

PAPER – 5 : TAXATION

Answer **all** questions.

Working notes should form part of the answer.

Wherever necessary suitable assumptions may be made by the candidates.

Question 1

Answer the following with reasons having regard to the provisions of the Income Tax Act, 1961 for the Assessment Year 2010-11:

- (i) *State the scope of total income in the case of an individual, whose residential status is 'non-resident' with reference to Section 5(2) of the Act.*
- (ii) *Mr. X, a citizen of India, received salary from the Government of India for the services rendered outside India. Is the salary income chargeable to tax?*
- (iii) *Mr. Anil earned Rs.5,00,000 from sale of Coffee grown and cured (processed) by him. He claims the entire income as agricultural income, hence exempt from tax. Is he correct?*
- (iv) *What is the time limit for filing application seeking registration in the case of Charitable Trusts/Institutions under section 12AA of the Act?*
- (v) *In what status and tax rate Limited Liability Partnership (LLP) is taxed under the Act?*

(5 x 2=10 Marks)

Answer

- (i) The scope of total income of a non-resident as per section 5(2) includes following incomes:
 - (i) any income which is received or is deemed to be received in India during the relevant previous year by or on behalf of such person; or
 - (ii) any income which accrues or arises or is deemed to accrue or arise to him in India during the relevant previous year.
- (ii) As per Section 9(1)(iii), salaries payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India. Hence, salary received by Mr. X, a citizen of India, from the Government of India for services rendered outside India is chargeable to tax under the head 'Salaries'. But all allowances or perquisites paid outside India by the Government to Indian citizens for their rendering services outside India are exempt under section 10(7).
- (iii) Mr. Anil is not correct in claiming the entire income as agricultural income. As per rule 7B, in the case of income derived from the sale of coffee grown and cured (processed) by the seller in India, 25% of such income is taxable as business income under the head 'Profits and gains from business or profession' and the balance (i.e. 75%) is exempt from tax. Hence, only Rs. 3,75,000 (75% of Rs.5,00,000) being agricultural income is exempt from tax.

The Suggested Answers for Part I of Paper – 5: Taxation are based on the provisions applicable for A.Y.2010-11, which is the assessment year relevant for May 2010 examination.

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- (iv) Section 12A(aa) requires that the person in receipt of income should make an application for registration of the charitable trust or institution in the prescribed form and prescribed manner to the Commissioner of Income-tax.

If the application is made on or after 1st June, 2007 the provisions of section 11 and 12 shall apply in relation to income of such trust and institution from the assessment year immediately following the financial year in which such application is made. The application can therefore be filed at any time.

- (v) As per section 2(23), the term 'firm' shall also include a limited liability partnership (LLP) as defined in Limited Liability Partnership Act, 2008.

Therefore, LLP will be treated just like any other partnership firm for the purposes of Income-tax Act, 1961.

The rate of tax, in case of LLP, for A.Y. 2010-11 is 30% plus education cess @ 2% and secondary and higher education cess @ 1% on the whole of the total income of the firm. Hence, the effective rate is 30.9% for the assessment year 2010-11.

Question 2

Mr. Raman (aged 70 years), Karta of a Hindu Undivided Family (HUF) furnishes the following information for the Financial Year 2009-10:

- (i) *Income from the business of Poultry farming Rs.4,00,000.*
- (ii) *Income by way of winning from Horse race Rs.30,000 (Horse race won on 28.2.2010)*
- (iii) *Net profit from the business of dealing in Equity shares Rs.88,500. (Computed after deducting Securities Transaction Tax (STT) of Rs. 11,500).*
- (iv) *Brought forward business loss relating to discontinued automobile business Rs.38,500 (relates to Assessment Year 2007-08).*
- (v) *Payment of Life Insurance Premium (on self) Rs.22,500.*
- (vi) *Contribution to Pension Fund of LIC Rs.17,500.*
- (vii) *Contribution made in the name of a member of HUF in Public Provident Fund Account Rs. 20,000.*
- (viii) *Interest income from Company deposits Rs. 15,100.*
- (ix) *Housing Loan principal repaid Rs. 30,000.*
- (x) *Interest on Housing loan Rs. 36,000 (actually paid Rs. 25,000).*
- (xi) *The HUF gave the right to receive furniture rent of Rs.26,000 per annum by Mrs. Raman without transferring the ownership rights in her favour.*

The HUF owns a residential property which has three identical residential units. Unit 1 and Unit 2 are self occupied by the members of the HUF for residential purpose. Municipal tax paid @ Rs. 5,000 per annum for each residential unit.

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Unit 3 is let out for a rent of Rs. 8,000 per month. The tenant paid the Municipal tax in respect of Unit 3 as per agreement.

The Assessee realised Rs. 1,20,000 on 16.4.2009 as per court order towards arrear rent for the period from 1.1.2007 to 31.12.2008.

Compute the total income and tax payable for the Assessment Year 2010-11. (20 Marks)

Answer

Computation of taxable income of HUF and tax payable for the assessment year 2010 – 11

					Rs.
1.	Income from House Property (See Note 1)				1,78,900
2.	Profit and gains of business or profession (See Note 2)				4,50,000
3.	Income from Other Sources (See Note 3)				71,100
	Gross Total Income				7,00,000
	Less: Deductions under Chapter VI A:				
(i)	Deduction u/s 80C				
	Contribution to PPF			20,000	
	Principal Repayment of housing loan			30,000	50,000
					50,000
	Taxable income				6,50,000
	<u>Components of Total Income</u>				
	Special income:				
	Income from horse racing			30,000	
	(chargeable at special rate @30% u/s 115BB)				
	Normal Income			6,20,000	
	<u>Computation of Tax</u>				
	Tax on Income from horse racing @ 30%				9,000
	Tax on normal income of			Rs.6,20,000	
	First	1,60,000	Nil	0	
	Next	1,40,000	10%	14,000	
	Next	2,00,000	20%	40,000	
	Balance	1,20,000	30%	36,000	90,000
					99,000
	Add: Education cess @ 2%				1,980
	Secondary and Higher Education cess @ 1%				990
	Total tax payable				1,01,970

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Note 1

Computation of Income from House Property

	Rs.	Rs.
Annual Value of Self occupied (Unit 1) (See Note 4)	Nil	
Less: Interest on housing loan (One –third)	12,000	-12,000
Annual Value of Unit-2 (deemed to be let out)	96,000	
Less: Municipal taxes	5,000	
Net annual value (NAV)	91,000	
Less: Statutory deduction u/s 24		
@ 30% NAV	27,300	
Less: Interest on housing loan (One –third)	12,000	51,700
Gross Annual value (GAV) – Rent received (treated as fair rent)	96,000	
Less: Municipal taxes (paid by tenant) (See Note 7)	-	
Net annual value (NAV)	96,000	
Less: Statutory deduction u/s 24		
@ 30% NAV	28,800	
Less: Interest on housing loan (One –third)	12,000	55,200
		94,900
Add: Arrears of rent realised taxable u/s 25B less 30% (See Note 8)		84,000
Income under the house property		1,78,900

Note 2

Computation of Profit and gains of business or profession

Income from Poultry business	4,00,000	
Net Profit from business of dealing in equity shares (See Note 5)	88,500	
	4,88,500	
Less: Loss from discontinued automobile business (See Note 6)	38,500	4,50,000

Note 3

Computation of Income from Other Sources

Interest on Company deposit	15,100
Income from horse racing	30,000

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Rent of furniture (clubbed under section 60) (See Note 9)	<u>26,000</u>	71,100
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Note 4

Unit 1 & Unit 2 are self-occupied by the members for their residential purposes. Annual value of one unit is to be taken as Nil and the other unit is to be deemed to be let out.

Note 5

As per section 36(1)(xv) securities transaction tax paid by the assessee in respect of taxable securities is deductible, if the income from such taxable securities is included in the income computed under the head 'Profits and gains of business and profession'.

Note 6

As per section 72 brought forward loss of discontinued automobile business can be set off against profits and gains of business or profession.

Note 7

Municipal Tax paid by tenant is not a deductible expense under section 23(4).

Note 8

Arrears of Rent received, as per court award not shown earlier, realised on 16.4.2009 for the period from 01.01.07 to 31.12.2008 shall be chargeable to tax under the head income from house property. As per section 25B, 30% of the amount of arrears shall be allowed as deduction. Hence, the taxable portion is Rs.1,20,000 less 30% which is Rs.84,000.

Note 9

The HUF confers the right to receive the rent of furniture of Rs.26,000 to Mrs. Raman, a member of HUF without transferring the said furniture to her. Hence, the rental income of such furniture is to be clubbed in the hand of HUF under section 60.

Note 10

The deduction under section 80CCC in respect of contribution to Pension fund of LIC is permissible only to an individual assessee. Hence, the HUF is not entitled to claim the deduction under section 80CCC.

Note 11

The HUF is not entitled to claim the deduction of Rs. 22,500 under section 80C in respect of life insurance premium paid. The HUF can claim the deduction under section 80C in respect of life insurance premium paid on the life of any member of the family. Only an individual can make life insurance premium payment for self.

Question 3

- (a) *Mr. John commenced a proprietary business in the year 2000. His capital as on 1.4.2008 was Rs.6,00,000.*

On 10.4.2008 his wife gifted Rs.2,00,000 which he invested in the business on the same date.

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Mr. John earned profit from his proprietary business as given below:

Previous year 2008-09 = Profit Rs.3,00,000

Previous year 2009-10 = Profit Rs.4,40,000

Compute the Income from business chargeable to tax in the hands of Mr. John for the Assessment Year 2010-11.

During the Financial Year 2009-10, he sold a vacant site which resulted in chargeable long-term capital gain of Rs. 5,00,000 (computed). The vacant site was sold on 20.12.2009.

Compute the total income and tax liability of Mr. John and the instalments of advance tax payable for the Financial Year 2009-10. (8 Marks)

- (b) *Mr. Prakash has the following assets which are eligible for depreciation at 15% on Written Down Value (WDV) basis:*

1.4.2006	WDV of Plant 'X' and Plant 'Y'	Rs. 2,00,000
10.12.2009	Acquired a new Plant 'Z' for	Rs. 2,00,000
22.1.2010	Sold Plant 'Y' for	Rs. 4,00,000
Expenditure incurred in connection with transfer		Rs. 10,000

Compute eligible depreciation claim/chargeable capital gain if any, for the Assessment Year 2010-11. (7 Marks)

Answer

(a) Computation of business income of Mr. John

	Rs.
Capital as on 01.04.2008	6,00,000
Add: Gift from wife (10.4.2008)	2,00,000
	8,00,000
Add : Profit for the year ended 31.3.2009	3,00,000
Capital as on 1.4.2009	11,00,000
 Profit for the year ended 31.3.2010	 4,40,000
Income proportionately assessable in the hands of Mr. John	
Rs. 4,40,000 x 9,00,000/11,00,000	3,60,000
Amount of income taxable in the hands of Mrs. John by virtue of clubbing provisions under section 64(1)	
Rs.4,40,000 x 2,00,000/11,00,000	80,000

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Total Income of Mr. John:

Income from Business	3,60,000
Long term capital gain	5,00,000
Total Income	8,60,000

Tax liability on normal income of Rs. 3,60,000	26,000
On LTCG @ 20% on Rs. 5,00,000	1,00,000
	1,26,000

Add : Education cess @ 2%	2,520
Secondary and Higher Education cess @ 1%	1,260

Tax Liability	1,29,780
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Instalments of Advance tax payable by Mr. John

Month	Business Income	LTCG	Education Cess @ 2%	Secondary and Higher Education Cess @ 1%	Total
15 th Sept,09	7,800	-	156	78	= 8,034
15 th Dec,09	7,800	-	156	78	= 8,034
15 th Mar,10	10,400	1,00,000	2,208	1,104	= 1,13,712
	26,000	1,00,000	2,520	1,260	= 1,29,780

(b) Computation of depreciation and capital gains of Mr. Prakash for the A.Y. 2010-11

	Rs.
Sale proceeds of Plant 'Y'	4,00,000
Less: Deduction under section 50(1) :	
Cost of new Plant 'Z' acquired during the previous year ending on 31.3.2010	2,00,000
W.D.V. of Plant 'X' & Plant 'Y' as on 1.4.2009 (See note 2)	1,22,825
Expenditure incurred in connection with transfer	10,000
Short term Capital Gains	67,175

Note 1

No Depreciation is allowable for the assessment year 2010-11

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Note 2

W.D.V. of Plant 'X' & Plant 'Y' as on 1.4.2006	2,00,000
Less: Depreciation @ 15% for the assessment year 2007-08	30,000
W.D.V. of Plant 'X' & Plant 'Y' as on 1.4.2007	1,70,000
Less: Depreciation @ 15% for the assessment year 2008-09	25,500
W.D.V. of Plant 'X' & Plant 'Y' as on 1.4.2008	1,44,500
Less: Depreciation @ 15% for the assessment year 2009-10	21,675
W.D.V. of Plant 'X' & Plant 'Y' as on 1.4.2009	1,22,825
Add : Cost of new Plant 'Z' acquired during the previous year ending on 31.3.2010	2,00,000
	3,22,825
Less: Sale consideration of Plant 'Y' Rs.4,00,000 (restricted to)	3,22,825
W.D.V. of Plant 'X' & 'Y' as on 1.4.2010	Nil

Question 4

- (a) State with reasons, whether tax deduction at source provisions are applicable to the following transactions and if so, the rate of tax deduction:
- An Insurance Company paid Rs.45,000 as Insurance Commission to its agent Mr. Hari.
 - X & Co. (firm) engaged in wholesale business assigned a contract for construction of its godown building to Mr. Ravi, a contractor. It paid Rs.25,00,000 to Mr. Ravi as contract payment.
 - AB Ltd. allowed a discount of Rs.50,000 to XY & Co. (a firm) on prompt payment of its dues towards supply of automobile parts.
 - Y & Co. engaged in real estate business conducted a lucky dip and gave Maruti car to a prize winner.

Note: Assume that all the facts given above relate to Financial Year 2009-10. (8 Marks)

- (b) Mr. Banerjee furnishes you the following details for the year ended 31.3.2010:

Income (loss) from house property	Rs.
House - 1	36,000
House-2 - Self occupied	(20,000)
House-3	60,000
Profits and gains from Business or Profession	
Textile Business	2,00,000
Automobile Business	(3,00,000)
Speculation Business	2,00,000

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Capital Gains

<i>Long-term capital gain from sale of shares (STT paid)</i>	<i>1,50,000</i>
<i>Long-term capital gain from sale of vacant site</i>	<i>2,00,000</i>
<i>Short term capital loss from sale of building</i>	<i>1,00,000</i>

(Note: Assume that the figures given above are computed and arrived at after considering eligible deductions).

Other sources :

<i>Gift from a friend (non - relative) on 5.6.2009</i>	<i>60,000</i>
<i>Gift from Maternal uncle on 25.2.2010</i>	<i>1,00,000</i>
<i>Gift from Grandfather's younger brother on 10.2.2010</i>	<i>1,00,000</i>

Compute the total income of Mr. Banerjee for the Assessment year 2010-11. (6 Marks)

Answer

- (a) (i) As per section 194D, any person paying insurance commission payable in excess of Rs.5,000 to any resident person is liable to deduct tax at the rate of 10% in case of all assesses. Therefore, the insurance company must deduct tax at source @ 10% in respect of the insurance commission paid to Mr. Hari.
- (ii) Section 194C provides for deduction of tax at source from the payment made to resident contractors and sub-contractors. Therefore, tax is deductible at source under section 194C for the contract payments made for the construction of godown building. The rate of TDS under section 194C on payments made to contractors shall be @ 2% upto 30.9.2009 and @ 1% w.e.f. 01.10.2009. Hence, X & Co. (firm) must deduct tax at source on the contract payments made to Mr. Ravi.
- (iii) Discount allowed to a customer for prompt payment is not covered by any of the tax deduction at source provisions of the Income tax Act, 1961. Therefore, AB Ltd. need not deduct any tax at source since no payment was involved in allowing discount to its customer viz. XY & Co.
- (iv) In respect of lucky dip conducted by Y & Co., the provisions of Section 194B would apply. As per Section 194B, winning from lottery or crossword puzzle or card game of any sort exceeding Rs. 5,000 payable by any person to any other person, subject to tax deduction at the rate of 30%. Since the value of prize i.e. Maruti car would exceed Rs.5,000 tax is deductible at source @ 30%. As the winning is in kind, the winner must deposit 30% of the prize value to Y & Co. for remitting the same as tax. Only after such deduction / recovery, the Maruti car is to be delivered to the prize winner.

(b) Computation of total income of Mr. Banerjee for the Assessment year 2010-11

	Rs.	Rs.
Income (loss) House property		
House -I	36,000	

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House-2 –Self occupied	(20,000)	
House-3	60,000	
Income from House Property		76,000

Profits and gains of business and profession		
Textile business	2,00,000	
Automobile business	(3,00,000)	
Speculation business	2,00,000	
Income from business or profession representing speculation business profit (after set off of loss of automobile business)		1,00,000

Capital Gains

Long term capital gain from sale of shares (STT paid)		
Rs. 1,50,000 – exempt u/s. 10(38)	Nil	
Long term capital gain from sale of vacant site	2,00,000	
Short term capital loss from sale of building	(1,00,000)	
Long term capital gain-after set off of short term loss against long term capital gain		1,00,000

Income from Other sources

Gift from a friend (non relative) on 05.06.2009	60,000	
Gift from maternal uncle (on 25.02.2010) Rs. 1,00,000, not taxable since maternal uncle is covered by the definition of the term 'relative' given in explanation to section 56(2)(vi)	Nil	
Gift from grand father's younger brother on 1.02.2010. This amount is taxable as grandfather's younger brother is not covered by the definition of 'relative'.	1,00,000	1,60,000
Total income		4,36,000

Question 5

Answer the following with reference to Income-tax Act, 1961:

- (i) *Briefly explain the term 'Manufacture' defined in Section 2(29BA).*
- (ii) *In whose hands the income from an asset is chargeable to tax in the case of transfer which is not revocable during the life time of the beneficiary/transferee?*
- (iii) *List the conditions for deduction under section 80-ID for hotels located in specified district having "World Heritage Site".*

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(iv) State the provisions for self assessment prescribed under section 140A of the Act.

(4 x 4 = 16 Marks)

Answer

(i) Manufacture [Section 2(29BA)]

The Finance (No.2) Act, 2009 has inserted clause (29BA) to section 2 and defined the term 'manufacture'.

'Manufacture' with its grammatical variations, shall mean a change in a non-living physical object or article or thing-

- (a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or
- (b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.

(ii) As per section 61, 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.

As per section 62 the clubbing provisions are not attracted even in the case of revocable transfer in the following cases.

- (i) If there is a transfer of asset which is not revocable during the life time of the transferee, the income from the transferred asset is not includable in the total income of the transferor provided the transferor derives no direct or indirect benefit from such income.
- (ii) Income arising from an asset transferred before 01.04.1961 which was not revocable for a period exceeding 6 years is not includible in the total income of the transferor if he/she does not derive any benefit, direct or indirect, from such income.

(iii) Conditions to be satisfied for claiming deduction under section 80-ID for hotels located in specified district having "World Heritage Site"

- (a) The hotel must have started functioning between 1st day of April 2008 and 31st March 2013. Hotel means a hotel of two star, three-star or four-star category as classified by the Central Government.
- (b) It has not formed by the splitting up, or the reconstruction, of a business already in existence.
- (c) It should not be formed by the transfer to a new business of a building previously used as a hotel.
- (d) It has not formed by the transfer to a new business of machinery or plant previously used for any purpose exceeding 20% of the total value of plant and machinery used in the business.
- (e) The deduction shall be allowed only if the accounts are audited by a Chartered Accountant, who is required to certify that the deduction has been correctly claimed. Further, the audit report should be furnished along with the return of income.

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(iv) Self assessment tax (Section 140A)

Any tax and interest payable by the assessee on the basis of any return of income required to be furnished under sections 139, 142, 115WH, 148, 153A, as the case may be, after taking into account the amount of tax, if any, already paid, shall be paid by the assessee.

The tax and interest due should be paid before or at the time of filing of the return. The return shall be accompanied by the proof of such payment.

When any amount paid by the assessee falls short of tax and interest, the amounts paid shall be first adjusted towards interest and the balance shall be against the tax payable.

For computing interest payable under sections 234A, 234B, 234C the tax on total income decided in the return shall be reduced by the amount of advance tax paid and tax deducted at source, as the case may be.

An assessee who fails to pay whole of tax and interest shall be deemed to be an assessee in default.

Question 6:

Answer the following:

- (i) *Is service tax payable on free-service?*
- (ii) *State the due dates for payment of service tax in the case of an individual rendering taxable service.*
- (iii) *A company located in the State of Jammu & Kashmir rendered service in Delhi. Is the service provided by the company liable to service tax?*
- (iv) *Do you agree with the statement that tax cannot be evaded under VAT system?*
- (v) *Mr. Raj rendered taxable service in February, 2010. The amount was however realized on 18.4.2010. What is the due date for payment of service tax?*

Answer

- (i) No, service tax is not payable on free service. Service tax is payable only when there is consideration. No service tax is payable when value of service is 'zero' as the charging section-section 66 provides that service tax is chargeable on the value of taxable service.
- (ii) As per rule 6(1) of the Service Tax Rules, 1994, service tax on the value of taxable services received by an individual during any quarter is payable by 5th day of the month (6th in case of e-payment) immediately following the said quarter. The due dates are given below:-

Quarters	Due dates
1 st April to 30 th June	5 th July
1 st July to 30 th September	5 th October

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1 st October to 31 st December	5 th January
1 st January to 31 st March	31 st March

- (iii) Yes, when the company located in the State of Jammu & Kashmir had rendered services outside the State, the service tax would be attracted as the location where service is provided is relevant.
- (iv) The statement that that tax cannot be evaded under VAT system is correct. It is said that VAT is a logical beauty. Under VAT, credit for duty paid is allowed against the liability on the final product manufactured or sold. Therefore, unless proper records are kept in respect of various inputs, it is not possible to claim credit. Hence, suppression of purchases or production will be difficult because it will lead to loss of revenue. A perfect system of VAT is a perfect chain where tax evasion is difficult.
- (v) Service tax is payable only when the value of taxable service is realized. The situs of taxation is on service provided, but the payment of service tax to the Government is deferred till the receipt of the value of the taxable service.

In the given case, the amount for service provided was realized by Mr. Raj on 18.04.2010. The due date for payment of service tax in case of individual is 5th day of the month immediately following the quarterly period. Therefore, the due date for payment of service tax would be 5th day of July, 2010.

Question 7

X & Co. received the following amounts:

<i>Date of receipt</i>	<i>Nature of receipt</i>	<i>Amount</i>	<i>Time of providing service</i>
20.4.2009	For service	1,00,000	Service rendered in July, 2009.
30.6.2009	Advance for service	5,00,000	Services were rendered in July and August, 2009.
5.8.2009	For service	50,000	For services rendered in March, 2009
10.9.2009	Advance of service	3,50,000	A sum of Rs. 50,000 was refunded in April, 2010 after termination of agreement. For the balance amount service was provided in September, 2009.

Compute:

- (i) *The amount of taxable service for the first two quarters of the financial year 2009-10.*
- (ii) *The amount of service tax payable.*

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Answer

- (i) **Computation of value of taxable service for first two quarters of the financial year 2009-10:**

First Quarter (i.e. from 01.04.2009 to 30.06.2009)

Particulars	Rs.
The amount received on 20.04.2009 is taxable though the service is rendered in the next quarter	1,00,000.00
Less: Service tax = $1,00,000 \times \frac{10.33}{110.33}$	<u>9,338.17</u>
Value of taxable service	<u>90,661.83</u>
The amount received on 30.06.2009 by way of advance for service is also taxable in spite of the fact that the services were rendered in the next quarter	5,00,000.00
Less: Service tax = $5,00,000 \times \frac{10.33}{110.33}$	<u>46,690.84</u>
Value of taxable service	<u>4,53,309.20</u>
Total value of taxable service for the first quarter	<u>5,43,970.99</u>

Second Quarter (i.e. from 01.07.2009 to 30.09.2009)

Particulars	Rs.
Amount received on 05.08.2009 for services rendered in March 2009 is liable for service tax on actual receipt of money.	50,000.00
Less: Service tax = $50,000 \times \frac{10.33}{110.33}$	<u>4,669.08</u>
Value of taxable service	<u>45,330.92</u>
The amount received on 10.09.2009 is liable for service tax. The amount of service tax included in the amount refunded in the next financial year i.e. April 2010 would be adjusted against service tax liability of subsequent periods. [It is assumed that Rs. 50,000 refunded in April, 2010 after the termination of agreement includes the amount of service tax payable thereon.]	3,50,000.00
Less: Service tax = $3,50,000 \times \frac{10.33}{110.33}$	<u>32,683.59</u>

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Value of taxable service	<u>3,17,316.41</u>
Total value of taxable service for the second quarter	<u>3,62,647.33</u>

(ii) Amount of service tax payable

First quarter (Rs. 9,338.17+ Rs. 46,690.84) (rounded off to nearest rupee)	56,029
Second quarter (Rs. 4,669.08 + Rs.32,683.59) (rounded off to nearest rupee)	<u>37,353</u>
Total amount of service tax payable	<u>93,382</u>

Question 8

- (a) Compute the VAT liability of Mr. P Kapoor for the month of October, 2009, using the 'invoice method' of computation of VAT:

Purchase from the local market (includes VAT @ 4%)	Rs. 65,000
Storage cost incurred	Rs. 750
Transportation Cost	Rs. 1,750

Goods sold at a margin of 5% on the cost of such goods.

VAT rate on sales 12.5%

- (b) State briefly about provisional payment of service tax.
(c) What are the three variants of VAT? Which of these methods is most widely used and why?

(3 x 3= 9 Marks)

Answer

- (a) **Computation of VAT Liability of Mr. P. Kapoor for the month of October 2009 using 'invoice method' of computation of VAT:**

Particulars	Rs.
Purchase price (including VAT @ 4%)	65,000
Less: VAT paid on purchases $\left(65000 \times \frac{4}{104}\right)$	<u>2,500</u>
Add: Storage cost	750
Add: Transportation cost	<u>1,750</u>
Cost Price	65,000
Add: Profit @ 5% of cost price	<u>3,250</u>
Sale price before VAT	<u>68,250</u>

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VAT @ 12.5% (Rs. 68,250 × 12.5%)	8,531
Less: VAT paid on purchases	<u>2,500</u>
VAT Liability of Mr. P. Kapoor	<u>6,031</u>

- (b) In case the assessee is unable to correctly estimate, at the time of deposit, the actual amount of service tax for any month or quarter, he may make a written request to Assistant/Deputy Commissioner of Central Excise for making payment of service tax on provisional basis. The concerned officer may allow payment of service tax on provisional basis on such value of taxable service as may be specified by him.

For the purpose of provisional assessment at the time of filling the return, the assessee is required to fill a statement in form ST-3A giving detail of difference between service tax deposited and service tax liable to be paid for each month. The quarterly or half yearly statements should also accompany.

The Assistant/Deputy Commissioner of Central Excise, on the basis of memorandum in form ST-3A may complete the assessment after calling for necessary documents or records, if need to be.

- (c) The three variants of VAT are:

- (a) Gross product variant
- (b) Income variant
- (c) Consumption variant.

Among the three variants, the consumption variant is most widely used.

The reasons are-

1. It does not affect decisions regarding investment because the tax on capital goods is also set off against the VAT liability. Hence, the system is tax neutral in respect of techniques of production.
2. The consumption variant is convenient from the point of administrative expediency as it simplifies tax administration by obviating the need to distinguish between purchases of intermediate and capital goods on one hand and consumption goods on the other hand.