Attention C.A. Pcc & Ipcc Students

Solved Ans. TAX _Pcc_Nov.10

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(No.1 Institute of Jharkhand)

C.A. CPT, PCC, IPCC & FINAL

Solved Ans Prepared by : C.A Arvind Kumar Jain
and Team Members

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Contact us

Head Office: - 2nd Floor, Dey Complex, Outer Circle Road, Near – IIFT, Bistupur, Jamshedpur – 831001. ☏: 0657-2317323, : 09431187218

Branch Office : 1st Floor, Jaiswal Complex, Near - Mansorowar Hotel, Sakchi- 831001
☏ : 0657- 2940016 : 09031765469

Roll No. ....

Total No. of Questions - 7 Total No. of Printed Pages - 11

Time Allowed - 3 Hours Maximum Marks - 100

Pcc _ Income Tax

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

Question No. **1** is compulsory.
Attempt any **five** questions from the remaining **six** questions.
Working notes should form part of the answer.
Wherever necessary suitable assumptions may be made by the candidates.

Qn 1. (a) Mr. Ram an Indian citizen left India on 22.09.2010 for the first time to work as an officer of a company in Germany.

Determine the residential status of Ram for the assessment year 2011-12 and explain the conditions to be fulfilled for the same under the Income-tax Act, 1961. **[4 x 5 = 20 marks]**

(b) Mrs. Kasturi transferred her immovable property to ABC Co. Ltd. subject to a condition that out of the rental income, a sum of Rs. 36,000 per annum shall be utilised for the benefit of her son's wife.

Mrs. Kasturi claims that the amount of Rs. 36,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property.

State with reasons whether the contention of Mrs. Kasturi is valid in law ?

(c) Determine the total income of Mr. Chand from the following information for the Asst. Year 2011-12.

		Rs.
(i)	Interest received on enhanced compensation (It relates to transfer of land in the financial year 2004-05. Out of the above Rs. 65,000 relates to financial year 2009-10 and the balance relate to preceding years)	4,00,000
(ii)	Business loss relating to discontinued business of the asst. year 2004-05 brought forward and eligible for set off.	1,50,000
(iii)	Current year business income (i.e. financial year 2009-10) (Computed)	1,10,000

(d) Compute net VAT liability of Rish' from the following information :

Particulars	**Rs.**	**Rs.**
Raw materials from foreign market		1,20,000
(includes duty paid on imports @ 20%)		
Raw material purchased from local market		
Cost of raw material	2,50,000	
Add : Excise duty @ 16%	40,000	
	2,90,000	
Add : VAT @ 4%	11,600	3,01,600
Raw material purchased from neighouring State		
(Includes CST @ 2%)		51,000
Storage and transportation cost		9,000
Manufacturing expenses		30,000

Rishi sold goods to Madan and earned profit @ 12% on the cost of production. VAT rate on sale of such goods is 4%.

Qn 2. (a) Mr. Raju, a manufacturer at Chennai, gives the following Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2011. **[12 marks]**

Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2011

	Rs.		Rs.
To Opening Stock	71,000	By Sales	32,00,000
To Purchase of Raw materials	16,99,000		
To Manufacturing Wages & Expenses	5,70,000	By Closing stock	2,00,000
To Gross Profit	10,60,000		

	34,00,000		34,00,000
To Administrative charges	3,26,000	By Gross Profit	10,60,000
To State VAT penalty paid	5,000	By Dividend from domestic companies	15,000
To State VAT paid	1,10,000	By Income from agriculture (net)	1,80,000
To General Expenses	54,000		
To Interest to Bank (On machinery term loan)	60,000		
To Depreciation	2,00,000		
To Net Profit	5,00,000		
	12,55,000		12,55.000

Following are the further information relating to the financial year 201-11.

(i) Administrative charges include Rs. 46,000 paid as commission to brother of the assessee. The commission amount at the market rate is Rs. 36,000.

(ii) The assessee paid Rs. 33,000 in cash to a transport carrier on 29.12.2010. This amount is included in manufacturing expenses. (Assume that the provisions relating to TDS are not applicable to this payment.)

(iii) A sum of Rs. 4,000 per month was paid as salary to a staff throughout the year and this has not been recorded in the books of account.

(iv) Bank term loan interest actually paid upto 31.03.2011 was Rs. 20,000 and the balance was paid in October 2011

(v) Housing loan principal repaid during the year was Rs. 50,000 and it relates to residential properly occupied by him. Interest on housing loan was Rs. 23,000. Housing loan was taken from Canara Bank. These amounts were not dealt with in the Profit and Loss Account given above.

(vi) Depreciation allowable under the Act is to be computed on the basis of following information :

Plant & Machinery (Depreciation rate @ 15%)	Rs.
Opening WDV (as on 01 .04.2009)	12,00,000
Additions during the year (used for more than 180 days)	2,00,000
Total additions during the year	4,00,000

Note : Ignore additional depreciation U/s. 32(iia)

Compute the total income of Mr. Raju for the assessment year 2011-12.

Note : Ignore application of Sec. 14A for disallowance of expenditures in respect of any exempt income.

(b) Prasad & Co. seeks your advise for the following in the context of service tax : **[4 marks]**

(i) It wants to file revised service tax return even though the original return was filed belatedly.

(ii) It will pay service tax only on actual receipt of money from the customers though it maintained its hooks of account on mercantile basis.

Your answer must be with reasons.

Qn 3 (a) Two brothers Arun and Bimal are co-owners of a house property with equal share. The property was constructed during the financial year 1998099. The property consists of eight identical units and is situated at Cochin.

During the financial year 2010-11, each co-owner occupied one unit for residence and the balance of six units were let out at a rent of Rs. 12,000 per month per unit. The municipal value of the house property is Rs. 9,00,000 and the municipal taxes are Rs. 20% of municipal value, which were paid during the year. The other expenses were as follows:

	Rs.
(i) Repairs	40,000
(ii) Insurance premium (paid)	15,000
(iii) Interest payable on loan taken for construction of house	3,00,000

One of the let out units remained vacant for four months during the year.

Arun could not occupy his unit for six months as he was transferred to Chennai. He does not own any other house.

The other income of Mr. Arun and Mr. Bimal are Rs. 2,90,000 and Rs. 1,80,000 respectively for the financial year 2010-11.

Compute the income under the head 'Income from House Property and the total income of two brothers for the assessment year 2011-12 **[12 marks]**

(b) ABC & Co. received the following amounts during the half year ended 31-3-2011 **[4 marks]**

	Rs.
(i) For services performed prior to the date of levy of service tax (Assume service tax was levied from a specified date by change of law)	3,50,000
(ii) Advance amount received in March, 2011 (No service was rendered and the amount was refunded to the client in July 2011)	75,000
(iii) For the services rendered to customers, amount reimbursed by the manufacturer of such product (for the period after the imposition of service tax)	50,000
(iv) Amounts realized and on which service tax is payable (excluding the items (i) to (iii) above)	14,26,500
Calculate the service tax liability duly considering the threshold limit.	

Qn 4 (a) Mukesh (aged 55 years) owned a residential house at Nagpur. It was acquired by Mukesh on 10.10.1985 for Rs. 4,00,000. It was sold for Rs. 55,00,000 on 04.11.2010. The State stamp valuation authority fixed the value of the property at Rs. 60,00,000. The assessee paid 2% of the sale consideration as brokerage for the sale of said property.

Mukesh acquired a residential house at Chennai on 10-12-2010 for Rs.15,00,000 and deposited Rs. 10,00,000 on 10-04-2011 in the capital gain bond of Rural Electrification Corporation Ltd (REC). He deposited Rs. 5,00,000 on 06-07-2011 in the Capital Gain Deposit Scheme in a nationalised bank for construction of additional floor on the residential house property acquired at Chennai.

Compute the capital gain chargeable to tax in the hands of Mr. Mukesh for the assessment year 2011-12. Calculate the income-tax payable on the assumption that he has no other income chargeable to tax.

Cost inflation index : Financial year 1985 - 86 = 133
Financial year 2010 - 11= 711 **[7 marks]**

(b) M/s Arora Ltd., submits the following details of expenditure pertaining to the financial year 2010-11.

(i) Payment of professional fees to Mr. Mani Rs. 50,000. Tax not deducted at source.
(ii) Interior works done by Mr. Hari for Rs. 2,00,000 on a contract basis. Payment made in the month of March 2011. Tax deducted in March 2011, was paid on 30.06.2011.
(iii) Factory Rent paid to Mrs. Rao Rs.15,00,000. Tax deducted at source and paid on 01-10-2011
(iv) Interest paid on Fixed Deposits Rs.2,00,000. Tax deducted on 31-12-2010 and paid on 28.09.2011.
(v) Payment made to M/s Green & Co. towards import of Raw Materials Rs.25,00,000. No tax was deducted at source. The supplier Green & Co. is located in London.
Examine the above with reference to allowability of the same in the assessment year 2011-12 under the Income-tax Act, 1961. Your answer must be with reference to Section 40(a) read with relevant tax deduction at source provisions. **[5 marks]**

(c) X & Co., is a service provider. It received Rs.19,80,000 during the financial year 2010-11 after deduction of tax at source under Section 194 J of the Income-tax Act, 1961.
The rate of tax deduction being 10% (i.e. after deduction of Rs. 2,20,000).

(i) Calculate the service tax liability of X & Co.
(ii) Can a multiple service provider use a single challan for payment of service tax for various services rendered by it ?

Qn 5 (a) Mr. Raghu, Marketing Manager of KL Ltd. based at Mumbai furnishes you the following information for the year ended 31-03-2011 : **[8 marks]**

Basic salary	-	Rs. 1,00,000 per month
Dearness allowance	-	Rs. 50,000 per month
Bonus	-	2 Months basic salary
Contribution of employer to Recognised Provident Fund	}	@15%of basic salary plus Dearness allowance

Rent free unfurnished accommodation was provided by the company at Mumbai (accommodation owned by the company).

		Rs.
(i)	Recognised Provident Fund contribution made by Raghu	1,50,000
(ii)	Health insurance premium for his family	20,000
(iii)	Health insurance premium in respect of parents (senior citizens)	28,000
(iv)	Medical expenses of dependent brother with 'severe disability' (covered by Section 2(o) of National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999).	60,000
(v)	Interest on loan taken for education of his son studying B.Com (full-time) in a recognized college.	24,000
(vi)	Interest on loan taken for education of a student for whom Mr. Raghu is the legal guardian for pursuing B.Sc. (Physics) (full-time) in a recognized university.	20,000
Compute the total income of Mr. Raghu for the assessment year 2011-12		

(b) State the conditions for deductibility of bad debt written off under the Income-tax Act, 1961. **[4 marks]**

(c) State how the service tax paid would be adjusted when the service is not provided either wholly or partially ? **[4 marks]**

Qn 6 (a) State with reasons the taxability/deductibility of the following items in the context of Income-tax Act, 1961 :

(i) Agricultural income to a resident of India from a land situated in Malaysia.

(ii) Bad debt written off and allowed in the financial year 2008-09 Rs.50,000 recovered in the financial year 2010-11.

(iii) Allowance received by an employee working in a transport system at Rs.10,000 per month to meet his personal expenditure while in duty. He is not receiving any daily allowance.

(iv) Amount withdrawn from Public Provident Fund as per relevant rules.

(v) Telephone provided at the residence of employee and the bill aggregating to Rs.25,000 paid by the employer Determine the perquisite value taxable in the hands of employee.

(vi) Payment of Rs.50,000 to an electoral trust by an Indian company.

Assume that all the facts given above relate to financial year 2010-11. **[12 marks]**

(b) Raj and Co., a manufacturer of Product 'X' sold its goods to a distributor at Rs.11,250 inclusive of tax. The distributor sold the goods to wholesaler for Rs.13,500. The wholesaler sold the goods to a retailer for Rs.16,875. The retailer sold the goods to consumer at Rs.22,500. All the sales were inclusive of VAT @ 12.5%.

Compute the total VAT payable under the subtraction method. **[4 marks]**

Qn 7. Answer any **four** out of the following : **[4 x 4 = 16 marks]**

(a) Explain the tax treatment of Limited Liability Partnership under the Income-tax Act, 1961.

(b) Sachin received Rs.15,00,000 on 23.01.2011 on transfer of his residential building in a transaction of reverse mortgage under a scheme notified by the Central Government. The building was acquired in March 1992 for Rs. 8,00,000.

Is the amount received on reverse mortgage chargeable to tax in the hands of Sachin under the head 'Capital gains' ?

Cost inflation index for the financial year1991 – 92 = 199

Financial year 2010 – 11 = 711

(c) AB Co. Ltd., allotted 1000 sweat equity shares to Sri Chand in June 2010. The shares were allotted at Rs. 200 per share as against the fair market value of Rs.300 per share on the date of exercise of option by the allottee viz. Sri Chand. The fair market value was computed in accordance with the method prescribed under the Act.

(i) What is the perquisite value of sweat equity shares allotted to Sri Chand ?

(ii) In the case of subsequent sale of those shares by Sri Chand, what would be the cost of acquisition of those sweat equity shares ?

(d) Discuss briefly on carry forward and set off of losses in the case of change in constitution of firm or on succession under Section 78 of the Income-tax Act, 1961.

(e) List out the merits of VAT.

ANSWER Pcc Tax

Ans. 1 (a) Determination of residential status of Mr. Ram: Section 6(1) and Explanation to Section 6(1)
An individual is a resident if he satisfies any one of the following two basic conditions:
1) If he stays in India for the period of one hundred and eighty two days or more in a previous year **OR**
2) If he stays in India for sixty days or more in a previous year **AND** has been in India for three hundred and sixty five days or more during four immediately preceding previous years relevant to the previous years.

There is an exception for the condition (b) above.

In case of an individual who is a citizen of India and
1) leaves India for the purpose of employment outside India or
2) leaves India as a member of a crew of an Indian ship
then the second basic condition is not be checked. An individual is resident only if his stay in India during the PY is one hundred and eighty two days or more.

Total Stay in India of Mr. Ram for A/Y 2010-11
April – 30 days
May – 31 days
June – 30 days
July – 31 days
August – 31 days
September – 22 day
Total Stay 175 (i.e. less than 182 days)

Since Mr. Ram is an Indian citizen. During the previous year he is employed by company in India. However to work as an officer of employer company went to Germany and leaves India on 22-09-2010. This in his first foreign trip. During the previous year 2010-11, he is in India for 175 days. As he is an Indian citizen and leaves India for employment purposes, he can become resident in India only if he is in India only if he is in India for at least 182 days. Since he is in India only for 175 days, he will be non-resident in India for the previous year 2010-11 [i.e. A/Y 2011-12]

Ans. 1 (b) Income from assets transferred to son's wife [Sec. 64(1)(vi)]
Transfer of son's wife [Sec. 64(1) (vi)]
If an individual transfers his asset (directly or **indirectly**) to son's wife without adequate consideration then income from such asset shall be clubbed in hands of that individual.

The relationship of father/mother in law and son's wife must subsist as on the date of transfer as well on the date of accrual of income.
Conclusion : According to above provision, the amount of Rs.36,000 should be clubbed in the hands of Mrs. Kasturi. It does not matter whether she owned the property or not. Hence contention of Mrs. Kasturi is wrong.

Ans. 1 (c) Determination of total income of Mr. chand for A/y 2011-12

Particulars		**Rs. Amount**
(i) Income from business & profession	110000	
Less : B/F loss from discontinued business	110000	NIL
(ii) Income from other sources		
Income from other sources	400000	
Less : Exempt U/s 57 – (50% of amount received)	200000	200000
Gross Total Income		200000
Less : Deduction u/s 80C to 80U		Nil
Taxable Income		200000

Note 1 – Notwithstanding anything to the contrary contained in sec.145 interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to the income of year in which it is received. and taxable under the head Income from other sources [Inserted by finance Act 2009]

Ans. 1 (d) Computation of Selling Price

Raw materials from foreign market	120000
Cost of raw material (local market)	290000
Inter state purchase of raw material (including CST)	51000
Storage and transpiration cost	9000
Manufacturing expenses	30000
Cost of production	500000
(+) Profit mark up @ 12%	60000
Sales	560000

Computation of VAT liability

VAT Collected on Sales [560000 x 4%]		22400
(-) Input VAT credit		11600
	VAT payable	10800

Ans. 2 (a) Computation of total Income of Mr. Raju for A/Y 2011-12

1)Income from PGBP

	Rs.	Rs.	Rs.
Net profit as per books of account		500000	
(+) Items to beaded back as per - Income Tax Act 1961			
Administrative charges [46000 – 36000]	10000		
State VAT penalty paid	5000		
State VAT paid	--		
Bank term loan not paid this year	40000		
Depreciation as per accounts	200000	255000	
(-) Salary paid to staff not recorded in books of a/c [4000x12]		48000	
(-) Depreciation as per I. Tax [1400000 x 15% + 200000 x 7.5%]		225000	
(-) Income from agriculture		180000	
(-) Dividend from domestic companies		15000	287000

2) Income from other Sources

Agriculture income	180000		
Less: Exempt u/s 10(1)	180000	NIL	
Dividend income from Domestic Co.	15000		
(-) Exempt u/s 10 (34)	15000	NIL	Nil
3) Income from house property			
Self occupied property			
NAV		NIL	
(-) Interest on loan taken		23000	(23000)
			264000
Less : Deduction u/s 80 c housing loan repaid			(50000)
Total Income			214000

Ans. 2 (b) (i) Rule 7 B of service tax Rules is inserted with effect from March 1, 2007. If allows the assessee to rectify mistakes and file a revise return inform ST-3, in triplicate within 90 days from the date of filing the original return but the original return does not include belated return. Hence Prasad and Co. cannot file a revise return if the original return was filed belatedly.

(ii) Though the service provider changes service tax on the amount of bill raised on his client, service tax is payable to the government on the amount actually received towards value of taxable services. It is thus, not payable an amount charged in the bills/invoice but on amounts actually received. Hence Prasad and company is correct in his view to pay service tax only on actual receipt of money from the customer. It doesn't affect the validity of above provision that it maintained its books of account on mercantile basis.

Ans. 3 (a) **Income from House Property**

Amount Rs.

Particulars	**Self occupied 2 units**	**Let out 6 units**
Municipal value	225000	675000
Actual rent received (864000 – 48000)	--	816000
GAV (whichever is higher)	--	816000
(-) Municipal tax @ 20%	-----------------	135000
NAV	NIL	681000
(-) Statutory deduction Under Section 24		

30% of NAV	--	204300
Interest on loan taken $(3000000 \times \frac{2}{8}) = 75000$		
but restricted to 30,000 x 2	60000	---
$(300000 \times \frac{6}{8})$	---	225000
	(60000)	251700

Hence income from House Property = (60000) + 251700
= 191700 Rs.

Income from House Property of Arun and Bimal is equal.

Computation of Total Income of two Brothers for the A/Y 2011 – 12

Particulars	**Arun**	**Bimal**
I/H/P	95850	95850
I/O/S	290000	180000
Total Income	385850	275850

Ans. 3 (b) Computation of service tax liability of ABC & Co.

Particulars	**Amount Rs.**
i) For service performed prior to the date of levy of service tax (Note 1)	Nil
ii) Advance Amount received for which no service is rendered	75000
iii) Free services rendered to customers	50000
iv) Amount Realized and on which service tax is payable	1426500
Amount on which service tax is payable	1551500
(-) Exemption to 55 P	1000000
	551500

Service tax liability = 551500 x 10.3%
= Rs. 56805

Note 1 - When advance payment is received for service which is non taxable at the time the receipt of payment but becomes taxable during the course of provision of service, the advance received is apportioned between the two periods. But let us assume that whole of payment is received when the service is not taxable.

Ans 4 (a) Computation of Capital gain of Mukesh for A/Y 2011-12

	Rs.	**Rs.**
Sale Consideration		6000000
[U/s 50 (c)		
Actual sale consideration	5500000	
Or value assessed by Stamp valuation authority	6000000	
whichever is higher i.e.	6000000]	
(-) 2% Brokerage charge [5500000 x 2%]		110000
Net Sale consideration		5890000
(-) Indexed Cost of acquisition $\left(400000 \times \frac{711}{133}\right)$		2138346
LTCG		3751654
(-) Exemption U/s 54 EC (Bond of RECI within 6 month)		1000000
(-) Deposit in capital gain a/c u/s 54		2000000
Taxable Capital Gain		751654

Ans. 4 (b) **<u>Allow ability of expenditure for the A/Y 2011-12 of M/s Arun U/s 40 (a)</u>**

<u>Tax deduction at source for payment of interest, royalty etc outside India</u> **<u>Section 40(a) (i)</u>**

As per Income tax Act.1961 allow ability of expenses are as under :-

(i) Payment of professional fees to Mr. Mani Rs.50,000 is not allowed i.e. should not be debited to P & L in the A/Y 2011-12. Since no TDS has been done.
(ii) Payment for the interior work: Rs. 2,00,000 of the payment to Mr. Hari shall be allowed to be debited to PL account u/s 40(a) since TDS has been done in March for which the payment should have been made on or before the due date of filling ITR and the payment has been made on 30/6/2011 i.e before the due date.
(iii) Factory rent: Factory rent shall not be allowed to be debited to PL account u/s 40(a) since TDS has been done but not deposited till the due date of filing ITR.
(iv) Interest paid Rs.200000 is not allowed in A/Y 2011-12. Since TDS is paid in subsequent year after the expiry of time allowed u/s 200 (1)
(v) Since TDS is not deducted, hence deduction is not allowed.

Ans. 4 (c) (i) Service tax on gross amount: Service tax is charged on the gross amount and not on the net amount of remuneration. Therefore service tax shall be charged on Rs. 22,00,000 and not on Rs. 19,80,000.

(i) <u>Service Tax liability of X & Co.</u>

Amount received for service	22,00,000
Provision (1980000 + 220000)	
Service Tax liability @ 10.3 %	<u>2,26,6000</u>

(ii) Yes, a multiple service provider can use a single challan for payment of service tax for various service rendered by it. As per rule 6(2) the service provider shall deposit the service tax liable to be paid by him with the bank designated by the Central Board of Excise and Customs for this purpose in Form GAR-7 (general accounting receipt) or in any other manner prescribed by the Central Board of Excise and Customs.

Ans. 5 (a) Computation of total income of Mr. Raghu for A/Y 2011-12

		Rs.
Basic Salary (100000 x 12)		1200000
Dearness allowance (50000 x 12)		600000
Bonus (2 x 100000)		200000
Contribution of employee to RPF		
[1800000 x 15%]	270000	
Less : Exemption 12% of salary	<u>144000</u>	126000
Rent Furnished Accommodation		
[15% of 1200000 + 200000]		210000
		2336000

(-) Deduction u/s 80C – 80U

Health insurance premium for his family [80D]	15000
[Rs. 20000 but respected to 15000]	
Health Insurance premium in respect of parents	20000
[Rs. 28000 but restricted to 20000[[80D]	
Medical expenses of dependent brother with serve disability [Sec. 80 DD]	100000
Interest on loan taken for education of his son for full time course [80E]	24000
Interest on loan taken for education of students for whom Mr. Raghu is a	
legal guardian for pursuing full time courses [80E]	20000
Contribution to RPF (U/s 80C) Rs.150000 but restricted to 100000	<u>100000</u>
Taxable Income	<u>2057000</u>

Ans. 5 (b) DEDUCTIONS IN RELATION TO BAD DEBTS AND PROVISION FOR BAD & DOUBTFUL EBTS [Section 36(1)(vii)/(viia) and Section 36(2)]:

Deduction in respect of bad debts [Section 36(1)(vii) and 36(2)]: Bad debts written off as irrecoverable in the accounts (P&L a/c) of the assessee are deductible. However, no deduction is allowed for any provision for bad and doubtful debts. This deduction is allowed subject to the following conditions -

(a) There must be a debt and the debt must be incidental to the business or profession of the assessee. Thus, loan advanced by a firm of solicitors to a company, in whose formation it acted as legal advisor, is not deductible on its becoming irrecoverable because that is not a part of the profession of a solicitor and such debt is not revenue in nature.

(b) Such debt must have been taken into account in computing the income of the assessee of previous year in which it is written off or of an earlier previous year; or it represents money lent in ordinary course of banking or money lending business carried on by assessee.

Ans. 5 (c) Excessive payment of service tax

- According to service tax rule 6(3) where an service provider has paid service tax to the Central Government on service, which is not so provided by him the service provider may adjust the excess service tax so paid by him against his future service tax liability.
- This is allowed only if the service provider has refunded the service tax to the person from whom it was received.
- The service provider will have to submit documentary evidence of such adjustment at the time of filing of service tax return in form ST-3.
- This adjustment shall be done on the pro-rata basis over the future period.
- It has been provided that service provider making quarterly payment can adjust excess service tax in 2 installments at the time of each relevant quarterly payment or 6 installments at the time of each relevant monthly payment as the case may be.
- Such excess amount can be adjusted to the maximum of Rs. 1,00,000.

Ans. 6 (a) (i) Any income outside India for a resident in India is taxable in the hands of such assessee whether it is agricultural income or otherwise. Hence agricultural income to a resident of India from a land situated in Malysia is chargeable to tax as the income from other sources.

(ii) Sec. 41 (4): In case any amount allowed as bad debts is ultimately recovered, the following sum shall be chargeable to tax whether or not business is in existence in that previous year –

Amount recovered on such debt – [Actual amount of bad debt – Amount deducted u/s 36 (1) (vii)]

Hence, Bad debt written off and allowed in F/y 2008-09 of Rs.50000 recovered in financial year 2010-11 is fully taxable.

(iii) Sec. [10 (14) (ii)] :Allowance granted to employees of transport system to meet personal expenditure during his duty, provided he is not is receipt of daily allowances.

<u>Extent of Exemption</u> --

Lower of (a) 70% of such allowances i.e. Rs. 84000
(b) Rs. 6000 per month i.e. Rs. 72000

Now, As per above provision, Rs.6000 per month is allowed as exemption i.e. 72000 and remaining amount is taxable.

(iv) Amount with drawn from public provident fund shall be fully exempt from tax u/s 10(11)

(v) Facility of telephone or reimbursement of telephone expenses are not taxable perqs for employees under rule 3(8)

(vi) <u>Sec. 80GGB</u>

While computing the total income of an assessee any sum contributed during p/y to any political party or electoral trust shall qualify for deduction. Hence as per question, Rs.500000 is fully deductible.

Ans. 6 (b) Subtraction Method

<u>VAT Chart</u>

Particulars	Sale Price (inclusive of VAT)	Purchase Price (Inclusive of VAT)	Value added (Inclusive of VAT)	VAT * (on value added)
Raj and Co.	11250	--	11250	1250
Distributor	13500	11250	2250	250
Wholesaler	16875	13500	3375	375
Retailer	22500	16875	5625	625

$$* \text{ VAT on value added} = \text{Value added inclusive of VAT} \times \frac{12.5}{112.5}$$

Ans. 7 (a) Limited Liability Partnership Firm:

- Partnership firm shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008. Thus, a limited liability partnership (LLP) and a general partnership will be accorded the same tax treatment.
- In case of LLP the rate of tax is 30% (on incomes other than LTCG and lottery incomes etc.) and education cess will be imposed.

- Provisions relating to interest and remuneration to partners u/s 40(b) will apply to an LLP, while provisions applicable to companies such as MAT will not apply to an LLP.
- Under the substituted Section 44AD, an LLP is not an eligible assessee under the scheme of presumptive taxation.
- There is no specific provision for exemption from taxation on conversion of a company into an LLP. Similarly, there is also no specific provision for exemption from taxation when a General Partnership is converted into an LLP. However, for the latter case of conversion, the Explanatory Memorandum clarifies that since a General Partnership and an LLP are considered equivalent, conversion of a General Partnership into an LLP will be tax neutral if the rights and obligations of the partners remain the same and there is no transfer of assets or liabilities.
- Under Section 140 return of income of an LLP is to be signed by a designated partner. However, if for any unavoidable reason designated partner con not sign or where there is no designated partner, any partner may sign the return.
- Under new Section 167C, each partner of an LLP is jointly and severally liable for tax due from an LLP if it con not be recovered from the LLP unless he proves that the non recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the LLP.

Ans. 7 (b) As per the amendment by the finance Act 2008, the mortgage of the property shall not be regarded as the transfer as per sec. 47 (xvi) of the Income tax act and therefore shall not be liable to capital gains. Hence as per question amount received on reverse mortgage is not chargeable to tax in the hands of sachine under head capital gain.

Ans 7 (c) (i) The fair market value of shares and securities after subtracting amount charged from employee shall be taxable perquisite in the hands of all employees.

∴ Hence perquisite value of surat equity shares allotted to shri chand = (300 – 200) x 1000
= Rs. 100000

(ii) In case of subsequent sale of those shares by shri chand. The cost of acquisition of those sweat equity shares shall be taken as the FMV of share i.e. Rs.300/- per share
= 1000 x 300
= Rs. 300000

Ans. 7 (d) <u>Carry forward and set off of losses in case of change in constitution of firm or on succession [Sec. 78]</u>

Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.

As per sec.78(1), in case of death or retirement of partner (i.e. change in the constitution of a firm), share of losses of the outgoing partner cannot be carry forward.

<u>Example</u>

ABC are partners sharing Profit or loss in the ratio equally. It had a brought forward business loss of Rs.3 lacs for the year 08-09. Later A retired then his proportionate share of loss i.e. 1 lac cannot be carry-forward.

However, above provision shall not be applicable to Unabsorbed depreciation i.e. unabsorbed depreciation can be carry-forward.

Ans. 7 (e) VAT structure is superior to the sales tax system because of the following advantages/ benefits –

1. *Eliminates multiple tax* - It eliminates cascading effect of sales tax system by setting off the tax paid earlier at every stage of sale *(i.e.,* a set off will be given for input tax as well as tax paid on previous purchases)
2. *Simple* - VAT helps in simplifying the indirect tax system. Because it is based simply on transactions and not on a base that requires complicated definition like income or wealth
3. *Lowering of tax burden* - VAT reduces tax burden and helps reduce prices.
4. *Fairness* - VAT is a move towards more efficiency, equal competition and fairness in the taxation system.
5. Tax *evasion will be reduced*- The adoption of VAT helps in reducing evasion of tax. There is self-assessment and, therefore, better tax compliance being less chances of tax evasion.
6. *Tax transparency* - VAT has a novel feature of tax transparency. That is, the total burden of tax on a particular commodity is clearly seen from the transactions.
7. Higher tax. revenue - There is higher revenue growth.
8. Uniformity – There is a greater uniformity in this system.