

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 2011-12 unless stated otherwise.

PART A

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

Question 1

- (a) *Write the most appropriate answer from the given options in respect of following having regard to the provisions of the relevant direct tax laws :*
- (i) *The maximum amount of deduction under section 80GG in respect of rent paid is —*
- (a) ₹ 2,000
 - (b) ₹ 3,000
 - (c) ₹ 5,000
 - (d) ₹ 10,000.
- (ii) *Mohan Ltd. purchased goods on credit from Sohan Ltd. on 6th May, 2010 for ₹ 86,000 which is paid as ₹ 15,000 in cash on 11th May, 2010; ₹ 30,000 by a bearer cheque on 31st May, 2010; and ₹ 41,000 by an account payee cheque on 16th May, 2010. The amount of disallowance under section 40A(3) is —*
- (a) ₹ 15,000
 - (b) ₹ 30,000
 - (c) ₹ 41,000
 - (d) ₹ 86,000.
- (iii) *Which of the following income is not included in the term 'income' under the Income-tax Act, 1961 —*
- (a) Profit and gains
 - (b) Dividend
 - (c) Profit in lieu of salary
 - (d) Reimbursement of travelling expenses.
- (iv) *Which of the following income is an agricultural income —*
- (a) Income from brick making
 - (b) Income from agriculture land situated in Pakistan
 - (c) Prize from government on account of higher crop yield
 - (d) Compensation received from insurance company on account of loss of crop.

- (v) *The maximum exemption under section 10(10AA) in case of leave encashment is —*
- ₹ 3,50,000*
 - ₹ 3,00,000*
 - ₹ 10,00,000*
 - ₹ 5,00,000.* (1 mark each)
- (b) *Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s):*
- Belated return of income may be filed within _____ from the end of the relevant assessment year.*
 - A person, carrying on profession, has to get his accounts audited on compulsory basis if his gross receipts in profession for the previous year relevant to the assessment year 2011-12 exceeds _____ .*
 - The amount of tax payable by the assessee and the amount of refund due, under the provisions of the Income-tax Act, 1961 shall be rounded-off to the nearest _____ .*
 - The balance of income after deductions admissible under section 80C to 80U is called _____.*
 - Under section 44AB, specified date means _____ of the assessment year.* (1 mark each)
- (c) *Goldie Ltd. has advanced an interest free loan of ₹ 5,00,000 to its employee Ramesh for purchase of car on 1st May, 2010. Ramesh has been regularly repaying the loan in installments of ₹ 20,000 per month at the end of each month.*
- Compute the value of perquisite on account of interest assuming that SBI rate of interest for such loan as on 1st April, 2010 is 10% per annum.*

(5 marks)

Answer 1(a)

- (a) ₹ 2,000
- (b) ₹ 30,000
- (d) Reimbursement of travelling expenses
- (d) Compensation received from insurance company on account of loss of crop.
- (b) ₹ 3,00,000.

Answer 1(b)

- Belated return of income may be filed within **One year** from the end of the relevant assessment year.
- A person, carrying on profession, has to get his accounts audited on compulsory basis if his gross receipts in profession for the previous year relevant to the assessment year 2011-12 exceeds **₹ 15,00,000** .
- The amount of tax payable by the assessee and the amount of refund due, under the provisions of the Income-tax Act, 1961 shall be rounded-off to the nearest **Multiple of Ten rupees** .

- (iv) The balance of income after deductions admissible under section 80C to 80U is called **Total Income** .
- (v) Under section 44AB, specified date means **30th September** of the assessment year.

Answer 1(c)**Computation of Value of perquisite**

<i>Month ending</i>	<i>Maximum amount of loan outstanding (₹)</i>
May 2010	4,80,000
June 2010	4,60,000
July 2010	4,40,000
August 2010	4,20,000
September 2010	4,00,000
October 2010	3,80,000
November 2010	3,60,000
December 2010	3,40,000
January 2011	3,20,000
February 2011	3,00,000
March 2011	2,80,000
Total	41,80,000

Interest on ₹ 41,80,000 @ 10% p.a.

$$\frac{41,80,000 \times 10 \times 1}{100 \times 12} = ₹ 34,833.$$

Therefore, the value of perquisite is ₹ 34,833

Question 2

(a) *State, with reasons in brief, whether the following statements are true or false :*

- (i) *Unabsorbed depreciation can be carried forward for a maximum period of eight assessment years.*
- (ii) *Speculation losses may be set-off against non speculative profits.*
- (iii) *Expenses of purchasing lottery tickets are deducted out of winnings from lottery under the head income from other sources.*
- (iv) *Zero-coupon bonds shall be treated as 'short-term capital asset' if held for more than 12 months but not more than 36 months.*
- (v) *The income of minor child will always be included in the income of his/her parents.*

(2 marks each)

- (b) From the following information, compute the total income of Anurag for the assessment year 2011-12 and calculate his tax liability assuming he is not allowed any deduction under sections 80C to 80U :

	₹
Income from salary	1,80,000
Income from house property	40,000
Business loss	(-) 1,90,000
Loss from a specified business referred to under section 35AD	(-) 60,000
Short-term capital loss	(-) 60,000
Long-term capital gains	2,40,000
	(5 marks)

Answer 2(a)

- (i) **False** : As per Section 32(2), unabsorbed depreciation can be carried forward indefinitely.
- (ii) **False** : According to Section 70 of the Act, speculation losses cannot be set-off against non-speculative gains. However, the loss of non-speculation business can be set-off against the income from speculation business.
- (iii) **False** : As per Section 58(4) of the Income-tax Act no deduction is allowed in respect of any expenditure or allowance in computing the income by way of lotteries crossword puzzles, races, card games, of any sort or form gambling or betting of any form or nature whatsoever.
- (iv) **False** : When Zero Coupon bonds are held for more than 12 months, such bonds shall be treated as long-term capital asset according to Section 2(42A)
- (v) **False** : Clubbing provisions of Section 64(1A) are not applicable on the income of minor child on account of any manual work or suffering from any disability of the nature specified in section 80U.

Answer 2(b)

Computation of Total Income of Anurag for the Assessment Year 2011-12

	₹	₹
Income from salary		1,80,000
Income from House Property	40,000	
Less : Business loss adjusted	10,000	30,000
Business Loss	(-) 1,90,000	
Less : Set off against capital gain	1,80,000	
Less : Set off against house property income	10,000	Nil

	₹	₹
Loss from specified business not allowed to be set off	(-) 60,000	
Income from Capital Gain		
Long-term Capital Gain	2,40,000	
Less : Short-term Capital loss	60,000	
	<u>1,80,000</u>	
Less : Business loss adjusted	<u>1,80,000</u>	Nil
Gross total Income		<u>2,10,000</u>
Less : Deductions U/s 80C to 80U		<u>Nil</u>
Total Income		2,10,000

Computation of Tax Liability

Upto ₹ 1,60,000	NIL
₹ 1,60,001 to 5,00,000	@10%

Therefore, tax on ₹ 50,000 @ 10% plus @3% Education cess and SHEC is ₹ 5,150/-.

Working Notes:

- (i) Business loss should first be set off from long term capital gain as the long-term capital gain is taxable @ 20% where as the income from house property, in this case, is taxable @ 10%.
- (ii) It may be noted that business loss cannot be set off against income under the head salary.

Question 3

- (a) After serving for 29 years and 7 months in Mansha Steels Ltd., Narayan retired on 30th September 2010. He is covered by the Payment of Gratuity Act, 1972. The company has paid him a gratuity of ₹ 4,19,800. At the time of retirement, he was getting basic salary ₹ 11,800, dearness allowance ₹ 2,260 and house rent allowance ₹ 1,400 per month. Determine the amount of gratuity exempt under section 10(10). (5 marks)
- (b) Mrs. Sarita is an ordinary resident and citizen of India. The particulars of her assets and liabilities as on 31st March, 2011 are as follows :

	₹
(i) House property at Indore (three-fourths is self-occupied and one-fourth is let-out)	16,80,000
(ii) Fixed deposit in a nationalised bank	2,00,000
(iii) Fixed deposit for five years in a chit fund	1,60,000

- | | |
|---|-----------|
| (iv) Agricultural land in Rajasthan ₹ 6,00,000 and tractor with other agricultural equipments | 10,47,300 |
| (v) Loan from bank for purchasing tractor | 2,00,000 |
| (vi) Two cars (valuation of small car ₹ 2,00,000 ; and big car : ₹ 12,87,000) | 14,87,000 |
| (vii) Ornaments (received by her in heritage) | 13,60,000 |
| (viii) Share application money | 60,000 |
| (ix) Cash in hand | 2,30,000 |
| (x) Ornaments with her minor son, Sandeep.
(These were given to him by his grandfather.) | 50,000 |
- Compute the net wealth and wealth-tax payable by Mrs. Sarita for the assessment year 2011-12. (6 marks)
- (c) Rakshit whose house property was compulsorily acquired in the year 2005 received enhanced compensation of ₹ 9,00,000 on 15th November, 2010 which includes ₹ 2,40,000 as interest on such enhanced compensation. Discuss the taxability of such compensation. (4 marks)

Answer 3(a)

The exemption shall be allowed to the extent of the minimum of the following amounts:

- (a) Amount of gratuity received ₹ 4,19,800
- (b) 15 day's salary for every year of service

$$\frac{14,060 \times 15 \times 30}{26} = ₹ 2,43,346$$

- (c) ₹ 10,00,000

Therefore, gratuity of ₹ 2,43,346/- shall be exempt

Working Notes:

As Mr. Narayan is covered by the Payment of Gratuity Act, 1972:

- (i) Completed year of service shall be 30 years as Mr. Naryana served for 29 years and 7 months.
- (ii) Salary shall be last drawn basic salary and dearness allowance.
- $$= ₹ 11,800 + ₹ 2,260$$
- $$= ₹ 14,060.$$

Answer 3(b)

**Computation of Net Wealth of Mrs. Sarita
for the Assessment Year 2011-12**

		(₹)
(i) House Property at Indore		Exempt
(ii) Fixed Deposit in a Nationalised Bank		Not an asset
(iii) Fixed Deposit for five years in a Chit Fund		Not an asset
(iv) Agricultural Land & Equipment		Not an asset
(v) Cars		14,87,000
(vi) Ornaments		13,60,000
(vii) Share application money		Not an asset
(viii) Cash in Hand :	2,30,000	
Less : Exempt	<u>50,000</u>	1,80,000
(ix) Property in the name of minor Son (Deemed Asset)		<u>50,000</u>
Gross Wealth		<u>30,77,000</u>
Less : Liabilities		
Loan taken on Purchasing Tractor		Not Deductible
Net Wealth		<u>30,77,000</u>

Wealth Tax Payable

Wealth tax shall be @1% in excess of net wealth of ₹ 30,00,000 [(30,77,000 – 30,00,000) x 1/100] is ₹ 770.

Answer 3(c)

Enhanced compensation of ₹ 9,00,000 – ₹ 2,40,000 = ₹ 6,60,000 shall be taxable under the head capital gain. Whereas interest on enhanced compensation shall be taxable under the head Income from other sources as under:

Interest on enhanced compensation received	₹ 2,40,000
Less : Deduction @50%	<u>₹ 1,20,000</u>
Balance taxable	<u>₹ 1,20,000</u>

Question 4

- (a) For the assessment year 2011-12, Hari is a non-resident in India. From the information given below, find out his income chargeable to tax for the assessment year 2011-12 :

- (i) Royalty received by him outside India from the Government of India: ₹ 17,000.
- (ii) Technical fees received from an Indian company in Germany for advice given by him in respect of a project situated in Iran : ₹ 1,17,000.
- (iii) Income from a business situated in Sri Lanka (goods are sold in Sri Lanka,

sale consideration is received in Sri Lanka but business is partly controlled in Sri Lanka and partly in India) : ₹ 2,17,000.

- (iv) *Income received in Nepal from a business connection in India : ₹ 3,17,000.*
- (v) *Gift in foreign currency from a friend received in India on 20th January, 2011 : ₹ 80,000.*
- (vi) *Past untaxed profit of 2000-01 brought in India on 10th April, 2010 : ₹ 27,000.*
(6 marks)

(b) *Distinguish between any three of the following :*

- (i) *'Cost of acquisition' and 'cost of improvement'.*
- (ii) *'Slab rate' and 'flat rate' of income-tax.*
- (iii) *'Short-term capital gains' and 'long-term capital gains'.*
- (iv) *'Belated return of income' and 'revised return of income'.*
- (v) *'Summary assessment' and 'scrutiny assessment'.* (3 marks each)

Answer 4(a)

Income of Hari a non-resident shall be chargeable to tax for the Assessment Year 2011-12 in the following manner:

(i) As royalty is received from the Government of India, It is deemed to accrue or arise in India. It is Indian income hence always be taxable.	₹ 17,000
(ii) Technical fees received in Germany. The project is situated in Iran. It is foreign Income.	Nil
(iii) Income is received in Sri Lanka as goods are sold in Sri-Lanka, it arises in Sri Lanka. It is foreign Income therefore not taxable in case of non-resident.	Nil
(iv) As the business connection is situated in India, it is deemed to accrue or arise in India	₹ 3,17,000
(v) Gift in foreign currency, from a friend, received in India. It is taken as an Income. (Refer working note 1)	₹ 80,000
(vi) Past untaxed profit of 2000-01 brought in India, not an income of previous year 2010-11 (Refer working note 2)	Nil
Total	₹ 4,14,000

Working Note:

- (1) If the aggregate amount of gifts received by an individual/HUF from all persons (not being relatives) during a financial year exceeds ₹ 50,000, it is taxable as income.
- (2) It is income of the previous year 2001-02, it cannot be taxed at the time of remittance in 2010-11.

Answer 4(b)(i)**‘Cost of acquisition and ‘Cost of Improvement’**

Cost of acquisition is the price which the assessee has paid or the amount which the assessee has incurred, for acquisition of the asset. Expenses incurred for completing the title are a part of the cost of acquisition. Cost of acquisition includes deemed cost of acquisition. Cost of Acquisition of goodwill of a business or a right to manufacture, produce or process any article or thing tenancy rights storage carriage permits or loom hours is:

- (i) In case of acquisition of such assets purchase from a previous owner, cost of acquisition means the amount of purchase price and;
- (ii) Any other case cost of acquisition shall be nil.

Cost of Improvement in relation to a capital asset being goodwill of a business or a right to manufacture, produce or process any article or thing or right to carry on any business shall always be Nil.

Section 55(1) provides that where the capital assets became the property of the previous owner or the assessee before 1.4.1981 the cost of any improvement means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset on or after 1-04-1981 by the previous owner or the assessee.

In other cases it means all capital expenditure in making any additions or alteration by the assessee after it became his property and where the capital asset became the property of the assessee by any of the modes specified in Section 49(1) by the previous owner as the case may be.

Answer 4(b)(ii)**‘Slab rate’ and ‘flat rate’ of income tax**

Slab rate of tax is a tax by which the tax rate increases as the taxable base amount increases. Slab taxes attempt to reduce the tax incidence of people with a lower ability-to-pay, as they shift the incidence increasingly to those with a higher ability-to-pay.

For Example, for Assessment Year 2011-12 the tax slab for individual is :

Upto ₹ 1,60,000	Nil
₹ 1,60,001 to ₹ 5,00,000	10%
₹ 5,00,001 to ₹ 8,00,000	20%
Above ₹ 8,00,001	30%

Flat rate of tax is a tax system with a constant tax rate. An income tax having a single rate for all taxpayers regardless of income level and type. Flat rate of taxes offers simplicity in the taxation system.

For example the Tax rate on Long Term capital gain is 20% and Short Term Capital gain is 15%, Winning from Horse race, lotteries is 30% etc.

Answer 4(b)(iii)**‘Short-term capital gains’ and ‘Long-term capital gains**

Short-term Capital Gains [Section 2(42A)] : A capital asset held by an assessee for not more than 36 months immediately preceding the date of its transfer is known as a short-term capital asset. Capital gain arising on the transfer of short-term capital asset is called Short term Capital Gain.

However, the following assets shall be treated as short-term capital assets if they are held for not more than 12 months (instead of 36 months mentioned above) immediately preceding the date of its transfer :

- (a) Equity or preference shares held in a company;
- (b) Any other security listed in a recognized stock exchange in India;
- (c) Units of the Unit Trust of India or units of a Mutual Fund specified u/s 10(23D);
- (d) Zero coupon bond.

Long-term capital gains [Section 2(29A)] : If the asset is held by the assessee for more than 36 months or 12 months, as the case may be, such an asset will be treated as a long-term capital asset. Capital gain arising on the transfer of long-term capital asset is called Long term Capital Gain.

Answer 4(b)(iv)**‘Belated return of income’ and ‘Revised return of income’**

Belated Return : If return is not furnished within the time allowed under section 139(1) or within the time allowed under notice issued under section 142(1), the person may, before the assessment is made, furnish the return of any previous year at any time before the end of one year from the end of relevant assessment year. If return is submitted after the due date of submission of return of income, the following consequences will be applicable.

- (i) the assessee will be liable for penal interest under section 234A.
- (ii) a penalty of ₹ 5,000 may be imposed under section 271F if belated return is submitted after the end of assessment year;
- (iii) If return of loss is submitted after the due date a few losses cannot be carried forward;
- (iv) If return is submitted belated, deduction under sections 10A, 10B, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID and 80-IE will not be available.

Revised return under Section 139(5) : If an assessee, after furnishing the return of income

- (i) under section 139(a) or
- (ii) in pursuance of to a notice under section 142(1)

discovers any omission or any wrong statement in the return filed, he may furnish a

revised return. Such revised return can be filed at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Answer 4(b)(v)

‘Summary assessment’ and ‘Scrutiny assessment’

Under summary assessment, Assessing Officer completes the assessment without passing a regular assessment order. The Assessing Officer issue an acknowledgement/intimation under section 143(1) of tax payable or refundable as the case may be on the basis of Return of Income filed by the assessee under section 139 or in response to a notice issued under section 142(1). The Assessing Officer (AO) processes the return in the following manner:

- (1) The total income or loss after making adjustments for any arithmetical error in the return or for any incorrect claim which is apparent from any information in the return is calculated.
- (2) Then the tax and interest, if any, on the basis of the total income computed in step (1) is computed.
- (3) Now following adjustments are made to the tax and interest calculated above to determine the sum payable by the assessee or any amount of refund due to him:
 - tax deducted at source,
 - any tax collected at source,
 - any advance tax paid,
 - any relief allowable under an agreement under section 90, 90A and 91,
 - any rebate allowable under Part A of Chapter VIII,
 - any tax paid on self-assessment and
 - any amount paid otherwise by way of tax or interest;
- (4) The AO shall prepare or generate intimation and send it to the assessee specifying the sum determined to be payable by, or the amount of refund due to the assessee.
- (5) The amount of refund due to the assessee shall be granted to the assessee.

Since no assessment order is issued by the department for legal purposes the intimation/acknowledgement shall not be considered as assessment.

No intimation for tax or interest due under section 143(1) shall be sent after the expiry of one year from the end of financial year in which return of income is made.

Under Scrutiny Assessment the assessing officer may serve a notice under section 143(2) requiring the assessee to submit the additional evidence to support the return of the income filed by him under section 139 or 142(1). The assessee can also be asked to attend the office of the AO or produce the evidence by the date mentioned in the notice. The AO then makes the assessment of total income or the loss of the assessee and determine the sum payable by him or refund due to him. The assessment has to be made after taking into consideration such evidence produced by the assessee and all relevant material gathered by him.

In this assessment AO charged with the duty to ensure that the assessee has not understated the income, has not computed excessive loss, has not under paid taxes etc. The assessment is completed with the issue of assessment order containing the tax computed under the signature of AO. Assessment made under this section would be final one and the department cannot open the case again except under reassessment proceedings.

Notice under section 143(2) shall not be issued after the expiry of six months from the end of the financial year in which return was filed.

Question 5

(a) Write short notes on any three of the following :

- (i) *Amortisation of telecom licence fee*
- (ii) *Consequences of failure to deduct tax at source*
- (iii) *Assessment in case of dissolution of an association of persons*
- (iv) *Self-assessment*
- (v) *Valuation of jewellery under the Wealth-tax Act, 1957. (3 marks each)*

(b) *Ms. Rajni who draws a salary of ₹ 20,000 per month received the following gifts on or after 1st October, 2010 during the year 2010-11 :*

- (i) *Gift of ₹ 5,00,000 on 16th October, 2010 from a friend.*
- (ii) *Gift of jewellery, fair market value of which is ₹ 3,00,000 on 17th October, 2010 from her fiancée.*
- (iii) *Gifts of ₹ 51,000 each received from her four friends on the occasion of her marriage on 21st October, 2010.*
- (iv) *Gift of ₹ 1,00,000 on 22nd November, 2010 from her mother's sister.*
- (v) *Gift of ₹ 60,000 on 25th November, 2010 from her father's brother.*
- (vi) *Gift of ₹ 50,000 on 1st December, 2010 from her husband's friend.*
- (vii) *Gift of ₹ 21,000 on 15th December, 2010 from her mother's friend.*
- (viii) *Gift of ₹ 26,000 on 25th December, 2010 from her brother's father-in-law.*
- (ix) *Gift of ₹ 1,21,000 from her husband's brother.*
- (x) *Gift of ₹ 26,000 from her employer.*
- (xi) *Scholarship of ₹ 1,20,000 from a charitable institution registered under section 12AA.*
- (xii) *She has purchased an immovable property from Bhawna who is not her relative for a sum of ₹ 24,50,000. The stamp duty value of the property is ₹ 26,00,000.*
- (xiii) *She purchased bullion for ₹ 4,40,000 whose fair market value is ₹ 4,85,000.*

Compute her total income for the assessment year 2011-12.

(6 marks)

Answer 5(a)(i)**Amortization of telecom license fee (Section 35ABB)**

Where any capital expenditure is incurred by the assessee for acquiring any right to operate tele-communication services and for which payment has actually been made to obtain a license, a deduction will be allowed in equal instalments over the period for which the license remains in force, subject to the following:

- (i) If such amount is paid before the commencement of such business, the deduction, shall be allowed for the previous years beginning with the previous year in which such business is commenced;
- (ii) If the fee is paid after the commencement of such business the deduction shall be allowed for the previous years beginning with the previous year in which the licensee fee is actually paid.

Answer 5(a)(ii)**Consequences of failure to deduct tax at source**

If a person responsible for deduction of tax at source fails to deduct the appropriate tax or after making the due deductions fails to deposit into Government Treasury as per Section 201 he shall be deemed to be an assessee in default and shall be liable to:

- (i) Payment of the whole or any part of the tax as due;
- (ii) Interest @ 1% per month or part of the month on the tax from the date on which such tax was deductible to the date on which such tax is actually paid;
- (iii) Penalty which may be as high as the amount of tax in default;
- (iv) Where the amount of tax which the responsible person has failed to deduct or pay exceeds ₹ 1,00,000 he shall be punishable with rigorous imprisonment for a term not less than six months but which may extend to seven years and with fine.

In any other case he shall be punished with a rigorous imprisonment of a term not less than three months but which may be extended to three years and with fine.

Answer 5(a)(iii)**Assessment in case of dissolution of an association of persons (AOP)**

As per Section 177 of the Income Tax Act where any business or profession carried on by an AOP has been discontinued or an AOP is dissolved the Assessing Officer (AO) shall make an assessment of the total income of the AOP as if no such discontinuance or dissolution had taken place and all provisions of this Act including the provisions relating to the levy of penalty or any other sum chargeable under any provision of the Act apply. Every person who was at the time of such discontinuance or dissolution a member of the AOP and legal representative of any such person who is deceased shall jointly and severally be liable for the amount of tax penalty or other sum payable where such discontinuance or dissolution takes place after any proceeding in respect of an assessment year have commenced the proceeding may be continued against the

members from the stage at which the proceedings stood at the time of such discontinuance or dissolution.

Answer 5(a)(iv)

Self Assessment (Section 140A)

The assessee is required to make a self assessment and pay the tax on the basis of the return required to be furnished under Section 139, 142, 148, 153A or 158BC. The tax due (after taking into account any advance tax paid by him or tax deducted from his income at source) along with interest payable under any provision of the Income Tax Act for any delay in furnishing the return or any default or delay in payment of advance tax is to be paid before furnishing the return. Where the amount paid by the assessee falls short of the aggregate of the tax and interest the amount so paid is to be adjusted towards interest. The balance if any is adjustable towards the tax payable and the return of income filed by the assessee shall be accompanied by proof of payment of such tax. Any tax paid by the assessee under self-assessment is deemed to have been paid towards regular assessment.

Answer 5(a)(v)

Valuation of jewellery under the Wealth-tax Act, 1957

The value of Jewellery shall be estimated to be the price which it would fetch, if sold, in the open market on the valuation date, which may be referred to as Fair Market Value.

Valuation of jewellery shall be determined in the following manner:

- (i) *Where the Fair Market Value, as estimated by the assessee, does not exceed ₹ 5,00,000*

In this case, the assessee shall have to file a statement in Form No.O-8A, along with a return of net wealth submitted by him. However, if the Assessing Officer is of the opinion that the Fair Market Value of the jewellery exceeds the value of the jewellery declared by the assessee in his return by more than 33 1/3% of the returned value or ₹ 50,000, he may refer the valuation of such jewellery to a Valuation Officer under Section 16A(1) and the value of the jewellery in such case shall be the Fair Market Value as estimated by the Valuation Officer.

- (ii) *Where the Fair Market Value, as estimated by the assessee, exceeds ₹ 5,00,000*

In this case, the assessee has to obtain and furnish a report of a Registered Valuer in Form No.O-8, along with a return of net wealth submitted by him. However, if the Assessing Officer is of the opinion that the Fair Market Value of the jewellery exceeds the value of the jewellery declared by the assessee in his return, he may refer the valuation of such jewellery to a Valuation Officer under section 16A(1) and the value of the jewellery in such case, shall be the Fair Market Value as estimated by the Valuation Officer. It may be observed, that in this case, the reference to the Valuation Officer can be done irrespective of the excess of the Fair Market Value, as estimated by the Assessing Officer over the Fair Market Value estimated by the Registered Valuer.

Answer 5(b)**Computation of Total Income of Ms. Rajni
for the Assessment Year 2011-12**

	₹	₹
Income under the head salary		
Salary 20,000 x 12	2,40,000	
Add : Cash gift from employer	26,000	
	<u>2,66,000</u>	
Less : Deduction	Nil	2,66,000
Income from other sources		
(i) Gift from a friend is includable	5,00,000	
(ii) Gift of jewellery is taxable	3,00,000	
(iii) Gifts received from her 4 friends are exempt as they have been received on the occasion of her marriage	Nil	
(iv) Gift from her mother's sister is exempt as the donor is covered in the definition of relative	Nil	
(v) Gift from her father's brother is exempt as the donor is covered in the definition of relative	Nil	
(vi) Gift of ₹ 50,000 from her husband's friend on 1.12.2010 is taxable as aggregate sum of money received during the year exceed ₹ 50,000	50,000	
(vii) Gift of ₹ 21,000 from her mother's friend is includable as aggregate sum of money received during the year exceed ₹ 50,000	21,000	
(viii) Gift from her brother's father in law is taxable as the donor is not covered in the definition of relative	26,000	
(ix) Gift from her husband's brother is exempt as the donor is covered in the definition of relative		Nil
(x) Gift from her employer is taxable as income from salary	Nil	
(xi) Gift in the form of scholarship from charitable Institution registered under section 12AA	Exempt	
(xii) Difference between stamp duty value and purchase Price in case of immovable property	Not taxable	
(xiii) Difference between fair market value of movable Property and purchase price does not exceed ₹ 50,000	Not taxable	8,97,000
Total income	<u> </u>	<u>11,63,000</u>

Question 6

- (a) *Describe the provisions relating to chargeability of unexplained investment not recorded in the books of account.* (4 marks)
- (b) *"If an individual writes a book, he shall be allowed deduction from his gross total income." Explain the statement.* (4 marks)
- (c) *On 31st December, 1980, Goverdhan purchased a plot for ₹ 40,000. The fair market value of the plot on 1st April, 1981 was ₹ 97,800. On 15th October, 2010, Goverdhan sells the plot for ₹ 14,30,000 and paid brokerage, etc., @2% on sales consideration. He invested ₹ 6,87,000 in the construction of residential house which was completed before 31st May, 2011.*

Compute the taxable amount of capital gains for the assessment year 2011-12 of Goverdhan assuming that he already owns one residential house on the date of transfer of plot. Cost inflation index for the financial year 2010-11 is 711. (7 marks)

Answer 6(a)

As per Section 69 of the Income Tax Act where the assessee has made investments which are not recorded in the books of accounts, if any maintained by him for any source of Income and the assessee is not in a position to offer any explanation about the nature and source of the investment or the explanation offered by him is inadequate or not satisfactory in the opinion of assessing officer, the value of the investment may be treated as the income of the assessee for the financial year in which the investments are made.

Answer 6(b)

"If an individual writes a book, he shall be allowed a deduction from his gross total income under section 80QQB of the Income tax Act, 1961"

Essential conditions for claiming deduction under this section:

- (i) The deduction is available to an individual who is resident in India and is an author of a book.
- (ii) The book should be a work of literary, artistic or scientific nature.
- (ii) The Income must be derived by him in the exercise of his profession.
- (iv) The income must be either :
 - (a) on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of such book; or
 - (b) of royalty or copyright fees (whether receivable in lump sum or otherwise)

100% of such income or ₹ 3,00,000, whichever is less is allowed as deduction. No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form (Form No.10CCD) and in the prescribed manner, duly verified by any person responsible for making such payment to the assessee, along with the return of income, setting forth such particulars as may be prescribed.

Answer 6(c)

**Computation of Taxable Capital Gains of Goverdhan
For the Assessment Year 2011-12**

	₹
Sales proceeds of Plot	14,30,000
Less : Brokerage etc. 2%	<u>28,600</u>
Net Sales Proceeds	14,01,400
Less : Indexed Cost of Acquisition	
$\frac{97,800 \times 711}{100}$	<u>6,95,358</u>
Capital Gains	7,06,042
Less : Deduction under section 54F	
$\frac{\text{Capital Gains} \times \text{Cost of New House}}{\text{Net Sales Proceeds}}$	
$\frac{7,06,042 \times 6,87,000}{14,01,400}$	<u>3,46,119</u>
Taxable Capital Gains	<u>3,59,923</u>

PART B**Question 7**

Attempt any four of the following :

- (i) Discuss 'advance ruling' in service tax. (5 marks)
- (ii) Discuss briefly the procedure for registration of service tax provider. (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) What do you mean by 'taxable services' in the context of service tax ? How is the value of taxable services determined ? (5 marks)
- (v) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
 - (a) Service tax in India made a humble beginning from _____ with only three services.
 - (b) Currently, the rate of service tax is _____ (including education cess and secondary and higher education cess).
 - (c) Every provider of taxable services whose aggregate value of taxable services in a financial year exceeds _____, must mandatorily obtain registration.
 - (d) The provision of service tax extends to whole of India except _____

- (e) Every assessee shall submit the half yearly return by the _____ of the month following the particular half-year.

(1 mark each)

Answer 7(i)

Advance Ruling in Service Tax

Advance ruling “means the determination by the Authority, of a question of law or facts specified in the application regarding the liability to pay service tax in relation to a service proposed to be provided by the applicant.

Applicant means

- (i) (a) a non-resident setting up a joint venture in India; or
- (b) a resident setting up a joint venture in collaboration with a non-resident.
- (c) a wholly owned subsidiary Indian company of which the holding company is a foreign company who or which, as the case may be, proposes to undertake any business activity in India;
- (ii) a joint venture in India; or
- (iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

An applicant desirous of obtaining an advance ruling may make an application in such form and in such manner as may be prescribed stating the question on which the advance ruling is sought.

Answer 7(ii)

Section 69 of the Finance Act, read with Rule 4 of the Service Tax Rules make provisions relating to registration. It is mandatory for every person liable to pay service tax to get registered with Superintendent of Central Excise. A person providing a taxable service is liable to pay service tax in terms of Section 68.

An application for registration to the Superintendent of Central Excise can be made in form (ST-1). This is to be made within a period of thirty days from the date on which the service tax is leviable.

ST-1 Form shall be accompanied by the following documents:

- Permanent Account number (PAN);
- An affidavit declaring the commencement of the services;
- Copy of passport/ration card etc., showing proof of residence;
- Passport size photograph of the assessee in case of an individual. In case of partnership firm, copy of partnership deed duly certified to be true copy along with registration certificate in case the firm is registered;
- In case of corporate assessee, copy of memorandum, articles of association duly certified to be true copy by the director.

Answer 7(iii)

Due date for payment of service tax : Rule 6(1) provides that service tax must be paid by the due date. The prescribed due dates are as follows:

(a) For individuals/proprietary firms/partnership firms

The payment has to be made every quarters. The due date of payment is upto 5th of the month (6th day if tax is deposited electronically) immediately following the said quarter.

(b) For others (company and HUF)

The payment has to be made every calendar month. The due date of payment is upto 5th of the month (6th day of tax is deposited electronically) immediately following the said calendar month.

Rate of interest for delayed payment : If the service tax is paid after the due date, simple interest is paid @ 13% for late payment of tax for the period of delay.

Penalty for default in payment of service tax : If service tax is not paid or paid after due dates penalty can be imposed which will be equal to:

- (a) ₹ 200 per day during which the failure continues, or
- (b) 2% per month during which the failure continues whichever is higher.

However, the penalty amount payable shall not exceed the amount of service tax.

Answer 7(iv)**Taxable Services and their valuation**

Service tax applies to taxable services provided on or after July 1, 1994. Section 66 of the Finance Act, 1994 is the charging section. Not all services are liable for service tax. Only those services which are specified in Section 65(105) are liable to service tax.

The consideration for a taxable service shall be the gross amount charged by service provider for the service provided or to be provided. If the gross amount charged by the service provider, for the service provided or to be provided, is inclusive of service tax payable, the value of taxable service shall be calculated in the following manner :

$$\text{Value of taxable service} = \frac{\text{Gross amount charged}}{100 + \text{Rate of service tax}^*} \times 100$$

* At presently the rate of service tax is 10.3 per cent.

Answer 7(v)

- (a) Service tax in India made a humble beginning from **July 1, 1994** with only three services.
- (b) Currently, the rate of service tax is **10.3 per cent** (including education cess and secondary and higher education cess).

- (c) Every provider of taxable services whose aggregate value of taxable services in a financial year exceeds ₹ 9 lakh , must mandatorily obtain registration.
- (d) The provision of service tax extends to whole of India except **Jammu & Kashmir** .
- (e) Every assessee shall submit the half yearly return by the **25th of the month** of the month following the particular half-year.

PART C

Question 8

Attempt any four of the following :

- (i) *Who is liable to pay value added tax (VAT) ? Discuss, in brief, the advantages of introduction of VAT in India. (5 marks)*
- (ii) *What are the methods of computation of VAT ? (5 marks)*
- (iii) *What is input VAT credit ? Will the input VAT credit be available in case of purchase of capital goods ? (5 marks)*
- (iv) *Compute the VAT liability of Anand for the month of October, 2010 using the invoice method of computation of VAT :*
 - *Purchases from the local market (including VAT @ 4%) : ₹ 65,000.*
 - *Storage cost incurred : ₹ 750.*
 - *Transport cost : ₹ 1,750.*

Goods sold at a margin of 5% on the cost of such goods. VAT rate of sales is 4%. (5 marks)
- (v) *State, with reasons in brief, whether the following statements are true or false :*
 - (a) *Under zero-rated sales, prior stage tax is set-off against the zero per cent tax paid, and effectively the entire tax paid on purchases is eligible for refund.*
 - (b) *A special VAT rate of 2% is prescribed for precious and semi-precious metals.*
 - (c) *Tax cannot be evaded under VAT system.*
 - (d) *There are certain cases of purchases in respect of which generally no input tax credit is available.*
 - (e) *Input VAT credit is available on inter-State purchases. (1 mark each)*

Answer 8(i)

Who is liable 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 Ministers 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 ₹ 5 lacs required registration under VAT Act. However, the Committee has subsequently allowed the states to increase the limit from ₹ 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 ₹ 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)

Methods of Computation of VAT

There are three different modes of computation of VAT:

- (a) *Addition Method* : Under this method value added is estimated by adding all the payments that are payable to the factors of production viz. wages, profits, rent and interest. Under this method, the incidence of tax evasion is greater because it does not require matching of invoices.
- (b) *Subtraction Method* : In this method value added is computed by subtracting value of inputs from the value of outputs. VAT rate shall be applied on the computed value added. This is also known as the product approach.
- (c) *Tax Credit Method* : Under this method, VAT payable by a dealer is arrived at by deducting tax on inputs from the tax on sales. This method is known as the invoice method. This method is universally used because of the advantages of computing tax liability under this method. As rate of tax is different in respect of inputs and outputs, the addition method and the subtraction method are not practicable in the case of a manufacturer.

Answer 8(iii)**Input VAT Credit**

Tax paid on the earlier point is termed as, "input tax". This amount is adjusted against the tax payable by the purchasing dealer on his sales. This credit availability is called input tax credit. Input tax is the tax paid or payable in the course of business on purchase of any goods made from a registered dealer of the State. Output tax means the tax charged or chargeable under the Act, by a registered dealer for the sale of goods in the course of business.

In simple words, input tax is the tax a dealer pays on his local purchases of business inputs, which include the goods that he purchases for resale, raw materials, capital goods as well as other inputs for use directly or indirectly in his business. Output tax is the tax that a dealer charges on his sales that are subject to tax. The input tax credit is to be given for both manufacturers and traders for purchase of inputs/ supplies meant for both sales within the State as well as to other States, irrespective of when these were utilized or sold. This also reduces immediate tax liability.

Input tax paid in excess of 2% on inputs purchased within the State will be eligible for tax credit if goods are sent outside State on stock transfer basis. It is also to be noted that in certain cases, partial input tax credit is available in respect of input used for manufacture of exempted goods.

Input tax credit is allowable to a registered dealer for purchase of any goods made within the State from a dealer holding a valid certificate of registration under the Act. Input tax credit on capital goods is available for traders and manufacturers.

Input Tax Credit on Capital Goods:

While taxes paid on raw materials and inputs are eligible for set off against taxes on output, taxes paid on capital goods are not eligible for immediate set-off. The reason perhaps is the huge credit that States may have to grant in cases of capital purchases of large value. Due to this, tax on capital goods may be granted, but over a certain period of time.

Answer 8(iv)**Computation of VAT liability**

	₹
Purchases including VAT @ 4%	65,000
Less : VAT (4 ÷ 104 of Rs.65,000)	<u>2,500</u>
Purchases without VAT	62,500
Add : Storage and transportation	<u>2,500</u>
	65,000
Margin 5%	<u>3,250</u>
Sales	68,250
Tax on sales @ 4%	2,730
Less: Tax on purchases	<u>2,500</u>
VAT Liability	<u>230</u>

Answer 8(v)

- (a) **True** : There is a significant difference between the two. While in an exempted 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.
 - (b) **False** : A special VAT rate of 1% instead of 2% is prescribed for precious and semi precious metals.
 - (c) **True** : The adoption of VAT helps in reducing evasion of tax.
 - (d) **True** : On certain purchases such as from unregistered dealer, from interstate, from a dealer who opts for composite scheme etc. no input tax credit is available.
 - (e) **False** : Input VAT credit is not available on inter state purchases.
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