

TAX LAWS

Time allowed : 3 hours

Maximum marks : 100

NOTE : All references to sections mentioned in Part - A of the Question Paper relate to the Income-tax Act, 1961 and the relevant Assessment Year 2009-10m unless stated otherwise.

PART A

(Answer Question No. 1 which is **COMPULSORY**
and **ANY THREE** of the rest from this part)

Question 1

- (a) State, with reasons in brief, whether the following statements are correct or incorrect. Attempt any five :
- (i) Income from vacant plot of land is taxable under the head 'income from other sources'.
 - (ii) The maximum income of Rs.2,25,000 is not chargeable to income-tax in case of a citizen woman of 65 years age.
 - (iii) Due date for filing of return of income of an individual is 31st July of the previous year.
 - (iv) No deduction is allowable from income from salary.
 - (v) Indexation of cost of acquisition is necessary for short-term capital gain.
 - (vi) Return of income once filed cannot be revised.
 - (vii) Gift from an unrelated person is tax-free upto Rs. 50,000. (1 mark each)
- (b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- (i) Income of a business commenced on 1st March, 2009 will be assessed during the assessment year _____.
 - (ii) Belated return can be filed within _____ from the end of the relevant assessment year.
 - (iii) Fringe benefit tax is charged at the rate of _____.
 - (iv) Advance tax is payable in _____ instalments by a non-corporate assessee.
 - (v) Net wealth computed under the Wealth-tax Act, 1957 shall be rounded off to the multiple of Rs. _____ . (1 mark each)
- (c) Robbert, a US national came to India for the first time on 1st November, 2008 for a period of six months. He declared following incomes during the previous year ending 31st March, 2009 :
- (i) Salary received in India for four months at the rate of Rs.75,000 per month.
 - (ii) Interest on fixed deposit in a bank in India : Rs.50,000.

(iii) *Income from agriculture in USA : Rs. 10,00,000.*

(iv) *Income from a business in Nepal being controlled from India : Rs. 2,00,000.*

(v) *Salary earned in USA brought into India in the previous year : Rs. 5,00,000.*

You are required to compute Robbert's taxable income and tax liability for the assessment year 2009-10.
(5 marks)

Answer 1(a)(i)

True

Vacant plot of land not covered under the chargeable Section 22 under the head Income from House Property. Therefore, income from Vacant Plot of land is taxable under the head "Income from other sources".

Answer 1(a)(ii)

True

For an individual whether man or woman resident in India who is of the age of 65 years or more at any time during the previous year the maximum amount not chargeable to tax is Rs. 2,25,000.

Answer 1(a)(iii)

False

Due date for filing of return of income of an individual is 31st July of the Assessment Year not previous year.

Answer 1(a)(iv)

False

Entertainment allowance and tax on employment deduction under Section 16 are allowed under the head 'Income from salaries'.

Answer 1(a)(v)

False

Indexed cost of acquisition is necessary only in case of long-term capital gain not in short-term capital gain as per explanation (iii) to Section 48.

Answer 1(a)(vi)

False

A return furnished under Section 139(1) or in pursuance of a notice under Section 142(1) can be revised under Section 139(5).

Answer 1(a)(vii)

True

Gifts from unrelated persons is taxable under the head other sources if aggregate amount exceeds Rs. 50,000.

Answer 1(b)

- (i) Income of a business commenced on 1st March, 2009 will be assessed during the assessment year **2009-10**.
- (ii) Belated return can be filed within **One Year** from the end of the relevant assessment year.
- (iii) Fringe benefit tax is charged at the rate of **30% plus surcharge (if any) plus education cess and SHEC @3 %**.
- (iv) Advance tax is payable in **three** instalments by a non-corporate assessee.
- (v) Net wealth computed under the Wealth-tax Act, 1957 shall be rounded off to the multiple of Rs. **100**.

Answer 1(c)

**Computation of Robbert's Taxable income and Tax liability
for the Assessment Year 2009-10**

	<i>Rs.</i>
1. Income under head Salaries	
Salary 75,000 x 4	3,00,000
2. Income from other sources	
Interest on fixed deposit	50,000
Gross Total Income:	3,50,000
Less : Deductions u/s 80C to 80U	—
Taxable Income:	3,50,000
Tax Liability:	
Upto 1,50,000	Nil
1,50,001 to 3,00,000 @ 10%	15,000
3,00,001 and above @ 20%	10,000
	25,000
Add : Education Cess & SHEC @ 3%	750
Tax Liability	25,750

Notes:

- 1. Income from agriculture in USA: Not taxable in the hands of non-residents as accrue or arise outside India and received outside India.
- 2. Income from a business in Nepal being controlled from India: Not taxable in the hands of non-resident as Income accrues or arises and received outside India from a business controlled from India.
- 3. Salary received in USA brought into India in the previous year: Not taxable in the hands of non-resident as accrues or arise outside and received outside India and remitted to India in the previous year.

Question 2

(a) Choose the most appropriate answer from the given options in respect of following having regard to the provisions of the Income-tax Act, 1961 :

(i) The maximum penalty for failure to get accounts audited under section 44AB or furnish audit report along with return of income is —

- (a) Rs.10,000
- (b) Rs.20,000
- (c) Rs.50,000
- (d) Rs.1,00,000.

(ii) The amount of education cess and secondary and higher education cess to be collected along with income-tax for assessment year 2009-10 shall be—

- (a) 1%
- (b) 2%
- (c) 3%
- (d) 4%.

(iii) Deduction under section 80C can be claimed for fixed deposit made in any scheduled bank, if the minimum period of deposit is —

- (a) 5 years
- (b) 8 years
- (c) 10 years
- (d) 12 years.

(iv) X is the owner of a house, the details of which are given below :

Municipal value	Rs. 30,000
Actual rent	Rs. 32,000
Fair rent	Rs. 36,000
Standard rent	Rs. 40,000.

The gross annual value would be —

- (a) Rs. 36,000
- (b) Rs. 35,000
- (c) Rs. 30,000
- (d) Rs. 40,000.

(v) Interest-free loan to an employee, where the amount of loan does not exceed any one of the following, shall be treated as the tax-free perquisite in all cases under section 17(2) —

- (a) Rs. 10,000
- (b) Rs. 15,000
- (c) Rs. 20,000
- (d) Rs. 25,000.

- (vi) *The maximum exemption in respect of transport allowance granted to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty shall be —*

(a) *Rs. 600 per month*

(b) *Rs. 700 per month*

(c) *Rs. 800 per month*

(d) *Rs. 900 per month.*

(1 mark each)

- (b) *John, Jack and Jill are partners sharing profits and losses in the ratio of 2:1:1 respectively. Their summarised profit and loss account for the year ending 31st March, 2009 is appended below :*

	Rs.		Rs.
Office salaries	17,040	Gross profit	1,81,710
Bad debts reserve	3,000	Interest on	
Telephone	6,000	securities	12,000
Salary to Jack	9,000	Rent received	18,000
Collection charges of interest on securities	150		
Interest on loan from John	6,000		
Municipal taxes (let out property)	3,000		
Commission to partners :			
John	12,000		
Jack	15,000		
Jill	18,000		
	45,000		
Net profit to partners :			
John	61,260		
Jack	30,630		
Jill	30,630		
	1,22,520		
	2,11,710		2,11,710

Compute total income of the firm for the assessment year 2009-10 and tax liability thereon. Interest paid to John has been calculated at the rate of 20% per annum simple. (7 marks)

- (c) *Yash, a minor, who is a physically handicapped (suffering from disability of the nature specified in section 80U), earns bank interest of Rs.50,000 and Rs.60,000 from making bags manually by himself. State whether income of Yash should be clubbed with the income of his parents as per section 64(1A). (2 marks)*

Answer 2(a)

- (i) Rs.1,00,000
- (ii) 3%
- (iii) 5 years
- (iv) Rs.36,000
- (v) Rs.20,000
- (vi) Rs.800 per month

Answer 2(b)

**Computation of total income of the firm
for the Assessment Year 2009-10**

	<i>Rs.</i>	<i>Rs.</i>
(i) Income under head House Property:		
— Rent received	18,000	
<i>Less : Municipal taxes</i>	<u>3,000</u>	
Net Annual Value	15,000	
<i>Less : Deduction under section 24</i>		
Standard deduction @ 30% of NAV	<u>4,500</u>	10,500
(ii) Income under head “Profit and Gains:		
— From Business or Profession		
Book Profit (see working note 1)	1,55,070	
<i>Less : Remuneration to working partners</i>		
Subject to section 40(b)	<u>54,000</u>	
(see working note 2)		1,01,070
(iii) Income from other sources:		
— Interest on Securities	12,000	
<i>Less : Collection charges</i>	<u>150</u>	<u>11,850</u>
Gross Total Income: (i) + (ii) + (iii)		1,23,420
<i>Less : Deductions under Chapter VIA</i>		<u>Nil</u>
Total Income:		<u>1,23,420</u>

Working Note:

(1) Computation of Book Profit

Net Profit as per Profit & Loss A/c	1,22,520	
<i>Less : Income taxable under other head</i>		
— Interest on Securities	12,000	
— Rent received	18,000	(30,000)

Add : Inadmissible Expenses:

— Salary to Jack	9,000	
— Interest on loan from John in excess of 12% (6000 x .08/.20)	2,400	
— Bad Debt Reserve	3,000	
— Collection charges	150	
— Municipal taxes	3,000	
— Commission	45,000	62,550
Book Profit		<u>1,55,070</u>

(2) Computation of Remuneration allowable to working partners subject to maximum of: *Rs.*

— Rs. 50,000 or 90% of Rs. 75,000 whichever is more	67,500
— 60% of Rs. 75,000	45,000
— Balance Rs.5070 @ 40%	<u>2,028</u>
	1,14,528

Actual Remuneration

— Salary	45,000	
— Commission	<u>9,000</u>	<u>54,000</u>

whichever is less is allowable. Therefore Rs.54,000 is allowed as deduction

Answer 2(c)

The clubbing provisions of Section 64(1A) are not applicable in the following cases:

- (i) Where the minor child is suffering from any disability of the nature specified in Section 80U;
- (ii) Such income which accrues or arises to the minor child on account of manual work done by him. The income of such minor child will not be clubbed in the hands of either of the parents. Consequently, the total income of Yash will be assessed in his hands.

Question 3

(a) *Distinguish between the following :*

- (i) 'Scrutiny assessment' and 'best judgement assessment'.
 - (ii) 'Long-term capital gain' and 'short-term capital gain'.
 - (iii) 'Exempted incomes under section 10' and 'deductions under section 80'.
 - (iv) 'Previous year' and 'assessment year'.
 - (v) 'Assets' and 'deemed assets' under the Wealth-tax Act, 1957.
- (2 marks each)

- (b) Compute the net wealth and tax liability of assessment year 2009-10 of Sona Jewels which is engaged in jewellery business. Following are the particulars of assets on 31st March, 2009 :

	Rs.
Factory building (W.D.V)	80,00,000
Bank balance	15,00,000
Unaccounted cash	5,20,000
Silver ware	56,00,000
Gold jewellery	54,00,000
Car (W.D.V)	10,00,000
Farm house within municipal limit	25,00,000
Guest house in Britain	90,00,000

The market value of car is Rs.15 lakh. The assessee has raised a loan of Rs.50 lakh from a bank by mortgaging guest house. The loan was utilised to construct factory building. (5 marks)

Answer 3(a)(i)

‘Scrutiny Assessment’ and ‘Best Judgement Assessment’

Scrutiny Assessment : Scrutiny assessment is an assessment where Assessing Officer issues a notice under Section 143(2) and makes an assessment on the basis of evidence produced by assessee under Section 143(3).

Best Judgement Assessment : Under Section 144, the Assessing Officer, after taking into account all relevant material which he has gathered makes assessment on its own i.e. Ex-Parte is called Best Judgement Assessment

Answer 3(a)(ii)

‘Long-term capital gain’ and ‘Short-term capital gain’

Long-term capital gain : The capital asset held by assessee for more than 36 months is treated as long term capital asset. The gain on its transfer is termed as long-term capital gain.

Short-term capital gain :

- The gain arise on transfer of short-term capital asset is called short-term capital gain.
- A capital asset held by assessee for not more than 36 months immediately preceding the date of its transfer is known as a short-term capital asset.

Answer 3(a)(iii)

‘Exempted incomes under section 10’ and ‘deductions under section 80’

Exempted incomes are those incomes on which income tax is not chargeable. Such incomes are neither included in the total income of the assessee nor income tax is payable on them.

In computing the total income of an assessee, the deductions specified under section 80 (80C to 80U) shall be allowed from gross total income. The aggregate amount of deductions allowable under Section 80 shall not in any case exceed the gross total income of the assessee.

Answer 3(a)(iv)

‘Previous year’ and ‘Assessment year’

Previous year under section 3 is the financial year in which income is earned. It is the financial year immediately preceding the assessment year. Income tax is charged on the total income of the previous year at the rates prescribed by the relevant Finance Act for the Assessment Year.

As per Section 2(9) assessment year means the period of 12 months commencing on the first day of April every year and ending on 31st March of the next year.

Answer 3(a)(v)

‘Assets’ and ‘deemed assets’ under the Wealth-tax Act, 1957

As per Section 2(ea) of the Wealth Tax Act, 1957, Assets means following:

- (i) Guest house, residential house and commercial building;
- (ii) Motor Car
- (iii) Jewellery
- (iv) Yachts, boats and aircrafts
- (v) Urban land
- (vi) Cash in hand (for individual and HUF in excess of Rs.50,000 and for any other person any amount not recorded in the books).

According to Section 4, there are certain assets which belong to others but includible in the net wealth of an individual. They are:

- (i) Assets transferred to spouse
- (ii) Assets held by a minor child
- (iii) Assets transferred to a person or association of persons for the benefit of individual, his/her spouse.
- (iv) Assets transferred under revocable transfers
- (v) Assets transferred by an individual to son’s wife.
- (vi) Assets transferred to person or association of persons for the benefit of son’s wife.
- (vii) Converted property
- (viii) Holder of an impartible estate.

Answer 3(b)**Computation of Net Wealth and tax liability
for the Assessment Year 2009-10**

	<i>Rs.</i>
— Factory building (not an asset)	Nil
— Bank balance (not an asset)	Nil
— Unaccounted cash (in case of individual whether recorded in books or not Rs.50,000 shall be exempt)	4,70,000
— Silverware (Stock-in-trade therefore not an asset)	Nil
— Gold Jewellery (Stock-in-trade therefore not an asset)	Nil
— Car (car is used in the business and depreciation is admissible on it therefore its value shall be taken at W.D.V)	10,00,000
— Farm house within Municipal limit	25,00,000
— Guest house in Britain	90,00,000
Less : Debts owed	Nil
Net Wealth	1,29,70,000
Wealth Tax	1,14,700
[1% on the amount in Excess of Rs. 15,00,000 i.e.(1,29,70,000 – 15,00,000)]	

Question 4

- (a) *Who is liable to pay advance income-tax ? On what dates the instalments of advance tax are payable and what amount is to be paid under each instalment?*
(4 marks)
- (b) *What are the provisions regarding deduction of tax at source from the following incomes :*
- (i) *Winnings from lottery*
 - (ii) *Payment to a resident contractor*
 - (iii) *Commission and brokerage*
 - (iv) *Payment of rent.* (2 marks each)
- (c) *Discuss the items which are disallowed as deduction under section 40(b) while computing firm's income from business and profession.* (3 marks)

Answer 4(a)**Liability for payment of Advance Tax**

Advance tax shall be payable during a financial year in every case where the tax payable by the assessee during the year is Rs.5,000 or more

Due date and instalments**(i) In case of companies:**

<i>Due Date</i>	<i>Amount Payable</i>
On or before 15th June	Not less than 15% of Advance Tax liability
On or before 15th September	Not less than 45% of Advance Tax liability reduced by the amount already paid
On or before 15th December	Not less than 75% of Advance Tax liability reduced by the amount already paid
On or before 15th March	Not less than 100% of Advance Tax liability reduced by the amount already paid

(ii) In case of other assessees:

<i>Due Date</i>	<i>Amount Payable</i>
On or before 15th September	Not less than 30% of Advance Tax liability
On or before 15th December	Not less than 60% of Advance Tax liability reduced by the amount already paid
On or before 15th March	100% of Advance Tax liability reduced by the amount already paid.

Answer 4(b)**Deduction of Tax at Source**

- (i) *Winning from lottery (Section 194B)* : The rate of tax deduction at source is 30% + Surcharge if any + Education Cess + SHEC @ 3% on the amount exceeding Rs.5000.
- (ii) *Payment to Contractor (Section 194C)* : Income tax will be deducted at source from payment made by the specified contractee to any resident contractor. The rate of TDS is as follows :
 - (a) In case of advertising contract at the rate of 1% + Surcharge if any + Education Cess @ 2% + SHEC @ 1%.
 - (b) In any other case @2% + Surcharge if any + Education cess @ 2% + SHEC @ 1%.
 - (c) Income of sub-contractor, the rate of TDS is 1% + Surcharge if any + Education cess & SHEC @ 3%.

However no TDS if the amount does not exceed Rs.20,000 at one time and Rs.50,000 in a financial year.

- (iii) *Insurance Commission (Section 194D)* : If the insurance commission is payable to resident (other than company, the rate of TDS is 10% + Surcharge if any + Education cess & SHEC @ 3%.

In the case of domestic company the rate of TDS is 20% + Surcharge if any + Education cess & SHEC @ 3%. However, no Tax shall be deducted if the insurance commission does not exceed Rs.5,000 in the financial year.

- (iv) *Payment of Rent (Section 194-I)* : An individual or HUF who is required to get his books audited under section 44AB or other person who is responsible for paying rent to a resident shall be liable to deduct TDS at the following rates :
- (a) 15% + Surcharge if any + Education cess & SHEC @ 3% if payment is made to individual or HUF.
 - (b) In other cases @ 20% + Surcharge if any + Education cess & SHEC @ 3%.

However no Tax shall be deducted if the total rent payable in the financial year does not exceed Rs.1,20,000.

Answer 4(c)

Amount disallowed under section 40(b)

In computing firms income from business or profession following items are disallowed under Section 40(b) :

- (i) Salary, bonus, commission or other remuneration paid or payable to a non-working partner.
- (ii) Payment of remuneration to partners which is not authorized by the terms of partnership deed.
- (iii) Payment of interest to partners which is not authorized by partnership deed.
- (iv) Payment of remuneration authorized by partnership deed relating to any period prior to the date of partnership deed.
- (v) Payment of interest authorized by partnership deed allowed to any partner exceeding 12% per annum.
- (vi) Payment of remuneration authorized by partnership deed to any working partner exceeding the specified limit as given below:

(1) In case of professional firms:

- | | |
|---|--|
| (a) On the first Rs.1 lac of book profit or in case of loss | Rs.50,000 or 90% of book profit whichever is more. |
| (b) On the next Rs.1 lac of book profit | 60% book profit. |
| (c) On the balance of book profit | 40% of book profit. |

(2) In case of any other firms:

- | | |
|--|--|
| (a) On the first Rs.75,000 of book profit or in the case of loss | Rs. 50,000 or 90% of book whichever is more. |
| (b) On the next Rs.75,000 | 60% of book profit. |
| (c) On the balance of book profit | 40% of book profit. |

Question 5

- (a) *Karan made a gift to Sujata during their engagement which took place on 15th May, 2008. After their marriage which was held on 15th June, 2008, they decided to live apart owing to some reasons and they obtained a legal divorce*

on 15th September, 2008. Whether transfer made on 15th May, 2008 be included for wealth-tax purposes in the hands of Karan ? (3 marks)

(b) Discuss the taxability or otherwise of the following gifts received by Madhuri, a lady, during the financial year 2008-09 :

(i) Rs.30,000 from her elder sister.

(ii) Rs.50,000 from the daughter of her elder sister.

(iii) Wrist watch valued at Rs.6,000 from her friend. (3 marks)

(c) Gaurav, aged 50 years, is an individual, whose gross total income before deduction under section 80C is Rs.1,90,000 and his total income after deduction under section 80C is Rs.95,000. Whether he is required to file return ? (3 marks)

(d) Kundan submits the following information for the assessment year 2009-10 :

Income from business	Rs. 20,000	
Property income	House-A (Rs.)	House-B (Rs.)
Municipal valuation	17,500	40,000
Municipal taxes paid by tenant	1,500	2,000
Land revenue paid	1,000	8,000
Rent received	19,000	34,000
Insurance premium paid	250	1,000
Repairs paid by tenant	250	9,000
Interest on borrowed capital for payment of municipal tax of house property	100	200
Nature of occupation	Let out for residence	Let out for business
Date of completion of construction	1.4.1993	1.4.1991
Determine the taxable income of Kundan for the assessment year 2009-10. (6 marks)		

Answer 5(a)

The existence of husband and wife relationship is necessary not only on the date of transfer but also on the valuation date. Thus, if transfer is effected before the marriage is solemnized, or although the transfer is effected during subsistence of marriage, but on the valuation date such relationship is terminated, then in both the cases, the value of assets cannot be included in the net-wealth of the transferor.

Therefore, gift made by Karan to Sujata during their engagement shall not be included for wealth tax purposes in the hands of Karan.

Answer 5(b)

- (i) As per section 56(2)(vi), any sum of money received from a relative shall not be treated as income. Here, Rs. 30,000 received from her elder sister. Sister is covered in the definition of relative. Hence, the gift is not taxable under the head other sources.

- (ii) As per Section 56(2)(vi), any sum of money, the aggregate value of which exceeds Rs.50,000 from unrelated persons shall be chargeable to tax. Here, the amount does not exceed Rs. 50,000, hence not taxable.
- (iii) A plain reading of Section 56(2)(vi) indicates that only sums of money received towards gift fall in its purview, gifts in kind are not liable to tax there under, hence the gift of watch is not taxable.

Answer 5(c)

The fourth proviso to Section 139(1) requires every person, whose total income without giving effect to the provisions of Section 10A, 10B, 10BA and Chapter VIA exceeds maximum amount not chargeable to tax, to compulsorily furnish the return of income. The total income of Mr. Gaurav, before deduction under Section 80C exceeds the taxable limit of Rs. 1,50,000. Therefore, Mr. Gaurav has to compulsorily file his return of income.

Answer 5(d)

Computation of Taxable Income for the Assessment Year 2009-10

(1) Income from House Property

House A

Gross Annual Value:

(i) Municipal Valuation	17,500
(ii) Actual rent	19,000
whichever is higher	<u>19,000</u>
Less : Municipal taxes	---
(Not allowed as paid by tenant)	<u> </u>

Net Annual Value 19,000

Less : Standard deduction	
30% of Net Annual Value	<u>5,700</u>
	13,300

House B

Gross Annual Value:

(i) Municipal Valuation	40,000
(ii) Actual rent	34,000
whichever is higher	<u>40,000</u>
Less : Municipal taxes	---
(Not allowed as paid by tenant)	<u> </u>

Gross Annual Value 40,000

Less : Standard deduction	
30% of Net Annual Value	<u>12,000</u>
	28,000

Income from House Property (13,300 + 28,000)	41,300
(2) Income from business	20,000
Gross Total Income (1) + (2)	61,300
Less : Deductions (Sections 80C to 80U)	—
Taxable Income	61,300

Note : Interest on borrowed capital for payment of municipal tax is not allowed as deduction under Section 24 of the Act.

Question 6

- (a) *Discuss the provisions relating to incidence of wealth-tax.* (5 marks)
- (b) *What are deemed fringe benefits ?* (5 marks)
- (c) *State, with reasons in brief, whether the following are capital or revenue receipts/ expenditure :*
- (i) *Rs. 20,000 spent in connection with obtaining a licence for running a cinema hall.*
 - (ii) *Rs. 3,00,000 received as compensation for termination of contract of agency.*
 - (iii) *Lump sum received as advance rent.*
 - (iv) *Overhaul expenses of second hand machinery.*
 - (v) *Payment to an employee to retain him in job.* (1 mark each)

Answer 6(a)

Incidence of Wealth Tax

Incidence of tax in the case of an individual depends upon his residential status and nationality. Residential status is decided as per the provisions of the Income-tax Act.

The scope of liability to wealth tax is as follows:

- (i) In the case of an individual who is a citizen of India and resident in India, a resident HUF and company resident in India;
Wealth tax is chargeable on net wealth comprising of:
 - All assets in India and outside India;
 - All debts in India and outside India are deductible in computing the net wealth.
- (ii) In the case of an individual who is a citizen of India but non-resident in India or not ordinarily resident in India, HUF, non-resident or not ordinarily resident in India and a company non-resident in India;
 - (a) All assets in India are chargeable to tax.
 - (b) All debts in India are deductible in computing the net wealth.
 - (c) All assets and debts outside India are out of the scope of Wealth Tax Act.

- (iii) In the case of an individual who is not a citizen of India whether resident, non-resident or not ordinarily resident in India:
 - (a) All assets in India are chargeable to tax.
 - (b) All debts in India are deductible in computing the net wealth.
 - (c) All assets and debts outside India are out of the scope of Wealth Tax Act.

Answer 6(b)**Deemed Fringe Benefits**

Following benefits shall be deemed to have been provided by the employer to his employees if the employer has in the course of his business and profession incurred these expenses (Section 115WB(2)).

- (i) *Entertainment* : 20% of expenditure will be considered as value of 'fringe benefit'. It includes the reimbursement of entertainment expenditure by an employer to employees/directors/others.
- (ii) *Provision of hospitality* : 20% of expenditure will be considered as value of 'fringe benefit'. It covers provision of hospitality of every kind by the employer to any person whether by way of provision of goods or beverages or in any other manner.
- (iii) *Conferences* : 20% of expenditure will be considered as value of 'fringe benefit'. It covers any expenditure on conveyance, tour and travel, on hotel, or boarding and lodging in connection with any conference.
- (iv) *Sale Promotion* : 20% of expenditure will be considered as value of 'fringe benefit'. It covers sales promotion including publicity.
- (v) *Employees Welfare* : 20% of expenditure will be considered as value of 'fringe benefit'.
- (vi) *Conveyance* : 20% is treated as fringe benefit. It includes Reimbursement of car expenses, Travelling expenditure/conveyance expenditure/tour or allowances for meeting lodging and boarding given to employees.
- (vii) *Hotel and lodging* : 20% of expenditure will be considered as value of 'fringe benefit'. It covers use of hotel, boarding and lodging facilities.
- (viii) *Repairs and maintenance of motor cars* : 20% of expenditure will be considered as value of 'fringe benefit'. It covers repair, running (including fuel) maintenance of motor cars and the amount of depreciation thereon.
- (ix) *Repairs and maintenance of aircrafts* : It covers repair, running (including fuel) maintenance of aircrafts and the amount of depreciation thereon. 20% of the expenditure will be considered as 'fringe benefit'.
- (x) *Telephones* : It covers use of telephone (including mobile phone) other than expenditure on leased telephone lines. 20% of expenditure will be considered as value of 'fringe benefit'.
- (xi) *Festival celebrations* : It includes any festival celebration expenditure but does not include expenditure on celebration of Independence Day and Republic Day.

20% of expenditure will be considered as fringe benefit from the assessment year 2009-10.

- (xii) *Use of health club and similar facilities* : It includes reimbursement of health club expenditure to employees/directors and payment of entrance fees. 50% of expenditure will be considered as value of fringe benefit.
- (xiii) *Use of any other club facilities* : It includes payment of entrance fees to club expenditure to employees. 50% of expenditure will be considered as value of fringe benefit.
- (xiv) *Gifts* : Gift may be in cash or kind. Even gifts on promotion of company's products to distributors/retailers are covered under fringe benefit. 50% of expenditure will be considered as value of fringe benefit.
- (xv) *Scholarships* : It includes expenditure on training of employees in an educational institute. 50% of expenditure will be considered as value of fringe benefit.
- (xvi) *Tour, travel, foreign travel* : 5% of expenditure will be considered as value of fringe benefit.

Answer 6(c)

Capital or Revenue

- (i) The amount spent in connection with obtaining a license for running a cinema hall is a capital expenditure because it is to acquire a source of Income.
- (ii) It is a capital receipt because it is in connection with a service of income.
- (iii) It is a revenue receipt because it is a lump sum payment of income.
- (iv) It is revenue expenditure because the expenditure will not increase the capacity of the machinery.
- (v) It is revenue expenditure because it is a lump sum reward to an employee from employer.

PART B

Question 7

Attempt any four of the following :

- (i) *Briefly state the provisions of service tax regarding following :*
 - (a) *Liability to registration*
 - (b) *Procedure for registration*
 - (c) *Issue of registration certificate*
 - (d) *Time limit for registration*
 - (e) *Surrender of certificate of registration.* (1 mark each)
- (ii) *What is general rule regarding valuation of taxable service ? Indicate the position where the gross amount charged by a service provider includes service tax payable.* (5 marks)

- (iii) *What is the due date for payment of service tax ? What is the rate of interest for delayed payment and penalty for default in payment of service tax ? (5 marks)*
- (iv) *Discuss 'advance ruling in service tax'. (5 marks)*
- (v) *Explain the provisions regarding service tax on Company Secretaries. (5 marks)*

Answer 7(i)

(a) Liability to Registration under Service Tax

Person specified to make an application:

- (a) An input service provider
 - (b) Any provider of taxable service whose aggregate value of taxable service exceed Rs. 9 lakhs.
- (b) Procedure for registration :** For registration of Service Tax every person liable for paying the service tax shall make an application to the Superintendent of Central Excise in Form ST-1 for registration within a period of thirty days from the date on which the service tax is levied under section 66.
- (c) Issue of Registration Certificate :** The registration shall be granted by the Superintendent of Central Excise within 7 days from the date of receipt of registration in FORM ST-2. If the registration certificate is not granted within the said period, the registration applied for shall be deemed to have been granted.
- (d) Time limit for registration :** Every person liable to pay service tax should make an application to the Superintendent of Central Excise within 30 days from the date service Tax levied under section 66.
- (e) Surrender of Certificate of Registration :** In the following cases the certificate of registration shall be surrendered by the assessee:
- (i) When a registered assessee transfers his business, he should surrender his registration.
 - (ii) When a registered assessee ceases to carry on the service activity for which he is registered.

Answer 7(ii)

Under Section 67, service tax shall be chargeable on any taxable service with reference to its value. Such value will be as follows:

- (i) Where the consideration received for provision of service is wholly in money, the value shall be the gross amount charged by the service provider for provision of service.
- (ii) Where the consideration received for provision of service is not wholly consisting of money, the value in such case shall be the gross amount charged by the service provider for provision of similar service to any other person in ordinary course of business.

- (iii) Where the provision of service is for a consideration which is not ascertainable, the value shall be determined in the prescribed manner. Where the gross amount charged by the service provider is inclusive of service tax payable, the value of such taxable service shall be such amount, as with the addition of tax payable is equal to the gross amount charged. The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.

Answer 7(iii)**Payment of Service Tax and Due date**

Section 68 provides that every person providing taxable services to any person should pay service tax at the rate specified in Section 66. Rule 6 lays down the following rules for payment of service tax:

- (a) *In case of an individual and partnership firm* : The service tax received during any quarter shall be paid to the Government by the 5th of the month immediately following the relevant quarter.
- (b) *In case of others* : The service tax received during any calendar month should be paid to the credit of the Central Government by the 5th of the month immediately following the relevant calendar month.

Interest on delayed payment of Service Tax

Any person who has failed to pay the tax to the Government within the prescribed time limit, such person shall pay simple interest @ 13% p.a. for the period of delay.

Penalty for failure to pay Service Tax

If any person who is liable to pay service tax has failed to pay within prescribed time limit, he will be liable to pay interest @ 13% p.a. and also penalty. Penalty for failure to pay service tax shall be Rs.200 per day or 2% of such tax per month whichever is higher, starting from the first day after the due date till the date of actual payment of the outstanding amount of service tax. However, total amount of penalty shall not exceed the amount of service tax.

Answer 7(iv)**Advance Ruling**

Section 96A(a) defines 'Advance Ruling' as the determination, by the authority of a question of law or fact specified in the application, regarding the liability to pay service tax in relation to a service proposed to be provided by the applicant.

As per Section 96C(2), an advance ruling may be sought on a question of law or fact, in respect of –

- (a) Classification of any service as a taxable service, under Chapter V of the Finance Act, 1994.
- (b) The valuation of a taxable service for charging service tax.
- (c) The principles to be adopted for the purposes of determination of value of the taxable services.

- (d) Applicability of notifications issued under Chapter V of the Finance Act, 1994.
- (e) Admissibility of credit of service tax.
- (f) Determination of the liability to pay service tax on a taxable service under the provisions of Chapter V.

Questions not to be considered for Advance Ruling

An application for Advance Ruling on a question shall not be entertained if:

- (a) The same question is already pending in a case before any Central Excise Authority, Appellate Tribunal or any Court, or
- (b) It is the same as in a matter already decided by the Appellate Tribunal or Court.

Persons Eligible to seek Advance Ruling

As per Section 96A(b) an application for Advance Ruling may be made by following persons:

- (a) A non-resident setting up a joint venture in Indian in collaboration with a non-resident or a resident and proposing to undertake a business activity in India.
- (b) A resident setting up a joint venture in India in collaboration with a non-resident, and proposing to undertake business activity in India;
- (c) A wholly owned subsidiary Indian company of a foreign holding company, proposing to undertake a business activity in India.
- (d) A joint venture in India;
- (e) A resident falling within a notified class or category of persons.

Application for obtaining Advance Ruling

A person desiring to obtain an Advance Ruling shall make an application in Form AAR-ST (quadruplicate).

Answer 7(v)

“Practising Company Secretary” is a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 and includes any concern engaged in rendering services in the field of Company Secretary Ship.

Taxable service means any service provided to a client, by a practicing company secretary in his professional capacity, in any manner.

The following are the taxable services in case service provided by the company secretaries are:

- (i) Accounting and auditing; or
- (ii) Cost accounting and cost auditing; or
- (iii) Secretarial auditing; or

- (iv) Certification under Companies Act.
- (v) Certification for exchange control purposes under FEMA.

Value of Taxable Service:

In the case of Practising Company Secretary—“Value of taxable service shall be the gross amount charged by the service provider for such services rendered by him.

Service tax is charged only on the Practising Company Secretary not on company secretary who are in services (employment).

PART C

Question 8

Answer any two of the following :

- (i) *Who is liable to pay VAT ? Discuss the advantages of introduction of VAT in India. (10 marks)*
- (ii) *Discuss — (a) Rates of VAT; and (b) Filing of return under VAT. (10 marks)*
- (iii) *Discuss, with suitable example, various methods for computation of VAT liability. (10 marks)*
- (iv) *Write notes on — (a) Registration under VAT; and (b) Zero rating. (10 marks)*

Answer 8(i)

Liability to pay VAT

With the objective of tax reform at the state level, the Vat was introduced in India on the recommendation of the Empowered Committee of State Finance Minister headed by the Bengal Finance Minister Dr. Asim Dasgupta. The white paper submitted by the committee specified that only those dealer whose annual gross turnover was more than Rs.5 lacs required registration under Vat Act. However, the Committee has subsequently allowed the states to increase the limit from Rs.5 lacs to 10 lacs. It was also suggested that the concerned state shall have to bear the revenue loss on account of increase in the limit beyond Rs.5 lacs.

Advantages

1. *No tax evasion* : The system is logical and scientific. Credit of duty/tax is allowed against the liability on the final product manufactured or sold. For this purpose, proper records have to be maintained. In that case tax evasion would become difficult.
2. *Neutrality* : The system does not interfere in the choice of decision to make purchases. As the effect of the system is anti-cascading, the amount of addition to value or the stage at which it is made is not of any relevance.
3. *Certainty* : VAT is a simple procedure relying not transactions only without definitions of sale, sale price etc. and therefore results in certainty of revenue collection.
4. *Transparency* : The buyers will have full transparency of tax component. Government will be enabled to take proper decisions in respect of tax rates.

5. *Better revenue collection* : In Vat, possibility of leakage of revenue is minimum because tax credit can be availed only on proof of payment of tax at an earlier stage is produced. Even if tax is evaded at one stage, it will invariably be collected at the subsequent or final stage or from a person who is not able to produce such a proof. Thus, an invoice of VAT will be self-enforcing which naturally results in a stable source of revenue to Government.
6. *Better accounting systems* : The system of availing VAT credit of earlier stages will bring about a compliance of proper maintenance of accounts.
7. *Effect on retail price* : The system of availing credit of tax paid at earlier stages will not only remove cascading effect of taxation but also curb the inflationary trend in prices of goods.

Answer 8(ii)

Rates of VAT

To reduce the multiplicity of sales tax rates between various states in India it was recommended that Vat will have broadly four tax rates:

- (a) Zero rate or tax free goods;
- (b) 1% on precious and semi precious metals i.e. bullion etc.
- (c) 4% on declared goods;
- (d) 20% on luxury goods;
- (e) 12.5% on other goods.

Filing of return under VAT

Returns are to be filed monthly/quarterly/annually along with tax paid challans according to the provisions of State Act. They should contain details of output tax liability, value of input tax credit and payment of VAT and 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 business to comply with their obligations; and
- (iii) To ensure efficient processing of data.

Answer 8(iii)

Methods for computation of VAT

Invoice Method

Under this method tax is imposed at each stage of sale on the total sale value and the tax paid on inputs is set-off. Indian states have opted for invoice method which is similar to CENVAT. The possibility of tax evasion can be minimized under this system.

VAT payable = Total tax charged on the outputs or sales

Less : Total tax paid to the on inputs sales or purchases

Example:

Suppose 'A' is dealer in the State who has made purchases of goods taxable @ 12.5% of Rs. 75/- from outside the State. He sells these goods at Rs.100/- to another dealer 'B' in the State. The dealer 'B' further makes the sale of the goods at Rs. 150/- to another dealer 'C' in the State who in turn sells the goods to the consumer at Rs. 200/. The Sales prices are exclusive of Vat. The VAT payable by each of the dealers A, B & C is as follows:

<i>Dealer</i>	<i>Tax on Sale – Tax on Purchase</i>	<i>Tax Payable</i>
A =	12.5 - 0	12.5
B =	18.75 -12.5	6.25
C =	25 – 18.75	6.25

Total Tax Payable: 12.5+6.25+6.25 =25 or 12.5% of Rs.200 i.e. Rs.25

Subtraction Method

This is a cost subtraction credit which is also a simple method. Under this method tax is collected only on value addition at each stage of sale and hence the question of giving set off of tax accredit does not arise. This method is applied in cases where tax is not separately charged.

Take the same example as above:

Here the tax is calculated on the value addition therefore the question of set off can not arise. The Sale price is inclusive of Tax.

<i>Dealer</i>	<i>Value addition</i>	<i>Tax Payable</i>
A	112.5	$(110 \times 12.5) / 100 + 12.5$ = 10
B	168.75 -112.5=56.25	$(56.25 \times 12.5) / 100 + 12.5$ = 6.25
C	225 – 168.75=56.25	$(56.25 \times 12.5) / 100 + 12.5$ = 6.25

Total Tax Payable : Rs.25/-

Additional Method

Calculate all the value additions i.e., labour expenses and profit, if the labour Rs.100 and expenses are Rs.500. Add all the expenses and profit say Rs.100+ 500+ 400 (Profit)= 1000 and calculate 12.5% of Rs.1000 and this amount is Rs.125 and this is the tax payable by the dealer. Since the tax is payable on addition of all expenses and profit hence this is called addition method of calculation of tax.

Answer 8(iv)**(a) Registration under VAT**

All dealers are required to get registration under the Vat law. Only then, he as a registered dealer can carry on his business of purchasing and selling goods on payment of VAT.

Requirement for registration : All dealers with gross turnover exceeding Rs.5 lakhs will get the registration. All existing dealers will automatically get registered under the Vat Act. New dealers will be allowed 30 days time from the date of tax liability to get registered. An application is to be made to the Commissioner for this purpose.

Compulsory registration : In case an assessee fails to get registration, he will be compulsorily registered by the Commissioner, after assessing his tax liability on the basis of evidence available with him. Failure to get registered will attract penalty for default and forfeiture of eligibility to avail input tax credit and set off of tax.

Voluntary registration : A dealer who does not require registration can voluntarily obtain it after satisfaction of the Commissioner regarding the requirement.

Cancellation of registration : A registration can be cancelled on:

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

(b) Zero Rating

Zero rating means that the tax payable on sale of a commodity is fixed at 0%. Though apparently, it looks similar to an exempt transaction, there is a significant difference between the two. While in an exempt transaction, the tax paid on input lapses i.e., it cannot be set off, under the Zero rated sales, prior stage tax is set off against the 0% tax paid, and effectively the entire tax paid on purchases is eligible for refund. Thus, Zero Rating is advantageous to the dealer compared to exempting of sale transactions. Generally, export sales are zero rated and thereby, exporters are granted refund of taxes paid by them on their inputs. Exporters gain significantly due to the Zero Rating.
