax thereon to the person from whom it was received.

In such cases of adjustment, the assessee is required to file the details in respect of such suo moto adjustments done by him at the time of filing the service tax returns.

The return Form ST – 3 also provides for enclosure of documentary evidence for adjustment of such excess service tax paid.

(b) In relation to taxable service provided by a goods transport agency, where the consignor or consignee of goods is-

(a) any factory registered under or governed by the Factories Act, 1948,

(b) any company formed or registered under the Companies Act, 1956,

(c) any corporation established by or under any law,

(d) any society registered under Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India,

(e) any co-operative society established by or under any law,

(f) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 or the rules made thereunder, or

(g) any body corporate established, or a partnership firm registered, by or under any law.

The person liable for paying service tax is any person who pays or is liable to pay freight either himself or through his agent for the transportation of such goods by road in a goods carriage.

(c) Section 67(1)(iii) of the Finance Act, 1994 ensures payment of service tax based on valuation even when consideration is not ascertainable. However, these provisions apply only when there is consideration. If there is no consideration i.e., in case of free service, section 67 cannot apply.

Thus, no service tax is payable when value of services is zero, as the charging section 66 provides that service tax is chargeable on the value of taxable service.

Hence if the value is zero, the tax will also be zero even though the service may be taxable. However, this principle applies only when there is really a 'free service' and not when its cost is recovered through other means.

(d) Rule 6(1) of the Service Tax Rules, 1994 provides that service tax on the value of taxable services received shall be paid to the credit of the Central Government in the following manner:-

Assessee	Duration of payment	Due date of payment
Individual, Proprietary concern or a partnership firm	Quarterly	(i) by the 6th day of the month, if the duty is deposited electronically through internet banking; and (ii) by the 5th day of the month, in any other case, immediately following the quarter in which the payments are received, towards the value of taxable services.*
Any other Assessee	Monthly	(i) by the 6th day of the month, if the duty is deposited electronically through internet banking; and (ii) by the 5th day of the month, in any other case, immediately following the calendar month in which the payments are received, towards the value of taxable services.*

* Also, the service tax on the value of taxable services received during the month of March, or the quarter ending in March, as the case may be, shall be paid to the credit of the Central Government by the 31st day of March of the calendar year.

10. The liability to pay service tax arises at the time of receipt of advance in September, 2009 and at the time of receipt of balance consideration in March 2010. Service tax is payable as soon as any advance is received as the taxable service includes "service to be provided" and payments received, before during or after the provision of taxable services form part of the gross amount charged for the taxable services. Further, the liability to pay service tax arises only upon the receipt of the value of taxable services and not when the bill is raised.

<u>Advance portion</u>

Particulars	Rs.
Advance received towards all services in September, 2009	= 60,000
Amount billed for taxable services	= 2,10,000 – 70,000
	= 1,40,000
Advance received towards taxable services	= 60,000 x (1,40,000/ 2,10,000)
	= 40,000
Service tax @ 10% (since, service tax is charged separately)	= 40,000 x 10%
	= 4,000
Education cess @ 2%	= 80
Secondary and higher education cess @ 1%	= 40
Total service tax liability =	4,120

In this case, the due date for payment of service tax will be 5th October, 2009.

<u>Balance portion</u>

Particulars	Rs.
Balance amount received in March 2010	= 2,10,000 – Rs.60,000
	= 1,50,000
Amount received towards taxable services	= 1,50,000 x (1,40,000/2,10,000)
	= 1,00,000
Service tax @ 10%	= 1,00,000 x 10%
	= 10,000
Education cess @ 2%	= 200
Secondary and higher education cess @ 1%	= 100
Total service tax liability	= 10,300

In this case, the due date for payment of service tax will be 31st March, 2010.

11. The service tax is payable to the Government only when payment is received, though the service provider charges service tax in his bill as and when the service is provided.
In the given case, amount of service tax liable to be paid by Mr. Y

$$\frac{Gross\ amount\ X\ effective\ rate}{100+effective\ rate} = \frac{1,68,540\ X\ 10.30}{110.30} = 15,739$$

Mr. Y is required to deposit service tax of Rs.15,739 on or before 31.03.2010.
Note:
1. Service tax is payable only on the value of taxable services actually received [Rule 6 of the Service Tax Rules, 1994].
2. Rate of service tax is taken to be inclusive of 2% education cess and 1% secondary and higher education cess.

12. (a) Yes, e-filing of service tax returns is permitted under service tax law. E-filing is a facility for the electronic filing of service tax returns by the assessee from his office, residence or any other place of choice, through the internet, by using a computer. E-filing of returns is an assessee facilitation measure of the Department in continuation of its modernization and simplification programme. It is an alternative to the manual filing of return. This facility is available to all service providers. W.e.f 01-04-2010 : electronic filing of returns has been made mandatory for the assessee who has paid total service tax of Rs. 10 lakh or more including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year.

(b) Along with service tax (ST-3) return, the following documents should be attached:
(i) copies of TR-6 challans which indicate the payment of service tax for the months/quarter covered in the half-yearly return.
(ii) memorandum in Form ST-3A giving full details of the difference between the amount of provisional amount of tax deposited and the actual amount payable for each month. This memorandum (Form ST-3A) is to be attached only when the assessee opts for provisional payment of service tax.

(c) The service tax return (in Form ST-3) should be filed on half yearly basis by the 25th of the month following the particular half-year. The due dates on this basis are as under:

Half year	Due date
1st April to 30th September	25th October
1st October to 31st March	25th April

In case the due date of the filing of return i.e. either 25th October or 25th April falls on a public holiday, the assessee can file the return on the immediately succeeding working day.

(d) Section 70 of the Finance Act, 1994, inter alia, provides that every person liable to pay service tax shall himself assess the tax due on the services provided by him and shall furnish a return to the Superintendent of Central Excise.
Sub-section (2) of section 70 stipulates that certain notified person or class of persons shall also furnish to the Superintendent of the Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.

(e) A delayed return can be furnished by paying the prescribed late fee. Section 70(1) of the Finance Act, 1994 as amended, inter alia, provides for filing of periodical return after the due date with the prescribed late fee of not more than Rs. 2,000/-.

13. (a) An assessee can submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of 90 days from the date of submission of the original return.

(b) Every assessee shall file a half yearly return in Form ST-3. Even if there is no service provided during a half year, a Nil return has to be filed. Therefore, Ms. Amrapali is required to file a service tax return.

14. The statement is not correct. Circular No. 96/7/2007 ST dated 23.08.2007 has clarified that exemption under the Income Tax Act on the ground of being a public charitable institution is of no consequence or relevance for service tax purposes. Levy of service tax is entirely governed by the provisions contained in the Finance Act, 1994 and the rules made thereunder.

"Charity" is defined as "aid given to the poor, the suffering or the general community for religious, educational, economic, public safety, or medical purposes", and "charitable" is defined as "dedicated to a general public purpose, usually for the benefit of needy people who cannot pay for the benefits received" [Black's Law Dictionary].
Whether a club or association is engaged in activity having objectives which are of a charitable nature or not is to be determined purely on the basis of the facts and circumstances of the case.

15. The person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, provided by a foreign exchange broker, including an authorised dealer in foreign exchange or an authorized money changer shall have the option to pay an amount calculated at the rate of 0.25% of the gross amount of currency exchanged towards discharge of his service tax liability instead of paying service tax at the rate specified in section 66 of Chapter V of the Act.
However, such option shall not be available in cases where the consideration for the service provided or to be provided is shown separately in the invoice, bill or, as the case may be, challan issued by the service provider.

16. Along with ST-3 return following documents should be attached:
    (i) copies of TR-6 challans which indicate the payment of service tax for the months/quarter covered in the half-yearly return;
    (ii) a memorandum in form ST-3A giving full details of the difference between the amount of provisional amount of tax deposited and the actual amount payable for each month. Form-ST-3A is to be attached only when the assessee opts for provisional payment of service tax.

17. (a) For the half-yearly period ending September 30, 2009, the due date for filing the return is October 25, 2009. However, since October 25 is Sunday, the assesse can file the return on the next immediately succeeding working day i.e. October 26, 2009. Hence, if Suyogya Consultancy Services files its return of service tax on October 26, 2009, it shall not be liable to pay the late fee for delay in furnishing the return.
(b) For the half-yearly period ending September, 2009, the assessee can file the return up to October 26, 2009 (as discussed above). However, Suyogya Consultancy Services files its return of service tax on November 15, 2009. Hence, it shall be liable to pay the late fee of Rs. 1,000 for delay in furnishing the return.

18. Rule 6(1) of the Service Tax Rules, 1994, inter alia, provides that service tax on the value of taxable services received by an individual during any quarter is payable by the 5th day of the month immediately following the said quarter. Therefore, in the given case, the due date for payment of service tax is July 5, 2009. Further, in case the amount of service tax is paid by cheque, the date of presentation of cheque to the designated bank, subject to realization is the date of payment. Thus, in this case, the date of payment will be 5th July, 2009 as the cheque has been realized on 7th July, 2009.
Since, the service tax has been paid on the due date, no interest and penalty is chargeable as there is no delay in payment of service tax.

19. Special provision for payment of service tax in case of air travel agent: Rule 6(7) of the Service Tax Rules, 1994 provides that the person liable for paying the service tax in relation to the services provided by an air travel agent, shall have the option:
(i) to pay an amount calculated at the rate of 0.6% of the basic fare in the case of domestic bookings, and
(ii) at the rate of 1.2% of the basic fare in the case of international bookings, of passage for travel by air, during any calendar month or quarter, as the case may be, towards the discharge of his service tax liability instead of paying service tax at the rate of specified service tax. The option once exercised, shall apply uniformly in respect of all the bookings of passage for travel by air made by him and shall not be changed during a financial year under any circumstances.
For the purposes of this sub-rule, the expression "basic fare" means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

20. As per section 64(1) of the Finance Act, 1994 as amended, service tax provisions do not extend to the State of Jammu and Kashmir. Therefore, service tax will not be payable if service is provided in Jammu & Kashmir. However, since service tax is a destination based consumption tax, if a person from Jammu & Kashmir provides the taxable service outside Jammu & Kashmir in any other part of India, the service will be liable to service tax, as the location where service is provided is relevant. Hence, the services provided by a person having a place of business in the State of Jammu and Kashmir providing services in any other place in India are taxable under the Finance Act, 1994 as amended.

21. With effect from 01.09.2009, legal consultancy services have been brought under the service tax levy vide the Finance (No. 2) Act, 2009. Section 65(105)(zzzzm) provides that scope of legal consultancy service shall include any service provided or to be provided to a business entity, by any other business entity, in relation to advice, consultancy or assistance in any branch of law. However, any service provided by way of appearance before any court, tribunal or authority shall not amount to taxable service.

    Here, "business entity" includes an association of persons, body of individuals, company or firm, but does not include an individual.

    Thus, legal consultancy services shall not be liable to service tax in following cases:-
    (a) where such service is provided by way of appearance before any court, tribunal or authority;
    (b) where the service provider and/or service recipient is an individual.

    The questions are now answered as follows:
    (i) Mr. Ramesh, being an individual service provider is not a business entity in terms of section 65(105)(zzzzm). Hence, Mr. Ramesh will not be liable to service tax.

    (ii) Here, both service provider and service receiver are business entities in terms of section 65(105)(zzzzm). Thus, service tax will be applicable in this case.

    (iii) In this case, Mr. Kamlesh, the service receiver is an individual and thus not a business entity in terms of section 65(105)(zzzzm). Thus, service tax will not be applicable in this case.

    (iv) Here, though both the service provider and the service receiver are business entities, but the service being rendered is that of appearance before any court, tribunal or authority; which is excluded from the scope of taxable service. Hence, service tax will not be applicable in this case.

22. Section 65(105)(zzc) provides that the scope of taxable service shall include any service provided or to be provided to any person, by a commercial training or coaching centre in relation to commercial training or coaching. As per section 65(27), a commercial training or coaching centre means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include preschool coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force.

    The questions are now answered as follows:
    (i) Notification No. 24/2004 ST dated 10.09.2004 inter alia exempts taxable services, provided in relation to commercial training or coaching by a vocational training institute to any person from the whole of the service tax leviable thereon. Here, vocational training institute means a commercial training or coaching centre which provides vocational coaching or training that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching.
    However, Circular No. 107/01/2009 ST dated 28.01.2009 has clarified that institutes offering general course on improving communication skills, how to be effective in group discussions or personal interviews, personality development, general grooming and finishing etc. are not covered under the definition of vocational training institute because they only improve the chances of success for a candidate possessing required skill and do not impart training to enable the trainee to seek employment or self-employment.
    Thus, Pinnacle Institute is not entitled to exemption under the above notification and is liable to service tax.

    (ii) A B.Tech degree is recognised by law and thus institutes offering such degrees are excluded from the scope of the said taxable service. However, Circular No. 107/01/2009 ST dated 28.01.2009 has clarified that an institution or establishment which is derecognized by the professional councils (such as All India Council for Technical Education-AICTE, Medical Council of India-MCI, Indian Council for Agricultural Research-ICAR, Bar Council of India-BCI) created through independent Union Acts does not fall under the category of institutes/establishments which issue diploma or certificate recognized by the law for the time being in force and hence is taxable under the category of commercial coaching and training services.
    Thus, BTL Engineering College being derecognized by All India Council for Technical Education shall be liable to service tax.

23. (a) Yes. As per clause (i) of section 65(105)(zzzze), development of software is liable to service tax under information technology software services.
Yes, Aarush will be liable to pay service tax. Section 68 of the Finance Act, 1994 casts the liability to pay service tax upon the service provider or upon the person liable to pay service tax as per Rule 2(1)(d). This liability is not contingent upon the service provider realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver. Hence, Aarush will be liable to pay service tax.

(b) When the assessee has not charged service tax because of the nature of service or has failed to recover the service tax from the client / customer as he is not aware that his services are taxable, the amount recovered from the client in lieu of having rendered the service is taken to be inclusive of service tax. Accordingly service tax payable is calculated by making back calculations.
Since, service tax is payable on receipt basis, in the F.Y. 2009-10, only Rs.1,50,000 will be liable to service tax.
The rate of service tax payable:

Basic rate	10%
Education cess of 2% and Secondary and higher education cess of 1% (3% of 10%)	10.30%

Value of taxable service $\dfrac{Gross\ amount\ X\ effective\ rate}{100+effective\ rate}$

$\dfrac{1{,}50{,}000\ X\ 100}{110.30}$

= Rs.1,35,993.00 (approx.)

Service tax payable $\dfrac{1{,}50{,}000\ X\ 10.30}{110.30}$
= Rs.14,007.00

Value Added Tax Ques-Bank

1. (a) Which is the most popular and common method for computing VAT liability and at what stage is the tax imposed?
   (b) Is it correct to state that VAT usually increases the retail price, as the tax is payable on the first sale price?
   (c) Does the VAT system bring certainty to a great extent?
   (d) Can VAT be said to be non-beneficial as compared to single stage-last point system?
   (e) Briefly explain the income variant of VAT.
   (f) What is the demerit of VAT from the view point that it is a form of consumption tax?
   (g) Can we say that levy of VAT will have effect on retail price of goods?
   (h) Discuss the word "transparency" in the context of VAT system.

2. (a) Briefly explain the invoice method of computing tax liability under the VAT system. What are its other names?
   (b) What are the different variants of VAT and how is deduction available for tax paid on inputs including capital inputs?
   (c) What are the different stages of VAT? Can it be said that the entire burden falls on the final consumer?
   (d) Briefly explain how VAT helps in checking tax evasion and in achieving neutrality.
   (e) How can an auditor play a role to ensure that the tax payers discharge their tax liability properly under the VAT system?
   (f) Discuss the 'subtraction method' for computation of VAT.
   (g) VAT would increase the working capital requirements and the interest burden. Discuss.

3. Compute the invoice value to be charged and amount of tax payable under VAT by a dealer who had purchased goods for Rs. 1,20,000 and after adding for expenses of Rs. 10,000 and of profit Rs. 15,000 had sold out the same.
   The rate of VAT on purchases and sales is 12.5%.

4. Compute the VAT amount payable by Mr. A who purchases goods from a manufacturer on payment of Rs. 2,02,500 (including VAT) and earns 10% profit on sale to retailers. VAT rate on purchase and sale is 12.5%.

5. Mr. Goenka is a trader selling raw materials to a manufacturer of finished products. He imports his stock in trade as well as purchases the same from the local markets. Following transaction took place during financial year 2009-10:-
   Calculate the VAT and invoice value charged by him to a manufacturer. Assume the rate of VAT @ 12.50%:

	Rs.
(1) Cost of imported materials (from other State) excluding tax	1,00,000
(2) Cost of local materials including VAT	2,25,000
(3) Other expenditure including storage, transport, interest and loading and unloading and profit earned by him	87,500

6. Explain the addition method for computation of VAT.

7. Explain the role of a Chartered Accountant in proper implementation of VAT.

8. A dealer purchases goods for Rs.2,50,000 (exclusive of VAT). He incurs Rs.35,000 on the goods and sells them at a profit of Rs.15,000. Compute the invoice value to be charged and amount of tax payable under VAT. The rate of VAT on purchases and sales is 4%.

9. Compute the net VAT liability from the following information:-

Particulars	Rs.
Raw material purchased from foreign market (including duty paid on imports @ 20%)	12,000.00
Raw material purchased from local market (including VAT charged on the material @ 4%)	20,800.00
Raw material purchased from neighbouring state (including CST paid on purchases @ 2%)	7,140.00
Storage, transportation cost and interest	2,500.00
Other manufacturing expenses incurred	600.00

   The goods are sold at 10% profit on cost of production. VAT rate on sale of such goods is 12.5%.

10. How is transparency ensured under VAT system?

11. Briefly explain the three variants of VAT. Which of these methods is most widely used and why?

12. Calculate the total VAT liability under the State VAT law for the month of October 2009 from the following particulars:

Particulars	Rs.
Inputs purchased within the state	1,70,000
Capital goods used in the manufacture of the taxable goods	50,000
Finished goods sold within the state	2,00,000
Applicable tax rates are as follows:-	
VAT rate on capital goods	12.5%
Input tax rate within the state	12.5%
Output tax rate within the state	4%

13. Explain briefly, how a VAT system discourages the tax evasion.

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14. Do VAT laws allow input tax credit on capital goods? Explain the policy as envisaged in the White Paper.

15. Compute the total value of purchases eligible for input tax credit from the following particulars:-

Particulars	Rs.
Inputs purchased from a registered dealer who opts for composition scheme under the provisions of the VAT Act	10,000
Inputs purchased for being used in the execution of a works contract	1,00,000
Raw material purchased from unregistered dealers	70,000
High seas purchases of inputs	1,00,000
Goods purchased for sale to other parts of India in the course of inter-State trade or commerce	20,000

16. Who are not eligible for composition scheme?

17. Enumerate the tax rates under VAT.

Solutions

1. (a) Invoice method is the most common and popular method for computing the tax liability under the VAT system. Under this method, tax is imposed at each and every stage of sales on the entire sale value, and the tax paid at the earlier stage is allowed as set-off.

(b) The statement is not correct as VAT is a multi-point tax where tax is imposed at each and every stage of sales and tax paid at the earlier stage is allowed as set-off.

(c) The VAT is a system based simply on transactions. Thus there is no need to go through complicated definitions like sales, sales price, turnover of purchases and turnover of sales. The tax is also broad-based and applicable to all sales in business leaving little room for different interpretations. Thus, this system brings certainty to a great extent.

(d) VAT system has many advantages like no tax evasion, transparency, certainty, reduction in cascading effect of taxes etc. However, since the VAT is imposed or paid at various stages and not at last stage, it increases the working capital requirements and the interest burden on the same. In this way, it may be considered to be non-beneficial as compared to the single stage-last point taxation system though to a certain extent, this rigour can be brought down through input credits on purchases.

(e) The income variant of VAT allows for deductions of purchases of raw materials and components as well as depreciation on capital goods. This method provided incentives to classify purchases as current expenditure to claim set-off. In practice, however, there are many difficulties connected with the specification of any method of measuring depreciation, which basically depends on the life of an asset as well as on the rate of inflation.

(f) VAT is a form of consumption tax. Since the proportion of income spent on consumption is larger for the poor than for the rich, VAT tends to be regressive. However, this weakness is inherent in all the forms of consumption tax. While it may be possible to moderate the distribution impact of VAT by taxing necessities at a lower rate, it is always advisable to moderate the distribution considerations through other programmes rather than concessions or exemptions, which create complications for administration.

(g) A persistent criticism of the VAT form has been that since the tax is payable on the final sale price, the VAT usually increases the prices of the goods. However, VAT does not have any inflationary impact as it merely replaces the existing equal sales tax. It may also be pointed out that with the introduction of VAT, the tax impact on raw material is to be totally eliminated. Therefore, there may not be any increase in the prices.

(h) Out of total consideration paid for purchase of material, the buyer knows the tax component under a VAT system. Thus, the system ensures transparency. This transparency enables the State Government to know as to what is the exact amount of tax coming at each stage. Thus, it is a great aid to the Government while taking decisions with regards to rate of tax etc.

2. (a) Invoice method is the most common and popular method for computing the tax liability under 'VAT' system. Under this method, tax is imposed at each stage of sales on the entire sale value and the tax paid at the earlier stage is allowed as set-off. In other words, out of tax so calculated, tax paid at the earlier stage i.e., at the stage of purchases is set-off, and at every stage the differential tax is being paid. The most important aspect of this method is that at each stage, tax is to be charged separately in the invoice. This method is very popular in western countries. In India also, under the VAT law as introduced in several Sates and Central Excise Law, this method is followed.
This method is also called the 'Tax Credit Method' or 'Voucher Method'.

(b) There are three variants of VAT viz, gross product variant, income variant and consumption variant.
Gross Product Variant: Under this variant, deduction is allowed for tax paid on all inputs excluding capital inputs.
Income Variant: Under this variant, tax paid on non-capital inputs and depreciation on capital inputs is allowed.
Consumption variant: Under this variant, deduction is allowed for tax paid on all business inputs including capital inputs.

(c) The Value Added Tax (VAT) is a multistage tax levied as a proportion of the value added (i.e. sale minus purchase) which is equivalent to wages plus interest, other costs and profits.
In an economy, apart from the manufacturers and final consumers, there would be wholesalers and retailers also. The wholesaler might supply to retailer, and each one of them could supply to the manufacturer and the end consumer. VAT will be collected at each stage, and wherever applicable, the manufacturer or retailer will claim input credit.
Thus, VAT is collected at each stage of production and distribution process, and in principle, its entire burden falls on the final consumer, who does not get any tax credit.
Thus VAT is a broad-based tax covering the value added to each commodity by parties during the various stages of production and distribution.

(d) It is said that VAT is a logical beauty. Under VAT, credit of duty paid is allowed against the liability on the final product manufactured or sold. Therefore, unless proper records are kept in respect of various inputs, it is not possible to claim credit. Hence, suppression of purchases or production will be difficult because it will lead to loss of revenue. A perfect system of VAT will be a perfect chain where tax evasion is difficult.
Further, the greatest advantage of the system is that it does not interfere in the choice of decision for purchases. This is because the system has anti-cascading effect. How much value is added and at what stage it is added in the system of production/distribution is of no consequence. The system is neutral with regard to choice of production technique, as well as business organisation. All other things remaining the same, the issue of tax liability does not vary the decision about the source of purchase. VAT facilitates precise identification and rebate of the tax on purchases and thus ensures that there is no cascading effect of tax. In short, the allocation of resources is left to be decided by the free play of market forces and competition.

(e) Under the VAT system, trust has been reposed on tax payers, as there will be no regular assessment of all VAT returns, but only a few VAT returns will be taken up for scrutiny assessment. In other cases, the return filed by the trader will be accepted. It will not be also seen whether proper records have been maintained by the trader.
As a consequence, a check on compliance becomes essential. Chartered Accountants can ensure tax compliance by:-
(i) helping the client in systematic record keeping;
(ii) helping the client in interpretation of the provisions of VAT law, and
(iii) performing audit of VAT accounts.
(iv) reporting the under-assessment, if any, made by the dealer requiring additional payment or
(v) reporting any excess payment of tax warranting refund to the tax payers.

(f) Under the subtraction method, the tax is charged only on the value added at each stage of the sale of the goods. Since, the total value of goods sold is not taken into account, the question of grant of claim for set-off or tax credit does not arise.
This method is normally applied where the tax is not charged separately. Under this method for imposing tax, 'value added' is simply taken as the difference between sales and purchases.

(g) One of the demerits of VAT is that it increases the working capital requirements and the interest burden. The tax is imposed or paid at various stages and not on last stage only.
It increases the requirement of working capital and also the interest element as compared to single stage-last point taxation system.

3. Computation of invoice value:-

Particulars	Rs.	Rs.
Cost of goods purchased		1,20,000
Add: Expenses	10,000	
Profit margin	15,000	25,000
Product Sale Value		1,45,000
Add: VAT @ 12.5%		18,125
Invoice Value		1,63,125

Computation of amount of tax payable under VAT

VAT charged on sales	18,125
Less: Input credit of VAT paid on purchases @ 12.5% on 1,20,000	15,000

Tax Payable under VAT	3,125

Note: It has been assumed that the purchase price of Rs. 1,20,000 is exclusive of VAT.

4. Computation of VAT payable by Mr. A:-

	Amount (Rs.)
Payment made to manufacturer	2,02,500
Less: VAT paid (2,02,500 x 12.5)/112.5	22,500

Purchase price	1,80,000
Add: Profit margin (10% of Sale Price)	20,000

Sale price before VAT	2,00,000
Add: VAT @ 12.5% on Rs. 2,00,000	25,000
Invoice value after 10% profit margin	2,25,000

VAT charged in invoice	25,000
Less: VAT input credit (2,02,500 x 12.5)/112.5	22,500

VAT payable by Mr. A	2,500
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5. Sales Price of goods:-

Particulars		Rs.
Imported material cost		1,00,000
[Since, this is not a VAT levied inside the State, it will form part of cost of input]		12,500
Add: Cost of local materials	2,25,000	
Less: VAT @12.5%	25,000	

[Since, credit of Rs. 25,000 would be available, it will not be included in cost of input]		2,00,000
Add: Other expenses and profit		87,500
Sales Price of goods		4,00,000
Add: VAT on the above @12.5%		50,000

Invoice value charged by Mr. Goenka to the manufacturer		4,50,000
VAT charged by Mr. Goenka is Rs. 50,000.		-------------

6. In addition method for computing VAT, all the factor payments including profits are aggregated to arrive at the total value addition on which the rate is applied to calculate the tax. This type of calculation is mainly used with income variant of VAT. A drawback of this method is that it does not facilitate matching of invoices for detecting evasion.

7. Chartered Accountants have the following key role to play in proper implementation of VAT:
   i. Record keeping : VAT requires proper record keeping and accounting. Systematic records of input credit and its proper utilisation is necessary for the success of VAT. Chartered Accountants are well equipped to perform such tasks.
   ii. Tax planning : In order to establish an efficient plan for purchases and sales, a careful study of VAT is required. A Chartered Accountant is competent to analyze the impact of various alternatives and choose the most optimum method of purchases and sales in order to minimize the tax impact.
   iii. Negotiations with suppliers to reduce price : VAT credit alters cost structure of goods supplied as inputs. A Chartered Accountant will ensure that the benefit of such cost reduction is passed on by the suppliers to his company. However, if the buyers of his company make the similar demand, he must be ready with full data to resist the claims.
   iv. Handling the audit by departmental officers : There will be audit wing in department and certain percentage of dealers will be taken up for audit every year on scientific basis. Chartered Accountant can ensure proper

record keeping so as to satisfy the departmental auditors. The professional expertise of a Chartered Accountant will help him in effectively replying audit queries and sorting out audit objections.

v. External audit of VAT records : Under VAT system, trust has been reposed on tax payers as there will be no regular assessment of all VAT returns but only few returns will be scrutinized. In other cases, return filed by dealer will be accepted.

Thus, a check on compliance becomes necessary. Chartered Accountants can play a very vital role in ensuring tax compliance by audit of VAT accounts.

8. Computation of invoice value

Particulars	Rs.	Rs.
Cost of goods purchased		2,50,000.00
Add: Expenses	35,000.00	
Profit margin	15,000.00	50,000.00
Product Sale Value		3,00,000.00
Add: VAT @ 4 %		12,000.00
Invoice Value		3,12,000.00

Computation of amount of tax payable under VAT	
VAT charged on sales	12,000.00
Less: Input credit of VAT paid on purchases @ 4% on 2,50,000	10,000.00
Tax Payable under VAT	2,000.00

9. Computation of sale price and VAT payable thereon

	Rs.
Raw material purchased from foreign market (Note – 1)	12,000.00
Add: Raw material purchased from local market (Rs. 20,800 – Rs. 800) (Note – 2)	20,000.00
Raw material purchased from neighbouring state (Note – 3)	7,140.00
Storage, transportation cost and interest	2,500.00
Other manufacturing expenses incurred	600.00
Cost of production	42,240.00
Add: Profit @10% on Rs.42,240	4,224.00
Sale Price	46,464.00
VAT @ 12.5% on sales	5,808.00

Computation of VAT liability:-

	Rs.
VAT on sale price	5,808.00
Less: Set-off of VAT on purchases	
On imports	Nil
On local purchases	800.00
Net VAT payable	5,008.00

Notes:-
1. Since, the duty paid on imports is not a State VAT; it will form part of cost of input.
2. VAT charged by the local suppliers is Rs.800. Since, the credit of this would be available, it shall not be included in the cost of input.
3. Credit/set-off for tax paid on inter-State purchases (inputs) is not allowed.

10. Under VAT system, one can avail input tax credit only under a valid tax invoice. The tax invoice clearly specifies the tax component out of the total consideration paid for purchase of material. Hence, a buyer knows exactly how much VAT has been paid by him at all stages. Thus, the system ensures transparency. This transparency enables the State Government to know as to what is the exact amount of tax coming at each stage. Thus, it is a great aid to the Government while taking decisions with regard to rate of tax etc.

11. VAT has three variants, viz., (a) gross product variant, (b) income variant, and (c) consumption variant. These variants are presented in a schematic diagram given below:

Variants of VAT

Gross Product Variant | Income Variant | Consumption Variant

i. Gross product variant: Tax is levied on all sales and deduction for tax paid on inputs excluding capital inputs is allowed.
ii. Income variant: Tax is levied on all sales with set-off for tax paid on inputs and only depreciation on capital goods.
iii. Consumption variant: Tax is levied on all sales with deduction for tax paid on all business inputs (including capital goods).

Among the three variants of VAT, the consumption variant is most widely used. Reasons for preference of consumption variant:

i. It does not affect decisions regarding investment because the tax on capital goods is also set-off against the VAT liability. Hence, the system is tax neutral in respect of techniques of production (labour or capital-intensive).
ii. The consumption variant is convenient from the point of administrative expediency as it simplifies tax administration by obviating the need to distinguish between purchases of intermediate and capital goods on the one hand and consumption goods on the other hand.

12. Computation of the VAT liability for the month of October 2009:-

	Rs
Inputs purchased within the state	1,70,000
Capital goods used in the manufacture of the taxable goods	50,000
Input tax credit (including capital goods) (Rs. 21,250 + Rs. 6,250)	27,500
Output sold in the month (within the State)	2,00,000
Output tax @ 4%	8,000
VAT liability = Output tax – Input tax credit (Rs.8,000 – Rs.27,500)	Nil
Excess credit carried forward to subsequent period	19,500

13. Under VAT, credit of duty paid is allowed against the liability on the final product manufactured or sold. Therefore, unless proper records are kept in respect of various inputs, it is not possible to claim credit. Hence, suppression of purchases or production will be difficult because it will lead to loss of revenue. A perfect system of VAT will be a perfect chain where tax evasion is difficult.

14. The policy in the White Paper lays down that in relation to capital goods set off will be available to traders and manufacturers. Tax credit on capital goods may be adjusted over a maximum of 36 equal monthly instalments. The States may at their option reduce this number of instalments. The State of Maharashtra has decided to give full input tax credit in the month of purchases only. However, if the capital asset is sold within the period of 36 months proportionate input tax credit will be withdrawn. There will be a negative list for capital goods not eligible for input tax credit.

15. Computation of purchases eligible for input tax credit:-

Particulars	Rupees
Inputs purchased for being used in the execution of a works contract	1,00,000
Goods purchased for sale to other parts of India in the course of inter-State trade or commerce	20,000
Purchases eligible for input tax credit	1,20,000

Note: For the purpose of computation of value of purchases eligible for input tax credit, following have not been included:-
(1) Inputs purchased from a registered dealer who opts for composition scheme under the provisions of the Act of worth Rs. 10,000.
(2) Raw material purchased from unregistered dealers of worth Rs. 70,000.

(3) The inputs imported from outside the territory of India commonly known as high seas purchases of worth Rs.1,00,000.

16. Following are not eligible for composition scheme:-
(i) a manufacturer or a dealer who sells goods in the course of inter-state trade or commerce; or
(ii) a dealer who sells goods in the course of import into or export out of the territory of India.
(iii) a dealer transferring goods outside the State otherwise than by way of sale or for execution of works contract.

17. Tax rates under VAT:
i. Exempted category:- There are about 50 commodities which are legally barred from taxation and items which have social implications.
ii. 4% VAT category:- Under 4% VAT rate category, there are largest number of goods comprising of items of basic necessities, all agricultural and industrial inputs, capital goods and declared goods.
iii. 12.5% category:-The remaining commodities, common for all the States, fall under the general VAT rate of 12.5%.
iv. 1% Category:-The special rate of 1% is meant for precious stones, bullion, gold and silver ornaments etc.
v. Non-VAT goods:- Petrol, diesel, ATF, other motor spirit, liquor and lottery tickets are kept outside VAT. The States may or may not bring these commodities under VAT laws.

IPCC

Nov. 2009

1. From the following details, compute the total income of Siddhant of Delhi and tax payable for the A.Y.2010-11:

	Rs.
Salary including dearness allowance	3,35,000
Bonus	11,000
Salary of servant provided by the employer	12,000
Rent paid by Siddhant for his accommodation	49,600
Bills paid by the employer for gas, electricity and water provided free of cost at the above flat	11,000

Siddhant was provided with company's car (self-driven) also for personal use and it is not possible to determine expenditure on personal use and all expenses were borne by the employer.

Siddhant purchased a flat in a co-operative housing society for Rs.4,75,000 in April, 1990, which was financed by a loan from Life Insurance Corporation of India of Rs.1,60,000 @ 15% interest, his own savings of Rs.85,000 and a deposit from a nationalized bank for Rs.2,50,000 to whom this flat was given on lease for ten years. The rent payable was Rs.3,500 per month.

The following particulars are relevant:

(a) Municipal taxes paid — Rs.4,300 (per annum)
(b) Society charges for passage lights, watchman's salary — Rs.1,900 (per annum)
(c) Insurance — Rs.860
(d) He earned Rs.2,700 in share speculation business and lost Rs.4,200 in cotton speculation business.
(e) In the year 2003-04, he had gifted Rs.30,000 to his wife and Rs.20,000 to his son who was aged 11. The gifted amounts were advanced to Mr. Rajesh, who was paying interest @ 19% per annum.
(f) Siddhant received a gift of Rs.25,000 each from four friends.
(g) He contributed Rs.5,600 to Public Provident Fund and Rs.4,000 to Unit Linked Insurance Plan.
(h) He received national award for humanitarian work from the Central Government in the form of a land whose fair market value is Rs.5,00,000 as on 31st March, 2010.

2. (a) From the following particulars of Pankaj for the previous year ended 31st March, 2010, compute the income chargeable under the head "Income from other sources":

		Rs.
(i)	Directors fee from a company	10,000
(ii)	Interest on bank deposits	3,000
(iii)	Income from undisclosed source	12,000
(iv)	Winnings from lotteries (Net)	33,936
(v)	Royalty on a book written by him	9,000
(vi)	Lectures in seminars	5,000
(vii)	Interest on loan given to a relative	7,000
(viii)	Interest on debentures of a company (listed in a recognised stock exchange) net of taxes	3,600
(ix)	Interest on Post Office Savings Bank Account	500
(x)	Interest on Government Securities	2,200
(xi)	Interest on Monthly Income Scheme of Post Office	33,000

He paid Rs.1,000 for typing the manuscript of book written by him.

(b) Mr. Raman is a co-owner of a house property alongwith his brother.

	Rs.
Municipal value of the property	1,60,000
Fair rent	1,50,000
Standard rent under the Rent Control Act	1,70,000
Rent received	15,000 p.m.

The loan for the construction of this property is jointly taken and the interest charged by the bank is Rs.25,000, out of which Rs.21,000 has been paid. Interest on the unpaid interest is Rs.450. To repay this loan, Raman and his brother have taken a fresh loan and interest charged on this loan is Rs.5,000. The municipal taxes of Rs.5,100 have been paid by the tenant.

Compute the income from this property chargeable in the hands of Mr. Raman for the A.Y. 2010-11.

(c) Compute the net taxable capital gains of Smt. Megha on the basis of the following information -
A house was purchased on 1.5.1997 for Rs.4,50,000 and was used as a residence by the owner. The owner had contracted to sell this property in June, 2007 for Rs.10 lacs and had received an advance of Rs.70,000 towards sale. The intending purchaser did not proceed with the transaction and the advance was forfeited by the owner. The property was sold in April, 2009 for Rs.15,00,000. The owner, from out of sale proceeds, invested Rs.4 lacs in a new residential house in January, 2010.

3. Mr. Rajat submits the following information for the financial year ending 31st March, 2010. He desires that you should:
(a) Compute the total income and
(b) Ascertain the amount of losses that can be carried forward.

				Rs.
(i)	He has two houses :			
	(a)	House No. I – Income after all statutory deductions		72,000
	(b)	House No. II – Current year loss		(30,000)
(ii)	He has three proprietary businesses :			
	(a)	Textile Business :		
		(i)	Discontinued from 31st October, 2009 - Current year loss	40,000
		(ii)	Brought forward business loss of A.Y.2006-07	95,000
	(b)	Chemical Business :		
		(i)	Discontinued from 1st March, 2008 - hence no profit/loss	Nil
		(ii)	Bad debts allowed in earlier years recovered during this year	35,000
		(iii)	Brought forward business loss of A.Y. 2008-09	50,000
	(c)	Leather Business : Profit for the current year		1,00,000
	(d)	Share of profit in a firm in which he is partner since 2003		16,550
(iii)	(a)	Short-term capital gain		60,000
	(b)	Long-term capital loss		35,000
(iv)	Contribution to LIC towards premium			10,000

4. Answer any three of the following:
(a) Explain the consequences of failure to deduct tax at source and payment of the same to the Government Account under the Income-tax Act, 1961.
(b) What are the circumstances under which the Assessing Officer can make a reference to the Valuation Officer under section 55A of the Income-tax Act, 1961?
(c) Explain the concept of reverse mortgage and discuss its tax implications.
(d) Discuss briefly on carry forward and set off of losses in the case of change in constitution of firm or succession.

5. Answer the following:
(a) Should service tax be paid even, if it is not collected from the client or service receiver?
(b) Mr. Raju is a multiple service provider and files only a single return. State with reasons whether he can do so?
(c) Explain the term "Vocational Training Institute" under the provisions of service tax.
(d) State with reason in brief whether the following statement is true or false with reference to the provisions of service tax:
Mr. Salim, an architect has received the fees of Rs.4,48,500 after the deduction of income-tax of Rs.51,500. Service tax will be payable on Rs.4,48,500.

6. (a) Not relevant now
(b) Answer the following:
(i) Whether export service provided by a service provider is excluded for the purpose of payment of service tax?
(ii) List the documents to be submitted alongwith the first service tax return.
(iii) What is the due date for payment in case of e-payment of service tax?

7. Answer the following:
(a) What are the different rates under VAT system?
(b) Under what circumstances registration can be cancelled under VAT?

(c) Briefly explain the income variant of VAT.

(d) State with reasons in brief whether the following statement is true or false with reference to the provisions of value added tax.
The VAT rate on sale of lottery ticket is 4%.

8. (a) Mr. X, a manufacturer sells goods to Mr. B, a distributor for Rs.2,000 (excluding VAT). Mr. B sells goods to Mr. K, a wholesale dealer for Rs.2,400. The wholesale dealer sells the goods to a retailer for Rs.3,000, who ultimately sells to the consumers for Rs.4,000.
Compute the tax liability, input credit availed and tax payable by the manufacturer, distributor, wholesale dealer and retailer under invoice method assuming VAT rate @ 12.5%.

(b) Answer the following:
(i) What are the different stages of VAT? Can it be said that entire burden falls on the final consumer?
(ii) Discuss filing of return under VAT.
(iii) List six purchases which are not eligible for input tax credit.

Solutions

1. Computation of total income and tax liability of Siddhant for the A.Y. 2010-11

Particulars		Rs.	Rs.
Salary Income			
Salary including dearness allowance			3,35,000
Bonus			11,000
Value of perquisites:			
(i) Salary of servant		12,000	
(ii) Car (Assumed to be of less than 1.6ltrs. cc) (1800 x 12)		21,600	
(iii) Free gas, electricity and water		11,000	44,600
			3,90,600
Income from house property			
Gross Annual Value (GAV) (Rent receivable is taken as GAV in the absence of other information) (3,500 × 12)		42,000	
Less: Municipal taxes paid [See Note 2(i)]		4,300	
Net Annual Value (NAV)		37,700	
Less: Deductions under section 24			
(i) 30% of NAV	11,310		
(ii) Interest on loan from LIC @15% of 1,60,000 [See Note 2(ii)]	24,000	35,310	2,390
Income from speculative business			
Income from share speculation business		2,700	
Less: Loss from cotton speculation business		4,200	
Net Loss		1,500	
Net loss from speculative business has to be carried forward as it cannot be set off against any other head of income.			
(i) Income on account of interest earned from advancing money gifted to his minor son is includible in the hands of Siddhant as per section 64(1A)		3,800	
Less: Exempt under section 10(32)		1,500	
		2,300	
(ii) Interest income earned from advancing money gifted to wife has to be clubbed with the income of the assessee as per section 64(1)		5,700	
(iii) Gift received from four friends (taxable under section 56(2)(vi) as the aggregate amount received during the year exceeds Rs.50,000)		1,00,000	
			1,08,000
Gross Total Income			5,00,990
Less: Deduction under section 80C			
Contribution to Public Provident Fund		5,600	
Unit Linked Insurance Plan		4,000	9,600
Total Income			4,91,390

Particulars	Rs.
Tax on total income	52,278
Add: Education cess@2%	1,045.56
Add: Secondary and higher education cess@1%	522.78
	53,846.34
Tax liability (rounded off)	53,850

Notes:

(1) National Award for humanitarian work given by the Central Government is exempt under section 10(17A) of the Income-tax Act, 1961.

(2) The following assumptions have been made while computing income under the head “Income from house property” -

(i) It is the owner, namely, Mr.Siddhanth, who has paid the municipal taxes;

(ii) The entire loan of Rs.1,60,000 is outstanding as on 31.3.2010; and

(iii) Society charges of Rs.1,900 p.a. is not included in the rent of Rs.3,500 p.m. payable by the tenant. Such charges have been recovered separately from the tenant.

(3) It has been assumed that Siddhant's own flat in a co-operative housing society, which he has rented out to a nationalised bank, is also in Delhi. Therefore, he is not eligible for deduction under section 80GG in respect of rent paid by him for his accommodation in Delhi, since one of the conditions to be satisfied for claiming deduction under section 80GG is that the assessee should not own any residential accommodation in the same place.

2. (a) Computation of income of Pankaj chargeable under the head "Income from other sources" for the A.Y. 2010-11

	Particulars	Rs.	Rs.
1.	Directors' fees		10,000
2.	Interest on bank deposit		3,000
3.	Income from undisclosed source		12,000
4.	Royalty on books written (See Note below)	9,000	
	Less: expenses	1,000	8,000
5.	Lectures in seminars		5,000
6.	Interest on loan given to a relative		7,000
7.	Interest on listed debentures		
	Net Received	3,600	
	Add: T.D.S. @ 10% $\frac{3600 \times 10}{100 + 10}$	400	4,000
8.	Interest on Post Office Savings Bank [exempt under section 10(15)]		---
9.	Interest on Government securities		2,200
10.	Interest on Post Office Monthly Income Scheme		33,000
11.	Winnings from lotteries		
	Net	33,936	
	Add: T.D.S. @ 30% $\frac{33,936 \times 30}{100 + 30}$	14,544	48,480
	Income from Other Sources		1,32,680

Note –

Royalty income would be charged to tax under the head "Income from Other Sources", only if it is not chargeable to tax under the head "Profits and gains of business or profession". This problem has been solved assuming that the same is not taxable under the head "Profits and gains of business or profession" and hence, is chargeable to tax under the head "Income from other sources".

(b) Computation of income from house property of Shri Raman for A.Y. 2010-11

Particulars	Rs.	Rs.
Gross Annual Value (See Note 1 below)		1,80,000
Less: Municipal taxes – paid by the tenant, hence not deductible		Nil
Net Annual Value (NAV)		1,80,000
Less: Deductions under section 24		
(i) 30% of NAV	54,000	
(ii) Interest on housing loan (See Note 2 below)		
Interest on loan taken from bank	25,000	
Interest on fresh loan to repay old loan for this property	5,000	84,000
Income from house property		96,000
50% share taxable in the hands of Shri Raman (See Note 3 below)		48,000

Notes:

1. Computation of Gross Annual Value (GAV)

GAV is the higher of Annual Letting Value (ALV) and actual rent received. ALV is the higher of municipal value and fair rent, but restricted to standard rent.

	Particulars	Rs.	Rs.	Rs.	Rs.
(a)	Municipal value of property	1,60,000			
(b)	Fair rent	1,50,000			
(c)	Higher of (a) and (b)		1,60,000		
(d)	Standard rent		1,70,000		
(e)	Annual Letting Value [lower of (c) and (d)]			1,60,000	
(f)	Actual rent [15,000 x 12]			1,80,000	
(g)	Gross Annual Value [higher of (e) and (f)]				1,80,000

2. Interest on housing loan is allowable as a deduction under section 24 on accrual basis. Further, interest on fresh loan taken to repay old loan is also allowable as deduction. However, interest on unpaid interest is not allowable as deduction under section 24.

3. Section 26 provides that where a house property is owned by two or more persons whose shares are definite and ascertainable, the share of each such person in the income of house property, as computed in accordance with sections 22 to 25, shall be included in his respective total income. In this case, the problem has been solved assuming that Mr. Raman, who is a co-owner of the house property, has 50% share in the house property.

(c) Computation of net taxable capital gains of Smt. Megha for the A.Y.2010-11

Particulars Rs.	
Full value of consideration	15,00,000
Less: Expenses on transfer	Nil
Net sale consideration	15,00,000
Less: Indexed cost of acquisition (See Working note below)	725,558.91
Long term capital gain (since the period of holding is more than 3 years)	7,74,441.09
Less: Exemption under section 54 (See Note 1 below)	4,00,000
Taxable long term capital gain	3,74,441.09

Working Note:

Indexed cost of acquisition		
Purchase price		4,50,000
Less: Amount forfeited (See Note 2 below)		70,000
Cost of acquisition		3,80,000
Indexed cost of acquisition	$\frac{\text{Rs.}3,80,000 \times 632}{331}$	7,25,558.91

632 is the cost inflation index for F.Y. 2009-10 and 331 is the cost inflation index for F.Y.1997-98.

Notes:

(1) Exemption under section 54 is available if a new residential house is purchased within two years from the date of transfer of existing residential house, which is a long-term capital asset. Since the cost of new residential house is less than the long-term capital gains, capital gains to the extent of cost of new house, i.e., Rs.4 lakh, is exempt under section 54.

(2) As per section 51, any advance received and retained by the assessee, as a result of earlier negotiations for sale of the asset, shall be deducted from the purchase price for computing the cost of acquisition of the asset.

3. Computation of total income of Mr. Rajat for the A.Y. 2010-11

	Particulars	Rs.	Rs.
1.	Income from house property		
	House No.1	72,000	
	House No.2	(-) 30,000	42,000
2.	Profits and gains of business or profession		

Profit from leather business	1,00,000	
Less: Current year loss of textile business	(-) 40,000	
	60,000	
Bad debts recovered taxable under section 41(4)	35,000	
	95,000	
Less: Brought forward business loss of textile business for A.Y.2006-07 set off against the business income of current year	95,000	Nil
3. Capital Gains		
Short-term capital gain		60,000
Gross Total Income		1,02,000
Less: Deduction under chapter VI-A		
Under section 80C – LIC premium paid		10,000
Total Income		92,000

Statement of losses to be carried forward to A.Y. 2010-11

Particulars	Rs.
Business loss of A.Y. 2008-09 to be carried forward under section 72	50,000
Long term capital loss of A.Y. 2010-11 to be carried forward under section 74	35,000

Notes:

(1) Share of profit from firm of Rs.16,550 is exempt under section 10(2A).

(2) Long-term capital loss cannot be set-off against short-term capital gains. Therefore, it has to be carried forward to the next year to be set-off against long-term capital gains of that year.

4. (a) Consequences of failure to deduct and pay the tax [Section 201]

(i) The following persons shall be deemed to be an assessee in default if they do not deduct the whole or any part of the tax or after deducting fails to pay the tax –

(1) Any person including the principal officer of a company who is required to deduct any sum in accordance with the provisions of Act, and

(2) An employer paying tax on non-monetary perquisites under section 192(1A).

(ii) No penalty shall be charged from such person unless the Assessing Officer is satisfied that such person has failed to deduct and pay the tax without good and sufficient reasons.

(iii) Such person shall also be liable to pay simple interest@1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid and such interest should be paid before furnishing the quarterly statements.

(iv) Where the tax has not been paid after it is deducted, the amount of the tax together with the amount of simple interest, shall be a charge upon all the assets of the person or the company, as the case may be.

(b) Reference to Valuation Officer With a view to ascertaining the fair market value of a capital asset, the Assessing Officer may refer valuation of the capital asset to the Valuation Officer, in the following cases:

(1) Where the value of the asset, as claimed by the assessee, is in accordance with the estimate made by the registered valuer but the Assessing Officer is of the opinion that the value so claimed is less than its fair market value;

(2) Where the Assessing Officer is of the opinion that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than 15% of the value of the asset as so claimed or by more than Rs.25,000.

(3) Where the Assessing Officer is of opinion that, having regard to the nature of the asset and relevant circumstances, it is necessary to make a reference to the Valuation Officer.

(c) Reverse Mortgage Scheme and its tax implications

(i) The Reverse Mortgage 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 citizens can continue to live in the house and receive regular income, without the botheration of having to pay back the loan.

(ii) 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.

(iii) Clause (xvi) of section 47 clarifies 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.

(iv) Clause (43) of section 10 provides that any amount received by an individual as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from income-tax.

(d) Carry forward and set off of losses in cases of change in constitution of firm or on succession [Section 78]

(i) Where there is a change in the constitution of firm, so much of the loss proportionate to the share of a retired or deceased partner remaining unabsorbed, shall not be allowed to be carried forward by the firm.

(ii) Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, such other person shall not be allowed to carry forward and set off against his income, any loss incurred by the predecessor.

(iii) Where there is a succession by inheritance, the legal heirs (assessable as BOI) are entitled to set off the business loss of the predecessor. Such carry forward and set off is possible even if the legal heirs constitute themselves as partnership firm. In such a case, the firm can carry forward and set off the business loss of the predecessor.

5. (a) Section 68 of the Finance Act, 1994 casts the liability to pay service tax upon the service provider or upon the person liable to pay service tax as per Rule 2(1)(d) of the Service Tax Rules, 1994. This liability is not contingent upon the service provider realizing or charging the service tax at the prevailing rate. The statutory liability does not get extinguished if the service provider fails to realize or charge the service tax from the service receiver.

(b) Yes, Mr. Raju can file a single return though he is a multiple service provider. He has to furnish the details in each of the columns of the Form No.ST-3 separately for each of the taxable services rendered by him. Thus, instead of showing a lump sum figure for all the services together, service-wise details should be provided in the return.

(c) Notification No. 24/2004 ST dated 10.09.2004 defines a vocational training institute to mean a commercial training or coaching centre which provides vocational coaching or training that impart skills to enable the trainee to seek employment or undertake selfemployment, directly after such training or coaching.

Vocational training institute (w.e.f. 27/02/2010) means an Industrial Training Institute or an Industrial Training Centre affiliated to the National Council for Vocational Training, offering courses in designated trades as notified under the Apprentices Act, 1961

(d) False. As the charge of the service tax is on the services provided, the gross receipts are to be considered for tax calculation. Hence, service tax will be payable on the gross fee of Rs.5 lakh.

6. (a) Not relevant now

(b) (i) Yes. Export of services is exempt from payment of service tax if services are exported in accordance with the Export of Services Rules, 2005. However, service provided to an exporter is not excluded for the purpose of payment of service tax. The person liable to pay service tax under sub-section (1) or sub-section (2) of section 68 shall pay service tax as applicable on the specified services provided to the exporter and used for export of such goods, and such person shall not be eligible to claim exemption for the specified services.

(ii) Every assessee shall furnish to the Superintendent of Central Excise at the time of filing the return for the first time, a list of following documents in duplicate:

(a) all the records prepared or maintained by the assessee for accounting of transactions in regard to

(i) providing of any service, whether taxable or exempted;

(ii) receipt or procurement of input services and payment for them;

(iii) receipt, purchase, manufacture, storage, sale or delivery, as the case may be, in regard to inputs and capital goods;

(iv) other activities such as manufacture and sale of goods, if any.

(b) all other financial records maintained by him in the normal course of business.

(iii) As per rule 6(1) of the Service Tax Rules, 1994, where service-tax is paid electronically through internet banking, the service tax on value of taxable service received:

(i) by an individual or a proprietary firm or a partnership firm during any quarter is payable by the 6th day of the month immediately following the said quarter, and (ii) in other cases (company & HUF) during any calendar month is payable by the 6th day of the month immediately following the said calendar month.

The due date for the month of March is 31st March.

7. (a) To reduce the multiplicity of sales-tax rates between various States in India, it was recommended that VAT will have broadly the following tax rates:

(a) Zero rate for tax free goods,
(b) 1% on precious or semi-precious metals i.e., bullion etc.
(c) 4% on items of basic necessities, agricultural and industrial inputs, capital goods and declared goods
(d) 20% on non VAT goods
(e) 12.5% on other goods.

(b) VAT registration can be cancelled on:

(i) discontinuance of business; or
(ii) disposal of business; or
(iii) transfer of business to new location; or
(iv) annual turnover falling below the specified limit.

(c) The income variant of VAT allows deduction of purchases of raw material and components as well as depreciation of capital goods. This method provides incentive to classify purchases as current expenditure to claim set off. In practice, however, there are many difficulties connected with the specification of any method of measuring depreciation, which basically depends on the life of an asset as well as on the rate of inflation.

(d) False. Since VAT is not applicable on sale of lottery tickets, the question of rate does not arise.

8. (a) Computation of tax liability, input tax credit availed and tax payable under invoice method

Stage	Particulars	VAT Liability	Less VAT Credit	Tax payable to Government
1.	X, the manufacturer, sells to B, the distributor, for Rs.2,000. Therefore his tax liability will be Rs.250 (Rs.2,000 @ 12.5%). He will not have any VAT credit.	250	-	250
2.	B, the distributor, sells goods to K, the wholesale dealer, for Rs.2,400. B's tax liability will be Rs.300 (Rs.2,400 @ 12.5%). He will get set off of tax paid at earlier stage of Rs.250. Thus, tax payable by him will be Rs.50.	300	250	50
3.	K, the wholesaler dealer, sells to retailer at Rs.3,000. K's tax liability will be Rs.375 (Rs.3,000 @ 12.5%). He will get set off of tax paid at earlier stage of Rs.300. Thus, tax payable by him will be Rs.75.	375	300	75
4.	Retailer sells goods to consumers at Rs.4,000. His tax liability will be Rs.500 (Rs.4,000 @ 12.5%). He will get set off of tax paid at earlier stage of Rs.375. Thus, tax payable by him will be Rs.125/-	500	375	125

Note: It has been assumed that sales made by the distributor, the wholesale dealer and the retailer are also exclusive of VAT.

(b) (i) The Value Added Tax (VAT) is a multistage tax levied as a proportion of the value added (i.e. sale minus purchase) which is equivalent to wages plus interest, other costs and profits. In an economy, apart from the manufacturers and final consumers, there would be wholesalers and retailers also. The wholesaler might supply to retailer and each one of them could supply to the manufacturer and end consumer. VAT will be collected at each stage, and wherever applicable, the manufacturer or retailer will claim input credit. Thus, VAT is collected at each stage of production and distribution process, and in principle, its entire burden falls on the final consumer, who does not get any tax credit. Thus, VAT is a broad based tax covering the value added to each commodity by parties during the various stages of production and distribution.

(ii) VAT returns are to be filed monthly/quarterly/annually along with tax paid challans according to the provisions of the State Acts. They should contain details of output tax liability, value of input tax credit and payment of VAT and should be filed within the prescribed time schedule. In case of any mistakes, revised returns may be filed. The returns will be checked and any deficiency in payment of tax may have to be made good.

Filing of returns are designed with a view:

(I) to reduce cost of compliance
(II) to encourage businesses to comply with their obligations; and
(III) to ensure efficient processing of data.

(iii) The following purchases are not eligible for input tax credit:

(a) purchases from unregistered dealers;
(b) purchases from registered dealers who opt for composition scheme under the provisions of the Act;
(c) purchase of goods as may be notified by the State Government;
(d) purchase of goods where the purchase invoice is not available with the claimant or there is evidence that the same has not been issued by the registered selling dealer from whom the goods are purported to have been purchased;
(e) purchase of goods where invoice does not show the amount of tax separately;
(f) purchase of goods which are being utilized in the manufacture of exempted goods;
(g) purchase of goods used for personal use or consumption or provided free of charge as gifts;
(h) goods imported from other States;
(i) goods imported from outside the territory of India;
(j) goods in stock which have suffered tax under an earlier Act but under VAT Act they are covered under exempted items.

Out of the above, any six purchases may be mentioned in the answer.

Price: ₹ 100/-