

JUNE 2013
CSEP M-I Paper- 3 (Solution)
AS PER AY 2013-14

Answer 1 (a)

- (i) (d) None of the above
- (ii) (b) ₹ 5,00,000/-
- (iii) (a) Nearest Rupee
- (iv) (a) Residential status in India
- (v) (c) Sales Tax.

Answer 1 (b)

- (i) 4
- (ii) ₹ 5,000/-, 30%
- (iii) 4 years.
- (iv) ₹ 15,000/-
- (v) 30%

Answer 1 (c)

Computation of Capital Gains For the Assessment Year 2013-14

Sales Consideration		6,95,000
Less: Expenses on transfer	5,000	
Less: Indexed cost of acquisition		
$45,000 \times 852/100$	3,83,400	
Less: Indexed cost of improvement		
1983-84 [$34,000 \times 852/116 = 2,49,724$]		
1992-93 [$29,000 \times 852/223 = 1,10,798$]	3,60,522	7,48,922
Long term capital loss		53,922

Answer 2 (a)

- (i) **False**, money/property received on the occasion of marriage of the individual shall not be taxable under the head income from other sources.
- (ii) **False**, TRP's may be an individual other than the person referred under section 288(2)(ii),(iii),(iv) who has been authorized to act as TRP under Tax Return Prepare Scheme, 2006 and they are not the employee of the Income Tax Department.
- (iii) **False**, allowances or perquisites paid or allowed as such outside India by the Central Government to a citizen of India for his services rendered outside India would be wholly exempt from tax.
- (iv) **False**, capital assets does not include personal effects i.e. assets of personal use are not considered as capital asset. However, certain personal effects like jewellery, drawings, and paintings, archaeological collections, sculptures or any work of art are considered as capital asset.

- (v) **True**, income received from lease of land for grazing of cattle required for agricultural pursuits is agricultural income.

Answer 2 (b)

Determination of Total Income of the Firm

Profit after interest but before remuneration		7,60,000
Add: Interest on capital and loan @4% in excess of 12%		
X: 4% on ₹ 8,00,000 i.e. capital + loan	32,000	
Y: 4% on ₹ 8,00,000 i.e. capital + loan	32,000	64,000
		8,24,000
Less: Remuneration to partners		
On first 3,00,000 of book profits @90%	2,70,000	
On remaining 5,24,000 @60%	3,14,400	5,84,400
Or		
As per deed , whichever is less	10,00,000	5,84,400
Business Income/ Total Income		2,39,600

Answer 2 (c)

Income escaping Assessment or Reassessment under section 147

If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153.

- assess or reassess income which has escaped assessment or
- recompute the loss or the depreciation allowance or any other allowance, as the case may be for the relevant assessment year.

During the course of proceedings under section 147, if any other income chargeable to tax has also escaped assessment for the relevant assessment year and it comes to the notice of the Assessing Officer, he can assess or reassess that income also.

Under the following circumstances the assessing officer may reassess the income, where an assessment has been made, but

- income chargeable to tax has been under assessed; or
- such income has been assessed at too low a rate; or
- such income has been made the subject of excessive relief under this Act; or
- excessive loss or depreciation allowance or any other allowance under this Act has been computed.

Answer 3 (a)

Computation of Tax Liability of Sarita for the AY 2013-14

Income from Salary		5,50,000
Income from Other Sources		
Family Pension	72,000	
Less: deduction @33.33% or ₹15,000 whichever is less	<u>15,000</u>	
Gift from maternal uncle	57,000	
Gift from unrelated person	Exempt 60,000	1,17,000
Gross Total Income		6,67,000
Less: deduction under section 80C PPF		50,000
TOTAL INCOME		
Tax Liability		
Upto ₹ 2,00,000	Nil	
2,00,001 to 5,00,000 @ 10%	30,000	
5,00,001 to 61,70,000 @ 20%	23,400	53,400
Add: Education cess@2%		1,068
Add: Secondary and Higher Education Cess @1%		534
Total Tax Liability [rounded off]		55,000

Answer 3 (b)

Allowable to : Any resident individual, being an author/joint author, in respect of any income by way of Lumpsum consideration or royalty or copyright fees for assignment or grant of any of his Interests in the copyright of anybook.

Amount of Deduction: 100% of the royalty income etc. subject to a maximum of ₹ 3,00,000.

In case of royalty or copyright fees, not in lump sum consideration, deduction shall be restricted to 15% of the value of books sold during the previous year.

Conditions:

- (1) The assessee shall furnish a certificate in form 10CCD.
- (2) In case of income received from a source outside India, the assessee shall furnish a certificate in form 10H.

Answer 3 (c)

E-Filing of quarterly statement of TDS is mandatory for the deductors where:

1. The deductor is an office of the Government.
2. The deductor is the principle officer of a company.
3. The deductor is a person required to get his accounts audited u/s 44AB in the immediate preceding financial year or.
4. The number of deductees records in a quarterly statement for any quarter of the

financial year are twenty or more.

Other than the above, any other deductor may also opt to furnish the statement electronically.

Answer 3 (d)

1.	Eligible Assessee	Individual and HUF.
2.	Condition	Investment or application of funds during the previous year by any mode of payment other than cash.
3.	Maximum Deduction	₹ 15,000. If the medical insurance premium is paid for senior citizen, then maximum deduction is up to ₹ 20,000.

Deduction is allowed for any medical insurance premium paid by any mode of payment other than cash out of assessee's taxable income to GICI or any other approved insurer during the previous year, upto a maximum amount of ₹ 15,000. The deduction is allowed in respect of the following:-

- (a) **In case of an individual** – insurance on the health of the assessee or wife or husband, dependent parents or dependent children.
- (b) **In case of a HUF** – insurance on the health of any member of the family.
- However, where the assessee or his wife or her husband or dependent parents or any member of his family of HUF is a senior citizen, the limit of deduction is raised from ₹ 15,000 to ₹ 20,000

Answer 4 (a)

**Computation of Tax Liability for the
Assessment Year 2013-14**

	₹	₹
Income from Business	12,00,000	
Income under the head Capital Gain		
■ Long Term Capital Gain	80,000	
Income from other sources		
■ Interest from a branch of Syndicate Bank (FDR)	20,000	
■ Dividend (Working Note No.1)	Exempt	
■ Interest on saving bank a/c	<u>8,000</u>	<u>13,08,000</u>
Gross Total Income		13,08,000
Less: Deduction under section 80C to 80U		
• Section 80C: Life Insurance Premium	25,000	
Public Provident Fund	70,000	
• Section 80D: Health Insurance Premium	NIL	
(Working Note No.2)		
• Section 80G: Prime Minister's National		

Relief Fund (allowed 100% without qualifying limit)	30,000	
• Section 80TTA: Interest on saving account	<u>8,000</u>	<u>1,33,000</u>
Total Income		11,75,000
Tax Liability:		
Upto ₹ 5,00,000	NIL	
₹ 5,00,000 to ₹ 10,00,000 @ 20%	1,00,000	
₹ 10,00,001 to ₹ 10,95,000 @ 30%	<u>28,500</u>	1,28,500
Long Term Capital gains tax @ 20% on ₹ 80,000		<u>16,000</u>
		1,44,500
Add: Education cess @ 2% and SHEC@1%		<u>4,335</u>
Total tax liability (rounded off)		1,48,840
Computation of Advance Tax Liability (Rounded Off)		
On or before the 15th September 2012 : Not less than 30% of advance tax liability without LTCG		
(1,48,840-16,480)	= 1,32,360 x 30%	39,710
On or before 15th December 2012 : Not less Than 60% minus amount already paid		
	= (1,48,840 × 60%)	
On or before 15th March 2012 : 100% of	= -39,710	49,590
Advance tax liability minus amount already paid	= 1,48,840	
	-89,300	59,540

Advance Tax Liability

- The provisions of advance tax shall not apply to an individual resident India, who
- does not have any income chargeable under the head “Profits and gains of business of professions.”
 - is of the age of sixty years or more at any time during the previous year.
- Here, smt.Juhi has business income therefore she is liable to pay advance tax.

Working Notes

- (1) It is assumed that dividend is received from Indian company and hence exempt under section 10(34).
- (2) Deduction under section 80D on account of health insurance premium shall not be available as the payment is made in cash.
- (3) As per provision to section 234C(1)(b), no interest shall be leviable for shortfall in payment of instalment of advance tax where such shortfall is on account of under-estimate or failure to estimate the amount of capital gains. Therefore, if any such income arises after the due date of any instalment, then the entire amount of tax payable on such capital gain should be paid in remaining instalment of advance tax which are due or where no such instalment is due by 31st March of the relevant financial year.

Answer 4 (b)

Income from House Property	6,00,000	
Less: Loss from Business	6,00,000	Nil
Income from Business and Profession		
Loss from Business to be carried forward		2,00,000
Loss from specified business		2,80,000
current year depreciation		1,60,000
Gross Total Income		Nil

Answer 4 (c)

Computation of Total Income of Mohit for the AY 2013-14

(i) It is sold without using for Business

Business Income	10,00,000	10,00,000
Less: Depreciation @ 15% on ₹ 20,00,000	3,00,000	
	7,00,000	
Profit on sale of Scientific research asset	30,00,000	37,00,000
Long term capital gain		
Sale consideration	60,00,000	
Less: Indexed cost of acquisition	51,42,857	8,57,143
[3,00,000 × 852/497]		
Total Income		55,57,143

(ii) It is sold after using for Business

Business Income	10,00,000	10,00,000
Less: Depreciation (W.N.1)	Nil	
Business Income		10,00,000
Short term capital gain (W.N.2)		40,00,000
Total Income		50,00,000

Working Notes

- (1) Written down value of the block as on 1.4.2012 20,00,000
Add: Scientific research assets put to use Nil
Less: Sale price limited to WDV 20,00,000
WDV for the purpose of charging depreciation Nil
- (2) Short term capital gain (₹ 60,00,000 - ₹ 20,00,000) = ₹ 40,00,000

Answer 5 (a)**Computation of Net Wealth & Wealth Tax of DEV for AY 2013-14**

Self-occupied residential house	exempt	Nil
Self-occupied residential house in foreign country		90,00,000
National Saving Certificate	not an asset	Nil
Jewellery for personal purpose		60,00,000
Motor Car		7,70,000
House transferred to married daughter		Nil
GROSS WEALTH		1,57,70,000
Less: debt taken for residential house		30,00,000
NET WEALTH		1,27,70,000
Wealth tax liability @ 1% on ₹ 97,70,000		97,700

Answer 5 (b) (i)

Where the assessee incurs an expenditure in respect of which a payment or aggregate of payments made to a person in a day otherwise by an account payee cheque exceeds ₹ 20,000, no deduction shall be allowed in respect of such expenditure.

As out of purchase of raw materials of ₹ 2,00,000 a payment of ₹ 24,000 have been made in cash therefore whole of the expenditure of ₹ 24,000 shall not be allowed as deduction. The balance of ₹ 1,76,000 will be allowed.

Answer 5 (b) (ii)

A weighted deduction of 200% of the sum paid to the National Laboratory to undertake scientific research for an approved programme shall be allowed as deduction.

Hence, ₹ 2,84,000 [$1,42,000 \times 200\%$] shall be allowed as business expenditure for assessment year 2013-14

Answer 5 (c)**Income deemed to accrue or arise in India.**

(1) The following incomes shall be deemed to accrue or arise in India :—

- (i) All income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India or through the transfer of a capital asset situate in India.

[Explanation 1].— For the purposes of this clause —

- (a) in the case of a business of which all the operations are not carried out in India, the income of the business deemed under this clause to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations carried out in India ;

- (b) in the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export ;
- (c) in the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India for transmission out of India ;]
- (d) in the case of a non-resident, being—
 - (1) an individual who is not a citizen of India ; or
 - (2) a firm which does not have any partner who is a citizen of India or who is resident in India ; or
 - (3) a company which does not have any shareholder who is a citizen of India or who is resident in India,
 no income shall be deemed to accrue or arise in India to such individual, firm or company through or from operations which are confined to the shooting of any cinematograph film in India.]

[Explanation 2.—For the removal of doubts, it is hereby declared that "business connection" shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

- (a) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or
- (b) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or
- (c) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident:

Provided that such business connection shall not include any business activity carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent having an independent status is acting in the ordinary course of his business:

Provided further that where such broker, general commission agent or any other agent works mainly or wholly on behalf of a non-resident (hereafter in this proviso referred to as the principal non-resident) or on behalf of such non-resident and other non-residents which are controlled by the principal non-resident or have a controlling interest in the principal non-resident or are subject to the same common control as the principal non-resident, he shall not

be deemed to be a broker, general commission agent or an agent of an independent status.

Explanation 3.— Where a business is carried on in India through a person referred to in clause (a) or clause (b) or clause (c) of Explanation 2, only so much of income as is attributable to the operations carried out in India shall be deemed to accrue or arise in India.]

[Explanation 4.— For the removal of doubts, it is hereby clarified that the expression "through" shall mean and include and shall be deemed to have always meant and included "by means of", "in consequence of" or "by reason of".

Explanation 5.— For the removal of doubts, it is hereby clarified that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India;]

- (ii) Income which falls under the head "Salaries", if it is earned in India.

Explanation.— For the removal of doubts, it is hereby declared that the income of the nature referred to in this clause payable for—

- (a) service rendered in India; and
 - (b) the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment, shall be regarded as income earned in India;
- (iii) income chargeable under the head "Salaries" payable by the Government to a citizen of India for service outside India ;
- (iv) a dividend paid by an Indian company outside India ;
- (v) income by way of interest payable by—
 - (a) the Government ; or
 - (b) a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or
 - (c) a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India;
- (vi) income by way of royalty payable by—
 - (a) the Government ; or
 - (b) a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside

India or for the purposes of making or earning any income from any source outside India ; or

- (c) a person who is a non-resident, where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India :

Provided that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lumpsum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property, if such income is payable in pursuance of an agreement made before the 1st day of April, 1976, and the agreement is approved by the Central Government :

[Provided further that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lumpsum payment made by a person, who is a resident, for the transfer of all or any rights (including the granting of a licence) in respect of computer software supplied by a non-resident manufacturer along with a computer or computer-based equipment under any scheme approved under the Policy on Computer Software Export, Software Development and Training, 1986 of the Government of India.]

Explanation 1.— For the purposes of the [first] proviso, an agreement made on or after the 1st day of April, 1976, shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date; so, however, that, where the recipient of the income by way of royalty is a foreign company, the agreement shall not be deemed to have been made before that date unless, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for the assessment year commencing on the 1st day of April, 1977, or the assessment year in respect of which such income first becomes chargeable to tax under this Act, whichever assessment year is later, the company exercises an option by furnishing a declaration in writing to the Assessing] Officer (such option being final for that assessment year and for every subsequent assessment year) that the agreement may be regarded as an agreement made before the 1st day of April, 1976.

Explanation 2.— For the purposes of this clause, "royalty" means consideration (including any lumpsum consideration but excluding any consideration which would be the income of the recipient chargeable under the

head "Capital gains") for—

- (i) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property ;
- (ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property ;
- (iii) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property ;
- (iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill ;
[(iva) The use or right to use any industrial, commercial or scientific equipment but not including the amounts referred to in section 44BB;]
- (v) the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for the sale, distribution or exhibition of cinematographic films ; or
- (vi) the rendering of any services in connection with the activities referred to in sub-clauses (i) to [(iv), (iva) and (v).]

[Explanation 3.— For the purposes of this clause, "computer software" means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme or any customized electronic data.]

[Explanation 4.— For the removal of doubts, it is hereby clarified that the transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

Explanation 5.— For the removal of doubts, it is hereby clarified that the royalty includes and has always included consideration in respect of any right, property or information, whether or not—

- (a) the possession or control of such right, property or information is with the payer;
- (b) such right, property or information is used directly by the payer;
- (c) the location of such right, property or information is in India.

Explanation 6.—For the removal of doubts, it is hereby clarified that the expression "process" includes and shall be deemed to have always included transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar

technology, whether or not such process is secret;]

(vii) Income by way of fees for technical services payable by—

- (a) the Government ; or
- (b) a person who is a resident, except where the fees are payable in respect of services utilised in a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or
- (c) a person who is a non-resident, where the fees are payable in respect of services utilised in a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India:

[**Provided** that nothing contained in this clause shall apply in relation to any income by way of fees for technical services payable in pursuance of an agreement made before the 1st day of April, 1976, and approved by the Central Government.]

Explanation 1.—For the purposes of the foregoing proviso, an agreement made on or after the 1st day of April, 1976, shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date.]

Explanation [2].—For the purposes of this clause, "fees for technical services" means any consideration (including any lumpsum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salaries".]

- (2) Notwithstanding anything contained in sub-section (1), any pension payable outside India to a person residing permanently outside India shall not be deemed to accrue or arise in India, if the pension is payable to a person referred to in article 314 of the Constitution or to a person who, having been appointed before the 15th day of August, 1947, to be a Judge of the Federal Court or of a High Court within the meaning of the Government of India Act, 1935, continues to serve on or after the commencement of the Constitution as a Judge in India.

[Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this section, income of a non-resident shall be deemed to accrue or arise in India under clause (v) or clause (vi) or clause (vii) of sub-section (1) and shall be included in the total income of the non-resident, whether or not,—

- (i) The non-resident has a residence or place of business or business connection in India; or

(ii) The non-resident has rendered services in India.

Answer 6 (a) (i)

Under section 139(4), if any person who has not furnished a return of income on or before the due date mentioned under sub-section 139(1), or within the time allowed under a notice issued under sub-section (1) of section 142, may furnish the return of income for any previous year 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.

As per section 139(5) of the Income Tax Act, 1961, if an assessee after furnishing the return of income under Section 139(1), or in pursuance 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.

Belated return cannot be revised, as only return furnished u/s 139(1) or in pursuance of a notice u/s 142(1) can be revised.

Answer 6 (a) (ii)

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

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 therefrom is called Short term Capital Gain. However, in case of Equity or preference shares, listed securities, units of a Mutual fund, zero coupon bond (i.e. financial assets), these shall be treated as short-term capital assets if they are held for not more than 12 months immediately preceding the date of its transfer. Whereas, assets other than short term capital assets are known as long-term capital asset and capital gain arising therefrom is called long term Capital Gain.

Short term capital loss can be set off from any capital gain but long term capital loss can be set off only against long term capital gain.

Answer 6 (a) (iii)

‘Statutory provident fund’ and ‘recognised provident fund’

‘Statutory provident fund’ is set-up under the Provident Fund Act, 1925 and is maintained by government or Semi-Government Offices or bodies, local authorities, railways, universities, colleges, corporations, banks and recognized educational institutions, etc. Under this fund, employer’s contribution, interest on Provident fund and Repayment of lump sum amount on retirement/resignation/termination is fully exempt from tax.

Recognised Provident Fund scheme includes the Government scheme set up by Provident Fund Commissioner under Provident Fund and Miscellaneous Provisions Act, 1952 and a scheme made by the organisation which is approved by the PF Commissioner. In the case of RPF, the employers’ contribution in excess of 12% of salary is taxable as salary and such contribution are deductible for the employers as

expenses. Interest on Recognised provident fund is exempt upto 9.5% p.a. Further, employee's contribution to RPF qualifies for deduction under section 80C. Amount received on retirement etc. of RPF is fully exempt subject to certain conditions.

Answer 6 (b)

Procedure regarding refund of excess tax paid by the assessee to the department

Where an assessee has submitted any return of income and any refund of tax is due, such refund shall be granted by the Assessing Officer on his own. The assessee is not required to file any claim for such refund. Similarly, if any refund arises due to an order of appeal, rectification of mistakes, revision by CIT or appeal to the High Court, the refund shall be granted by the Assessing Officer himself.

However, in any other case every claim for refund should be made in the prescribed form i.e. Form No. 30 and should be verified in the prescribed manner. The claim of refund should be made within one year of the last day of the relevant assessment year.

The delay in filing the claim may be condoned by the Assessing Officer and the claim may be disposed off according to merits under certain circumstances. The claim for refund may be presented by the claimant in person or through a duly authorised agent or may be sent by post.

Answer 6 (c) (i)

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

- (1) 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.
- (2) 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 license fee is actually paid.

Answer 6 (c) (ii)

Any income of a political party which is chargeable under the head "Income from house property" or "Income from other sources" or Capital gains" or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party :

Provided that—

- (a) such political party keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom;
- (b) in respect of each such voluntary contribution in excess of twenty thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; and
- (c) the accounts of such political party are audited by an accountant as defined in

sub-section (2) of section 288 :

Provided further that if the treasurer of such political party or any other person authorised by that political party in this behalf fails to submit a report under sub-section (3) of section 29C of the Representation of the People Act, 1951 (43 of 1951) for a financial year, no exemption under this section shall be available for that political party for such financial year.

Answer 6 (b) (iii)

Section 207 to 219 of the Income Tax Act contains the provisions relating to advance payment of tax. The scheme of advance payment of tax is known as Pay as you earn scheme. The income on which the assessee is required to pay advance tax is commonly known as income subject to advance tax and the tax payable on such income is known as advance tax.

As per section 208, advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provision is ₹ 10,000 or more. An individual who is of the age of 60 years or more and does not have any income chargeable under the head profits and gains of business or profession during the previous year is not required to pay advance tax.

Answer 7 (i)

Clause (44) of Section 65B of the Act has defined a term Service as under:

“Service” means any **activity carried out by a person for another for consideration**, and includes a **declared service**, but shall not include —

- (a) an activity which constitutes merely,—
 - (i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
 - (ii) such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of clause (29A) of Article 366 of the Constitution; or
 - (iii) a transaction in money or actionable claim;
- (b) a provision of service by an employee to the employer in the course of or in relation to his employment;
- (c) fees taken in any Court or tribunal established under any law for the time being in force.

Explanation 1 : For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply to,

- (A) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member; or
- (B) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

- (C) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central government or State Governments or local authority and who is not deemed as an employee before the commencement of this section.

Explanation 2 : For the purposes of this clauses, transaction in money shall not include any activity relating to the sue of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged.

Explanation 3 : For the purposes of this Chapter,

- (a) an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as distinct persons;
- (b) an establishment of a person in the taxable territory and any of his other establishment in a non? Taxable territory shall be treated as establishments of distinct persons.

Explanation 4 : A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory.

Answer 7 (ii)

The following services are covered under negative list of services :

- (a) Services by government or a local authority
- (b) Services by the Reserve Bank of India
- (c) Services by a foreign diplomatic mission located in India
- (d) Services relating to agriculture or agricultural produce
- (e) Trading of goods
- (f) Any process amounting to manufacture or production of goods
- (g) Selling of space or time slots for advertisements other than advertisements broadcast by radio or television
- (h) Service by way of access to a road or a bridge on payment of toll charges
- (i) Betting, gambling or lottery
- (j) Admission to entertainment events or access to amusement transmission or distribution utility
- (l) Specified services relating to education
- (m) Services by way of renting of residential dwelling for use as residence
- (n) Certain services provided by financial sector
- (o) Services relating to transportation of passengers
- (p) Services provided by way of transportation of goods
- (q) Funeral, burial, crematorium or mortuary services including transportation of the deceased.

Answer 7 (iii)

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994, the Central Government has issued Notification No. 25/2012 ST dated 20th June

2012 (Mega Exemption Notification) exempting the services. This notification has come in to effect from 1st day of July, 2012.

The following is the illustrative list of exempted services.

- Services provided to the United Nations or a specified international organization.
- health care services by a clinical establishment, an authorized medical practitioner or para-medics.
- Services by a veterinary clinic in relation to health care of animals or birds.
- Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 196) by way of charitable activities.
- Services by a person by way of-
 - renting of precincts of a religious place meant for general public; or
 - conduct of any religious ceremony.
- Services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants by a clinical research organisation approved to conduct clinical trials by the Drug Controller General of India.
- Services by way of training or coaching in recreational activities relating to arts, culture or sports.
- Services provided to or by an educational institution in respect of education exempted from service tax.
- Services provided to a recognised sports body.
- Services by way of sponsorship of sporting events.
- services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works.
- Services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, a road, bridge, tunnel, or terminal for road transportation for use by general public.
- Services by way of construction, erection, commissioning, or installation of original works pertaining to, an airport, port or railways, including monorail or metro.

Answer 7 (iv)

(a) Value of Taxable Services for the month ending 31.07.2012

	₹
(i) Total bills raised during the month ending 31.07.2012	17,50,000
Less: Bill raised on diplomatic Mission	1,50,000

Less: Bill in respect of which payment not received (Refer W.N. No. 2)	Nil
Add: Amount of advance received on 25.07.2012	<u>1,00,000</u>
₹ 1,12,360 × 100/112.36	
Value of Taxable services	<u>17,00,000</u>
(b) Amount of Service Tax Payable	₹
Value of Taxable service	<u>17,00,000</u>
Service tax @ 12%	2,04,000
Add: Education Cess @2%	4,080
Add: SHEC @ 1%	<u>2,040</u>
Total Service Tax Payable	<u>2,10,120</u>
(c) Last date of service tax payable	
Since service provider is a company, the last date for making payment of Service Tax payable will be 5th/6th August, as the case may be, in accordance with the rule 6(1) of the Service Tax Rules, 1994.	

Working Notes

- (1) No adjustment is required in respect of the bill for which payment was not received because according to Rule 3 of Point of Taxation Rules, 2011 where invoice is issued within 30 days from the date of completion of the service, the point of taxation will be earlier of the following two dates:
 - (a) Issue of invoice for the service provided or to be provided or
 - (b) Date of payment to the extent it is received.
- (2) Amount received as advance on 25.07.2012 is to be included in the taxable value of services because according to Explanation appended to Rule 3 of Point of Taxation Rules, 2011 wherever any advance by whatever name known is received by the service provider towards the provision of taxable service, the point of taxation shall be the date or receipt of such advance.

Answer 7 (v)

Section 68(2), provides that in respect of the taxable services notified by the Central Government the service tax thereon shall be paid by such person as may be prescribed. Notification No. 30/2012 dated 20th June 2012 provides for the services where service tax shall be paid by service receiver or in some case by both i.e. service receiver and service provider. The mechanism under which liability for payment of service tax is on the service receiver is known as **reverse charge**.

In the following case, service receiver shall be liable to pay service tax.

1. Services provided or agreed to be provided by an insurance agent to any person carrying on insurance business.
2. Services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road.
3. Services provided or agreed to be provided by way of sponsorship.
4. Services provided or agreed to be provided by an arbitral tribunal.

5. Services provided or agreed to be provided by individual advocate by way of legal services.
6. Services provided or agreed to be provided by way of support service by Government or local authority.
7. In respect of services provided or agreed to be provided by way of renting or hiring any motor vehicle designed to carry passenger.
8. Services provided or agreed to be provided by way of supply of manpower for any purpose or security services.
9. Services provided or agreed to be provided in service portion in execution of works contract.
10. Any taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory.
11. In respect of services provided or agreed to be provided by a director of a company to the said company.

PART – C

Answer 8 (i)

- (a) **True** : Input VAT is available in respect of goods purchased for manufacture of export goods as exports are zero rated.
- (b) **False**: Under consumption variant, deduction is allowed for all business purchases including capital assets.
- (c) **True**: Introduction of composite scheme will obstruct the flow of audit trail and this scheme can be misutilized by unscrupulous dealer.
- (d) **True**: Such assessee may be registered compulsorily by the commissioner.
- (e) **False**: The rate of VAT for precious and semi-precious metal is 1%.

Answer 8 (ii)

The goods which are not chargeable to VAT are termed as exempted goods. Under exempted goods category, the Empowered Committee has listed about 50 commodities comprising of.

- (a) Natural Products
- (b) Unprocessed products
- (c) Items which are legally barred from taxation and
- (d) Items which have social implication.

Further, a set of maximum 10 commodities out of the commodities listed in the exempted category will flexibly be chosen by individual states which are of local importance for the individual states without having an interstate implication.

Answer 8 (iii)

Tax paid on the inputs 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 purchase of any goods made

from a registered dealer of the state.

Input tax credit on capital goods will be available for traders and manufacturers. Tax credit on capital goods may be adjusted over a maximum of 36 equal monthly instalments. The states may at their option reduce the number of instalments. There is a negative list for capital goods which are not eligible for input tax credit.

Answer 8 (iv)

Computation of Net VAT Payable per unit

	₹
Cost of product to Bimal	
₹1000 + ₹ 20 [CST] + ₹ 80 [freight]	1,100
Sale price	1,250
VAT Payable @ 12.5% by Bimal	<u>156.25</u>
VAT Liability of Charan	
Purchase price exclusive of VAT	1250
VAT credit taken	<u>156.25</u>
Sale price	1500
Output VAT @ 12.5%	187.50
VAT credit allowed	156.25
Net VAT Payable	31.25

Answer 8 (v) (a)

Computation of VAT Payable

	₹
Goods purchased for	1,20,000
[VAT @ 12.5%, ₹ 15,000]	
Add: Expenses	10,000
Add: Profit	<u>15,000</u>
	1,45,000
Add: VAT @ 12.5%	18,125
Invoice Value	<u>1,63,125</u>
VAT Payable = Output tax – Input tax	
= ₹ 18,125- ₹15,000	
= ₹ 3,125	

Answer 8 (v) (b)

“VAT avoids cascading effects”

VAT does not have cascading effect due to the system of deduction or credit mechanism. Since, VAT does away with cascading, it avoids distorting business decisions; the need for vertical integration is dictated only by the market forces or technical considerations and not by the tax structure.

