

PAPER – 5 : TAXATION

QUESTIONS

1. State with reasons whether the following statements are true or false [A.Y. 2010-11] –
 - (a) Mr. Raju, a non-resident, received consultancy income in India of Rs.15,00,000 and rental income outside India in respect of his house at London of Rs.7,00,000, during the financial year 2009-10. The total income chargeable to the Income-tax is Rs.22,00,000.
 - (b) Ramesh gifted a house property to Miss Renu on 15.3.2009. Miss Renu married to Ramesh's son Shyam on 1-2-2010. The income from the gifted property was Rs.50,000, which was added by the Assessing Officer in the hands of Ramesh under the provisions of Section 64(1)(vi)
 - (c) Under Section 208 of the Income-tax Act, 1961, obligation to pay advance tax arises in every case where the advance tax payable is Rs.5,000 or more.
 - (d) The regime of the surcharge on Income-tax deduction has been abolished by the Finance Act, 2009 except in the case when the recipient is the Foreign Company when surcharge would be still levied if the income or aggregate of income paid or likely to be paid and subject to deduction exceeds the specified amount.
 - (e) A businessman makes a cash payment of Rs.33,000 on 03.10.2009 as lorry hire charges to a transporter. It does not attract disallowance under section 40A(3) of the Income-tax Act, 1961.

Residential Status and Scope of total income

2. Discuss the provisions relating to determination of residential status of Hindu undivided family, partnership firm and company.

Incomes which do not form part of total income

3. Explain the method of determining the amount of expenditure in relation to income not includible in total income.
4. Explain the provision for taxation and exemption of anonymous donations under section 115BBC of the Income Tax Act, 1961.

Income from House Property

5. Mr. Manoj owns two houses. The details of which are as follows:

Particulars	House I Amount (Rs.)	House II Amount (Rs.)
Municipal valuation	50,000	80,000
Fair rent	60,000	90,000
Standard rent	55,000	84,000
Municipal taxes paid	10,000	14,000

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Repairs (Actuals)	12,000	20,000
Insurance premium paid	1,000	1,500
Interest on Loan		
Loan taken on 01.04.1998	80,000	--
Loan taken on 1.04.2005	-	1,40,000

You are required to advise Mr. Manoj which of the two houses can be treated as self occupied and the other deemed to be let out.

Profits and gains of business or profession

6. What are the conditions to be satisfied for the allowability of expenditure under Section 37 of the Income-tax Act, 1961?
7. Alpha Ltd. commenced operations of the business of laying and operating a cross-country natural gas pipeline network of distribution on 1st April, 2009. The Company incurred capital expenditure of Rs. 40 lakh during the period January to March, 2009 exclusively for the above business, and capitalised the same in its books of account as on 1st April, 2009. Further, during the financial year 2009-10 it incurred capital expenditure of Rs. 150 lakh (out of which Rs. 50 lakh was for acquisition of land) exclusively for the above business.

Compute the deduction under section 35AD for the Assessment year 2010-11 available to Alpha Ltd.

8. The Profit and Loss account of Mr. Harish for the year ended 31.03.2010 is as follows:

Particulars	Rs.	Particulars	Rs.
To repairs on building	1,81,000	By Gross Profit	6,01,000
To amount paid to scientific research association approved u/s 35	1,00,000	By I.T. refund	8,100
To Interest on loan	1,10,000	By Interest on company deposits	6,400
To General expenses	1,30,550		
To Net profit	93,950		
	6,15,500		6,15,500

The following additional information is furnished:

1. Repairs on building includes Rs.1,00,000 being cost of relaying a toilet floor.
2. Interest payments include Rs.50,000 on which TDS has not been deducted.
3. Penalty for contravention of Central Sales-tax Act of Rs.24,000 is charged as part of general expenses.

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Compute the income chargeable under the head "Profits and Gains of Business or Profession" of Mr. Harish for the year ended 31.03.2010 ignoring depreciation.

Clubbing of income

9. Discuss the tax implications of income arising from revocable transfer of assets. When will the clubbing provisions not apply at present, even where there is a revocable transfer of assets?

Salaries

10. Ajay (65 years) is in employment with Vivitha Ltd. and during the previous year 2009-10, he gets the following from Vivitha Ltd.-

Particulars	Amount (Rs.)
Basic salary	25,000 per month
Dearness allowance(half of which is part of salary for retirement purposes)	3,000 per month
Overtime allowance	5,000
Helper allowance for office use(expenditure: Rs: 900 per month)	1,500 per month
Medical bills reimbursement(out of which Rs.13,000 is in respect of treatment in a Government hospital)	45,000
Free gas and electricity only for personal use	25,000
Free telephone at residence	10,000
Free lunch in office (amount paid directly to canteen @ Rs. 50 per day for 300 days)	15,000
Earned leave encashment(as per service rules Ajay is entitled for 2 days leave for each month of service and during 2009-10, Ajay has encashed 24 days leave earned during the year)	20,000
Reimbursement of mediclaim insurance premium on the life of Ajay 's brother who is not dependent upon Ajay	4,500
Leave travel concession for Ajay and his family (no journey is undertaken during the year)	15,000
Ajay has been paid house rent allowance (rent paid at Delhi: Rs. 4,000 per month)	4,000 per month
With effect from June 1,2009, he has been provided rent-free furnished house at Saket, New Delhi whose lease rent is (cost of furniture provided with effect from September 15, 2009: Rs.1,50,000)	16,000 per month
Vivitha Ltd. bears the following expenses in respect of the house	
Repairs of house	7,000
Rent of air- conditioning system (for the summer of 2009)	10,000

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Income of Ajay from other sources is Rs.1,45,000 (which includes Government pension of Rs.1,10,000). He was earlier in the service of Central Government upto year 2005.

Find out the taxable income and tax liability of Ajay for the assessment year 2010-11 on the assumption that Ajay annually contributes Rs.40,000 towards recognised provident fund and Rs.20,000 towards public provident fund.

Capital Gains

11. Smt. Asha purchases 1,000 equity shares in Right Ltd. at a cost of Rs.20 per share (brokerage @ 1%) in January, 1978. She gets 200 bonus shares in August, 1980. She again gets 500 bonus shares by virtue of her holding on February, 1985. Fair market value of the shares of Right Ltd. on April 1, 1981 is Rs.30. In January 2010, she transfers all her shares @ Rs. 150 per share (Brokerage 2%).

Compute the capital gains taxable in the hands of Smt. Asha for the assessment year 2010 -11 assuming.

- (a) Right Ltd. is an unlisted company and securities transaction tax was not applicable at the time of sale.
- (b) Right Ltd. is a listed company and the shares are sold in a recognized stock exchange and Securities transaction tax was paid at the time of sale.

Financial Year	Cost Inflation Index
1981-82	100
1984-85	125
2009-10	632

Set-off and Carry forward of losses

12. Ram, an assessee gives the following information for the Assessment year 2010-11:

Sr.	Particulars	Rs.
a.	Loss from profession	1,05,000
b.	Capital loss on the sale of property-short term	55,000
c.	Capital gains on Sale of Shares-long term	2,05,000
d.	Loss in respect of self occupied property	15,000
e.	Loss in respect of let out property	30,000
f.	Share of loss from firm	1,60,000

Compute the net income/loss of Ram.

13. Loss can be carried forward only by the person, who has incurred the loss. Discuss.

Deductions from Gross Total Income

14. Compute deduction under section 80G in the following cases:

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Particulars	P Rs.	Q Rs.	R Rs.
National Defence Fund	7,000	12,000	--
Approved Public Trust	9,000	10,000	7,000
PM's National Relief Fund	10,000	--	12,000
Approved Temple Renovation	5,000	5,000	-
Central Government-for Promotion of family planning	-	--	10,000

Gross total income of the assessee may be commonly assumed as Rs. 1.5 lakhs. Each of the assessee is entitled to deduction under section 80D and 80GGA to the tune of Rs. 10,000.

Computation of total income and tax liability of an individual

15. Mr. Rana, a Senior Advocate, Supreme Court, provides the following income and expenditure account for the previous year ending 31.03.2010:

Expenditure		Income	
Particulars	Amount (Rs.)	Particulars	Amount (Rs.)
Juniors salaries paid	90,000	Fee received 2009-10	10,00,000
		2008-09	5,00,000
Rent paid (7000x 12)	84,000	Miscellaneous income from Agricultural Operations	20,000
Printing, Stationery and Stamp paper	2,80,000	Amount received towards purchase of Stamp Paper, documents, etc.	1,80,000
Postage and Telegram	82,000	Dividends received from Companies	12,000
Conveyance charges	72,000	Retainership fee received (Rs.2,500 x 12)	30,000
Accident repairs to car	1,20,000	Part time salary received from a company (Rs.10,000 x12)	1,20,000
Vehicle Maintenance	82,000		
Purchase of new car (1.12.2009)	3,00,000		
Depreciation on Car (15% on Rs. 3,00,000)	45,000		

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Depreciation on office equipment (10% on 2,00,000)	20,000	
Staff salary	30,000	
Electricity and Office overheads	78,000	
LIC premium paid for self and wife)	12,000	
Children's tuition fees (for three children	1,20,000	
Investment in Fixed deposit on 1.10.2009	2,00,000	
Municipal Taxes paid for self occupied house	7,500	
Repairs to House	30,000	
Installment paid on Housing loan To Punjab National Bank.	88,000	
Excess of Income over Expenditure	1,21,500	
	<u>18,62,000</u>	<u>18,62,000</u>

The following further details are provided:

- (1) Mr. Rana has paid Rs.1,00,000 for a certificate course on International Arbitration for himself.
- (2) Housing loan installment includes principal repayment of Rs.20,000 and the balance represents interest. The loan was availed on 1.10.1998 for a 15 year repayment period.
- (3) Premium paid towards Mediciclaim policies by cash are as follows:

Policy A for self, wife and children	:	Rs. 25,000
Policy B for his parents (senior citizens)	:	Rs. 25,000
- (4) His car met with an accident. He preferred an insurance claim for Rs.1,00,000 which was settled for Rs.78,000. He spent on repairs Rs.1,20,000 and the salvage value of the damaged parts were Rs.10,000.
- (5) In May 2005, the purchased 400 shares of Oriental. Bank of Commerce @ Rs.150 per share. He privately sold those shares @ Rs.200 per share on 03.10.2009. Cost inflation index for the financial year 2005-06 and 2009-10 are 497 and 632 respectively.

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- (6) Fixed deposit Investments carry interest @ 10% and interest is paid quarterly on 31/12, 31/3, 30/6 and 30/9.

From the above, compute the total income and tax payable thereon by Mr. Rana, for the assessment year 2010-11.

Computation of total income and tax liability of HUF

16. Mr. Meganathan is the Karta of HUF of which Ravi, Ram, Srihari are members. They share the net income equally. They were the residents of Chennai and live as HUF for the past 40 years. They furnish the following particulars of HUF for the purpose of computing total income and tax liability of HUF and its members for the Assessment year 2010 -11.

S. No.	Particulars	Rs.
a.	HUF Business Income	3,50,000
b.	Capital Gains on sale of Shares purchased out of HUF Funds on 10.04.09 and sold on 01.01.2010. S.T.T. was paid on the same	1,20,000
c.	An old house owned by HUF, acquired by it in 1950 was sold on 01.10.2009. The cost of purchase was Rs.5,000 and the sale price was Rs.20,00,000. Cost inflation index factor for FY 2009 -10 was 632 and the fair market as on 01.04.1981 was Rs.1,00,000	
d.	Dividends received by Meganathan (investment made out of HUF Funds)	20,000
e.	Share of profits received from M/s Suri & Co. by Meganathan as Partner on behalf of HUF	1,20,000
f.	Meganathan also received remuneration from M/s Suri & Co. on behalf of HUF	3,00,000
g.	Srihari is Managing Director of a company in which HUF holds 25% of its shares. However Srihari is a Chemical Engineer by virtue of which he was offered the post of M.D. Salary and perquisites received by Srihari per annum was	6,50,000
h.	Ram was running a business by investing his private funds. The profits earned during the year was	3,00,000
i.	Ravi was looking after all HUF activities. He was reimbursed all expenses incurred on behalf of HUF which amounts to	25,000

Tax Deducted at Source

17. Examine the obligation of the person responsible for paying the income to deduct tax at source and indicate the due date for payment of such tax wherever applicable in respect of the following item:

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M/s. Nidhi Textiles Ltd. credited Rs.19,000 towards fees for professional services and Rs. 15,000 towards fees for technical services to the account of Mr. Suresh in its books of account on 6.10.2009. The total sum of Rs.34,000 was paid by cheque to Mr. Suresh on 18.12.2009.

Advance Tax

18. (a) Enlist the installments of advance tax and due dates thereon in the case of Companies.
- (b) Discuss the provisions of Income-tax Act, 1961, about interest chargeable under section 234B and 234C for non-payment / short payment / deferment of advance tax.

Provisions for Filing of Return of Income

19. Explain the provision relating to Belated Return and Revised return under Income Tax Act, 1961.

Computation of service tax liability

20. Shaurya is a Cost Accountant. He has furnished the following information for the month of July, 2010:-
 - (a) A bill for annual professional service was raised to Lifeline Ltd. for Rs. 6,10,000 on 22nd June, 2010. However, he received Rs. 6,00,000 in full and final settlement of the above bill on 23rd July, 2010.
 - (b) Advance of Rs. 2,00,000 was received from Aarogya Ltd. for the services to be provided in the months of August and September.
 - (c) Services were provided to a friend gratuitously for which Shaurya normally charges Rs. 1,00,000 from other clients.

Compute the service tax liability of Shaurya provided he furnishes the following additional information:-

1. In all the aforesaid cases, he has not charged the service tax separately.
2. He is not eligible for the exemption available to the small service provider.

Payment of service tax

21. Ashiana Associates Private Limited provided architect services of the value of Rs. 100 lakh in the financial year 2009-10 and of Rs. 50 lakh in financial year 2008-09. For the month of April, 2010, their value of taxable services is Rs. 2,00,000. What is the due date for payment of service tax?

Filing of service tax return

22. Tarana Ltd. is engaged in providing consultancy in software engineering. It provided the taxable services of the value of Rs. 100 lakh in the financial year 2009-10 and of Rs. 50 lakh in financial year 2008-09. Tarana Ltd. is of the opinion that e-filing of return is optional for the assessee and it does not wish to file its return electronically. You are required to advise Tarana Ltd. whether it should file the return electronically or otherwise for the financial year 2010-11.

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Applicability of provisions of Chapter V

23. Some taxable services are provided by an oil rig of Global Oil and Natural Gas Company (GONC) established in the Continental Shelf of India, constructed for the purposes of prospecting or extraction or production of mineral oil and natural gas. The Department raised the demand for service tax on the said service.

Examine whether the demand raised by Revenue is valid in law.

VAT computation

24. Compute the VAT payable at each stage using 'invoice method' from the particulars given below:-

Stage	Particulars	Profit (as % of cost price)
I	Sambhav Medicaids Ltd. sold the medicines manufactured by it to the distributors of medicines-Rishabh Pharmacy- at Rs. 4,000.	--
II	Rishabh Pharmacy sold the medicines to the wholesalers-Suhani Medicos.	56.25%
II	Suhani Medicos sold the medicines to the retailers-Galaxy Medicines.	25%
IV	Galaxy Medicines sold the medicines to the ultimate consumers	25%

Assume that the VAT rate is 4% and that there was no value addition at various stages of sale except profit margin.

Method of computation of VAT

25. Briefly explain the 'addition method' of computation of VAT. What is the drawback of the addition method?

SUGGESTED ANSWERS/HINTS

1. (a) False

The status of Mr. Raju is a non-resident Indian. Hence, income earned in India only would be subject to tax. The income earned outside India would not be subject to tax. Accordingly, total income chargeable to income - tax would be Rs.15,00,000 only. Therefore, the statement is incorrect.

- (b) False

As per section 64(1)(vi), the income arising directly or indirectly to the son's wife from assets transferred to her by such individuals otherwise than for adequate consideration is taxable in the hands of the individual. As per this provision on the

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date of transfer of the property, Renu should have been the wife of Ramesh's son. Since she was not the daughter-in-law on the date of the transfer, the income from the transferred property cannot be taxed in the hands of Ramesh. Hence, the statement is incorrect.

(c) False

The Finance (No. 2) Act, 2009 has revised the limit from Rs.5,000 to Rs.10,000 to provide for inflation adjustment. Accordingly, from financial year 2009 -10 onwards, advance tax would be payable only if the advance tax liability is Rs.10,000 or more. Hence, the statement is incorrect.

(d) True

The Finance (No.2) Act, 2009 has abolished surcharge on tax deduction at source with effect from assessment year 2010-11 except if the recipient is a foreign company. If the recipient is a foreign company, surcharge @ 2½ % would be levied on such income tax if the income or aggregate of income paid or likely to be paid exceeds Re. 1 crore.

(e) True

As per section 40(A)(3), where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque or account payee bank draft exceeds Rs.20,000, no deduction shall be allowed in respect of such expenditure. However, as per amendment made by Finance (No.2) Act, 2009 w.e.f. 1.10.2009 in the case of payment made for plying, hiring or leasing goods carriages, the limit has been increased to Rs.35,000. Therefore, the payment of Rs.33,000 is within the maximum limit of exemption, hence does not attract disallowance under section 40A(3) of the Income Tax Act, 1961. Therefore, the statement is correct.

2. Residential status of a HUF

A HUF would be resident in India if the control and management of its affairs is situated wholly or partly in India during the relevant previous year. If the control and management of its affairs is situated wholly outside India, during the previous year, it would be considered as a non-resident.

If the HUF is resident, then the status of its Karta determines whether it is resident and ordinarily resident or resident but not ordinarily resident.

Residential status of a firm

A Firm would be resident in India if the control and management of its affairs is situated wholly or partly in India during the previous year. Where the control and management of the affairs is situated wholly outside India, during the previous year, the firm would be considered as a non-resident.

Residential status of a company

A company is said to be resident in India if –

(a) it is an Indian company as defined under section 2(26) ,or

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- (b) its control and management is situated wholly in India during the relevant previous year.

Thus, every Indian company is resident in India irrespective of the fact whether the control and management of its affairs is exercised from India or outside. However, a company other than an Indian Company would become resident in India only if the entire control and management of its affairs is in India during the previous year.

3. The CBDT has, vide notification no.45/2008 dated 24.3.2008, inserted a new Rule 8D which lays down the method for determining the amount of expenditure in relation to income not includible in total income.

If the Assessing Officer, having regard to the accounts of the assessee of a previous year is not satisfied with:

- (i) the correctness of the claim of expenditure by the assessee; or
- (ii) the claim made by the assessee that no expenditure has been incurred in relation to exempt income for such previous year,

he shall determine the amount of expenditure in relation to such income in the manner provided hereunder-

The expenditure in relation to income not forming part of total income shall be the aggregate of the following:

- (i) the amount of expenditure directly relating to income which does not form a part of total income
- (ii) in a case where the assessee has incurred expenditure by way of interest during the previous year which is not directly attributable to any particular income or receipt, an amount computed in accordance with the following formula, namely:

$$\frac{A \times B}{C}$$

Where,

A = amount of expenditure by way of interest other than the amount of interest included in clause (i) incurred during the previous year:

B = the average of value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year:

C = the average of total assets as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year

- (iii) An amount equal to one and a half per cent of the average of the value of the investment, income from which does not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year.

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4. Exemption limit for taxation of anonymous donations under section 115BBC

- (i) Anonymous donations received by wholly charitable trust and institutions are subject to tax at a flat rate of 30% under section 115BBC. Further anonymous donations received by partly charitable and partly religious trusts and institutions would be taxed @ 30%, only such anonymous donation is made with a specific direction that such donations is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.
- (ii) In order to provide relief to these trusts and institutions and to reduce their compliance burden an exemption limit has been introduced, and only the anonymous donation in excess of this limit would be subject to 30% under section 115BBC.
- (iii) The exemption is the higher of the following
 - (a) 5% of the total donations received by the assessee.
 - (b) Rs.1 lakh
- (iv) The total tax payable by the assessee would be -
 - (a) tax @ 30% of anonymous donation exceeding the exemption limit as calculated above.
 - (b) the tax on the balance income i.e., total income as reduced by the aggregate of anonymous donation received.

5. Computation of Income from house property

Particulars	Option I		Option II	
	House I Self occupied	House II Deemed to be let out	House I Deemed to be let out	House II Self occupied
Municipal Valuation (MV)	50,000	80,000	50,000	80,000
Fair Rent (FR)	60,000	90,000	60,000	90,000
Standard Rent (SR)	55,000	84,000	55,000	84,000
Gross annual value (higher of MV and FR, but restricted to SR)	Nil	84,000	55,000	Nil
Less: Municipal taxes paid	0	14,000	10,000	0
Net Annual Value	Nil	70,000	45,000	Nil
Less : Deduction u/s. 24				
30 % of Net Annual Value	0	21,000	13,500	0
Interest on loan	30,000	1,40,000	80,000	1,40,000
Income from House Property	(30,000)	(91,000)	(48,500)	(1,40,000)
	(1,21,000)		(1,88,500)	

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Advise to Mr. Manoj

Since the loss under option II is more, option II can be availed by Mr. Manoj which would be more beneficial i.e. it is better to treat house II as self occupied property and house I as deemed to be let out property.

Note:

In case of self – occupied property, if the capital is borrowed before 1-4-1999, the deduction under section 24(b) shall be allowed to the maximum of Rs. 30,000.

6. The following conditions should be fulfilled for the allowability of expenditure under section 37 of Income Tax Act, 1961:
- (i) The expenditure should not be of the nature described in Sections 30 to 36.
 - (ii) It should have been incurred by the assessee during the previous year.
 - (iii) It should not be in the nature of any personal expenditure.
 - (iv) The expenditure should have been laid out or expended wholly and exclusively for the purposes of such business or profession.
 - (v) It should not be in the nature of capital expenditure.
 - (vi) The expenditure should not have been incurred by the assessee for any purpose which is an offence or is prohibited by law.
7. (i) Section 35AD has been introduced with effect from Assessment Year 2010-11 as investment linked incentive for specified business.

With the specific objective of creating rural infrastructure and environmental friendly alternate means for transportation of bulk goods, investment linked tax incentives have been introduced for specific business which also includes laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.

- (ii) 100% of the capital expenditure incurred during the previous year, wholly and exclusively for the above business would be allowed as deduction from the business income. However, expenditure incurred on acquisition of land, goodwill or financial investment would not be eligible for deduction.
- (iii) Further, the expenditure incurred wholly and exclusively, for the purpose of specified business prior to the commencement operation would be allowed as deduction during the previous year in which the assessee commences operation of his specified business. A condition has been inserted that such amount incurred prior to the commencement should be capitalized in the books of account of the assessee on the date of commencement of its operation.

Accordingly, Alpha Ltd. will be entitled for deduction under 35AD for Assessment Year 2010-11 as under:

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Capital expenditure incurred during the previous year 2009-10 (excluding the expenditure incurred on acquisition of land)	100 lakhs
Capital expenditure incurred prior to 1.4.2009 (i.e. prior to commencement of business) and capitalized in the books of account as on 1.4.2009	40 lakhs
Total deduction under section 35AD for A.Y. 2010-11	<u>140 lakhs</u>

8. Computation of Profits and Gains of Business or Profession of Mr. Harish for A.Y. 2010-11

Particulars	Rs.
Net profit as per the books	93,950
Add: Adjustments for inadmissible items:	
(a) Expenditure relating to toilet floor (only current repairs are allowed as a deduction) 1,00,000	1,00,000
(b) Penalty imposed under CST Act for violation of law 24,000	24,000
(c) Interest paid without deduction of tax source 50,000	<u>50,000</u>
	1,74,000
	<u>2,67,950</u>
Less:	
(d) Interest on Company Deposit -charged under Income from other sources 6,400	6,400
(e) IT Refund-does not form part of income 8,100	8,100
(f) Contribution to approved Scientific Research Association (125% of Contribution) (1,00,000 x 125% - Rs. 1,00,000) 25,000	<u>25,000</u>
	39,500
Profits and gains from Business or profession	<u>2,28,450</u>

9. Income arising from revocable transfer of assets [Section 61]

- (i) All income arising to any person by virtue of a revocable transfer of assets is to be included in the total income of the transferor.
- (ii) As per section 63, the transfer is deemed to be revocable if -
 - (a) it contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the income or assets to the transferor, or
 - (b) it gives, in any way to the transferor, a right to re-assume power, directly or indirectly, over the whole or any part of the income or the assets.

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Transfer not revocable during the life time of the beneficiary or the transferee:

If there is a transfer of asset which is not revocable during the life time of the beneficiary or transferee, the income from the transferred asset is not includible in the total income of the transferor provided the transferor derives no direct or indirect benefit from such income.

If the transferor receives direct or indirect benefit from such income, such income is to be included in his total income even though the transfer may not be revocable during the life time of the transferee.

10. Computation of taxable Income and tax liability of Ajay for the A.Y. 2010-11

Particulars	Amount (Rs.)	Amount (Rs.)
Basic salary (Rs.25,000 x 12)		3,00,000
Dearness allowance (Rs.3,000 x 12)		36,000
Overtime allowance		5,000
Helper allowance [(Rs.1,500 - Rs.900) x 12]		7,200
Medical bills reimbursement	45,000	
Less: Reimbursement of Government hospital bills	13,000	
Balance	32,000	
Less: Amount not taxable	15,000	17,000
Free gas and electricity		25,000
Free residential telephone (not taxable) [see Note 3]		--
Free lunch [Rs.50- Rs.50) x 300]		Nil
Earned leave encashment [see Note 4]		20,000
Mediclaime insurance on the life of Ajay's brother not dependent on Ajay [see Note 5]		4,500
Leave travel concession [see Note 6]		15,000
House rent allowance [see Note 1]		5,300
Rent free furnished house [see Note 2]		75,025
Pension from Government		1,10,000
Gross salary		6,20,025
Less: Deduction under section 16		--
Income from salary		6,20,025
Income from other sources (1,45,000 – 1,10,000)		35,000
Gross total income		6,55,020

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Less: Deduction under section 80C [see Note 8]	60,000
Net income (rounded off)	5,95,025
 Tax	 74,508
Add: Surcharge (surcharge is not applicable in case of an individual for the assessment year 2010-11)	Nil
Tax and surcharge	74,508
Add: Education cess (2% of tax and surcharge)	1,490
Add: Secondary and higher education cess [1 % of tax and surcharge]	745
Tax payable	76,743
Tax payable (rounded off)	76,740

Notes-

- House rent allowance - Salary for this purpose is Rs.26,500 (being basic salary: Rs. 25,000 + 50% of dearness allowance) per month. Amount exempt from tax is calculated as follows –
 - Rs. 13,250 per month (being 50% of salary)
 - Rs. 4,000 per month (being house rent allowance); or
 - Rs. 1,350 per month (being the excess of rent paid over 10% of salary, i.e., Rs. 4,000 – Rs. 2,650). The least of the three sums is Rs. 1,350 per month. Amount taxable is Rs. 5,300 [i.e., (Rs. 4,000- Rs. 1,350) x 2]
- Rent free house - With effect from June 1, 2009, Ajay has been provided a house by the employer. "Salary" for the period June 1, 2009 to March 31, 2010 for the purpose of valuation as per follows –

Particulars	Rs.
Basic salary (Rs.25,000 x 10)	2,50,000
Dearness allowance (Rs.1,500 x 10)	15,000
Helper allowance (Rs. 600 X 10)	6,000
Earned leave encashment (20 days leave)	16,667
Pension from Government (Rs.1,10,000 x 10 / 12)	91,667
Salary	3,79,334
Lease rent of 10 months	1,60,000
Value of unfurnished house (15% of salary or lease rent, whichever is lower)(i.e. 15% of Rs. 3,79,334)	56,900

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Add: Value of furniture (10% per annum of Rs.1,50,000 from September 15, 2009 to March 31,2010)	8,125
Add: Rent of air-conditioning system	10,000
Value of furnished house	75,025

3. Free telephone at residence is not chargeable to tax.
4. Leave encashment taken while in service is taxable without any exemption. Since in this case, leave earned during the current year is encashed, the same is taken into consideration in order to determine the perquisite value of furnished house.
5. Mediciam insurance premium paid by employer on the life of Ajay's brother is taxable as the brother is not dependent upon Ajay.
6. Leave travel concession is not exempt, as no journey is undertaken by Ajay.
7. Expenditure incurred in respect of house repairs is not chargeable to tax.
8. Ajay is entitled to Rs.60,000 deduction under section 80C on account of contribution to recognized provident fund and public provident fund.

11. Computation of Capital Gains for the A.Y. 2010-11

(a) Right Ltd. is an unlisted Company:

Particulars	Rs.
1000 Original Shares	
Sale proceeds (1000 x Rs.150)	1,50,000
Less: Brokerage paid (2% of Rs.1,50,000)	3,000
Net sale consideration	1,47,000
Less: Indexed cost of acquisition [Rs.30 x 1000 x 632/100]	1,89,600
Long term Capital Loss (A)	42,600
 200 Bonus Shares	
Sale Proceeds(200 x Rs.150)	30,000
Less: Brokerage paid (2% of Rs.30,000)	600
Net sale consideration	29,400
Less: Indexed cost of acquisition [Rs.30 x 200 x 632/100] (Note)	37,920
Long term Capital Loss (B)	8,520
 500 Bonus Shares	
Sale Proceeds(500 x Rs.150)	75,000

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Less: Brokerage paid (2% of Rs.75,000)	1,500
Net sale consideration	73,500
Less: cost of acquisition	NIL
Long term Capital Gain (C)	73,500

Long term capital gains (A+B+C)

22,380

Note:

The assessee is allowed to opt for FMV as on 1.4.1981 for Bonus shares allotted before 1.4.1981 but for bonus shares allotted after 31.3.1981 the cost of acquisition is Nil.

(b) Right Ltd. is a listed company

The Long-term capital gains on transfer of equity shares through a recognized stock exchange on which securities transaction tax is paid is exempt from tax under section 10(38). Hence, the taxable capital gain is Nil.

12. Computation of Total income of Ram for the A.Y. 2010-11

	Amount (Rs.)	Amount (Rs.)
Income from House property		
Loss from self occupied Property	(15,000)	
Loss from let out Property	(30,000)	
	<u>(45,000)</u>	
Less: Set off against Long Term Capital Gain	45,000	Nil
	<u></u>	
Profits and Gains of Business or Profession		
Loss under the head Business or Profession	(1,05,000)	
Less: Set off against Long Term Capital Gain	1,05,000	Nil
	<u></u>	
Capital Gains		
Long term Capital Gain on Sale of shares	2,05,000	
Set off of Short Term Capital loss on sale of property	(55,000)	
	<u>1,50,000</u>	
Taxable Long Term Capital Gain	1,50,000	
Less: Amount utilized to set off business loss	(1,05,000)	
Less: Amount utilized to set off loss from House property	(45,000)	Nil
	<u></u>	
Total Income		Nil

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Notes -

It has been assumed that in respect of long term capital gain on sale of shares, the shares are not listed in the stock exchange and securities transaction tax was not paid. Hence, long term capital gain is not exempt under section 10(38).

13. Under section 78(2), where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than inheritance, nothing in this chapter (Relating to set off and carried forward of losses) shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income.

In other words, the brought forward business losses can be set off only by the same assessee. The assessee who has suffered the losses and in whose hands the loss has been assessed is the person who can carry forward the losses and set off the same against his business income of the subsequent year. However, following are the exceptions:-

- (i) Carry forward and set off of accumulated business loss of the amalgamating company against the income of the amalgamated company, if the amalgamation is within the meaning of section 72A;
- (ii) Carry forward and set off of accumulated business loss of the demerged company in the hands of the resulting company, in a scheme of demerger, subject to fulfillment of certain conditions which the Central Government may for this purpose notify, to ensure that the demerger is for genuine purpose;
- (iii) In the case of reorganization of business, where a firm is succeeded by a company as per the provisions of section 47(xiii), or a sole proprietary concern is succeeded by a company as per the provisions of section 47(xiv), the accumulated loss of the firm or sole proprietor shall be deemed to be the loss of the successor company for the previous year in which the business reorganization was effected and the carry forward provisions shall be applicable to the successor company;
- (iv) Where a business carried on by one person is acquired by another person through inheritance, then the successor can carry-forward and set-off the loss of the predecessor against his income.

14. **Computation of Deduction under section 80G**

Particulars	Gross qualifying amount	Net qualifying amount	Deduction	
	Rs.	Rs.	%	Amount
In the case of Mr. P				
National Defence Fund	7,000	7,000	100	7,000
Approved Public Trust	* 9,000	9,000	50	4,500

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PM's National Relief Fund	10,000	10,000	100	10,000
Approved Temple Renovation	* 5,000	5,000	50	2,500
Deduction under section 80G				24,000

In the case of Mr. Q

National Defence Fund	12,000	12,000	100	12,000
Approved Public Trust	* 10,000	10,000	50	5,000
Approved Temple Renovation	* 5,000	5,000	50	2,500
Deduction under section 80G				19,500

In the case of Mr. R

Approved Public Trust	* 7,000	7,000	50	3,500
PM's National Relief Fund	12,000	12,000	100	12,000
Promotion of family Planning	* 10,000	10,000	100	10,000
Deduction under section 80G				25,500

Note: * These amounts qualify subject to the overall limit of 10% of total income of Rs. 1,40,000. The total of these amounts exceeding Rs.14,000 (being 10% of Rs. 1,40,000) is not eligible for deduction. However, in these cases, the amount does not exceed Rs.14,000, therefore the specified percentage of amount donated qualifies for deduction.

15. Computation of total income of Mr. Rana for the Assessment Year: 2010-11

	Amount (Rs.)	Amount (Rs.)	Amount (Rs.)
Income from Salaries			
Part-time salary received			1,20,000
Income from house property			
Self occupied			
Annual letting value	Nil		
Less: Interest paid	68,000		
	<u>(68,000)</u>		
As the loan was availed before 31.03.99, interest deduction has to be restricted to Rs.30,000			(30,000)
Income from Business and Profession			
Income as per income and expenditure account		1,21,500	

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Disallowances :

Add: Capital Items- Car	3,00,000	
LIC premium	12,000	
Children's tuition fees	1,20,000	
Investment in FD	2,00,000	
Municipal taxes paid	7,500	
Repairs to house	30,000	
Installments of Housing loan	88,000	
Insurance claim received (Note 5)	88,000	
Add: Excess Depreciation on car 50% on 15% only eligible being lesser than 180 days.	22,500	
		8,68,000
		9,89,500

Treated separately

Less: Agricultural Income	20,000		
Dividends received (Note 4)	12,000		
Part time salary treated separately	1,20,000	1,52,000	8,37,500

Capital gains

Sale consideration (400 x 200)	80,000	
Cost of purchase (400 x 150) = Rs. 60,000		
Indexed cost of acquisition		
$\frac{60,000 \times 632}{497}$	76,298	3,702

Income from other sources

Interest on FD	10,000	10,000
		9,41,202

Gross total income

Less: Chapter VI A deductions

Under section 80C

LIC Premium	12,000
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Children tuition fees (restricted to two children) (Rs.1,20,000 x 2/3)	80,000	
Housing loan installment (principal)	20,000	
	<u>1,12,000</u>	
Restricted to Rs.		<u>1,00,000</u>
Total income chargeable to tax		8,41,202
Total income chargeable to tax rounded off u/s 288A		8,41,200
Tax thereon		
On Rs. 3,700 LTCG @ 20%	740	
Education Cess @ 3%	<u>22</u>	
	<u>762</u>	
Agricultural income and Non-agricultural income excluding LTCG (Rs.20,000 + Rs.8,37,500)	8,57,500	
Tax on the income of Rs. 8,57,500 (A)		1,61,250
Add: Tax on long-term capital gain of Rs.3,700 @ 20%		740
		<u>1,61,990</u>
Basic exemption limit to agricultural income (Rs.1,60,000 + Rs.20,000)	1,80,000	
Tax on Rs.1,80,000 (B)		2,000
Tax on non-agricultural income (A-B) (Rs.1,61,990 – Rs.2,000)		1,59,990
Add: Education cess @ 2%		3,200
Add: Secondary and higher education cess @ 1%		<u>1,600</u>
Tax payable		<u>1,64,790</u>

Note:

1. Fees received amounting to Rs.5 lacs pertains to F.Y. 2008-09 will be treated as current year's income, as Mr. Rana is a professional advocate, maintains accounts on cash system.
2. Rs. 1 lac paid for a certificate course is not an allowable expenditure.
3. Medical premium paid by cash is not an allowable expenditure.
4. It has been assumed that the dividend is received from the domestic company. Hence, the same is exempt under section 10(34).
5. The amount of insurance claim received and salvage value of damaged parts

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relates to current repairs which is business expenditure. Therefore, only the current repairs after adjusting the amount of insurance claim is allowable as deduction. Since the entire amount of Rs.1,20,000 has been debited to income and expenditure account the insurance claim of Rs.78,000 and salvage value of Rs.10,000 have to be added back.

16. Computation of Total Income of HUF & Its Members for A.Y. 2010-11

Income from business

(a) Out of own business	3,50,000
(b) As a partner of M/s Sunil & Co.	
Remuneration 25,000 x 12	3,00,000
Share of profits received from M/s Sunil & Co. is exempt	-
	6,50,000

Capital Gains

(a) Short term capital gain on sale of shares	1,20,000
(b) Long term capital gain on sale of house	
Sale price	20,00,000
Cost of acquisition as on 1.4.81 Rs.1,00,000	
Indexed cost of acquisition $1,00,000 \times 632 / 100$	6,32,000
	13,68,000
	14,88,000

Income from other sources

Dividend received Rs.20,000 exempt u/s. 10 (34)	Nil
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Gross Total Income (6,50,000 + 14,88,000)	21,38,000
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Income Tax on the above:

Short term capital gain on Rs.1,20,000 @ 15%	18,000
Long term capital gain on Rs.13,68,000 @ 20%	2,73,600
On the balance Rs.6,50,000	99,000
	3,90,600

Add: Education cess @ 2%	7,812
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Secondary and Higher education cess @ 1%	3,906
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Tax payable	4,02,318
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Srihari

Salary received as MD	6,50,000
Total Income	6,50,000

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Income Tax	99,000
Add: Education cess @ 2%	1,980
Secondary and Higher education cess @ 1%	990
Tax payable	1,01,970
Ram	
Income from business	3,00,000
Total income	3,00,000
Income Tax	14,000
Add: Education cess @ 2%	280
Secondary and Higher education cess @ 1%	140
Tax Payable	14,420

Since Meghanathan and Ravi have no separate income, there is no liability.

17. The requirement to deduct tax at source in respect of fees for professional or technical services are covered under section 194J in case the amount exceeds Rs.20,000 in a financial year. Further, the tax shall be deducted at source either on credit or payment, whichever is earlier. The proviso to Section 194J contemplates independent limit of Rs.20,000 each towards
- (a) fees for professional services; and
 - (b) fees for technical services.

In the given case, M/s. Nidhi Textiles Ltd. has credited Rs.19,000 towards fees for professional services and Rs.15,000 towards fees for technical services to the account of Mr. Suresh in its books of accounts. As the fee for professional services or fee for technical services independently does not exceed Rs.20,000 during the financial year, the liability to deduct tax under section 194J does not arise.

18. (a) Advance tax shall be payable by companies per the following schedule of installments:

Companies – four installments	Amount payable
Due date of installment	
On or before the 15 th June	Not less than 15% of advance tax liability.
On or before the 15 th September	Not less than 45% of advance tax liability, as reduced by the amount, if any, paid in the earlier installment
On before the 15 th December	Not less than 75% of advance tax liability, as reduced by the amount or amounts, if any, paid in the earlier installment or installments.

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On before the 15 th March	The whole amount of advance tax liability as reduced by the amount or amounts, if any, paid in the earlier installment or installments.
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(b) (i) Interest for non payment or short payment of advance tax (Section 234B)

- (a) Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of the assessed tax.
- (b) The interest liability would be 1% per month or part of the month from 1st April following the financial year upto the date of determination of income under section 143(1).
- (c) Such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.
- (d) Assessed tax is the tax calculated on total income less tax deducted at source.

(ii) Interest payable for deferment of advance tax (Section 234C)

- (a) Interest under section 234C is attracted for deferment of advance tax beyond the due dates.
- (b) The interest liability would be @ 1% per month, for a period of 3 months, for every deferment.
- (c) However, for the last installment of 15th March, the interest liability under this section would be 1 % for 1 month.
- (d) The interest is to be calculated on the difference between the amount arrived at by applying the specified percentage of tax on the returned income and the actual amount paid by the assessee due date.

19. Belated return [Section 139(4)]

- (a) Any person who has not furnished a return within the time allowed to him under section 139(1) or within the time allowed under a notice issued under section 142(1) may furnish the return for any previous year at any time -
 - (i) before the expiry of one year from the end of the relevant assessment year; or
 - (ii) before the completion of the assessment,whichever is earlier.
- (b) A belated return cannot be revised. It has been held in *Kumar Jagdish Chandra Sinha v. CIT [1996] 86 Taxman 122 (SC)* that only a return furnished under section 139(1) or in pursuance of a notice under section 142(1) can be revised. A belated return under section 139(4) cannot be revised.

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Revised Return [Section 139(5)]

If any person having furnished a return under section 139(1) or in pursuance of a notice issued under section 142(1), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before completion of assessment, whichever is earlier.

20. Computation of service tax payable by Shaurya for the month of July, 2010:-

Particulars	Amount (Rs.)
Service tax on services provided to Lifeline Ltd.	56,029.01
$= \frac{6,00,000 \times 10.30}{110.30} \text{ (Note-1 \& 2)}$	
Service tax on advance received = $\frac{2,00,000 \times 10.30}{110.30}$ (Note – 2)	<u>18,676.34</u>
Total service tax payable (rounded off)	<u>74,705.00</u>

Notes:

1. Service tax is payable on the amount actually received i.e. Rs. 6,00,000 and not Rs. 6,10,000.
 2. Where the gross amount charged by a service provider, for the service provided or to be provided 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.
 3. If the value of taxable service is zero, tax will also be zero, even though the service may be taxable. Therefore, service tax is not payable on services provided to a friend gratuitously.
- 21.** Service tax paid by Ashiana Associates Private Limited in the financial year 2009-10 is Rs. 10,30,000 (10.30% of Rs. 1,00,00,000). Proviso to rule 6(2) of the Service Tax Rule, 1994 has been amended to provide that an assessee shall deposit the service tax electronically through internet banking if he has paid the total service tax of Rs. 10 lakh or more (including the amount of service tax paid by utilisation of CENVAT credit) in the preceding financial year. Therefore, Ashiana Associates Private Limited is required to make the e-payment of service tax in the financial year 2010-11.
- The due date for payment of service tax by a company is the 6th day of the month, if the duty is deposited electronically through internet banking immediately following the calendar month in which the payments are received, towards the value of taxable services. Hence, in the given case, Ashiana Associates Private Limited is required to make the e-payment of the service tax by 6th May, 2010.
- 22.** The facility of e-filing of returns was earlier optional for the assessees. Proviso inserted to rule 7(2) of the Service Tax Rules, 1994 has now made the electronic filing of returns mandatory for the assessee who has paid total service tax of Rs. 10 lakh or more

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including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year. Service tax paid by Tarana Ltd. in the financial year 2009-10 is Rs. 10,30,000 (10.30% of Rs. 1,00,00,000). Therefore, it is mandatory for Tarana Ltd. to file the return electronically for the financial year 2010-11.

23. The demand raised by Revenue is valid in law. The provisions of Chapter V have been extended to any service provided or to be provided by or to the installations, structures and vessels within the continental shelf and the exclusive economic zone of India, constructed for the purposes of prospecting or extraction or production of mineral oil and natural gas vide *Notification No. 14/2010-S.T. dated 27-2-2010*. Therefore, GONC is liable to pay service tax in the given case.

24. Computation of VAT payable:-

Stage	Particulars	VAT Liability	Less VAT Credit	Tax to Government
I	Medicines sold by Sambhav Medicaids Ltd. to Rishabh Pharmacy at Rs. 4,000	=4,000 × 4% =160	--	160
II	Medicines sold by Rishabh Pharmacy to Suhani Medicos at Rs. (4,000+160) × 156.25%	=6,500 × 4% =260	160	100
II	Medicines sold by Suhani to Galaxy Medicines at Rs. (6,500+100) × 125%	=8,250 × 4% =330	260	70
IV	Medicines sold by Galaxy Medicines to ultimate consumers at Rs. (8,250+70) × 125%	=10,400 × 4% =416	330	86

25. Addition method aggregates all the factor payments including profits to arrive at the total value addition on which the rate is applied to calculate the tax. This type of calculation is mainly used with income variant of VAT. Addition method does not easily accommodate exemptions of intermediate dealers.

A drawback of this method is that it does not facilitate matching of invoices for detecting evasion.

IMPORTANT NOTIFICATIONS / CIRCULARS ISSUED BETWEEN 1.5.2009 AND 30.4.2010

Students may note that the Study Material for IPCC Group I Paper 4: Taxation A.Y. 2010-11 has been updated with the law as amended by the Finance (No.2) Act, 2009 and notifications and circulars issued upto 30.04.2009. This study material is relevant for the students of both IPCC and PCC appearing for November 2010 examination. However, for the PCC students, the following chapters in VAT are not relevant: –

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1. Chapter 5: Input Tax Credit and Composition Scheme for Small Dealers
2. Chapter 6 : VAT Procedures

The following are the amendments which have been made between 1.05.2009 and 30.04.2010. It may carefully be noted that for the students appearing in November 2010 examination, the amendments made by Notifications, Circulars etc. up to 30.04.2010 are relevant.

A. INCOME TAX

I CIRCULARS

1. Circular No. 7/2009 dated 22.10.2009

The CBDT has, through this circular, withdrawn the following circulars:

- (a) Circular No. 23 issued on 23rd July 1969 regarding taxability of income accruing or arising through, or from, business connection in India to a non-resident, under section 9 of the Income-tax Act, 1961.
- (b) Circulars No. 163 dated 29th May, 1975 and No.786 dated 7th February, 2000 which provided clarification in respect of certain provisions of Circular No.23 dated 23rd July, 1969.

2. Circular No. 8/2009, dated 24.11.2009

The CBDT has, through this circular, clarified that TPAs (Third Party Administrator's) who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including cashless schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc. This is because the services rendered by hospitals to various patients are primarily medical services and, therefore, the provisions of section 194J are applicable to payments made by TPAs to hospitals etc.

Consequently, all such past transactions between TPAs and hospitals would fall within the provisions of section 194J and consequence of failure to deduct tax or after deducting tax failure to pay on all such transactions would make the deductor (TPAs) deemed to be an assessee in default in respect of such tax and also liable for charging of interest under section 201(1A) and penalty under section 271C.

However, no proceedings under section 201 may be initiated after the expiry of six years from the end of the financial year in which payments have been made without deducting tax at source etc. by the TPA's. Further, the tax demand arising out of section 201(1) in situations arising above, may not be enforced if the deductor (TPA) satisfies the officer in charge of TDS that the relevant taxes have been paid by the deductee-assessee (hospitals etc.). A certificate from the auditor of the deductee-assessee stating that the tax and interest due from deductee-assessee has been paid for the assessment year concerned would be sufficient compliance for the above purpose. However, this will not alter the liability to charge interest under section 201(1A) till payment of taxes by the deductee-assessee or liability for penalty under section 271C, as the case may be.

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3. Circular No. 3/2010, dated 2.3.2010

The CBDT has, vide this circular, given a clarification regarding deduction of tax at source on payment of interest on time deposits under section 194A by banks following Core-branch Banking Solutions (CBS) software. It has been clarified that *Explanation* to section 194A (See Note below) is not meant to apply in cases of banks where credit is made to provisioning account on daily/monthly basis for the purpose of macro monitoring only by the use of CBS software. It has been further clarified that since no constructive credit to the depositor's / payee's account takes place while calculating interest on time deposits on daily or monthly basis in the CBS software used by banks, tax need not be deducted at source on such provisioning of interest by banks for the purposes of macro monitoring only. In such cases, tax shall be deducted at source on accrual of interest at the end of financial year or at periodic intervals as per practice of the bank or as per the depositor's / payee's requirement or on maturity or on encashment of time deposits, whichever event takes place earlier, whenever the aggregate of amounts of interest income credited or paid or likely to be credited or paid during the financial year by the banks exceeds the limits specified in section 194A.

Note – The Explanation to section 194A provides that, for the purposes of this section, where any income by way of interest other than interest on securities is credited to any account, whether called 'Interest payable account' or 'Suspense Account' or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly”.

II NOTIFICATIONS

1. Notification No. 67/2009 dated 9.9.2009

The Central Government has, vide notification no.67/2009 dated 9.9.2009, specified the cost inflation index (CII) for the financial year 2009-10. The CII for F.Y. 2009-10 is 632.

S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100
2.	1982-83	109
3.	1983-84	116
4.	1984-85	125
5.	1985-86	133
6.	1986-87	140
7.	1987-88	150
8.	1988-89	161
9.	1989-90	172
10.	1990-91	182
11.	1991-92	199

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12.	1992-93	223
13.	1993-94	244
14.	1994-95	259
15.	1995-96	281
16.	1996-97	305
17.	1997-98	331
18.	1998-99	351
19.	1999-2000	389
20.	2000-01	406
21.	2001-02	426
22.	2002-03	447
23.	2003-04	463
24.	2004-05	480
25.	2005-06	497
26.	2006-07	519
27.	2007-08	551
28.	2008-09	582
29.	2009-10	632

2. Notification No. 70/2009, dated 22.9.2009

The CBDT has, in exercise of the powers conferred by section 139(1B), made an amendment in the notification of the Government of India relating to qualifications of an e-Return intermediary. The qualifications of an e-Return Intermediary, as amended, are detailed hereunder -

- (1) An e-Return Intermediary shall have the following qualifications, namely:-
- (a) it must be a public sector company as defined in section 2(36A) of the Act or any other company in which public are substantially interested within the meaning of section 2(18) of the Act and any subsidiary of those companies; or
 - (b) a company incorporated in India, including a bank, having a net worth of rupees one crore or more; or
 - (c) a firm of Chartered Accountants or Company Secretaries or Advocates, if it has been allotted a permanent account number; or
 - (d) a Chartered Accountants or Company Secretaries or Advocates or Tax Return Preparers, if he has been allotted a permanent account number; or
 - (e) a Drawing or Disbursing Officer (DDO) of a Government Department.

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- (2) The e-intermediary shall have at least class II digital signature certificate from any of the Certifying authorities authorized to issue such certificates by the Controller of Certifying authorities appointed under section 17 of the Information Technology Act, 2002.
- (3) The e-intermediary shall have in place security procedure to the satisfaction of e-Return Administrator to ensure that confidentiality of the assessee's information is properly secured.
- (4) The e-intermediary shall have necessary archival, retrieval and, security policy for the e>Returns which will be filed through him, as decided by e-Return Administrator from time to time.
- (5) The e-intermediary or its Principal Officer must not have been convicted for any professional misconduct, fraud, embezzlement or any criminal offence.

3. Notification No. 94/2009, dated 18.12.2009

In exercise of the powers conferred by section 295 read with section 17(2), the CBDT has, consequent to removal of FBT, substituted Rule 3 of the Income-tax Rules, 1962. The new perquisite valuation rules shall be deemed to have come into force on 1st April, 2009.

For the purpose of computing the income chargeable under the head "Salaries", the value of perquisites provided by the employer directly or indirectly to the employee or to any member of his household by reason of his employment shall be determined in accordance with new Rule 3.

Valuation of residential accommodation [Sub-rule (1)]

The value of residential accommodation provided by the employer during the previous year shall be determined in the following manner -

Sl. No.	Circumstances	In case of unfurnished accommodation	In case of furnished accommodation
(1)	(2)	(3)	(4)
(1)	Where the accommodation is provided by the Central Government or any State Government to the employees either holding office or post in connection with the affairs of the Union or of such State.	License fee determined by the Central Government or any State Government in respect of accommodation in accordance with the rules framed by such Government as reduced by the rent actually paid by the employee.	The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment).

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			If such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year should be added to the value of the perquisite determined under column (3).
(2)	Where the accommodation is provided by any other employer (a) where the accommodation is owned by the employer	(i) 15% of salary in cities having population exceeding 25 lakhs as per 2001 census; (ii) 10% of salary in cities having population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census; (iii) 7.5% of salary in other areas, in respect of the period during which the said accommodation was occupied by the employee during the previous year as reduced by the rent, if any, actually paid by the employee.	The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets). If such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year, should be added to the value of perquisite determined under column (3).
	(b) where the accommodation is	Actual amount of lease rental paid or payable by	The value of perquisite as determined under

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	taken on lease or rent by the employer.	the employer or 15% of salary, whichever is lower, as reduced by the rent, if any, actually paid by the employee.	column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets). If such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year should be added to the value of perquisite determined under column (3).
(3)	Where the accommodation is provided by any employer, whether Government or any other employer, in a hotel.	Not applicable	24% of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, which is lower, for the period during which such accommodation is provided as reduced by the rent, if any, actually paid or payable by the employee. However, where the employee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another, there would be no perquisite.

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Notes:

- (1) If an employee is provided with accommodation, on account of his transfer from one place to another, at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such accommodation which has the lower perquisite value, as calculated above, for a period not exceeding 90 days and thereafter, the value of perquisite shall be charged for both such accommodations.
- (2) Any accommodation provided to an employee working at a mining site or an on-shore oil exploration site or a project execution site, or a dam site or a power generation site or an off-shore site would not be treated as a perquisite, provided it satisfies either of the following conditions -
 - (i) the accommodation is of temporary nature, has plinth area not exceeding 800 square feet and is located not less than eight kilometers away from the local limits of any municipality or a cantonment board; or
 - (ii) the accommodation is located in a remote area i.e. an area that is located at least 40 kms away from a town having a population not exceeding 20,000 based on latest published all-India census.
- (3) Where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government,-
 - (i) the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and
 - (ii) the value of perquisite of such an accommodation shall be the amount calculated in accordance with Sl. No.(2)(a) of the above table, as if the accommodation is owned by the employer.
- (4) "Accommodation" includes a house, flat, farm house or part thereof, or accommodation in a hotel, motel, service apartment, guest house, caravan, mobile home, ship or other floating structure.
- (5) "Hotel" includes licensed accommodation in the nature of motel, service apartment or guest house.

Motor Car [Sub-rule (2)]

The value of perquisite by way of use of motor car to an employee by an employer shall be determined in the following manner –

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VALUE OF PERQUISITE PER CALENDAR MONTH

Sl. No.	Circumstances	Where cubic capacity of engine does not exceed 1.6 litres	Where cubic capacity of engine exceeds 1.6 litres
(1)	(2)	(3)	(4)
(1)	Where the motor car is owned or hired by the employer and –		
(a)	is used wholly and exclusively in the performance of his official duties	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.
(b)	is used exclusively for the private or personal purposes of the employee or any member of his household and the running and maintenance expenses are met or reimbursed by the employer;	Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged form the employee for such use.	Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged form the employee for such use.

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(c)	is used partly in the performance of duties and partly for private or personal purposes of his own or any member of his household and- (i) the expenses on maintenance and running are met or reimbursed by the employer	Rs.1,800 (plus Rs.900, if chauffeur is also provided to run the motor car)	Rs.2,400 (plus Rs.900, if chauffeur is also provided to run the motor car)
	(ii) the expenses on running and maintenance for private or personal use are fully met by the assessee.	Rs.600 (plus Rs.900, if chauffeur is also provided by the employer to run the motor car)	Rs.900 (plus Rs.900, if chauffeur is also provided by the employer to run the motor car)
(2)	Where the employee owns a motor car but the actual running and maintenance charges (including remuneration of the chauffeur, if any) are met or reimbursed to him by the employer and –		
(i)	such reimbursement is for the use of the vehicle wholly and exclusively for official purposes	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.	Not a perquisite, provided the documents specified in Note (2) below the table are maintained by the employer.

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(ii)	such reimbursement is for the use of the vehicle partly for official purposes and partly for personal or private purposes of the employee or any member of his household.	The actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above (Also see note (2) below this table).	The actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above (Also see note (2) below this table).
(3)	Where the employee owns any other automotive conveyance but the actual running and maintenance charges are met or reimbursed to him by the employer and		
(i)	such reimbursement is for the use of the vehicle wholly and exclusively for official purposes	Not a perquisite, provided the documents specified in the note (2) below the table are maintained by the employer.	Not applicable.
(ii)	such reimbursement is for the use of vehicle partly for official purposes and partly for personal or private purposes of the employee	The actual amount of expenditure incurred by the employer as reduced by the amount of Rs.900. (Also see note (2) below the table)	

Notes:

- (1) Where one or more motor-cars are owned or hired by the employer and the employee or any member of his household are allowed the use of such motor-car or all of any of such motor-cars (otherwise than wholly and exclusively in the performance of his duties), the value of perquisite shall be the amount calculated in respect of one car as if the employee had been provided one motor-car for use partly in the performance of his duties and partly for his private or personal purposes and the amount calculated in respect of the other car or cars as if he had been provided with such car or cars exclusively for his private or personal purposes.
- (2) Where the employer or the employee claims that the motor-car is used wholly and exclusively in the performance of official duty or that the actual expenses on the

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running and maintenance of the motor-car owned by the employee for official purposes is more than the amounts deductible in Sl. No. 2(ii) or 3(ii) of the above table, he may claim a higher amount attributable to such official use and the value of perquisite in such a case shall be the actual amount of charges met or reimbursed by the employer as reduced by such higher amount attributable to official use of the vehicle provided that the following conditions are fulfilled :-

- (a) the employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon;
 - (b) the employer gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.
- (3) For computing the perquisite value of motor car, the normal wear and tear of a motor-car shall be taken at 10% per annum of the actual cost of the motor-car or cars.

Valuation of benefit of provision of domestic servants [Sub-rule (3) of Rule 3]

- (i) The value of benefit to the employee or any member of his household resulting from the provision by the employer of the services of a sweeper, a gardener, a watchman or a personal attendant, shall be the actual cost to the employer.
- (ii) The actual cost in such a case shall be the total amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by any amount paid by the employee for such services.

Valuation of gas, electricity or water supplied by employer [Sub-rule (4) of Rule 3]

- (i) The value of the benefit to the employee resulting from the supply of gas, electric energy or water for his household consumption shall be determined as the sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water.
- (ii) Where such supply is made from resources owned by the employer, without purchasing them from any other outside agency, the value of perquisite would be the manufacturing cost per unit incurred by the employer.
- (iii) Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value so arrived at.

Valuation of free or concessional educational facilities [Sub-rule (5) of Rule 3]

- (i) The value of benefit to the employee resulting from the provision of free or concessional educational facilities for any member of his household shall be determined as the sum equal to the amount of expenditure incurred by the employer in that behalf or where the educational institution is itself maintained and owned by the employer or where free educational facilities for such member of employees' household are allowed in any other educational institution by reason of his being in employment of that employer, the value of the perquisite to the employee shall be

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determined with reference to the cost of such education in a similar institution in or near the locality.

- (ii) Where any amount is paid or recovered from the employee on that account, the value of benefit shall be reduced by the amount so paid or recovered.
- (iii) However, where the educational institution itself is maintained and owned by the employer and free educational facilities are provided to the children of the employee or where such free educational facilities are provided in any institution by reason of his being in employment of that employer, there would be no perquisite if the cost of such education or the value of such benefit per child does not exceed Rs.1,000 p.m.

Free or concessional tickets [Sub-rule (6) of Rule 3]

The value of any benefit or amenity resulting from the provision by an employer who is engaged in the carriage of passengers or goods, to any employee or to any member of his household for personal or private journey free of cost or at concessional fare, in any conveyance owned, leased or made available by any other arrangement by such employer for the purpose of transport of passengers or goods shall be taken to be the value at which such benefit or amenity is offered by such employer to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity.

However, there would be no such perquisite to the employees of an airline or the railways.

Valuation of other fringe benefits and amenities [Sub-rule (7) of Rule 3]

Section 17(2)(viii) provides that the value of any other fringe benefit or amenity as may be prescribed would be included in the definition of perquisite. Accordingly, the following other fringe benefits or amenities are prescribed and the value thereof shall be determined in the manner provided hereunder :-

(i) Interest-free or concessional loan [Sub-rule 7(i) of Rule 3]

- (a) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan for any purpose made available to the employee or any member of his household during the relevant previous year by the employer or any person on his behalf shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India, as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it on the maximum outstanding monthly balance as reduced by the interest, if any, actually paid by him or any such member of his household. "Maximum outstanding monthly balance" means the aggregate outstanding balance for each loan as on the last day of each month.
- (b) However, no value would be charged if such loans are made available for medical treatment in respect of prescribed diseases (like cancer, tuberculosis,

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etc.) or where the amount of loans are petty not exceeding in the aggregate Rs.20,000.

- (c) Further, where the benefit relates to the loans made available for medical treatment referred to above, the exemption so provided shall not apply to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.

(ii) Travelling, touring and accommodation [Sub-rule 7(ii) of Rule 3]

- (a) The value of travelling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household, other than leave travel concession or assistance, shall be determined as the sum equal to the amount of the expenditure incurred by such employer in that behalf.
- (b) Where such facility is maintained by the employer, and is not available uniformly to all employees, the value of benefit shall be taken to be the value at which such facilities are offered by other agencies to the public.
- (c) Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure so incurred shall also be a fringe benefit or amenity.
- (d) However, where any official tour is extended as a vacation, the value of such fringe benefit shall be limited to the expenses incurred in relation to such extended period of stay or vacation. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

(iii) Free or concessional food and non-alcoholic beverages [Sub-rule 7(iii) of Rule 3]

- (a) The value of free food and non-alcoholic beverages provided by the employer to an employee shall be the amount of expenditure incurred by such employer. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity:
- (b) However, the following would not be treated as a perquisite -
 - (1) free food and non-alcoholic beverages provided by such employer during working hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints, to the extent the value thereof either case does not exceed fifty rupees per meal or
 - (2) tea or snacks provided during working hours or
 - (3) free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.

(iv) Value of gift, voucher or token in lieu of such gift [Sub-rule 7(iv) of Rule 3]

- (a) The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial

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occasions or otherwise from the employer shall be determined as the sum equal to the amount of such gift:

- (b) However, if the value of such gift, voucher or token, as the case may be, is below Rs.5,000 in the aggregate during the previous year, the value of perquisite shall be taken as 'nil'.

(v) Credit card expenses [Sub-rule 7(v) of Rule 3]

- (a) The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card) provided by the employer, or otherwise, paid for or reimbursed by such employer shall be taken to be the value of perquisite chargeable to tax as reduced by the amount, if any paid or recovered from the employee for such benefit or amenity:
- (b) However, such expenses incurred wholly and exclusively for official purposes would not be treated as a perquisite if the following conditions are fulfilled.
 - (1) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure and the nature of expenditure;
 - (2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

(vi) Club expenditure [Sub-rule 7(vi) of Rule 3]

- (a) The value of benefit to the employee resulting from the payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by a member of his household shall be determined to be the actual amount of expenditure incurred or reimbursed by such employer on that account. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

However, where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership.

- (b) Further, if such expenditure is incurred wholly and exclusively for business purposes, it would not be treated as a perquisite provided the following conditions are fulfilled:-
 - (1) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure, the nature of expenditure and its business expediency;

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(2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

(c) There would be no perquisite for use of health club, sports and similar facilities provided uniformly to all employees by the employer.

(vii) Use of moveable assets [Sub-rule 7(vii) of Rule 3]

The value of benefit to the employee resulting from the use by the employee or any member of his household of any movable asset (other than assets already specified in this rule and other than laptops and computers) belonging to the employer or hired by him shall be determined at 10% per annum of the actual cost of such asset or the amount of rent or charge paid or payable by the employer, as the case may be, as reduced by the amount, if any, paid or recovered from the employee for such use.

(viii) Transfer of moveable assets [Sub-rule 7(viii) of Rule 3]

The value of benefit to the employee arising from the transfer of any movable asset belonging to the employer, directly or indirectly, to the employee or any member of his household shall be determined to be the amount representing the actual cost of such assets to the employer as reduced by the cost of normal wear and tear and as further reduced by the amount, if any, paid or recovered from the employee being the consideration for such transfer.

The cost of normal wear and tear has to be calculated at the rate of 10% of the actual cost for each completed year during which such asset was put to use by the employer. However, in the case of computers and electronic items, the normal wear and tear would be calculated at the rate of 50% and in the case of motor cars at the rate of 20% by the reducing balance method.

(ix) Other benefit or amenity [Sub-rule 7(ix) of Rule 3]

The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arm's length transaction as reduced by the employee's contribution, if any. However, the expenses on telephones including a mobile phone actually incurred on behalf of the employee by the employer, would not be a taxable perquisite.

Valuation of specified security or sweat equity share for the purpose of section 17(2)(vi) [Sub-rule (8)]

The fair market value of any specified security or sweat equity share, being an equity share in a company, on the date on which the option is exercised by the employee, shall be determined in the following manner -

(1) In a case where, on the date of the exercising of the option, the share in the company is listed on a recognized stock exchange, the fair market value shall be

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the average of the opening price and closing price of the share on that date on the said stock exchange.

However, where, on the date of exercising of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the average of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share.

Further, where on the date of exercising of the option, there is no trading in the share on any recognized stock exchange, the fair market value shall be—

- (a) the closing price of the share on any recognised stock exchange on a date closest to the date of exercising of the option and immediately preceding such date; or
- (b) the closing price of the share on a recognised stock exchange, which records the highest volume of trading in such share, if the closing price, as on the date closest to the date of exercising of the option and immediately preceding such date, is recorded on more than one recognized stock exchange.

“Closing price” of a share on a recognised stock exchange on a date shall be the price of the last settlement on such date on such stock exchange. However, where the stock exchange quotes both “buy” and “sell” prices, the closing price shall be the “sell” price of the last settlement.

“Opening price” of a share on a recognised stock exchange on a date shall be the price of the first settlement on such date on such stock exchange. However, where the stock exchange quotes both “buy” and “sell” prices, the opening price shall be the “sell” price of the first settlement.

- (2) In a case where, on the date of exercising of the option, the share in the company is not listed on a recognised stock exchange, the fair market value shall be such value of the share in the company as determined by a merchant banker on the specified date.

For this purpose, “specified date” means,—

- (i) the date of exercising of the option; or
- (ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

Valuation of specified security not being an equity share in a company for the purpose of section 17(2)(vi) [Sub-rule (9)]

The fair market value of any specified security, not being an equity share in a company, on the date on which the option is exercised by the employee, shall be such value as determined by a merchant banker on the specified date.

For this purpose, “specified date” means,—

- (i) the date of exercising of the option; or

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- (ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

Definitions for the purpose of perquisite rules

The following definitions are relevant for applying the perquisite valuation rules -

- (i) "member of household" shall include-
 - (a) spouse(s),
 - (b) children and their spouses,
 - (c) parents, and
 - (d) servants and dependants;
- (ii) "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called from one or more employers, as the case may be, but does not include the following, namely:-
 - (a) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;
 - (b) employer's contribution to the provident fund account of the employee;
 - (c) allowances which are exempted from payment of tax;
 - (d) the value of perquisites specified in clause (2) of section 17 of the Income-tax Act;
 - (e) any payment or expenditure specifically excluded under proviso to sub-clause (iii) of clause (2) or proviso to clause (2) of section 17;
 - (f) lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments;

4. Notification No. 07/2010, dated 3.2.2010

Section 10(15)(iv)(h) exempts interest on bonds/debentures issued by any public sector company and notified by the Central Government in the Official Gazette. Accordingly, the Central Government has notified the tax free secured, redeemable, non-convertible Railway Bonds issued by the Indian Railway Finance Corporation (IRFC), interest from which would be exempt under section 10(15)(iv)(h).

5. Notification No. 08/2010 dated 3.2.2010 & Notification No.24/2010 dated 8.4.2010

Section 2(48) defining zero coupon bonds requires that such bonds should be notified by the Central Government. Accordingly, the Central Government has specified the following bonds as zero coupon bonds for the purpose of section 2(48) –

- (i) Bhavishya Nirman Bond, a ten year zero coupon bond of National Bank of Agriculture and Rural Development (NABARD), to be issued on or before 31.3.2011

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- (ii) ten year Deep Discount Bond (Zero Coupon Bond) of Rural Electrification Corporation Limited (REC) to be issued on or before 31.3.2011.

6. Notification No 23/2010 dated 8.4.2010

The Finance (No. 2) Act, 2009 had inserted clause (vii) in section 56(2) to bring within its scope, the value of any property received without consideration or for inadequate consideration. The said clause provides that, if a property other than immovable property is received without consideration, the aggregate fair market value of such property on the date of receipt would be taxed as the income of the recipient if it exceeds Rs.50,000. In case the property other than immovable property is received for inadequate consideration, and the difference between the aggregate fair market value and such consideration exceeds Rs.50,000, such difference would be taxed as the income of the recipient. For this purpose, "fair market value" of a property, other than immovable property, means the value determined in accordance with the method as may be prescribed.

Accordingly, the CBDT has, vide this notification, made rules for determination of fair market value of the property other than immovable property, which would be effective from 1st October, 2009.

(a) Valuation of jewellery

- (i) the fair market value of jewellery shall be estimated to be the price which such jewellery would fetch if sold in the open market on the valuation date;
- (ii) in case the jewellery is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the jewellery shall be the fair market value;
- (iii) In case the jewellery is received by any other mode and the value of the jewellery exceeds Rs.50,000, then, the assessee may obtain the report of registered valuer in respect of the price it would fetch if sold in the open market on the valuation date.

(b) Valuation of archeological collections, drawings, paintings, sculptures or any work of art

- (i) the fair market value of archeological collections, drawings, paintings, sculptures or any work of art (artistic work) shall be estimated to be price which it would fetch if sold in the open market on the valuation date;
- (ii) in case the artistic work is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the artistic work shall be the fair market value;
- (iii) in case the artistic work is received by any other mode and the value of the artistic work exceeds Rs.50,000, then, the assessee may obtain the report of registered valuer in respect of the price it would fetch if sold in the open market on the valuation date.

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(c) Valuation of shares and securities

- (a) the fair market value of quoted shares and securities shall be determined in the following manner, namely:-
- (i) if the quoted shares and securities are received by way of transaction carried out through any recognized stock exchange, the fair market value of such shares and securities shall be the transaction value as recorded in such stock exchange;
 - (ii) if such quoted shares and securities are received by way of transaction carried out other than through any recognized stock exchange, the fair market value of such shares and securities shall be,-
 - (1) the lowest price of such shares and securities quoted on any recognized stock exchange on the valuation date, and
 - (2) the lowest price of such shares and securities on any recognized stock exchange on a date immediately preceding the valuation date when such shares and securities were traded on such stock exchange, in cases where on the valuation date, there is no trading in such shares and securities on any recognized stock exchange.
- (b) the fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner namely:-

$$\text{The fair market value of unquoted equity shares} = \frac{(A - L)}{PE} \times (PV)$$

Where,

A = Book value of the assets in Balance Sheet drawn up on the valuation date as reduced by any amount paid as advance tax under the Income-tax Act and any amount shown in the balance sheet including the debit balance of the profit and loss account or the profit and loss appropriation account which does not represent the value of any asset.

L = Book value of liabilities shown in the Balance Sheet drawn up on the valuation date but not including the following amounts:-

- (i) the paid-up capital in respect of equity shares;
- (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;
- (iii) reserves, by whatever name called, other than those set apart towards depreciation;
- (iv) credit balance of the profit and loss account;

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- (v) any amount representing provision for taxation, other than amount paid as advance tax under the Income-tax Act, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- (vi) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
- (vii) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

PE = Total amount of paid up equity share capital as shown in Balance Sheet drawn up on the valuation date.

PV = the paid up value of such equity shares.

- (c) the fair market value of unquoted shares and securities other than equity shares in a company which are not listed in any recognized stock exchange shall be estimated to be price it would fetch if sold in the open market on the valuation date and the assessee may obtain a report from a merchant banker or an accountant in respect of such valuation.

Note – “Valuation date” means the date on which the respective property is received by the assessee.

B. SERVICE TAX

I AMENDMENTS/CLARIFICATIONS IN THE SERVICE TAX RULES, 1994:

1. Quantum of service tax reduced for e-payment from Rs. 50 lakh to Rs. 10 lakh

Proviso to rule 6(2) has been amended to provide that an assessee shall deposit the service tax electronically through internet banking if he has paid the total service tax of Rs. 10 lakh or more (including the amount of service tax paid by utilisation of CENVAT credit) in the preceding financial year.

The said amendment is effective from 1st April, 2010.

[Notification No. 01/2010-ST dated 19.02.2010]

2. E-filing of returns made mandatory for assesseees paying service tax of Rs. 10 lakh or more in the previous year

The facility of e-filing of returns was earlier optional for the assesseees. Proviso inserted to rule 7(2) has now made the electronic filing of returns mandatory for the assessee who has paid total service tax of Rs. 10 lakh or more including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year.

The said amendment is effective from 1st April, 2010.

[Notification No. 01/2010-ST dated 19.02.2010]

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II EXEMPTIONS

1. Exemption to specified taxable services used for export of goods — **Notification No. 17/2009-S.T. amended**

Notification No. 40/2009 ST dated 30.09.2009 has amended *Notification No.17/2009 ST dated 07.07.2009* which exempts certain specified taxable services received by an exporter and used for export of goods. The following service (inserted at point no. 17 in the original notification) received by an exporter and used for export of goods has also been exempted vide this notification:

17.	(zzzzl)	Service provided for transport of export goods through national waterway, inland water and coastal shipping.	i. The exporter shall- 1. produce the Bill of Lading or a Consignment Note or a similar document by whatever name called, issued in his name; 2. produce evidence to the effect that the said transport is provided for export of relevant goods.
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III OTHERS

1. Conditions for exemption to services provided to a developer or units of special economic zone amended

Notification No.9/2009 ST dated 03.03.2009 was issued to provide refund of service tax paid on taxable services specified in section 65(105) of the Finance Act, 1994 which are provided in relation to the authorised operations (as defined under SEZ Act, 2005) in a Special Economic Zone (SEZ), and received by a developer or units of a SEZ, whether or not the said taxable services are provided inside the SEZ.

Notification No. 15/2009 ST dated 20.05.2009 has amended the aforesaid notification in the following manner:-

(A) Where the aforesaid services are consumed wholly within SEZ

Unconditional exemption is provided to the services consumed within the SEZ without following the refund route thus dispensing with the requirement of first paying the tax by the service provider and then claiming the refund thereof by developer/unit. Therefore, the conditions to be satisfied in order to claim the exemption would be:-

(a) Approval of list of services

The developer or units of Special Economic Zone shall get the services required in relation to the authorised operations in the Special Economic Zone approved from the Approval Committee (hereinafter referred to as the specified services);

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(b) Actual use of specified services

The developer or units of Special Economic Zone claiming the exemption actually uses the specified services in relation to the authorised operations in the Special Economic Zone;

(c) Exemption from payment of service tax

In case of the services consumed wholly within the special economic zone, the exemption can be claimed by the developer or units of special economic zone without following the refund route.

(d) No CENVAT credit of service tax paid on specified services

No CENVAT credit of service tax paid on the specified services used in relation to the authorized operations in the Special Economic Zone has been taken under the CENVAT Credit Rules, 2004.

(e) Exemption under no other notification claimed

Exemption on the specified services used in relation to the authorized operations in the Special Economic Zone shall not be claimed except under this notification.

(f) Proper records of receipts and utilization of services

The developer or unit of a special economic zone shall maintain proper account of receipt and utilisation of the taxable services for which exemption is claimed.

(B) Where the aforesaid services are consumed partially or wholly outside SEZ

Exemption is provided to the services consumed within the SEZ following the refund route with the requirement of first paying the tax by the service provider and then claiming the refund thereof by developer/unit. Therefore, the conditions to be satisfied in order to claim the exemption would be:-

(a) Approval of list of services

The developer or units of Special Economic Zone shall get the services required in relation to the authorized operations in the Special Economic Zone approved from the Approval Committee (hereinafter referred to as the specified services);

(b) Actual use of specified services

The developer or units of Special Economic Zone claiming the exemption actually uses the specified services in relation to the authorised operations in the Special Economic Zone;

(c) Actual payment of service tax

The developer or units of Special Economic Zone claiming the exemption has actually, in the first instance, paid the service tax on the specified services.

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(d) Refund of service tax paid

The exemption claimed by the developer or units of Special Economic Zone shall be provided by way of refund of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone;

(e) No CENVAT credit of service tax paid on specified services

No CENVAT credit of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone has been taken under the CENVAT Credit Rules, 2004;

(f) Exemption under no other notification claimed

Exemption or refund of service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone shall not be claimed except under this notification.

Further, in case where the services are consumed partially/wholly outside SEZ, following points would require consideration:-

- (a) the person liable to pay service tax under sub-section (1) or sub-section (2) of section 68 of the said Finance Act shall pay service tax as applicable on the specified services provided to the developer or units of Special Economic Zone and used in relation to the authorised operations in the Special Economic Zone, and such person shall not be eligible to claim exemption for the specified services:

Provided that where the developer or units of Special Economic Zone and the person liable to pay service tax under sub-section (2) of section 68 for the said services are the same person, then in such cases exemption for the specified services shall be claimed by that person;

- (b) the developer or units of Special Economic Zone shall claim the exemption by filing a claim for refund of service tax paid on specified services;
- (c) the developer or units of Special Economic Zone shall file the claim for refund to the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be;
- (d) the developer or units of Special Economic Zone who is not registered as an assessee under the Central Excise Act, 1944 or the rules made thereunder, or the said Finance Act or the rules made thereunder, shall, prior to filing a claim for refund of service tax under this notification, file a declaration in the Form with the respective jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be;

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- (e) the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after due verification, allot a service tax code (STC) number to the developer or units of Special Economic Zone within seven days from the date of receipt of the said Form;
- (f) the claim for refund shall be filed, within six months or such extended period as the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall permit, from the date of actual payment of service tax by such developer or unit to service provider;
- (g) the refund claim shall be accompanied by the following documents, namely:-
 - (i) a copy of the list of specified services required in relation to the authorised operations in the Special Economic Zone, as approved by the Approval Committee;
 - (ii) documents for having paid service tax;
 - (iii) a declaration by the Special Economic Zone developer or unit, claiming such exemption, to the effect that such service is received by him in relation to authorised operation in Special Economic Zone.
- (h) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, shall, after satisfying himself that the said services have been actually used in relation to the authorised operations in the Special Economic Zone, refund the service tax paid on the specified services used in relation to the authorised operations in the Special Economic Zone.
- (i) where any refund of service tax paid on specified services is erroneously refunded for any reasons whatsoever, such service tax refunded shall be recoverable under the provisions of the said Finance Act and the rules made thereunder, as if it is a recovery of service tax erroneously refunded.

2. Provisions of service tax extended to the specified areas in the continental shelf and exclusive economic zone of India for the specified purposes

The provisions of Chapter V have been extended to the specified areas in the continental shelf and exclusive economic zone of India for the specified purposes in the manner depicted in the table below:-

S.No.	The areas in the Continental Shelf and the Exclusive Economic Zone of India	Purpose
1.	Whole of continental shelf and exclusive economic zone of India	Any service provided for all activities pertaining to construction

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		of installations, structures and vessels for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof.
2.	The installations, structures and vessels within the continental shelf and the exclusive economic zone of India, constructed for the purposes of prospecting or extraction or production of mineral oil and natural gas	Any service provided or to be provided by or to such installations, structures and vessels and for supply of any goods connected with the said activity.

[Notification No. 14/2010-S.T. dated 27-2-2010]

Note: The Budget Notifications issued on 07.07.2009 are given in the Supplementary Study Paper 2009. Further, they have also been incorporated in the Study Material of Taxation. Therefore, the same have not been given here again.