TAX PAPER 3

(Topic covered: - Capital Gain & Other Sources)

Time Allowed: - 3 hours **M. M. 100**

NOTE: - All the references to the sections mentioned in the paper relates to Income Tax Act, 1961 and relevant Assessment Year is 2011-12, unless otherwise stated. All questions are compulsory.

Ques. 1: - State the Conditions specified u/s 47(xiiib) for the conversion of a Pvt. Ltd to an LLP. Now solve:
A Pvt. Ltd has got converted to LLP under the reverse conversion scheme from a company status to a Firm Status on 1.4.2010. The following are the particulars of A Pvt. Ltd. on 31.03.2010: -

- Unabsorbed Depreciation of Rs. 13.32 Lacs
- Business Loss of Rs. 27.05 Lacs
- Unadjusted MAT credit of Sec. 115JAA Rs. 10 Lacs
- WDV of Assets
  - Building (10%) - Rs. 20 Lacs
  - Plant & Machinery (15%) - Rs. 68 Lacs
  - Furniture (10%) - Rs. 30 Lacs
- Cost of Land Purchased in year 2000 - Rs. 200 Lacs
- VRS Expenditure of Rs. 40 Lacs of incurred in P.Y. 2009-10 which were duly claimed u/s 35DDA in As. Y. 2010-11.

Assume that conversion fulfills all the conditions of section 47(xiiib), explain the treatment of the same in the hands of LLP. What difference it would make if the conversion had taken place on 31.8.2010. (10 marks)

Ques. 2: - Provisions of section 2(22)(e) i.e. of Deemed Dividend are attracted in all type of financial transaction i.e. if any Loan or Advances that are given by the Pvt. or a closely held company to any person who is directly or indirectly substantially interested in the company. (7 marks)

Ques. 3: - Mr. A does the share transactions on usual basis. A.O. while going through the case held that "The Transactions should be treated as a sham transaction if on one hand assessee receives the tax free dividend and on the other hand he claims the short term loss, by trading on the shares or on units of mutual funds near the record date and hence section 14A need to be applied for disallowing the loss in proportion." You are approached to give your opinion on the matter with the help of the relevant case laws. (5 marks)

Ques. 4: - Can company add out the cost of interest or any such expenses as the cost of acquisition/ improvement even when the incidence or decision about meeting of the cost was taken after the property was sold out, through the board meeting latter on? (8 marks)

Ques. 5: - There exists no contradiction to the provisions of section 50C, which states that in case where the value adopted by the stamp authority is higher then the value declared; there such higher value shall be used for computing the capital gain? (5 marks)

Ques. 6: - Assessee can claim the benefit of exemption under section 54, 54B, 54EC, 54F only if the amount invested is done on the self name and also the asset from which the gain has aroused was in his own name. i.e. the person(s) who are owner in the sold asset should only be the owner in the new investment. (5 marks)

<u>Ques. 7</u>: - Anand entered into an agreement for sale of certain properties in which there were tenants subject to vacant possession. He had accordingly to pay certain consideration to the tenants for their agreeing to vacate the properties and claimed such payments to secure vacant possession as expenses incurred in connection with the transfer of the property within the meaning of section 48(1) of the Act. Would 'A' succeed in his claim? (3 marks)

<u>Ques. 8</u>: - Dalal entered into an agreement with Shroff for the sale of his property and received earnest money of Rs.1,00,000 on 1.4.2010. The balance of Rs.4,00,000 was to be paid within 3 months, failing which Dalal was entitled to a compensation of Rs.50,000. The earnest money was also liable to forfeited. Shroff defaulted in the payment of the balance within the time specified and therefore the earnest money was forfeited. A suit was also filed for breach of contract and Rs.50,000 was awarded, which was received on 28.3.2011. Discuss the nature of the two receipts from the point of view of liability to tax. (5 marks)

<u>Ques. 9</u>: - A Manufacturing company was transporting two of its machines from unit `A' to unit `B' (which is at a distance of 100 miles) on 1st September,2010 by a truck. On account of a civil disturbance, both the machines were damaged. The insurance company paid Rs.5 lakhs for the damaged machines. On these facts, for submitting the return of income for the previous year ending 31st March, 2011, your advice is sought as to:

(a) Whether the damage of machines result in any transfer?
(b) How the amounts received from the insurance company are to be treated for taxability?
(c) Would there be any impact on the written down value of the block of plant and machinery as at 31st March 2011? (5 marks)

<u>Ques. 10</u>: - State the cases where the benefit of indexation of costs is not available for determination of capital gains. (5 marks)

<u>Ques. 11</u>: - Aries Tubes Private Ltd. went into liquidation on 01.06.2010. The company was seized and possessed of the following funds prior to the distribution of assets to the shareholders:

Share Capital	5,00,000
Reserves prior to 1.6.2010	3,00,000
Excess realization in the course of liquidation	5,00,000
Total	13,00,000

There are 5 shareholders, each of whom received Rs.2,60,000 from the liquidator in full settlement. The shareholders desire to invest the resultant element of capital gains in long-term specified assets as defined in section 54EC. You are required to examine the various issues and advice the shareholders about their liability under Income Tax (assuming the gain as a long term gain). (7 marks)

<u>Ques. 12</u>: - Gama Ltd, located within the corporation limits decided in December, 2010 to shift its industrial undertaking to non-urban area. The company sold some of the assts and acquired new assets in the process of shifting. The relevant details are as follows:

(Rs.in lakhs)

	Particulars	Land	Building	Plant & Machinery	Furniture
(i)	Sale proceeds (sale effected in March, 2011)	8	18	16	3
(ii)	Indexed cost of acquisition	4	10	12	2
(iii)	Cost of acquisition in terms of section 50	--	4	5	2

(iv)	Cost of new assets purchased in July,2010 for the purpose of business in the new place	4	7	17	2

Compute the capital gains of Gama Ltd for the assessment year, 2011-2012. (7 marks)

Ques. 13: - An enterprise engaged in manufacturing of steel balls discontinued its activities and decided to lease out its factory building, plant and machinery and furniture from 1.4.2010 on a consolidated lease rent of Rs.50,000 per month. Compute the income for Assessment Year 2011-12 of the assessee from following information:

		Rs.
(i)	Interest received on deposits.	1,00,000
(ii)	Brokerage paid on hundi loan taken.	2,000
(iii)	Interest paid on hundi and other loans which were given as deposits on interest to others.	75,000
(iv)	Expenses incurred on repairs of building, plant and machinery.	15,000
(v)	Fire insurance premium of plant and machinery and furniture.	12,000
(vi)	Depreciation for the year.	1,47,500
(vii)	Legal fees paid to an advocate for drafting and registering the lease agreement.	1,500
(viii)	Factory licence fees paid for the year.	1,000

(ix) There is unabsorbed depreciation of Rs.2,75,000 for the Assessment Years 2008-09 and 2009-10.

(x) Interest paid includes an amount of Rs.25,000 remitted outside India on which TDS was not deducted since the party had furnished Form H. (8 marks)

Ques. 14: - Does redemption of preference shares amount to a 'transfer' within the meaning of section 2(47) of the Income-tax Act in the hands of the shareholder? What will be the nature of excess realisation by a shareholder over the cost of acquisition of such shares for purpose of income-tax? Discuss. (5 marks)

Ques. 15: - Mr. Ganesh received the following gifts during the P.Y.2010-11 from his friend Mr. Sundar, -

(1) Cash gift of Rs.51,000 on his birthday, 19th June, 2010.

(2) 50 shares of Beta Ltd., the fair market value of which was Rs.60,000, on his birthday, 19th June, 2010.

(3) 100 shares of Alpha Ltd., the fair market value of which was Rs.70,000 on the date of transfer. This gift was received on the occasion of Diwali. Mr. Sundar had originally purchased the shares on 10-8-2009 at a cost of Rs.50,000.

Further, on 20th November, 2010, Mr. Ganesh purchased land from his sister's mother-inlaw for Rs.5,00,000. The stamp value of land was Rs.7,00,000.On 15th February, 2011, he sold the 100 shares of Alpha Ltd. for Rs.1 lakh. Compute the income of Mr. Ganesh chargeable under the head "Income from other sources" and "Capital Gains" for A.Y.2011-12. (5 marks)

Ques. 16: - Mr. C converted a capital asset purchased by him in feb. 2000 into stock in trade. And the stock was finally sold out in march 11. Discuss the tax implications on the given transaction. (5 marks)

Ques. 17: - Mr. Raman has applied for the 100,000 shares of Reliance Power of face value of Rs. 10 each issued for Rs. 235 per share. Application money paid at the time of application was Rs. 125 per share. But Mr. Raman was allotted only 80000 shares. But since Mr. Raman failed to pay the money after application money hence the shares were forfeited. Discuss the tax implication in the hands of Reliance Power and Mr. Raman. (5 marks)

Prepared by: - Vivek Mehta (CA, CS, MBA) **Contact No. 09413118508**