

PAPER – 4 : TAXATION

PART – I : STATUTORY UPDATES

Significant Notifications & Circulars Issued between 1.5.2011 and 31.10.2011

A : INCOME TAX

NOTIFICATIONS

- 1. Notification No. 24/2011 dated 13.05.2011 (in supersession of Notification No. 69/2010 dated 26.8.2010)**

9.5% notified as the interest rate on RPF, the interest in excess of which would be taxable as salary

Rule 6 of Part A of the Fourth Schedule to the Income-tax Act, 1961, provides, *inter alia*, that interest credited on the balance to the credit of an employee participating in a recognized provident fund in so far as it is allowed at a rate exceeding such rate notified by the Central Government, shall be deemed to have been received by the employee in the relevant previous year and shall be included in his total income.

Accordingly, the Central Government has, vide this notification, notified w.e.f. 1st September, 2010, in exercise of the powers conferred by Rule 6, 9.5% as the rate of interest on employer's annual contributions in a recognized provident fund. In effect, the Notification No. 69/2010 dated 26.8.2010, notifying the rate of interest as 8.5% w.e.f. 1st September, 2010, has been superseded by this notification.

This implies that interest credited on the balance to the credit of the employee in excess of 9.5% (and not 8.5%, as earlier notified to be effective from 1.9.2010) shall be deemed to have been received by the employee in the previous year and shall be included in the total income of the employee. Prior to 1.9.2010, in any case, the interest credited in excess of 9.5% was deemed to be the income of the employee.

Therefore, the position of law as it stands now after issue of this notification is that irrespective of the date of credit of interest, whether before or on or after 1.9.2010, only the interest credited on the balance to the credit of the employee in excess of 9.5% shall be included in the total income of the employee. For example, if an employer credits interest @10% for the P.Y.2010-11 and P.Y.2011-12 on the balance standing to the credit of each employee, then the excess interest of 0.5% (10% - 9.5%) would be included in the total income of the employee for the respective years.

- 2. Notification No. 32/2011 dated 3.06.2011**

Limits for exemption of interest on Post Office Savings Bank Account

Under section 10(15)(i), income by way of, *inter alia*, interest on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits as the Central Government may, by notification in the Official

Gazette, specify in this behalf, would be exempt subject to such conditions and limits specified in the said notification.

In exercise of powers given in section 10(15)(i), the Central Government has, through this notification, amended the Notification No. GSR 607(E) dated 9th June, 1989 which specified the bonds, annuity certificates, savings certificates and other certificates issued by the Central Government for the purpose of exemption under this clause as well as the maximum limit up to which the income by way of, *inter alia*, interest on such securities, bonds, savings certificates etc. issued by the Central Government shall be exempt from tax for any assessment year. The said notification dated 9th June, 1989 provided for exemption of the whole of the amount of interest on Post Office Savings Bank Account.

However, as per the amendment by this notification, the interest on Post Office Savings Bank Account which was so far fully exempt would henceforth be exempt from tax for any assessment year only to the extent of:

- (i) ₹ 3,500 in case of an individual account.
- (ii) ₹ 7,000 in case of a joint account.

3. Notification No.33/2011 dated 3.06.2011

Income received by any person on behalf of a fund established for the purpose of providing cash benefits to its employee-members to meet the cost of annual medical tests or medical checkups to qualify for benefit of exemption under section 10(23AAA)

Section 10(23AAA) provides that any income received by any person on behalf of the fund established for notified purposes for the welfare of employees or their dependents, and of which fund such employees are members, would be exempt subject to fulfillment of certain conditions.

Accordingly, in exercise of the powers conferred by section 10(23AAA), the CBDT had, vide Notification No. S.O. 672(E) dated 27th July, 1995, notified the following purposes –

- (1) cash benefits to a member of the fund -
 - (a) on superannuation, or
 - (b) in the event of his illness or illness of his spouse or dependent children, or
 - (c) to meet the cost of education of his dependent children or
- (2) cash benefits to the dependents of a member of the fund in the event of the death of such member.

The CBDT has, through this notification, amended the Notification No. S.O. 672(E) dated 27th July, 1995 to include cash benefits to a member of the fund to meet the cost of annual medical tests or medical checkups of a member, his spouse and dependent children as one of the purposes of the fund.

4. Notification No. 35/2011 dated 23.06.2011**Notification of Cost Inflation Index for F.Y.2011-12**

Clause (v) of Explanation to section 48 defines “Cost Inflation Index”, in relation to a previous year, to mean such Index as the Central Government may, by notification in the Official Gazette, specify in this behalf, having regard to 75% of average rise in the Consumer Price Index for urban non-manual employees.

Accordingly, the Central Government has, in exercise of the powers conferred by clause (v) of Explanation to section 48, specified the Cost Inflation Index for the financial year 2011-12 as 785.

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
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
30.	2010-11	711
31.	2011-12	785

5. Notification No. 49/2011 dated 6.9.2011

Notification of allowances and perquisites exempt under section 10(45)

The Finance Act, 2011 has inserted new clause (45) in section 10 to exempt specified allowances and perquisites received by Chairman or any other member, including retired Chairman or member of the Union Public Service Commission (UPSC). The exemption would be available in respect of such allowances and perquisites as may be notified by the Central Government in this behalf.

Accordingly, the Central Government has notified the following allowances and perquisites for serving Chairman and members of UPSC, for the purpose of exemption under section 10(45) -

- (i) the value of rent free official residence,
- (ii) the value of conveyance facilities including transport allowance,
- (iii) the sumptuary allowance and
- (iv) the value of leave travel concession.

In case of retired Chairman and retired members of UPSC, the following have been notified for exemption under section 10(45):

- (i) a sum of maximum ₹ 14,000 per month for defraying the service of an orderly and for meeting expenses incurred towards secretarial assistance on contract basis.
- (ii) the value of a residential telephone free of cost and the number of free calls to the extent of ₹1,500 pm (over and above free calls per month allowed by the telephone authorities)

This notification shall be effective retrospectively from 1st April, 2008.

6. Notification No. 50/2011 dated 9.9.2011

Notification of Long-term infrastructure bonds for section 80CCF

Section 80CCF exempts any amount paid or deposited by an individual or HUF as subscription to long-term infrastructure bonds notified by the Central Government, subject to a limit of ₹20,000.

Accordingly, the Central Government has specified the long term infrastructure bonds to be issued in the financial year 2011-12 by The Industrial Finance Corporation of India (IFCI), The Life Insurance Corporation of India (LIC), The Infrastructure Development and Finance Company Ltd. (IDFCL), The India Infrastructure Finance Company Ltd. (IIFCL) and a Non-Banking Finance Company classified as an Infrastructure Finance

Company by Reserve Bank of India, as long term infrastructure bonds for the purpose of the deduction under section 80CCF. The tenure of the bond shall be for a minimum period of ten years. The minimum lock-in period for investors shall be five years.

The notification further specifies certain conditions relating to limit on issuance, yield of the bond, end-use of the proceeds and reporting or monitoring mechanism. Further, it shall be mandatory for the subscribers to furnish their PAN to the issuer.

7. Notification No. 52/2011 dated 23.09.2011

Specification of bonds for interest exemption under section 10(15)(iv)(h)

Section 10(15)(iv)(h) exempts interest payable by any public sector company in respect of such bonds or debentures specified by the Central Government by notification in the Official Gazette. The notification would also specify the conditions subject to which the exemption would be available.

Accordingly, in exercise of the powers conferred in section 10(15)(iv)(h), the Central Government has specified the issue of tax free, secured, redeemable, non-convertible bonds of National Highways Authority of India (NHAI), Indian Railways Finance Corporation Ltd. (IRFCL), Housing and Urban Development Corporation Ltd.(HUDCL) and Power Finance Corporation (PFC) to be issued during the financial year 2011-12, the interest on which would be exempt under the said section.

The tenure of the bonds shall be ten to fifteen years. It shall be mandatory for the subscribers to furnish their PAN to the issuer. Further, it has been provided that such benefit shall be admissible only if the holder of such bonds registers his or her name and the holding with the said entity.

8. Notification No. 57/2011 dated 24.10.2011

Relaxation of time limit for submission of quarterly statements in case of a deductor being an office of Government

The CBDT has, through this notification, notified the Income-tax (Eighth Amendment) Rules, 2011 which shall come into force on 1st November, 2011. The said amendment Rules have given effect to following amendments:

(a) Rule 31A – Statement of deduction of tax under section 200(3)

- (i) Rule 31A(2) has been substituted to extend the time limit for submission of quarterly statements in case the deductor is an office of Government :

Date of ending of the quarter of the financial year	Due date in the case of a deductor, being an office of Government
30th June	31st July of the financial year
30th September	31st October of the financial year
31st December	31st January of the financial year

31st March	15th May of the financial year immediately following the financial year in which deduction is made
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For other deductors, the due dates as prescribed earlier (i.e., 15th July, 15th October and 15th January of the financial year for quarters ending 30th June, 30th September and 31st December of the financial year, respectively) would continue to be applicable.

- (ii) In Rule 31A(4), clause (vii) has been inserted which requires the deductor to furnish, at the time of preparing statements of tax deducted, particulars of amount paid or credited on which tax was not deducted in view of the furnishing of declaration under section 197A(1) or 197A(1A) or section 197A(IC) by the payee.

(b) Rule 37BA – Credit for tax deducted at source for the purposes of section 199

Rule 37BA(1) provides that credit for tax deducted at source and paid to the Central Government shall be given to the person to whom the payment has been made or credit has been given (i.e., the deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorized by such authority.

Clause (i) of Rule 37BA(2) has four sub-clauses (a) to (d) providing for the specific instances where income of the deductee is assessable in the hands of another person, consequent to which credit for tax deduction at source shall be given to the other person in those specific cases.

Clause (i) of Rule 37BA(2) has been substituted to provide that where under any provisions of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee. In effect, the specific situations have been substituted by a general provision.

However, the deductee should file a declaration with the deductor and the deductor should report the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1) of Rule 37BA.

B: SERVICE TAX

NOTIFICATIONS / CIRCULARS / LETTER

1. Service to be treated as “completed” on completion of all the auxiliary activities enabling the service provider to issue the invoice

CBEC has clarified that the test for the determination whether a service has been completed would be the completion of all the related activities that place the service provider in a situation to be able to issue an invoice. The Service Tax Rules,

1994 require that invoice should be issued within a period of 14 days from the completion of the taxable service. The invoice needs to indicate *inter alia* the value of service so completed. Thus it is important to identify the service so completed. This would include not only the physical part of providing the service but also the completion of all other auxiliary activities that enable the service provider to be in a position to issue the invoice. Such auxiliary activities could include activities like measurement, quality testing etc. which may be essential pre-requisites for identification of completion of service. However, it has been clarified that such activities do not include flimsy or irrelevant grounds for delay in issuance of invoice.

The Board has elucidated that the above interpretation also applies to determination of the date of completion of provision of service in case of “continuous supply of service”.

[Circular No. 144/13/2011- Service Tax 18.07.2011]

2. All assesseees to file Service Tax Returns electronically

Service Tax Rules, 1994 have been amended to provide that every assessee will have to submit half-yearly service tax return electronically, irrespective of the amount of service tax paid by him in the preceding financial year. The amendment would be effective from October 1st, 2011.

At present, electronic filing of service tax returns is mandatory for the assesseees who have paid 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.

[Notification No. 43/2011 ST dated 25.08.2011]

3. Cess paid by Consulting Engineer on transfer of technology – Exemption made conditional

Notification No. 18/2002 ST dated 16.12.2002 exempts the taxable services provided by a consulting engineer on transfer of technology from so much of the service tax leviable thereon, as is equivalent to the amount of cess paid on the said transfer of technology under the provisions of Section 3 of the Research and Development Cess Act, 1986. The said exemption would now be available if the Research & Development Cess is paid at the time of service or before payment for the service subject to maximum of six months period from the date of invoice or in case of associated enterprises the date of credit in the books of account. Also, necessary records will have to be maintained so as to establish a linkage between the invoice or the credit entry (as the case may be) and the cess payment challan.

[Notification No. 46 /2011 ST dated 19.09.2011]

4. Procedure for electronic filing of Service Tax returns and for electronic payment of service tax

Pursuant to issuance of Notification No. 43/2011 ST dated 25.08.2011 prescribing mandatory electronic filing of Service Tax returns, the DG (Systems) has issued

comprehensive instructions outlining the procedure for electronic filing of Service Tax returns and electronic payment of taxes under ACES. The said instructions outline the registration process for new assesseees, existing assesseees, non-assesseees and for Large Taxpayers Units, steps for preparing and filing of return, use of XML Schema for filing dealer's return, procedure for obtaining acknowledgement of e-filed return, procedure for e-payment etc.

[Circular No. 956/17/2011 CX dated 28.09.2011]

5. Clarification as to whether the service tax is leviable on the Flying Training Schools and Aircraft Maintenance Engineering Institutes

It has been clarified that that the coaching provided by Flying Training Schools and Aircraft Maintenance Engineering Institutes would not come under the scope of aforesaid exemption. The course certificates given by these academies cannot be held as "recognized in law" for the purposes of service tax exemption unless and until the course *per se* is specifically recognized by law which is not so in the current case. The term "recognized by law" has to construe a direct nexus only between the degree/ certificate being awarded by the Coaching centre and the statute.

The intent of amendment in the definition of commercial training or coaching centre as made by Finance Act, 2011 is to include all the coaching and training that is not recognised by law, irrespective of whether the institute is providing any other course(s) recognised by law.

Therefore, CBEC has clarified that service tax is leviable on Flying Training Institutes providing training for obtaining Commercial Pilot Licence (CPL) and on Aircraft Engineering Institutes for obtaining Basic Aircraft Maintenance Engineer Licence (BAMEL). CPL and BAMEL are granted by Directorate General of Civil Aviation after conducting required examinations.

[CBEC Letter No. F. No. 137/132/2010 - ST 11.05.2011]

PART – II : QUESTIONS AND ANSWERS

QUESTIONS

Residential Status and Scope of total income

1. Mr. Shyam and Mr. Mohan are brothers and they earned the following incomes during the financial year 2011-12. Mr. Shyam settled in Australia in the year 1980 and Mr. Mohan settled in Hyderabad. Mr. Shyam visits India for 20 days every year. Mr. Mohan also visits Sydney every year for a month. Compute their total income for the Assessment Year 2012-13 from the following information:

Sl. No.	Particulars	Mr. Shyam	Mr. Mohan
1.	Interest on Australian Development Bonds, 50% of	36,000	28,000

	interest received in India		
2.	Dividend from a Japanese Company received in Sydney	10,000	12,000
3.	Profit from a business in Mumbai, but managed directly from Sydney	13,000	-
4.	Profit on sale of shares of an Indian company received in India	65,000	96,000
5.	Income from a business in Chennai	28,000	32,000
6.	Fees for technical services rendered in Sydney and received in Sydney. The services were, however, utilized in India.	1,25,000	-
7.	Interest on savings bank deposit in Central Bank, Hyderabad	8,000	18,000
8.	Agricultural income from a land situated in Gujarat	40,000	40,000
9.	Rent received in respect of house property at Hyderabad	86,000	60,000
10.	Life insurance premium paid	-	35,000

[Hints: Section 5 and section 9 of the Income-tax Act, 1961]

Income from Salaries

2. From the following details, find out the salary chargeable to tax for the assessment year 2012-13 -

Mr. A is a regular employee of Malpani Ltd. in Mumbai. He was appointed on 1.3.2011 in the scale of 25,000-2,500-35,000. He is paid dearness allowance (which forms part of salary for retirement benefits) @15% of basic pay and bonus equivalent to one and a half month's basic pay as at the end of the year. He contributes 18% of his salary (basic pay plus dearness allowance) towards his recognized provident fund and the company contributes the same amount.

He is provided free housing facility which has been taken on rent by the company at ₹ 15,000 per month. He is also provided with following facilities:

- The company reimbursed the medical treatment bill of his daughter of ₹ 40,000, who is dependent on him.
- The monthly salary of ₹ 2,000 of a house keeper is reimbursed by the company.
- He is getting telephone allowance @ ₹ 1,000 per month.
- A gift voucher of ₹ 2,100 on the occasion of his marriage anniversary.
- The company pays medical insurance premium to effect an insurance on the health of Mr. A of ₹ 12,000.
- Motor Car running and maintenance charges fully paid by employer of ₹ 36,600.

(The motor car is owned and driven by Mr. A. The engine cubic capacity is below 1.60 litres. The motor car is used for both official and personal purpose by the employee.)

(vii) Value of free lunch provided during office hours is ₹ 1,000.

[Hints: Section 17 of the Income-tax Act, 1961 and Rule 3 of the Income-tax Rules, 1962]

Income from house property

3. Mr. Raju owns one residential house in Delhi. The house is having two identical units. First unit of the house is self-occupied by Mr. Raju and another unit is rented for ₹ 12,000 p.m. The rented unit was vacant for 3 months during the year. The particulars of the house for the previous year 2011-12 are as under:

Standard rent	₹ 2,20,000 p.a.
Municipal valuation	₹ 2,44,000 p.a.
Fair rent	₹ 2,35,000 p.a.
Municipal tax (paid by Mr. Raju)	12% of municipal valuation
Light and water charges	₹ 800 p.m.
Interest on borrowed capital	₹ 2,000 p.m.
Insurance charges	₹ 3,500 p.a.
Repairs	₹ 16,000 p.a.

Compute income from house property of Mr. Raju for the A.Y. 2012-13.

[Hints: Section 22, section 23, section 24, section 26 of the Income-tax Act, 1961]

Profits and gains of business or profession

4. Mr. Sumit, a manufacturer at Gurgaon, gives the following Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2012.

Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2012

Particulars	₹	Particulars	₹
To Opening Stock	85,000	By Sales	35,00,000
To Purchase of Raw Materials	17,80,000	By Closing stock	2,60,000
To Manufacturing Wages & Expenses	6,13,000		
To Gross Profit	<u>12,82,000</u>		
	<u>37,60,000</u>		<u>37,60,000</u>
To Administrative charges	4,15,000	By Gross Profit	12,82,000
To Interest	1,40,000	By Income-tax Refund	1,27,500

To State VAT paid	1,24,000	By Interest on Income-tax Refund	12,300
To General Expenses	68,000	By Interest from Company deposits	85,000
To Interest to Bank (On machinery term loan)	90,000		
To Amount paid to IIT, Delhi for an approved Scientific Research Programme	1,00,000		
To Depreciation	1,69,800		
To Net Profit	<u>4,00,000</u>		
	<u>15,06,800</u>		<u>15,06,800</u>

Following are the further information relating to the financial year 2011-12:

- Administrative charges include ₹ 54,000 paid as commission to brother of the assessee. The commission amount at the market rate is ₹ 44,000.
- The assessee paid ₹ 35,000 in cash to a transport carrier on 30.11.2011. This amount is included in manufacturing expenses. No tax was deducted at source since the transporter had furnished his PAN.
- Interest payments include interest of ₹ 18,000 payable outside India to a resident Indian on which tax has not been deducted and penalty of ₹ 32,000 for contravention of Central Sales Tax Act.
- Bank term loan interest actually paid upto 31.03.2012 was ₹ 50,000 and the balance was paid in October 2012.
- Depreciation allowable under the Act is to be computed on the basis of following information:

Plant & Machinery (Depreciation rate @ 15%)	₹
Opening WDV (as on 01.04.2011)	15,00,000
Additions during the year (used for more than 180 days)	3,00,000
Total additions during the year	5,00,000
Note: Ignore additional depreciation under section 32(1)(ia)	

Compute the income chargeable under the head 'Profits and Gains of Business or Profession' of Mr. Sumit for the Assessment Year 2012-13.

[Hints: Section 32, 35(2AA), 40(a), 40A, 43B of the Income-tax Act, 1961]

Capital Gains

5. Mr. X who transferred his land and building on 10.02.2012, furnishes the following information:
- (i) Net consideration received ₹ 15 lakhs.
 - (ii) Value adopted by stamp valuation authority, which was not contested by Mr. X ₹ 20 lakhs.
 - (iii) Value ascertained by Valuation Officer on reference by the Assessing Officer ₹ 22 lakhs.
 - (iv) This land was distributed to Mr. X on the partial partition of his HUF on 1.4.1981. Fair market value of the land as on 1.4.81 was ₹ 1,60,000.
 - (v) A residential building was constructed on the above land by Mr. X at a cost of ₹ 3,50,000 (construction completed on 1.12.2002) during the financial year 2002-03.
 - (vi) Brought forward unabsorbed short-term capital loss (incurred on sale of shares during the financial year 2009-10) ₹ 80,000.

What should be the maximum amount to be invested by Mr. X in NHAI/RECL bonds so as to be exempt from clutches of capital gain tax? Cost inflation indices for the financial years 1981-82, 2002-03 & 2011-12 are 100, 447 and 785, respectively.

Income from Other Sources

6. Following gifts are received by Mrs. Sakshi, who is carrying on jewellery business, during the previous year 2011-12:
- (i) On the occasion of her marriage on 07.09.2011, she has received ₹ 1,20,000 as gift out of which ₹ 85,000 are from relatives and balance from friends.
 - (ii) On 03.10.2011, she has received cash gift of ₹ 22,000 from cousin of her mother.
 - (iii) A mobile phone worth ₹ 15,000 is gifted by her friend on 21.09.2011.
 - (iv) She gets a cash gift of ₹ 32,000 from the elder brother of her husband's grandfather on 10.12.2011.
 - (v) She has received a cash gift of ₹ 18,000 from her friend on 27.01.2012.
 - (vi) She has received bullion, the fair market value of which was ₹ 75,000 on her birthday, 19.01.2012.

Mrs. Sakshi purchased from her friend, who is also carrying jewellery business, jewellery at ₹ 2,50,000 on 25.01.2012, the fair market value of which was ₹ 5,00,000 on that date. Mrs. Sakshi sold these jewellery in the course of her business on 23.03.2012.

Further, on 2.03.2012, Mrs. Sakshi purchased a building at ₹ 20,00,000 from her friend. The Stamp duty value of the building as on 02.03.2012 was ₹ 25,00,000.

Compute the income of Mrs. Sakshi chargeable under the head 'Income from other sources' for A.Y.2012-13.

[Hints: Section 56(2)(vii) of the Income-tax Act, 1961]

Set-off and Carry Forward of Losses

7. Compute the tax liability of Mr. Vivek for the Assessment year 2012-13 from the following particulars:

S.No.	Particulars	₹
(i)	Salary received as a partner from a partnership firm	1,00,000
(ii)	Net house property income as computed under the head "Income from house property"	3,20,000
(iii)	Income from own business before adjusting the following	1,20,000
	(a) Brought forward business loss	1,85,000
	(b) Current depreciation	36,000
	(c) Brought forward unabsorbed depreciation	1,60,000
(iv)	Short term capital gain – jewellery	1,90,000
(v)	Long term capital loss –listed equity shares (STT paid)	55,000
(vi)	Long term capital gains – Debentures	2,20,000
(vii)	Dividend on shares held as stock in trade	12,000
(viii)	Dividend from a company carrying on agricultural operation	15,000
(ix)	Income from growing and manufacturing coffee (cured and roasted)	1,20,000

During the previous year 2011-12, Mr. Vivek has donated ₹ 50,000 to an approved local authority for the promotion of family planning and purchased NSC VIII issue for ₹ 1,25,000.

Deductions from Gross Total Income

8. The basic salary of Mr. A (aged 65 years) is ₹ 45,000 p.m. He is entitled to dearness allowance, which is 40% of basic salary. 50% of dearness allowance forms part of pay for retirement benefits. Both Mr. A and his employer contribute 15% of basic salary to the pension scheme referred to in section 80CCD.

Mr. A has made the following investments/payments during the F.Y.2011-12 –

S.No.	Particulars	₹
(1)	Contribution to PPF	80,000
(2)	Payment of tuition fees to DPS for education of his daughter studying in Class X	35,000

(3)	Repayment of housing loan taken from Corporation Bank	20,000
(4)	Contribution to approved pension fund of LIC	15,000
(5)	Subscription to IDFC long-term infrastructure bonds	30,000

Compute the total income and tax thereon of Mr. A for A.Y. 2012-13.

[Hints: Section 80C, section 80CCC, section 80CCD, section 80CCF of the Income-tax Act, 1961]

Computation of Total Income and Tax liability of an individual

9. Mr. Amit, who does not maintain books of account for the year ended 31.3.2012, requests you to compute his total income and the tax payable thereon for the assessment year 2012-13 from the following information:

- (i) Basic Salary - ₹ 35,000 p.m.
CCA - ₹ 1,500 p.m.
HRA - ₹ 7,000 p.m.
- (ii) Amit resides in Delhi, paying a rent of ₹ 8,000 per month.
- (iii) Amit is paid an education allowance of ₹ 600 per month per child for all the three of his children. Actual expenses (tuition fees only) amounts to ₹ 20,000, ₹ 14,000 and ₹ 10,000 respectively.
- (iv) He bought a heavy goods vehicle on 25.8.2011 and has been letting it on hire from the same date. He declares an income of ₹ 29,800 from the same.
- (v) Interest from company deposits is ₹ 22,000 and bank interest is ₹ 8,000.
- (vi) Interest is payable on bank loans availed for buying the truck and making company deposits as follows:-

Purpose	Date of loan	Amount	Interest rate
Truck purchase	1.4.2011	6 lakhs	12% p.a.
Company deposit	1.10.2011	2 lakhs	10% p.a.

- (vii) Brought forward loss arising from speculating in shares during the preceding previous year and eligible for set-off is ₹ 2,00,000.
- (viii) Amit has invested ₹ 15,000 in notified equity linked saving scheme of UTI, ₹ 64,000 in PPF, ₹ 12,000 as life insurance premium on his own life (sum assured ₹ 50,000) and ₹ 18,000 towards pension fund of LIC.

Provisions concerning Tax Deducted at Source and Business Income

10. Discuss whether disallowance under section 40(a)(ia) is attracted for not deducting tax at source or not depositing such tax within the prescribed time, as the case may be, in

respect of each of the following payments during the P.Y.2011-12 :

- (i) ABC Ltd. paid ₹ 26,000 to Mr. Amit, a resident, towards fees for technical services and ₹ 29,000 towards fees for professional services in August, 2011. No tax has been deducted at source. No other payment has been made to Mr. Amit during the year.
- (ii) Mr. Ravi has been running a sole proprietary business whose accounts are audited under section 44AB of Income-tax Act, 1961. He pays a monthly rent of ₹ 12,000 for the office premises to Mr. Shiv, the owner of building and an individual. Besides, he also pays service charges of ₹ 8,000 per month to Mr. Shiv towards the use of furniture and fixtures. No tax has been deducted on above payments.
- (iii) State Bank of India pays ₹ 45,000 per month without deducting tax at source as rent to the Central Government for a building in which one of its branches is situated.
- (iv) X, an individual whose total sales in business during the year ending 31.03.2011 was ₹ 57 lacs, paid ₹ 5 lacs by cheque on 25.02.2012 to a contractor (an individual) without deducting tax at source, for construction of his business premises, in full and final settlement. No amount was credited earlier to the account of the contractor in the books of X. The turnover of X for the P.Y.2011-12 is estimated at ₹ 62 lacs.
- (v) ₹ 52,000 paid to Mr. Rahul, a resident, towards fees for professional services in April, 2011. Tax deducted at source under section 194J was deposited on 2nd September, 2012.
- (vi) A consultancy fees of ₹ 45,000 is paid by A Ltd. to the account of Mr. M on 31.03.2012 without tax deduction at source under section 194J. Tax on the same was subsequently deducted on 07.04.2012 at the time of making the next payment to Mr. M. The same was deposited on 05.05.2012.

[Hints: Section 40(a)(ia), section 44AB, section 194C, section 194J, section 194-I, section 196 of the Income-tax Act, 1961]

Provisions for filing of Return of Income

11. State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

- (i) Where the Karta of a HUF is absent from India, the return of income can be signed by any male member of the family.

[Hints: Section 140 of the Income-tax Act, 1961]

- (ii) The Central Government is empowered to notify the class or classes of persons who will be exempted from the requirement of filing of return of income.

[Hints: Section 139 of the Income-tax Act, 1961]

- (iii) Mr. Yogesh, 80 years of age, carrying on retail trade business with turnover of ₹ 58 lakhs for previous year 2011-12, declares his business income from such trade as ₹ 4,50,000 (which also represents his taxable income) in his return of income. The due date of filing the return of income in the case of Mr. Yogesh is 30th September, 2012.

[Hints: Section 44AA, section 44AB and section 139(1) of the Income-tax Act, 1961]

Consulting engineer services

12. Examine the validity of the statement, "Cess paid by Consulting Engineer on transfer of technology is exempt unconditionally".

[Hint: Notification No. 46/2011 ST dated 19.09.2011]

Determination of value of taxable service

13. Mr. Ram who has entered into a roll over contract approached NDBC Bank for selling US \$ 35,000 at the rate of ₹ 49 per US \$. RBI reference rate for US \$ is ₹ 49.50 at that time. However, rate of exchange declared by CBEC for the day is ₹ 50.50 per US\$. Calculate the value of taxable service.

[Hint: Rule 2B of the Service Tax (Determination of Value) Rules, 2006]

Commercial training or coaching services

14. State, with reasons, whether service tax is leviable on the Flying Training Schools and Aircraft Maintenance Engineering Institutes.

[Hint: CBEC Letter No. F. No. 137/132/2010 - ST 11.05.2011]

Determination of point of taxation

15. Jain & Associates is a partnership firm of practicing Chartered Accountants. It has provided a legal opinion on an issue of service tax to a client for an agreed sum of ₹ 2,50,000. The details are:

Date of completion of service	04.12.2011
Date of issue of an invoice in respect of above service	12.12.2011
Date of receipt of payment	14.02.2012

Determine the point of taxation for Jain & Associates.

[Hint: Rule 7(c) of Point of Taxation Rules, 2011]

Mandap keeper services

16. Starlight Banquets is engaged in providing 'mandap keeper services'. For the month of January, 2012, it provided the following information:-

S.No.	Particulars	Amount (₹)
I	Banquet hall let out for marriage function:-	
	The gross amount charged for banquet hall including catering charges (Catering charges have been separately indicated in the invoice)	6,00,000
	Amount received for rooms let out for stay of baraatīs attending the marriage	40,000
II	Amount collected for letting out the hall for All India Dance Competition. No food was supplied alongwith it.	5,00,000
III	Mandap for shooting of marriage sequence of a Daily Soap Opera	2,40,000

Compute the amount of service tax payable by Starlight Banquets for the month of January, 2012.

Notes:

1. Point of taxation in all the aforesaid cases is January, 2012
2. All the amounts stated above are exclusive of service tax.
3. Starlight Banquets is not eligible for small service providers' exemption under Notification No. 6/2005 /ST dated 01.03.2005 for the financial year 2011-12.

[Hints: Notification No. 1/2006 ST & Circular No. 96/7/2007 ST]

Merits of VAT

17. Under VAT, the allocation of resources is left to be decided by the free play of market forces and competition. Discuss the validity of the statement.

Eligibility for input tax credit

18. State the eligibility of purchases for input tax credit in the following cases:-
 - (a) Mohan purchased goods to use them in the execution of a works contract.
 - (b) Singla & Co. purchased goods from Malhotra Enterprises, a registered dealer. Malhotra Enterprises has opted for composition scheme under the provisions of the Act.
 - (c) Sahil purchased goods from Ganesh. Ganesh has not shown the amount of VAT paid by him separately in the invoice.

Composition scheme under VAT

19. What happens to VAT chain when a seller opts for composition scheme?

VAT procedures

20. "Invoices are crucial documents for administering VAT." Discuss.

Computation of VAT liability

21. Dev Dealers furnished the following details for the financial year 2011-12:-

Inputs purchased within the State	₹1,00,000
Finished goods sold within the State	₹2,00,000
Goods sold in the course of inter-State trade	₹1,00,000
Capital goods procured during the month	₹1,00,000
VAT paid on capital goods	12.5%
Input VAT rate	12.5%
Output VAT rate	4%
Central sales tax rate	2%

Compute the total tax liability under the State VAT law and under the Central Sales Tax Act.

Note: The capital goods are not the goods included in the negative list.

SUGGESTED ANSWERS/HINTS

1. **Computation of total income of Mr. Shyam and Mr. Mohan for the A.Y. 2012-13**

Sl. No.	Particulars	Mr. Shyam (Non-Resident)	Mr. Mohan (Resident)
1.	Interest on Australian Development Bonds (See Note-1)	18,000	28,000
2.	Dividend from Japanese Company received in Sydney (See Note-2)	-	12,000
3.	Profit from a business in Mumbai but managed directly from Sydney	13,000	-
4.	Profit on sale of shares of an Indian company received in India	65,000	96,000
5.	Income from a business in Chennai	28,000	32,000
6.	Fees for technical services rendered in Sydney but services utilized in India (See Note-3)	1,25,000	-
7.	Interest on savings bank deposit in Central Bank, Hyderabad	8,000	18,000
8.	Agricultural income from a land in Gujarat (See Note-4)	-	-

9.	Rent received in respect of house property at Hyderabad (See Note 5)	60,200	42,000
Gross Total income		3,17,200	2,28,000
Less : Deduction under Chapter VI-A			
	Under section 80C-Life insurance premium paid	-	35,000
Total Income		3,17,200	1,93,000

Notes:

- (1) Only interest received in India is taxable in the case of Mr. Shyam since he is a non-resident. However, in case of Mr. Mohan, the entire interest of ₹ 28,000 on Australian Development Bonds is taxable, since in case of a resident, his global income is taxable.
- (2) Dividend received from a Japanese company in Sydney by a non-resident assessee is not taxable since it was received outside India and also did not accrue or arise in India. However, the dividend received by a resident assessee from a foreign company is taxable and is also not entitled to exemption under section 10(34).
- (3) As per the *Explanation* below section 9(2), fees for technical services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, irrespective of whether the services are rendered in India or not.
- (4) Agricultural income from a land situated in the State of Gujarat, is exempt under section 10(1) in case of both non-resident and resident assesseees.

(5)	Income from house property	Mr. Shyam	Mr. Mohan
	Rent received	86,000	60,000
	Less : Deduction under section 24(a) @ 30%	25,800	18,000
		60,200	42,000

2. **Computation of taxable salary of Mr. A for A.Y. 2012-13**

Particulars	₹
Basic pay [(25,000×11) + (27,500×1)] = 2,75,000 + 27,500	3,02,500
Dearness allowance [15% of basic pay]	45,375
Bonus	41,250
Employer's contribution to RPF in excess of 12% (18%-12% = 6% of ₹ 3,47,875)	20,873
Taxable allowances	
Telephone allowance	12,000

Taxable perquisites	
Rent-free accommodation [See Note 1 below]	60,169
Medical reimbursement (₹ 40,000 - ₹ 15,000) [See Note 2 below]	25,000
Reimbursement of salary of housekeeper	24,000
Motor car maintenance borne by employer [₹ 36,600-₹ 21,600 (i.e., ₹ 1,800 x 12)]	<u>15,000</u>
Salary income chargeable to tax	<u>5,46,167</u>

Notes:

- Where the accommodation is taken on lease or rent by the employer, the value of rent-free accommodation provided to employee would be actual amount of lease rental paid or payable by the employer or 15% of salary, whichever is lower.

For the purposes of valuation of rent free house, salary includes:

- Basic salary i.e., ₹ 3,02,500
- Dearness allowance i.e. ₹ 45,375
- Bonus i.e., ₹ 41,250
- Telephone allowance i.e., ₹ 12,000

Therefore, salary works out to

$$3,02,500 + 45,375 + 41,250 + 12,000 = 4,01,125.$$

$$15\% \text{ of salary} = 4,01,125 \times 15/100 = 60,169$$

Value of rent-free house = Lower of rent paid by the employer (i.e. ₹ 1,80,000) or 15% of salary (i.e., ₹ 60,169).

Therefore, the perquisite value is ₹ 60,169.

- Clause (v) of the proviso to section 17(2) exempts any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family to the extent of ₹ 15,000. Therefore, in this case, the balance of ₹ 25,000 (i.e., ₹ 40,000 – ₹ 15,000) is a taxable perquisite. Medical insurance premium paid by employer to effect an insurance on the health of Mr. A is exempt.
- Gift voucher worth ₹ 2,100 given by the employer on the occasion of Mr. A's marriage anniversary is exempt since the value is less than ₹ 5,000.
- Value of free lunch provided during office hours is not a taxable perquisite, assuming that the value per lunch does not exceed ₹ 50.

3. Computation of income from house property of Mr. Raju for A.Y. 2012-13

Particulars	₹	₹
(A) Rented unit (50% of total area) :		
Step I - Computation of Annual letting Value		
Municipal valuation (₹ 2,44,000 x ½)	1,22,000	
Fair rent (₹ 2,35,000 x ½)	1,17,500	
Standard rent (₹ 2,20,000 x ½)	1,10,000	
Annual letting value is the higher of municipal valuation and fair rent, but restricted to standard rent	1,10,000	
Step II - Actual Rent		
Rent receivable for the whole year ₹1,44,000 (₹ 12,000 x 12)		
Actual rent received owing to vacancy (₹ 1,44,000 – ₹ 36,000)	1,08,000	
Step III – Computation of Gross Annual Value		
Since, owing to vacancy, the actual rent received is lower than the annual letting value, the actual rent received is the Gross Annual value		
Gross Annual Value		1,08,000
Less: Municipal taxes (12% of ₹ 1,22,000)		<u>14,640</u>
Net Annual Value (NAV)		93,360
Less : Deductions under section 24		
(a) 30% of NAV	28,008	
(b) Interest on borrowed capital (₹ 1,000 x 12)	<u>12,000</u>	<u>40,008</u>
Taxable income from let out portion		53,352
(B) Self occupied unit (50% of total area)		
Annual value	Nil	
Less : Deduction under section 24		
Interest on borrowed capital (₹ 1,000 x 12)	<u>12,000</u>	<u>(12,000)</u>
Income from house property		<u>41,352</u>

Notes: No deduction will be allowed separately for light and water charges, insurance charges and repairs.

4. Computation of income chargeable under the head 'Profits and Gains of Business or Profession' of Mr. Sumit for the A.Y. 2012-13

Particulars	₹	₹
Net profit as per profit and loss account		4,00,000
Add: Expenses not allowable		
Excess commission paid to brother disallowed under section 40A(2)	10,000	
Disallowance under section 40A(3) is not attracted since the limit for one time cash payment is ₹ 35,000 in respect of payment to transport operators. Therefore, amount of ₹ 35,000 paid in cash to a transport carrier is allowable as deduction.	Nil	
Bank term loan interest paid after the due date of filing of return under section 139(1) – disallowed as per section 43B (₹ 90,000 - ₹ 50,000)	40,000	
Interest payable outside India to a resident, as tax has not been deducted at source [section 40(a)]	18,000	
Penalty for contravention of CST Act	32,000	
Contribution for Scientific Research (to be treated separately)	1,00,000	
Depreciation debited to profit and loss account	<u>1,69,800</u>	<u>3,69,800</u>
		7,69,800
Less: Income not forming part of business Income		
Income-tax refund	1,27,500	
Interest on Income-tax refund (See Note-2 below)	12,300	
Interest from company deposits (See Note-2 below)	85,000	
Depreciation under the Income-tax Act, 1961 (As per working note)	<u>2,85,000</u>	<u>5,09,800</u>
		<u>2,60,000</u>
Less: Deduction under section 35(2AA) for Scientific Research		<u>2,00,000</u>
Income under the head 'Profits and Gains of Business or Profession'		<u>60,000</u>

Notes:

1. Computation of depreciation under the Income-tax Act, 1961

Particulars	₹
Depreciation@15% on ₹ 18 lakh (Opening WDV of ₹ 15 lakh plus	

assets purchased during the year and used for more than 180 days ₹ 3 lakh)	2,70,000
Depreciation@7.5% on ₹ 2 lakh (Cost of assets used for less than 180 days)	<u>15,000</u>
	<u>2,85,000</u>

2. Interest on income-tax refund and interest on company deposits is taxable separately as income from other sources. Since, in this question, only computation of profit and gains of business or profession is required, the calculation of income from other sources is not shown.

5. Computation of Capital Gains of Mr. X for the Assessment Year 2012-13.

Particulars	₹	₹
Full value of consideration (deemed) [See Note (i) & (ii)]		20,00,000
Less: Indexed cost of acquisition		
Indexed cost of land (1,60,000×785/100) [See Note (iii)]	12,56,000	
Indexed cost of building (3,50,000×785/447)	<u>6,14,653</u>	<u>18,70,653</u>
Long-term capital gain		1,29,347
Less: Brought forward short-term capital loss set off [See Note (iv)]		<u>80,000</u>
Amount to be invested in NHAI / RECL bonds to get full exemption		<u>49,347</u>

As per section 54EC, an assessee can avail exemption in respect of long-term capital gains, if such capital gains are invested in the bonds issued by the NHAI/RECL redeemable after 3 years. Such investment is required to be made within a period of 6 months from the date of transfer of the asset. The exemption shall be the amount of capital gain or the amount of such investment made, whichever is less.

Notes :

- (i) Where the consideration received or accruing as a result of transfer of a capital asset, being land or building or both, is less than the value adopted or assessed by any authority of a State Government (Stamp Valuation Authority) for the purpose of payment of stamp duty in respect of such asset and the same is not contested by the assessee, such value adopted or assessed shall be deemed to be the full value of the consideration received or accruing as a result of such transfer. [Section 50C(1)]. Accordingly, full value of consideration will be ₹ 20 lakhs in this case.
- (ii) It is further provided in section 50C(3) that where the valuation is referred by the Assessing Officer to Valuation Officer and the value ascertained by such Valuation Officer exceeds the value adopted or assessed by the Stamp Valuation Authority,

the value adopted or assessed by the Stamp Valuation Authority shall be taken as the full value of the consideration received or accruing as a result of the transfer. Since the value ascertained by the Valuation Officer (i.e. ₹ 22 lakhs) is higher than the value adopted by the Stamp Valuation Authority (i.e. ₹ 20 lakhs), the full value of consideration in this case is ₹ 20 lakhs.

- (iii) Cost of land which is acquired by Mr. X on partition of HUF is the cost to the previous owner. Since date and cost of acquisition to the previous owner are not given, fair market value as on 1.4.1981 is taken as the cost and indexed. Indexation benefit is available since land and buildings are long-term capital assets.
- (iv) Brought forward unabsorbed short term capital loss can be set off against any capital gains, short term or long term, for 8 assessment years immediately succeeding the assessment year for which the loss was first computed. Therefore, the brought forward short term capital loss of ₹ 80,000 can be set off against the long-term capital gain of ₹ 1,29,347. The net long-term capital gain would be ₹ 49,347. The entire amount has to be invested in NHAI/RECL bonds to get full exemption from capital gains.

6. Computation of "Income from other sources" of Mrs. Sakshi for the A.Y. 2012-13

S.No.	Particulars	₹
(1)	Gifts received on the occasion of marriage are exempt	-
(2)	Cash gift received from cousin of Mrs. Sakshi's mother is taxable under section 56(2)(vii) (See Note below) (Cousin of Mrs. Sakshi's mother is not a relative)	22,000
(3)	Mobile phone gifted by her friend is not taxable since it is not included in the definition of "property" under section 56(2)(vii).	-
(4)	Cash gift received from elder brother of husband's grandfather is taxable. (Brother of husband's grandfather is not a relative) (See note below)	32,000
(5)	Cash gift from friend is taxable. (See note below)	18,000
(6)	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds ₹ 50,000	75,000
(7)	Difference of ₹ 2.5 lakh in the value of jewellery purchased from her friend, is not taxable as it represents the stock-in-trade of Mrs. Sakshi. Since Mrs. Sakshi is carrying jewellery business and it has been mentioned that the jewellery were subsequently sold in the course of his business, such jewellery represent the stock-in-trade of Mrs. Sakshi.	Nil

(8)	The immovable property purchased for inadequate consideration is outside the scope of section 56(2)(vii). Therefore the difference of ₹ 5 lakh between stamp duty value and purchase price of building is not taxable.	Nil
Income from Other Sources		<u>1,47,000</u>

Note: Since the sum of money received by Mrs. Sakshi without consideration during the previous year 2011-12 exceeds ₹ 50,000, the whole of the amount is chargeable to tax under section 56(2)(vii) of the Income-tax Act, 1961.

7. Computation of taxable income of Mr. Vivek for the A.Y 2012-13

Particulars	₹	₹
I. Net income from house property		3,20,000
II. Income from business		
Salary received as a partner from a partnership firm is taxable under the head "Profit and gains of business and profession" (assuming that the same was allowed as deduction in the hands of the firm).	1,00,000	
Income from own business	1,20,000	
Income from coffee (cured and roasted) (40% is business income as per Rule 7B)	<u>48,000</u>	
	2,68,000	
Less :Current year depreciation [Section 32(1)]	<u>36,000</u>	
	2,32,000	
Less: Brought forward business loss	<u>1,85,000</u>	47,000
III. Capital gains		
Long term capital gain – debentures	2,20,000	
Short term capital gain – Jewellery	<u>1,90,000</u>	4,10,000
IV. Income from other sources		
Dividend on shares (including shares in company carrying on agricultural operations)– exempt under section 10(34)		Nil
		7,77,000
Less: Brought forward unabsorbed depreciation		<u>1,60,000</u>
Gross total income		6,17,000
Less: Chapter VI-A deductions		
Section 80C : NSC VIII issue purchase (deduction restricted to ₹ 1,00,000)	1,00,000	

Section 80G : Donation to a local authority for family planning. Amount donated ₹ 50,000 donation is to be restricted to 10% of gross total income as adjusted below:		
Gross total income	6,17,000	
Less :Long term capital gain	2,20,000	
Deduction under section 80C	<u>1,00,000</u>	
	<u>2,97,000</u>	
Deduction limited to 10% of gross total income i.e. ₹ 29,700	<u>29,700</u>	<u>1,29,700</u>
Total income		<u>4,87,300</u>

Computation of tax liability after aggregation of agricultural income with non-agricultural income

Particulars	₹	₹
Agricultural income + non agricultural income = Total income = 72,000 + 4,87,300	5,59,300	
Tax on LTCG of ₹ 2,20,000 @ 20%	44,000	
Tax on the remaining income at slab rate	<u>15,930</u>	59,930
Less: Tax on agricultural income plus basis exemption limit (i.e. ₹ 72,000 + ₹ 1,80,000) Tax on ₹ 2,52,000		<u>7,200</u>
Tax liability		52,730
Add: Education cess and Secondary and higher education cess @ 3%		<u>1,582</u>
Total tax liability		<u>54,312</u>
Total tax liability (rounded off)		<u>54,310</u>

Note: Loss from an exempt source cannot be set-off against gains from a taxable source. Therefore, long-term capital loss on sale of listed equity shares cannot be set-off against long-term capital gains on sale of debentures.

8. Computation of total income and tax payable by Mr. A

Particulars	₹	₹
Income from salary		
Basic Salary		5,40,000
Dearness Allowance		2,16,000
Employer's Contribution to pension scheme		<u>81,000</u>
Gross Salary / Gross Total Income		<u>8,37,000</u>
Less: Deductions under chapter VI-A:		

Section 80C		
- Contribution to PPF	80,000	
- Payment of tuition fees to DPS for education of his daughter studying in Class X	35,000	
- Repayment of housing loan	20,000	
Section 80CCC		
- Contribution to approved pension fund of LIC	15,000	
Section 80CCD(1)		
- Employee's contribution to pension scheme (See Note-2 below)	<u>64,800</u>	
	<u>2,14,800</u>	
Maximum deduction restricted to [Section 80CCE]		1,00,000
Section 80CCD(2)		
- Employer's contribution to pension scheme (See Note-3 below)		64,800
Section 80CCF		
- Subscription to notified long-term infrastructure bonds of IDFC, but restricted to ₹ 20,000		<u>20,000</u>
Total income		<u>6,52,200</u>
Tax on total income		55,440
Add : Education cess @ 2%		1,109
Add : Secondary and Higher Education cess @ 1%		<u>554</u>
Total Tax Liability		<u>57,103</u>
Rounded off		57,100

Notes:

- (1) Employer's contribution to such pension scheme would be treated as salary since it is specifically included in the definition of "salary" under section 17(1)(viii). Therefore, ₹ 81,000, being 15% of basic salary of ₹ 5,40,000, will be included in Mr. A's salary.
- (2) Mr. A's contribution to pension scheme is allowable as deduction under section 80CCD(1). However, the deduction is restricted to 10% of salary. Salary, for this purpose, means basic pay plus dearness allowance, if it forms part of pay for retirement benefit.
Therefore, salary for the purpose of deduction under section 80CCD, in this case, would be –

Particulars	₹
Basic salary = 45,000 × 12 =	5,40,000
Dearness allowance = 40% of ₹ 5,40,000 = ₹ 2,16,000	
50% of DA forms part of pay = 50% of ₹ 2,16,000	<u>1,08,000</u>
Salary for the purpose of deduction under section 80CCD	<u>6,48,000</u>
Deduction under section 80CCD(1) = 10% of ₹ 6,48,000	64,800
(as against actual contribution of ₹ 81,000, being 15% of basic salary of ₹ 5,40,000)	

- (3) Employer's contribution to pension scheme would be allowable as deduction under section 80CCD(2), subject to a maximum of 10% of salary. Therefore, deduction under section 80CCD(2), would also be restricted to ₹ 64,800, even though the entire employer's contribution of ₹ 81,000 is included in salary under section 17(1)(viii). However, this deduction of employer's contribution of ₹ 64,800 to pension scheme would be outside the overall limit of ₹ 1 lakh section 80CCE i.e., this deduction would be over and above the other deductions which are subject to the limit of ₹ 1 lakh.

9. Computation of total income of Mr. Amit for the Assessment Year 2012-13

Particulars	₹	₹
Income from Salary		
Basic Salary (₹ 35,000 × 12)		4,20,000
CCA (₹ 1,500 × 12)		18,000
HRA (₹ 7,000 × 12)	84,000	
Less: Exempt under section 10(13A) [See Note 1 below]	<u>54,000</u>	30,000
Education Allowance (600 × 12 × 3)	21,600	
Less: Exempt under section 10(14) (100 × 12 × 2)	<u>2,400</u>	<u>19,200</u>
Income from Salary		4,87,200
Profits and gains from business or profession		
Income from the business of letting on hire, a heavy vehicle under section 44AE (5,000 × 8) [See Note 2 below]		40,000
Income from Other Sources		
Interest from company deposits	22,000	
Bank interest	<u>8,000</u>	
	30,000	
Less: Deduction under section 57		

₹ 2,00,000 @ 10% for 6 months – towards loan interest	<u>10,000</u>	<u>20,000</u>
Gross Total Income		5,47,200
Less: Deduction under Chapter VI-A		
Under section 80C [See Note 4 below]	1,23,000	
Under section 80CCC	<u>18,000</u>	
	<u>1,41,000</u>	
restricted to		<u>1,00,000</u>
Total Income		<u>4,47,200</u>

Computation of tax payable for the A.Y.2011-12

Particulars	₹
Tax on ₹ 4,47,200	26,720
Add: Education cess@2% and SHEC@1%	<u>802</u>
Tax Payable	<u>27,522</u>

Notes:

- (1) HRA is exempt to the extent of the least of the following under section 10(13A)

- (1) 50% of salary (as the city is Delhi) i.e. 50% of ₹ 4,20,000 = ₹ 2,10,000
- (2) Excess of rent paid over 10% of salary = ₹ 96,000 – ₹ 42,000 = ₹ 54,000
- (3) Actual HRA received = 7,000 × 12 = ₹ 84,000

Least of the above i.e. ₹ 54,000 is exempt under section 10(13A)

- (2) In the case of a person owning not more than 10 vehicles at any time during the previous year, estimated income from each heavy vehicle will be deemed to be ₹ 5,000/- for every month or part of the month during which the heavy vehicle is owned by the assessee during the previous year [Section 44AE].

Presumptive income = ₹ 5,000 × 8 = 40,000

If, however, the assessee declares a higher amount, such amount will be considered as income. In the instant case, since the assessee declares a lower amount, it cannot be considered, since no books of account are maintained. Also, interest is not deductible, since under section 44AE, all deductions under sections 30 to 38 are deemed to have been allowed.

- (3) Brought forward loss from speculation business can be set off only against income from speculation business and not against other business income.

(4) Deduction under section 80C:

Investment in notified equity linked saving scheme of UTI	15,000
Investment in PPF	64,000
Life insurance premium on own life restricted to 20% of sum assured	10,000
Tuition fees paid for two of his children (Most favourable to Ram)	<u>34,000</u>
	<u>1,23,000</u>

(5) Contribution to pension fund of LIC ₹ 18,000 is deductible under section 80CCC.

(6) Total deduction under sections 80C, 80CCC and 80CCD(1) is limited to ₹ 1,00,000 as per section 80CCE.

10. Under the scheme of disallowance under section 40(a)(ia), the time limit for depositing tax deducted during the entire year has been extended up to the due date of filing return of income to ensure compliance with the statutory requirement to avoid disallowance of expenditure under section 40(a)(ia).

However, even under the new scheme, tax is required to be deducted during the relevant previous year, in cases where TDS provisions under Chapter XVII-B are attracted. The tax, so deducted, has to be deposited on or before the due date of filing of return to claim deduction of the expenditure in the relevant previous year to which it relates.

(i) The limit of ₹ 30,000 under section 194J is applicable separately for fees for professional services and fees for technical services. It implies that if the payment to a person towards each of the above is less than ₹ 30,000, no tax is required to be deducted at source, even though the aggregate payment or credit exceeds ₹ 30,000. Therefore, if ABC Ltd. makes a payment of ₹ 26,000 to Mr. Amit towards fees for technical services and another payment of ₹ 29,000 to him towards fees for professional services during the P.Y.2011-12, TDS under section 194J would not get attracted, since the limit of ₹ 30,000 is applicable for fees for professional services and fees for technical services, separately. Therefore, disallowance under section 40(a)(ia) for non-deduction of tax at source is not attracted in this case.

(ii) Where the payer is an individual or HUF whose accounts are required to be audited as per the provisions of section 44AB for the immediately preceding financial year, he has to deduct tax at source. If the accounts of Mr. Ravi are subject to tax audit for the assessment year 2011-12 under section 44AB of the Income-tax Act, 1961, he is liable to deduct tax at source under section 194-I in respect of rental payments during the financial year 2011-12.

Accordingly, Mr. Ravi is liable to deduct tax at source under section 194-I on the rental payments made. Section 194-I provides that rent includes any payment, by whatever name called, for the use of land or building together with furniture, fittings

etc. Therefore, in the given case, apart from monthly rent of ₹ 12,000 p.m., service charge of ₹ 8,000 p.m. for use of furniture and fixtures would also attract TDS under section 194-I. Since the aggregate rental payments to Mr. Shiv during the financial year 2011-12 exceeds ₹ 1,80,000, Mr. Ravi is liable to deduct tax at source on the same. Therefore, disallowance under section 40(a)(ia) for non-deduction of tax at source will be attracted and ₹ 2,40,000 will be disallowed.

- (iii) Section 194-I, which governs the deduction of tax source on payment of rent, exceeding ₹ 1,80,000 per annum is applicable to all taxable entities excepting individuals and HUFs. However, under section 196, exemption from application of provisions of tax deduction at source is provided in respect of payments made to Government. Therefore, disallowance under section 40(a)(ia) for non-deduction of tax at source would not be attracted.
 - (iv) An individual who is liable for tax audit under section 44AB in the immediately preceding financial year (i.e. F.Y. 2010-11) is liable to deduct tax at source under section 194C for the financial year 2011-12 in respect of the payment made to contractor exceeding ₹ 30,000 in a single payment and ₹ 75,000 in aggregate during the financial year. Turnover of the individual X did not exceed ₹ 60 lacs in the financial year 2010-11. Therefore, X is not liable to get his accounts audited under section 44AB for that year. Hence there is no liability to deduct tax at source during the financial year 2011-12. Further, the estimated turnover of P.Y. 2011-12 is not relevant to assess the liability to deduct tax at source during the same financial year. Therefore, disallowance under section 40(a)(ia) for non-deduction of tax at source is not attracted in this case.
 - (v) Since tax deducted under section 194J during the P.Y.2011-12 has been deposited before the due date of filing of return i.e., before 30th September, 2012, the payment of ₹ 52,000 towards fees for professional services would be allowed as deduction while computing income under the head "Profits and gains of business or profession" for A.Y.2012-13. Disallowance under section 40(a)(ia) is not attracted in this case.
 - (vi) Since tax deductible under section 194J on consultancy fees of ₹ 45,000 is not deducted during the previous year 2011-12, disallowance under section 40(a)(ia) for non-deduction of tax at source would be attracted and ₹ 45,000 will be disallowed while computing income of the P.Y.2011-12.
- 11. (i) False:** Section 140(b) provided that where the karta of a HUF is absent from India, the return of income can be signed by any other adult member of the family; such member can be a male or female.
- (ii) True:** For reducing the compliance burden of small taxpayers, the Central Government has been empowered to notify the class or classes of persons who will be exempted from the requirement of filing of return of income, subject to satisfying the prescribed conditions. This has been provided for in clause (1C) of section 139.

(iii) **False:** Although Mr. Yogesh is showing his income lower than 8% of total turnover, his total income is not exceeding the basic exemption limit of ₹ 5,00,000 (since Mr. Yogesh is 80 years of age). Therefore, he is not required to maintain books of account as per section 44AA and get his accounts audited under section 44AB, in which case the due date for filing return would be 31st July, 2012.

12. The statement is not valid. *Notification No. 18/2002 ST dated 16.12.2002* exempts the taxable services provided by a consulting engineer on transfer of technology from so much of the service tax leviable thereon, as is equivalent to the amount of cess paid on the said transfer of technology under the provisions of Section 3 of the Research and Development Cess Act, 1986.

Notification No. 46/2011 ST dated 19.09.2011 has amended the said notification to the effect that the said exemption is now available only if the Research & Development Cess is paid at the time of service or before payment for the service subject to maximum of six months period from the date of invoice or in case of associated enterprises, the date of credit in the books of account. Also, necessary records have to be maintained so as to establish a linkage between the invoice or the credit entry (as the case may be) and the cess payment challan.

13. With effect from 01.04.2011, new rule 2B of the Service Tax (Determination of Value) Rules, 2006 provides the manner of determination of the value of taxable service for the banking and other financial services so far as it pertains to purchase or sale of foreign currency, including money changing. The value of service for a currency, when exchanged from, or to, Indian Rupees (INR), shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Hence, the value of taxable service = (RBI reference rate for \$ – Selling rate for \$) × Total units

$$= ₹ (49.50 - 49) \times 35,000$$

$$= ₹ 0.50 \times 35,000$$

The taxable value shall be ₹ 17,500.

14. It has been clarified vide *CBEC Letter No. F. No. 137/132/2010 - ST 11.05.2011* that the coaching provided by Flying Training Schools and Aircraft Maintenance Engineering Institutes would not come under the scope of exemption provided by *Notification No. 33/2011 ST dated 25.04.2011*. The said notification exempts preschool coaching and training and coaching leading to grant of a certificate/diploma/degree/educational qualification recognised by any law.

The course certificates given by Flying Training Schools and Aircraft Maintenance Engineering Institutes cannot be held as "recognized in law" for the purposes of service tax exemption unless and until the course *per se* is specifically recognized by law which is not so in the current case. The term "recognized by law" has to construe a direct nexus only between the degree/ certificate being awarded by the Coaching centre and the statute.

Therefore, CBEC has clarified that service tax is leviable on Flying Training Institutes providing training for obtaining Commercial Pilot Licence (CPL) and on Aircraft Engineering Institutes providing training for obtaining Basic Aircraft Maintenance Engineer Licence (BAMEL). CPL and BAMEL are granted by Directorate General of Civil Aviation after conducting required examinations.

15. In accordance with rule 7(c) of the Point of Taxation Rules, 2011, in case of Practising Chartered Accountant's services, the point of taxation will be the date of receipt of payment. Hence, the point of taxation in the given case would be 14.02.2012. Date of completion of service as well as date of issue of the invoice is irrelevant in the present case.
16. **Computation of the amount of service tax payable by Starlight Banquets for the month of January, 2012:-**

Particulars		Amount
Mandap let out for marriage function (Note - 1)	6,00,000	
Less: Abatement @ 40% of gross amount ($\text{₹ } 6,00,000 \times 40\%$)	<u>2,40,000</u>	3,60,000
Amount received for rooms for stay of baraatīs (Note-2)		40,000
Amount collected for letting out the hall for All India Dance Competition. No food was supplied alongwith it (Note-3)		5,00,000
Mandap for shooting of a Daily Soap Opera (Note-4)		<u>Nil</u>
Value of taxable service		<u>9,00,000</u>
Service tax @ 10% = $\text{₹ } 9,00,000 \times 10\%$		90,000
Education cess @ 2% = $\text{₹ } 90,000 \times 2\%$		1,800
Secondary and higher education cess @ 1% = $\text{₹ } 90,000 \times 1\%$		<u>900</u>
Service tax payable		<u>92,700</u>

Notes:

- Mandap let out for a social function is liable to service tax. As per the definition of mandap keeper, social function includes marriage. As per *Notification No. 1/2006 dated 01.03.2006*, an abatement of 40% of gross amount is allowed provided where the mandap keeper also provides catering services and the invoice indicates that it is inclusive of the charges for catering service on the following assumptions:
 - no CENVAT credit on inputs/capital goods/input services has been taken;
 - the service provider has not availed the benefit under the *Notification No. 12/2003 ST, dated 20.06.2003*.
- Mandap let out for stay of "Barratis" for a consideration would attract service tax, as stay of baraatīs is a part of marriage function [*Departmental FAQs*].

3. Temporary occupation of a hall for the purpose of holding dance, drama or music programme or competitions is liable to service tax [Circular No. 96/7/2007 ST dated 23.08.2007].
4. The activity of shooting films, TV serials cannot be considered as official/social/business function and hence, not taxable under the mandap keeper service [Departmental clarification in the book entitled "Service Tax through Questions and Answers"].
17. Yes, the statement is absolutely valid. The greatest advantage of VAT system is that it does not interfere in the choice of decision for purchases. This is because the system has anti-cascading effect. How much value is added and at what stage it is added in the system of production/distribution is of no consequence. The system is neutral with regard to choice of production technique, as well as business organisation. All other things remaining the same, the issue of tax liability does not vary the decision about the source of purchase. VAT facilitates precise identification and rebate of the tax on purchases and thus ensures that there is no cascading effect of tax. In short, the allocation of resources is left to be decided by the free play of market forces and competition.
18. (a) Mohan can claim the input tax credit as the purchase of goods for being used in the execution of a works contract are eligible for claiming input tax credit.
(b) Purchases made by Singla & Co. from Malhotra Enterprises are not eligible for input tax credit as purchases from registered dealer who opts for composition scheme under the provisions of the Act are not eligible for input tax credit.
(c) Purchases made by Sahil are not eligible for input tax credit as the purchases where invoice does not show the amount of tax separately are not eligible for input tax credit.
19. If the composition scheme is availed by a seller then such seller cannot avail input tax credit in respect of input tax paid. Hence the seller will be losing the input tax credit on purchases made by him. He will not be able to pass on the benefit of input tax credit, which will add to the cost of the goods.

The purchaser shall not get any tax credit for the purchases made by him from the seller operating under the composition scheme. Therefore, as soon as a seller opts for the composition scheme, the VAT chain will be broken, and the benefit of tax paid earlier will not be passed on to the subsequent buyers.
20. Invoices are crucial documents for administering VAT as in the absence of invoices, VAT paid by the dealer earlier cannot be claimed as set off. Invoices should be preserved with full care. In case any original invoice is lost or misplaced, a duplicate authenticated copy must be obtained from the issuing dealer.

A VAT invoice:

- (i) helps in determining the input tax credit;
- (ii) prevents cascading effect of taxes;

- (iii) facilitates multi-point taxation on the value addition;
- (iv) assists in performing audit and investigation activities effectively;
- (v) checks evasion of tax.

21. Computation of the tax liability for the financial year 2011-12:-

	₹
Inputs purchased in the month	1,00,000
Output sold in the month (within the State)	2,00,000
Inter-State sales	1,00,000
Input credit (including capital goods) (₹ 12,500 + ₹ 12,500)	25,000
Output tax	8,000
CST for Inter-State sale	2,000
State VAT liability (₹ 8,000 – ₹ 25,000)	Nil
Excess credit	17,000
Central sales tax to be paid (₹ 2,000 – ₹ 17,000)	Nil
Excess credit carried forward to subsequent period	15,000