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PAPER – 5 : TAXATION

Question No.1 is compulsory.

Attempt any **five** questions from the remaining **six** questions.

Wherever required, suitable assumptions may be made by the candidates and stated clearly in the answer. Working notes should form part of the answer.

Question 1

- (a) Ms. Vaishali, employed in a private sector company, furnishes the following information for the year ended 31.03.2012.

Particulars	₹
Income from salary (computed)	3,45,000
Bank interest	15,000
Tax on non-monetary perquisite paid by employer	20,000
Amount contributed by her during the year are given below:	
Contribution to recognized provident fund	60,000
Subscription to eligible infrastructure bond	25,000
Health insurance premium-on self (paid by crossed cheque)	7,000
Medical expenditure for dependent sister with disability	20,000

Compute the total income of Ms. Vaishali for the assessment year 2012-13. (5 Marks)

- (b) State whether the following are chargeable to tax and the amount liable to tax :
- (i) A sum of ₹ 1,20,000 was received as gift from non-relatives by Raj on the occasion of the marriage of his son Pravin.
 - (ii) Arvind received ₹ 20,000 as his share from the income of the HUF.
 - (iii) Mr. Xavier, a 'Param Vir chakra' awardee, received a pension of ₹ 2,20,000 during the financial year 2011-12.
 - (iv) Interest on enhanced compensation of ₹ 50,000 was received as per court decree in December 2011 by Mr. Yogesh. Out of the said amount, a sum of ₹ 35,000 relates to preceding financial years.
 - (v) A political party registered under section 29A of the Representation of the People Act, 1951 earned rental income of ₹ 6,00,000 by letting out premises. (5 Marks)

The Suggested Answers for Paper 5: - Taxation are based on the provisions of law as amended by the Finance Act, 2011, which is relevant for May, 2012 examination. The relevant assessment year for Income-tax is A.Y.2012-13.

- (c) Mr. Vaibhav owns five houses at Coaching. Compute the gross annual value of each house from the information given below :

(₹)

	House - I	House - II	House - III	House - IV	House - V
Municipal value	1,20,000	2,40,000	1,10,000	90,000	75,000
Fair rent	1,50,000	2,40,000	1,14,000	84,000	80,000
Standard rent	1,08,000	N.A.	1,44,000	N.A.	78,000
Actual rent received / receivable	1,80,000	2,10,000	1,20,000	1,08,000	72,000

(5 Marks)

- (d) ABC & Co. purchased raw material 'A' for ₹ 30,00,000 plus VAT at 12.5%. Out of such raw material 80% was used for manufacture of taxable goods and the balance for the manufacture of exempted goods.

Another raw material 'B' was purchased for ₹ 20,00,000 on which VAT was paid @1%. Out of the raw material 'B', 50% was used for manufacture of taxable goods and the balance for the manufacture of exempt goods.

The entire taxable goods were sold for ₹ 44,00,000 plus VAT at 12.5%. There was no opening or closing inventory of taxable goods or raw materials.

Compute the Vat liability of ABC & Co.

(5 Marks)

Answer

- (a) **Computation of total income of Ms. Vaishali for the A.Y. 2012-13**

Particulars	₹	₹
Income from salary (computed)		3,45,000
Income from other sources		
Bank Interest		<u>15,000</u>
Gross Total Income		3,60,000
Less: Deductions under Chapter VI-A		
Section 80C		
Contribution to recognized provident fund	60,000	
Section 80CCF		
Subscription to eligible infrastructure bond ₹ 25,000 but restricted to	20,000	
Section 80D		

Medical insurance premium (Note -2)	7,000	
Section 80DD		
Medical expenditure for dependent sister with disability (flat deduction irrespective of expenditure incurred)	<u>50,000</u>	<u>1,37,000</u>
Total income		<u>2,23,000</u>

Note:

1. Tax on non-monetary perquisite paid by employer is exempt in the hands of employee under section 10(10CC).
2. Medical insurance premium paid by cheque for self is allowed as deduction under section 80D.

(b)

S.No.	Taxable/Not Taxable	Amount liable to tax (₹)	Reason
(i)	Taxable	1,20,000	The exemption from applicability of section 56(2)(vii) would be available if, <i>inter alia</i> , gift is received from a relative or gift is received on the occasion of marriage of the individual himself. In this case, since gift is received by Mr. Raj from non-relatives on the occasion of marriage of his son, it would be taxable in his hands under section 56(2)(vii).
(ii)	Not Taxable	-	Share received by member out of the income of the HUF is exempt under section 10(2).
(iii)	Not Taxable	-	Pension received by Mr. Xavier, who is a 'Param Vir Chakra' awardee, is exempt under section 10(18).
(iv)	Taxable	25,000	As per section 56(2)(viii), interest on enhanced compensation is taxable in the year in which it is received. Deduction of 50% in respect of the said income is allowed under section 57(iv). Therefore, ₹ 25,000 (i.e., ₹ 50,000 – ₹ 25,000) is taxable in the hands of Mr. Yogesh in the F.Y.2011-12.

(v)	Not Taxable	-	Any income of a political party registered under section 29A of the Representation of the People Act, 1951 which is chargeable, <i>inter alia</i> , under the head "Income from house property" is exempt under section 13A provided the political party maintains such books of account as would enable the Assessing Officer to properly deduce its income therefrom and the accounts are audited by a chartered accountant.
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- (c) As per section 23(1), Gross Annual Value (GAV) is the higher of Annual letting Value (ALV) and actual rent received. ALV is higher of municipal value and fair rent but restricted to standard rent.

Computation of GAV of each house owned by Mr. Vaibhav

		(₹)				
	Particulars	House-I	House-II	House-III	House-IV	House-V
(i)	Municipal Value	1,20,000	2,40,000	1,10,000	90,000	75,000
(ii)	Fair rent	1,50,000	2,40,000	1,14,000	84,000	80,000
(iii)	Higher of (i) & (ii)	1,50,000	2,40,000	1,14,000	90,000	80,000
(iv)	Standard rent	1,08,000	N.A.	1,44,000	N.A.	78,000
(v)	ALV [Lower of (iii) & (iv)]	1,08,000	2,40,000	1,14,000	90,000	78,000
(vi)	Actual rent received/receivable	1,80,000	2,10,000	1,20,000	1,08,000	72,000
(vii)	GAV [Higher of (v) & (vi)]	1,80,000	2,40,000	1,20,000	1,08,000	78,000

(d)

Computation of VAT liability of ABC & Co.

Particulars	₹	₹
Output VAT (44,00,000 x 12.5%) (A)		5,50,000
Input VAT (B)		
Raw material 'A' (30,00,000 x 80% x 12.5%) (Refer Note 1)	3,00,000	
Raw material 'B' (20,00,000 x 50% x 1%) (Refer Note 2)	<u>10,000</u>	<u>3,10,000</u>
Net VAT payable by ABC & Co. (A) – (B)		<u>2,40,000</u>

NOTES:

- 1) In respect of the raw material 'A', input tax credit is allowed only to the extent

raw material 'A' is used in manufacture of taxable goods and hence the same is restricted to the extent of 80%.

2) In respect of the raw material 'B', input tax credit is allowed only to the extent raw material 'B' is used in manufacture of taxable goods and hence the same is restricted to the extent of 50%.

Question 2

- (a) Mr. Ramesh & Mr. Suresh are brothers and they earned the following incomes during the financial year 2011-12. Mr. Ramesh settled in Canada in the year 1995 and Mr. Suresh settled in Delhi. Compute the total income for the assessment year 2012-13.

Sr. No.	Particulars	Mr. Ramesh (₹)	Mr. Suresh (₹)
1.	Interest on Canada Development Bond (only 50% of interest received in India)	35,000	40,000
2.	Dividend from British company received in London	28,000	20,000
3.	Profit from a business in Nagpur, but managed directly from London	1,00,000	1,40,000
4.	Short term capital gain on sale of shares of an Indian company received in India	60,000	90,000
5.	Income from a business in Chennai	80,000	70,000
6.	Fees for technical services rendered in India, but received in Canada	1,00,000	----
7.	Interest on savings bank deposit in UCO Bank, Delhi	7,000	12,000
8.	Agricultural income from a land situated in Andhra Pradesh	55,000	45,000
9.	Rent received in respect of house property at Bhopal	1,00,000	60,000
10.	Life insurance premium paid	---	30,000

(12 Marks)

- (b) (i) Can the service tax return be revised ? If so, state the relevant period before which it can be done?
- (ii) Mr. Amarnath, a registered service provider did not render any taxable services during the financial year 2011-12. Whether he is required to file service tax return ? Is he liable for penalty for non-filing ? If so, how much? (4 Marks)

Answer**(a) Computation of total income of Mr. Ramesh & Mr. Suresh for the A.Y. 2012-13**

S. No.	Particulars	Mr. Ramesh (Non-Resident) (₹)	Mr. Suresh (Resident) (₹)
1.	Interest on Canada Development Bond (See Note 2)	17,500	40,000
2.	Dividend from British Company received in London (See Note 3)	-	20,000
3.	Profit from a business in Nagpur but managed directly from London (See Note 2)	1,00,000	1,40,000
4.	Short term capital gain on sale of shares of an Indian company received in India (See Note 2)	60,000	90,000
5.	Income from a business in Chennai (See Note 2)	80,000	70,000
6.	Fees for technical services rendered in India, but received in Canada (See Note 2)	1,00,000	-
7.	Interest on savings bank deposit in UCO Bank, Delhi (See Note 2)	7,000	12,000
8.	Agricultural income from a land in Andhra Pradesh (See Note 4)	-	-
9.	Income from house property at Bhopal (See Note 5)	70,000	42,000
	Gross Total income	4,34,500	4,14,000
	Less: Deduction under section 80C Life insurance premium paid	-	30,000
	Total Income	4,34,500	3,84,000

Notes:

- Mr. Ramesh is a non-resident since he has been living in Canada since 1995. Mr. Suresh, who is settled in Delhi, is a resident.
- In case of a resident, his global income is taxable as per section 5(1). However, as per section 5(2), in case of a non-resident, only the following income are chargeable to tax:
 - Income received or deemed to be received in India; and
 - Income accruing or arising or deemed to accrue or arise in India.

Therefore, fees for technical services rendered in India would be taxable in the hands of Mr. Ramesh, even though he is a non-resident.

The income referred to in Sl. No. 3,4,5 and 7 are taxable in the hands of both Mr. Ramesh and Mr. Suresh since they accrue or arise in India.

Interest on Canada Development Bond would be fully taxable in the hands of Mr. Suresh, whereas only 50% which is received in India is taxable in the hands of Mr. Ramesh.

3. Dividend received from British company in London by Mr. Ramesh is not taxable since it accrues and is received outside India. However, dividend received by Mr. Suresh is taxable, since he is a resident. Exemption under section 10(34) would not be available in respect of dividend received from a foreign company.
4. Agricultural income from a land situated in India is exempt under section 10(1) in the case of both non-residents and residents.
5. **Income from house property-**

	Mr. Ramesh	Mr. Suresh
	(₹)	(₹)
Rent received	1,00,000	60,000
Less: Deduction under section 24 @ 30%	<u>30,000</u>	<u>18,000</u>
Net income from house property	<u>70,000</u>	<u>42,000</u>

The net income from house property in India would be taxable in the hands of both Mr. Ramesh and Mr. Suresh, since the accrual and receipt of the same are in India.

- (b) (i) Yes, the service tax return can be revised by an assessee. An assessee can submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission.

The service tax return can be revised within a period of 90 days from the date of submission of the original return.

- (ii) Every assessee has to file a half yearly return in Form ST-3. Even if no service is provided during a half year, and no service tax is payable; a NIL return has to be filed. Therefore, Mr. Amarnath is required to file a service tax return even if he did not render any taxable services during the financial year 2011-12.

Yes, Mr. Amarnath is liable for penalty for non-filing of return. The maximum amount of penalty which can be levied for non-filing of return is Rs.20,000. However, the Central Excise Officer may reduce or waive the penalty if he is satisfied that there is sufficient reason for not filing the return.

As per Rule 7C of the Service Tax Rules, 1994, the prescribed late fee for furnishing a delayed return is:

S.No.	Period of delay	Late fee (Rs.)
a)	15 days from the date prescribed for submission of the return.	500
b)	Beyond 15 days but not later than 30 days from the date prescribed for submission of the return.	1,000
c)	Beyond 30 days from the date prescribed for submission of the return.	An amount of Rs.1,000 plus Rs.100 for every day from the 31st day till the date of furnishing the said return.

Question 3

- (a) Mr. Harish is the Production Manager of XYZ Ltd. From the following details, compute the taxable income for the assessment year 2012-13.

Basic salary	₹ 50,000 per month
Dearness allowance	40% of basic salary
Transport allowance (for commuting between place of residence and office)	₹ 3,000 per month
Motor car running and maintenance charges fully paid by employer (The motor car is owned by the company and driven by the employee. The engine cubic capacity is above 1.60 litres. The motor car is used for both official and personal purpose by the employee.)	₹ 60,000
Expenditure on accommodation in hotels while touring on official duties met by the employer	₹ 80,000
Loan from recognized provident fund (maintained by the employer)	₹ 60,000
Lunch provided by the employer during office hours.	
Cost to the employer	₹ 24,000
Computer (cost ₹ 35,000) kept by the employer in the residence of Mr. Harish from 1.06.2011	
Mr. Harish made the following payments:	
Medical insurance premium: Paid in Cash	₹ 4,800
Paid by account payee crossed cheque	₹ 15,200

(8 Marks)

- (b) Discuss the correctness or otherwise of the statement- "Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fees for technical services is to be taxed irrespective of territorial nexus". (4 Marks)
- (c) Lee Traders, a registered dealer, having stock of goods cost ₹ 30,000 purchased from outside the State, wishes to opt for the Composition Scheme. Advise the dealer whether it is possible?

State the conditions to be satisfied by a dealer before opting for composition scheme.

(4 Marks)

Answer

(a) Computation of taxable income of Mr. Harish for the A.Y.2012-13

Particulars	₹	₹
Basic salary (₹ 50,000 x 12)		6,00,000
Dearness allowance @ 40% of basic salary		2,40,000
Transport allowance (₹ 3,000 x 12)	36,000	
Less : Exemption under section 10(14) (₹ 800 x 12)	9,600	26,400
Motor car running & maintenance charges paid by employer (See Note-1)		28,800
Expenditure on accommodation in hotels while touring on official duty is not a perquisite in the hands of employee and hence not chargeable to tax		Nil
Loan from recognized provident fund – not chargeable to tax		Nil
Value of lunch provided during office hours	24,000	
Less: Exempt under Rule 3(7)(iii) (See Note-2)	<u>15,000</u>	9,000
Computer provided in the residence of employee by the employer – not chargeable to tax [Rule 3(7)(vii)]		<u>Nil</u>
Gross Salary		9,04,200
Less : Deduction under Chapter VI-A		
Deduction under section 80D in respect of medical insurance premium paid by cheque amounting to ₹ 15,200 but restricted to (See Note-3)		<u>15,000</u>
Taxable income		<u>8,89,200</u>

Notes:

- As per Rule 3(2), if the motor car (whose engine cubic capacity is above 1.60 litres) is owned by the employer and is used for both official and personal purpose by the

employee, then the value of perquisite for use of motor car would be ₹ 2,400 per month.

Therefore value of perquisite for use of motor car would be ₹ 2,400 x 12 = ₹ 28,800

2. As per Rule 3(7)(iii), lunch provided by the employer during office hours is not considered as perquisite upto ₹ 50 per meal. Since, the number of working days is not given in the question, it is assumed to be 300 days during the F.Y. 2011-12. Therefore, ₹ 15,000 (i.e. 300 x ₹ 50) would be exempt and the balance ₹ 9,000 (i.e. ₹ 24,000 - ₹ 15,000) would be taxable.
3. Medical insurance premium paid in cash of ₹ 4,800 is not allowable as deduction under section 80D. Further, deduction for medical insurance premium paid through cheque is restricted to ₹ 15,000, which is the maximum deduction allowable. It is logical to assume that Mr. Harish is not a senior citizen, and hence the maximum deduction allowable under section 80D would be ₹ 15,000.

(b) This statement is correct.

As per *Explanation* to section 9, income by way of interest, royalty or fee for technical services which is deemed to accrue or arise in India by virtue of clauses (v), (vi) and (vii) of section 9(1), shall be included in the total income of the non-resident, whether or not -

- (i) the non-resident has a residence or place of business or business connection in India; or
- (ii) the non-resident has rendered services in India.

In effect, the income by way of fee for technical services, interest or royalty from services utilised in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India and irrespective of whether the non-resident has a residence or place of business or business connection in India.

(c) If a dealer wishes to opt for the composition scheme, he should not have any stock of goods which were brought from outside the State on the day he exercises the option to pay tax by way of composition.

Hence, it is not possible for Lee Traders to opt for the composition scheme as it has a stock of goods costing Rs.30,000 purchased from outside the state on the day it wishes to opt for the composition scheme.

Other conditions to be satisfied by a dealer who wishes to opt for the composition scheme are as follows:

- (i) A dealer who wishes to avail the composition scheme has to exercise the option in writing for a year or a part of the year in which he gets himself registered. For this, the dealer has to intimate to the Commissioner.
- (ii) The dealer should also not claim input tax credit on the inventory available on the date on which he opts for composition scheme

Question 4

- (a) Mr. Ashok, an employee of a PSU, furnishes the following particulars for the previous year ending 31.03.2012.

Particulars	₹
(i) Salary income for the year	7,25,000
(ii) Salary for financial year 2009-10 received during the year	80,000
(iii) Assessed income for the financial year 2009-10	2,40,000

You are requested by the assessee to compute relief under section 89 of the Income-tax Act, 1961 in terms of tax payable for assessment year 2012-13.

The rates of income tax for the assessment year 2010-11 are :

	Tax rate (%)
On first ₹ 1,60,000	Nil
On ₹ 1,60,000 – ₹ 3,00,000	10
On ₹ 3,00,000 – ₹ 5,00,000	20
Above ₹ 5,00,000	30
Education cess	3

(8 Marks)

- (b) Will a charitable trust be forfeited of tax exemption granted to it, if it holds shares in public sector company? Will a charitable trust having business receipt and income of ₹ 20,00,000 and ₹ 2,00,000, respectively, be denied the tax exemption? (4 Marks)
- (c) Amin & Co. Ltd., is engaged in providing taxable service. For the month of October 2011, its gross receipts were ₹ 15,00,000. The break up of the receipts is given below:
- (i) Services rendered to associate enterprise during the month ₹ 3,00,000 and amount received during the month ₹ 1,00,000.
 - (ii) Services rendered in Jammu & Kashmir ₹ 3,00,000
 - (iii) The balance amount received represents services rendered during the month and realized in full.

Compute the amount of service tax, Education Cess and Secondary & Higher Education Cess payable and the due date for payment. (4 Marks)

Answer

- (a) **Computation of relief under section 89 of Mr. Ashok for the A.Y. 2012-13**

Particulars	₹	₹
Assessment year 2012-13		

Salary Income for the year excluding arrears		7,25,000
Add: Arrears relating to Financial Year 2009-10		<u>80,000</u>
Total Income (including arrears)		<u>8,05,000</u>
Tax on ₹ 8,05,000		
First ₹ 1,80,000	Nil	Nil
Next ₹ 3,20,000	10%	32,000
Next ₹ 3,00,000	20%	60,000
Balance ₹ 5,000	30%	<u>1,500</u>
₹ 8,05,000		93,500
Add: Education cess @ 2%		1,870
Secondary and higher education cess @1%		<u>935</u>
Tax on total income (including arrears) (A)		<u>96,305</u>
Total Income excluding arrears		7,25,000
Tax on ₹ 7,25,000		
First ₹ 1,80,000	Nil	Nil
Next ₹ 3,20,000	10%	32,000
Balance ₹ 2,25,000	20%	<u>45,000</u>
₹ 7,25,000		77,000
Add : Education cess @ 2%		1,540
Secondary and higher education cess @ 1%		<u>770</u>
Tax on total income (excluding arrears) (B)		<u>79,310</u>
Difference between A & B I		16,995
Assessment Year 2010-11		
Total Income assessed		2,40,000
Add: Arrears relating to Financial year 2009-10		<u>80,000</u>
Total income (including arrears)		<u>3,20,000</u>
Tax on ₹ 3,20,000		18,000
Add: Education Cess @ 2%		360
Secondary and higher education cess @1%		<u>180</u>
Tax on total income (including arrears) (C)		<u>18,540</u>
Total Income excluding arrears		2,40,000
Tax on ₹ 2,40,000		8,000
Add: Education Cess @ 2%		160
Secondary and higher education cess @1%		<u>80</u>

Tax on total income (excluding arrears)	(D)	<u>8,240</u>	
Difference between C & D	II		10,300
Relief under section 89	(I – II)		6,695

Note: It has been assumed that salary income of ₹ 7,25,000 for the year, as given in the question, does not include salary of ₹ 80,000 for the F.Y. 2009-10 received during the year.

Alternatively, the question can be solved by assuming that salary income of ₹ 7,25,000 for the year includes salary of ₹ 80,000 for the F.Y. 2009-10 received during the year, in which case relief under section 89 would accordingly vary.

- (b) (i) Since investment or deposit in a public sector company is one of the permitted modes of investment mentioned in section 11(5), the exemption granted to a charitable trust under section 11 will not be forfeited if it holds shares in a public sector company.
- (ii) As per section 11(4), "property held under trust" includes a business undertaking so held. If the object of the trust is relief of the poor, education, medical relief etc. (other than advancement of any other object of general public utility) and the trust has a business undertaking, then, the income from such business would also be exempt from tax provided the following conditions, as mentioned in section 11(4A) are satisfied :
- such business is incidental to the attainment of the objects of the trust; and
 - separate books of accounts are maintained by such trust in respect of such business.
- (iii) Even if the main object of the charitable trust is "advancement of any other object of general public utility", tax exemption will not be denied in this case since the aggregate receipts from business has not exceeded ₹ 25 lakhs in the year.

(c)

Computation of service tax payable

Particulars	Amount ₹
Gross receipts	15,00,000
Less : Service rendered in Jammu & Kashmir. (Note-1)	<u>3,00,000</u>
Taxable gross receipts	12,00,000
Value of taxable services excluding service tax (Note-2) =(12,00,000/110.3)*100	10,87,942

Service tax @10% (10,87,942 x 10%)	1,08,794
Education cess @2%	2,176
Secondary and higher education cess @1%	<u>1,088</u>
Service tax liability on gross receipts (A)	<u>1,12,058</u>
Services rendered to associate enterprises for which payment is not received (Rs.3,00,000 – Rs.1,00,000) (Note-3)	2,00,000
Service tax @10% = 2,00,000 x 10%	20,000
Education cess @2% = 20,000 x 2%	400
Secondary & higher education cess @1%=20,000x1%	<u>200</u>
Service tax liability (B)	<u>20,600</u>
Total service tax payable for October 2011 = (A)+(B)	<u>1,32,658</u>

In case Amin & Co. Ltd. has to pay service tax electronically, the due date will be 6th November, 2011.

In other case, the due date for payment of service tax will be 5th November, 2011.

NOTES:

1. Services rendered in Jammu and Kashmir are not liable to service tax.
2. As the particulars relate to gross receipts, they have been taken to be inclusive of service tax. Hence, value of taxable services has been computed by making back calculations.
3. As per Point of Taxation Rules, 2011, services worth Rs. 2,00,000 rendered to associated enterprises for which payment is not received would also be taxable in October 2011. Rs. 200,000 has been taken to be exclusive of service tax
4. It has been assumed that Amin & Co. Ltd. is not eligible for exemption available to small service providers.
5. It has been assumed that Services rendered in Jammu & Kashmir has been realized.

Question 5

- (a) Dr. Gurumoorthy, a resident individual at Madurai, aged 50 years is running a clinic. His Income and Expenditure Account for the year ending March 31st 2012 is as under :

Expenditure	₹	Income	₹
To Medicine consumed	8,40,000	By Consultation and	21,00,000
To Staff salary	4,25,000	Medical charges	
To Clinic consumables	1,55,000	By Income-tax refund	16,500
To Rent paid	1,20,000	(principal ₹ 15,000,	

To Administrative expenses	3,00,000	interest ₹1,500)	
To Donation to IIT Delhi for Research approved under section 35(2AA)	1,00,000	By Dividend from Indian companies	27,000
To Net Profit	2,92,500	By Winnings from lottery	
		Net of TDS	35,000
		By Rent	54,000
	<u>22,32,500</u>		<u>22,32,500</u>

- (i) Rent paid includes ₹ 36,000 paid by cheque towards rent for his residence.
- (ii) Clinic equipments are :
- 01.04.2011 Opening WDV ₹ 4,50,000
- 07.02.2012 Acquired (cost) ₹ 1,00,000
- (iii) Rent received relates to property let out at Madurai. Gross Annual Value ₹ 54,000. The municipal tax of ₹ 9,000, paid in January 2012 has been included in "administrative expenses".
- (iv) Dr. Gurumoorthy availed a loan of ₹ 5,50,000 from a bank for higher education of his daughter. He repaid principal of ₹ 50,000, and interest thereon ₹ 65,000 during the year 2011-12.
- (v) He paid ₹ 60,000 as tuition fee to the university for full time education of his son.

From the above, compute the total income of Dr. Gurumoorthy for the assessment year 2012-13. (12 Marks)

- (b) What are the different rates under VAT system? (4 Marks)

Answer

(a) Computation of total income of Dr. Gurumoorthy for the A.Y. 2012-13

	Particulars	₹	₹	₹
I	Income from profession			
	Net profit as per Income and Expenditure account		2,92,500	
	Less: Items of income to be treated separately			
	(i) Income tax refund (including interest)	16,500		
	(ii) Dividend from Indian companies	27,000		
	(iii) Winning from lottery (net of TDS)	35,000		
	(iv) Rent received	<u>54,000</u>	<u>1,32,500</u>	

			1,60,000	
	Add: Expenditure debited but not allowable			
	(i) Rent for his residence	36,000		
	(ii) Municipal tax paid relating to residential house at Madurai included in administrative expenses	<u>9,000</u>	<u>45,000</u>	
			2,05,000	
	Less: Expenditure allowed but not debited			
	Depreciation on Clinic equipments u/s 32			
	- on ₹ 4,50,000 @ 15%	67,500		
	- on ₹ 1,00,000 @7.5% (i.e.50% of 15%)	<u>7,500</u>		
		75,000		
	Additional deduction of 100% in respect of amount paid to IIT [since weighted deduction of 200% is available in respect of such payment under section 35(2AA)]	<u>1,00,000</u>	<u>1,75,000</u>	30,000
II	Income from house property			
	Gross Annual Value (GAV)		54,000	
	Less : Municipal taxes paid		<u>9,000</u>	
	Net Annual Value (NAV)		45,000	
	Less : Deduction under section 24 @ 30%		<u>13,500</u>	31,500
III	Income from other sources			
	Interest on Income-tax refund		1,500	
	Dividend from Indian companies	27,000		
	Less: Exempt under section 10(34)	<u>27,000</u>	Nil	
	Winnings from lottery (See Note 1)		<u>50,000</u>	<u>51,500</u>
	Gross Total Income			1,13,000
	Less: Deductions under Chapter VI A:			
	- Under section 80C			
	Tuition fee paid to university for full time education of his son		60,000	
	- Under section 80E			
	Interest on loan taken for higher education of daughter		<u>65,000</u>	
			1,25,000	

	but restricted to (See Note 2)			<u>63,000</u>
	Total income			<u>50,000</u>

Notes:

1. Winnings from lottery should be grossed up for the chargeability under the head "Income from other sources". The applicable rate of TDS is 30%. Gross income from lottery, would, therefore, be ₹ 35000/70% = ₹ 50,000
2. Deduction under Chapter VI-A cannot exceed Gross Total Income. Further, no deduction is allowable from income by way of winnings from lottery. Therefore the maximum deduction allowable would be ₹ 63,000.

	₹
Gross Total Income	1,13,000
Less: Winnings from lottery	<u>50,000</u>
Maximum deduction under Chapter VI-A	<u>63,000</u>

The total income of ₹ 50,000 would, therefore, represent winnings from lottery taxable at a flat rate of 30%, without any basic exemption limit.

3. Dr. Gurumoorthy is staying in a rented premises in Madurai itself. Hence, he would not be eligible for deduction under section 80GG, since he owns a house in Madurai which he has let out.

(b) Broadly, VAT system has following tax rates:

- (a) Zero rate for tax free goods comprising of natural and unprocessed products in unorganized sector, items which are legally barred from taxation and items which have social implications.
- (b) 1% on precious or semi-precious stones, bullion, gold and silver ornaments etc.
- (c) 4% on items of basic necessities, medicines and drugs, agricultural and industrial inputs, capital goods and declared goods.
- (d) 12.5% on other goods.
- (e) 20% on non VAT goods like petrol, diesel, ATF, other motor spirit, liquor and lottery tickets.

Note: Any four rates may be mentioned.

Question 6

- (a) Dinesh received a vacant site as gift from his friend in November 2002. The site was acquired by his friend for ₹ 3,00,000 in April 1990. Dinesh constructed a residential building during the year 2004-05 in the said site for ₹ 15,00,000. He carried out some further extension of the construction in the year 2007-08 for ₹ 5,00,000.

Dinesh sold the residential building for ₹ 55,00,000 in January 2012 but the State stamp valuation authority adopted ₹ 65,00,000 as value for the purpose of stamp duty.

Compute his long term capital gain, for the assessment year 2012-13 based on the above information. The cost inflation index are as follows:

Financial Year	Cost inflation index
1990-91	182
2002-03	447
2004-05	480
2007-08	551
2011-12	785

(5 Marks)

- (b) A car purchased by Dr. Soman on 10.08.2009 for ₹ 5,25,000 for personal use is brought into professional use on 1.07.2011 by him, when its market value was ₹ 2,50,000.

Compute the actual cost of the car and the amount of depreciation for the assessment year 2012-13 assuming the rate of depreciation to be 15%. (4 Marks)

- (c) Mr. Abhishek, a senior citizen, pledged his residential house with a bank under a notified reverse mortgage scheme. He was getting loan from bank in monthly installments. Mr. Abhishek did not repay the loan on maturity and hence, gave possession of the house to the bank to discharge his loan. How will the treatment of long-term capital gain be on such reverse mortgage transaction ? (3 Marks)

- (d) What is EASIEST scheme and state the benefits in the context of service tax ? (4 Marks)

Answer

- (a) **Computation of long term capital gain of Dinesh for the A.Y. 2012-13**

Particulars	₹	₹
Full value of consideration (Note 1)		65,00,000
Less: Indexed cost of acquisition-land (₹ 3,00,000 × 785/447) (Note 2 & 3)	5,26,846	
Indexed Cost of acquisition-building (₹ 15,00,000 × 785/ 480) (Note 3)	24,53,125	
Indexed Cost of improvement-building (₹ 5,00,000 × 785/551)	<u>7,12,341</u>	<u>36,92,312</u>
Long-term capital gain		<u>28,07,688</u>

Notes:

- As per section 50C, 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 by the Stamp Valuation Authority, such value adopted by the Stamp Valuation Authority shall be deemed to be the full value of the consideration received or accruing as a result of such transfer. Accordingly, full value of consideration will be ₹ 65 lakhs in this case.

2. Since Dinesh has acquired the asset by way of gift, therefore, as per section 49(1), cost of the asset to Dinesh shall be deemed to be cost for which the previous owner acquired the asset i.e., ₹ 3,00,000, in this case.
3. Indexation benefit is available since both land and building are long-term capital assets. However, as per the definition of indexation cost of acquisition under clause (iii) of *Explanation* to section 48, indexation benefit for land will be available only from the previous year in which Mr. Dinesh first held the asset i.e., P.Y. 2002-03.

Alternative view: *In the case of CIT v. Manjula J. Shah 16 Taxmann 42 (Bom.), the Bombay High court held that the indexed cost of acquisition in case of gifted asset can be computed with reference to the year in which the previous owner first held the asset.*

As per this view, the indexation cost of acquisition of land would be ₹ 12,93,956 and long term capital gain would be ₹ 20,40,578.

- (b) As per section 43(1), the expression “actual cost” would mean the actual cost of asset to the assessee.

The purchase price of ₹ 5,25,000 is, therefore, the actual cost of the car to Dr. Soman. Market value (i.e. ₹ 2,50,000) on the date when the asset is brought into professional use is not relevant.

Therefore, amount of depreciation on car as per section 32 for the A.Y.2012-13 would be ₹ 78,750, being ₹ 5,25,000 x 15%.

Note- *Explanation 5 to section 43(1) providing for reduction of notional depreciation from the date of acquisition of asset for personal use to determine actual cost of the asset is applicable only in case of building which is initially acquired for personal use and later brought into professional use. It is not applicable in respect of other assets.*

- (c) Section 47(xvi) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be considered as a transfer for the purpose of capital gain.

Accordingly, the pledging of residential house with bank by Mr. Abhishek will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.

Further, section 10(43) provides that the amount received by the senior citizen as a loan, either in lump sum or in installment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly instalment amounts received by Mr. Abhishek would not be taxable.

However, capital gains tax liability would be attracted at the stage of alienation of the mortgaged property by the bank for the purposes of recovering the loan.

Note: In the question, it has been given that the borrower who is a senior citizen did not repay the loan on maturity and hence gave possession of the house to the bank to discharge the loan. It may be noted that, generally, under a Reverse Mortgage Scheme of a bank, alienation of house property for recovery of loan with accumulated interest takes place only after the death of the borrower and not during his life time unless there has been a violation of any of the terms and conditions subject to which the loan was granted. In this case, it is presumed that there has been such a violation, due to which the repayment of loan has fallen due during the life time of the senior citizen.

- (d) EASIEST stands for Electronic Accounting System in Excise and Service Tax. It makes tax payment easy. This facility is available with 28 banks.

GAR-7 challan is used to make the payment of tax. Only one copy of challan and its counterfoil is required to be made.

Only the assessee who have paid service tax (including tax paid through CENVAT credit) of less than Rs.10 lakhs in previous year can use this mode of payment. For other assessee, e-payment is mandatory.

The benefits of EASIEST to the taxpayer are as follows:-

- Only one copy of the challan is to be filled instead of four copies as required earlier.
- EASIEST facilitates online verification of the status of tax payment using Challan Identification Number.

Question 7

- (a) Sanjay engaged in various types of activities gives the following information for the year ended 31.03.2012.

	(₹)
Loss from automobile business (Total turnover ₹ 6,00,000)	1,10,000
Profit from wholesale trade in furniture items at the prescribed percentage of turnover as per section 44AD	4,00,000
Brought forward loss relating to discontinued textile business (discontinued w.e.f. 01.06.2007)	2,00,000
Short term capital loss on sale of vacant site during the year	70,000
Profit from speculation business related to oil seeds.	1,10,000
Loss from speculation business brought forward and related to cotton (brought forward from assessment year 2011-12)	50,000
Brought forward unabsorbed depreciation of trade in furniture items related to assessment year 2011-12	60,000

Note: Aggregate total business turnover of Sanjay to be assumed as below the limit prescribed under section 44AB.

Compute the total income of Sanjay for the assessment year 2011-12¹. (8 Marks)

(b) Explain how contributions to political parties are deductible in the hands of corporate and non-corporate assessee under the income-tax law. (4 Marks)

(c) What records should be maintained under VAT system by a registered dealer?

Or

State briefly the contents of service tax return. (4 Marks)

Answer

(a) Computation of total income of Sanjay for the A.Y. 2012-13

Particulars	₹	₹
Profit from wholesale trade in furniture items (as per section 44AD)	4,00,000	
Less: Set-off of current year loss from automobile business (See Note 1)	<u>1,10,000</u>	
	2,90,000	
Less: Set-off of brought forward loss relating to discontinued textile business (See Note 2)	<u>2,00,000</u>	90,000
Profit from speculation business related to oil seeds	1,10,000	
Less: Set-off of loss from speculation business brought forward from A.Y.2011-12 under section 73 (See Note 3)	<u>50,000</u>	<u>60,000</u>
		1,50,000
Less: Set-off of brought forward unabsorbed depreciation relating to A.Y. 2011-12 (See Note 4)		<u>Nil</u>
Total Income		<u>1,50,000</u>

Notes

- (1) Loss from one business can be set-off against profits from another business, even if the same has been computed on presumptive basis. Inter-source set-off of losses within the same head of income is permitted under section 70.
- (2) Brought forward business loss is allowed to be set-off against the business income of the current year as per section 72, assuming that, in this case, the eight year period from the year in which the losses of discontinued textile business were incurred has not expired. Even loss of a discontinued business can be carried forward for set-off against profits of another business. There is no restriction

¹ Note: Assessment year 2011-12 to be read as assessment year 2012-13

regarding set-off of business losses against profits computed on presumptive basis under section 44AD.

- (3) As per section 73, loss from speculation business can be set-off only against profits from any speculation business. Unabsorbed speculation business loss can be carried forward for set-off against speculation business income of subsequent years, subject to a maximum period of four assessment years from the end of the relevant assessment year in which the loss was incurred. In this case, since the four year period has not expired, the brought forward speculation business loss can be set-off against the profit from speculation business of the current year.
 - (4) If the assessee opts for presumptive taxation scheme under section 44AD in respect of any business, then, deductions under section 30 to 38 (including depreciation) would be deemed to have been given full effect to and no further deduction under those sections would be allowable. Therefore, where the unabsorbed depreciation relates to the business in respect of which income has been determined on a presumptive basis under section 44AD, then, such unabsorbed depreciation is deemed to have been given full effect to while determining the presumptive income. Hence, no further deduction would be available in respect of such unabsorbed depreciation.
 - (5) As per section 74, short term capital loss can be set off only against income under the head "Capital Gains". Since there is no income under the head "Capital Gains" for the A.Y.2012-13, the short term capital loss of ₹ 70,000 on sale of vacant site has to be carried forward to A.Y. 2013-14.
- (b) (1) Section 80GGB provides for deduction of any sum contributed in the previous year by an Indian company to a political party.
- (2) Section 80GGC provides for deduction of any sum contributed by any person to a political party. However, this deduction will not be available in respect of sum contributed by a local authority and every artificial juridical person, wholly or partly funded by the Government.
- (3) Deduction under sections 80GGB and 80GGC would be available in respect of contributions made to a political party registered under section 29A of the Representation of the People Act, 1951.

Note: for the purpose of section 80GGB, the word "contribute" shall have the same meaning assigned to it under section 293A of the Companies Act, 1956, which provides that -

- (a) a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose;
- (b) the expenditure incurred, directly or indirectly, by a company on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract,

pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

However, it may be noted that as per section 37(2B), no allowance shall be allowed in respect of expenses incurred by him on advertisement in any souvenir, brochure, tract or the like published by any political party. It is only after computation of gross total income, contribution to a registered political party is allowed as deduction under section 80GGB to a company.

(c) The following records should be maintained under VAT system:

- (i) Purchase records
- (ii) Sales records
- (iii) VAT account
- (iv) Separate records of any exempt sale

Further, the following records should also be kept and produced to an officer:

- (i) Copies of invoices
- (ii) Copies of credit and debit notes issued
- (iii) All purchase invoices, copies of customs entries, receipts for payment of customs duty or tax and credit and debit notes received
- (iv) Details of amount of tax charged on each sale or purchase
- (v) Total of the output tax and the input tax in each period and a net total of the tax payable or the excess carried forward, at the end of each month
- (vi) Details of goods manufactured and delivered from the factory
- (vii) Details of each supply of goods from the business premises, if the same are not available in invoices issued.

Note: Any four points may be mentioned.

OR

(c) In the service tax return, general details, like financial year, half year period (April-September or October-March), name of the assessee, registration number of the premises for which return is being filed, category of taxable services are required to be furnished. Apart from this, some significant month-wise details also need to be furnished. For instance:

- (i) Amount received towards taxable service
- (ii) Amount received in advance towards taxable service to be provided

- (iii) Amount billed for exempted services and services exported without payment of tax
- (iv) Amount billed for services on which tax is to be paid
- (v) Abatement claimed
- (vi) Notification number of abatement and exemption
- (vii) Service tax payable
- (viii) Education cess payable
- (ix) GAR-7 challan date and number
- (x) Credit details for service tax provider / recipient

Note: Any eight points may be mentioned.