Paper 7

Applied Direct Taxation

Question No. 1:

(a) State the situations, when previous year and assessment years are same.

Answer: Previous year & Assessment year are same in the following cases:

(i) Shipping business of nonresident [Section 172]
(ii) Persons leaving India [Section 174]
(iii) AOP or BOI or Artificial Juridical Person formed for a particular event or purpose [Sec. 174A]
(iv) Persons likely to transfer property to avoid tax [Section 175]
(v) Discontinued business [Section 176]

(b) State the undisclosed sources of income.

Answer: The undisclosed sources of income are:

(i) Unexplained Cash Credits u/s 68
(ii) Unexplained investments u/s 69
(iii) Unexplained money, bullion or jewel or valuable article u/s 69A
(iv) Undisclosed investments u/s 69B
(v) Unexplained expenditure u/s 69C
(vi) Amount borrowed or repaid on hundi, other than by way of account payee cheque u/s 69D.

(c) State the difference between Application of Income and Diversion of income.

Answer: An application of income is an obligation to apply income, which has accrued or has arisen or has been received amounts to merely the apportionment of income. Therefore the essentials of the concept of application of income under the provisions of the Income Tax Act are :

(i) Income accrues to the assessee
(ii) Income reaches the assessee
(iii) Income is applied to discharge an obligation, whether self-imposed or gratuitous.

Diversion of Income is an obligation to apply the income in a particular way before it is received by the assessee or before it has arisen or accrued to the assessee results in diversion of income. The source is charged with an overriding title, which diverts the income. Therefore the essentials are the following:

(i) Income is diverted at source,
(ii) There is an overriding charge or title for such diversion, and
(iii) The charge / obligation is on the source of income and not on the receiver.

Examples of diversion by overriding title are -

(i) Right of maintenance of dependants or of coparceners on partition
(ii) Right under a statutory provision
(iii) A charge created by a decree of a Court of law.

(d) Mr. Hari, an employee of Hello India Ltd. is transferred from Mumbai to Bhubaneswar. On his transfer, he was provided accommodation in Bhubaneswar for a period of 15 days. Hotel room rent paid ₹33,708/- (inclusive of service tax @12.36%). His basic salary is ₹35,000 per month. Dearness allowances @ 50%. Discuss the taxability of hotel accommodation at Bhubaneswar.

Answer: In cases, where an assessee is provided a hotel accommodation, on the event of his transfer, if the period of stay does not exceed 15 days, then the payment made for hotel accommodation, would not be considered as perquisite.

If the accommodation exceeded more than 15 days, then the perquisite value would have been calculated as follows:

Lower of the followings:

(i) 24% of Salary

(ii) Actual hotel accommodation charges paid

Note:

(1) 24% of Salary refers to the salary of the time period during which the assessee was in the hotel accommodation [example: if assessee was in hotel accommodation for 19 days, then salary would be calculated as follows: Salary per month x 19/30 x 24%]

(2) Salary for hotel accommodation = Basic Pay + Dearness Allowance (forming part of retirement benefit) + Bonus + Commission (if received as a fixed percentage on turnover)+ any other monetary benefits + All taxable allowances.

(e) Chris, an employee of Beautiful World Ltd. was presented a gift voucher of Pantaloons amounting to ₹ 7,000, on the occasion of his marriage. Discuss taxability. Would your answer differ, if the same was presented to Chris on the occasion of her first marriage anniversary?

Answer: As per Rule 3(7)(iv), value of any gift or voucher or token other than gifts made in cash or convertible into money (e.g. gift cheques) on ceremonies, would be taxable as a perquisite, if the amount exceeds ₹5,000. However, since this gift was received on the occasion of marriage, this gift received would not be considered as a taxable income.

If this gift was presented on the occasion of her first marriage anniversary, then , the same would be considered as a taxable income to the extent it exceeds ₹5,000. In this case, the amount involved is ₹7,000. Hence, taxable income would be ₹2,000 [₹7,000 – ₹5,000]

(f) Aakansha holds 18% shares in a Private Limited Company. She gifted all her shares to her husband Mr.Dolichand on 1.10.2011. After a month, Mr.Dolichand obtained loan of ₹ 50,000 from the company, when the company's accumulated profit was ₹ 75,000. What are the tax implications of the above transactions?

Answer: U/s 2(22)(e), payment of any sum by a company in which the public are NOT substantially interested, as advance or loan, to the extent the Company possesses accumulated profits, to a shareholder, who is the beneficial owner of shares with not less than 10% voting power, shall be deemed to be dividend.

In view of the above, since Mr.Dolichand has 18% shareholding in a Private Limited Company, the loan amount of ₹50,000 would be considered as deemed dividend u/s 2(22)(e) in his hands.

Since the shares were gifted to Mr. Dolichand, by his wife, Aakansha, the said amount of ₹50,000 shall be clubbed in his total income of Ms. Aakansha.

(g) Mr. Bhanu, sold a house property in Mumbai for ₹45 lacs in March 2012. The property was purchased by him during 2004-05 for ₹ 30 lacs. The Stamp duty was collected on the value of ₹ 52 lacs. Determine the capital gains. The value adopted was not disputed in any court of law.

Answer: If an assessee transfers land, building or both and if the sale consideration is less than the value adopted or assessed or assessable by the State Government Authority, then the value adopted by the Stamp Valuation Authority would be taken as "Consideration" for determining "Capital gains".

In this case, the computation of capital gains would be as follows:

Consideration for Transfer: = Stamp Duty Value	52,00,000
Less: Indexed Cost of Acquisition [30,00,000 x 785/480]	49,06,250
Long-term Capital Gains	**2,93,750**

(h) Explain the concept of Reverse Mortgage and discuss its tax implications.

Answer: Reverse mortgage is a scheme for the benefit of senior citizens who own a residential house property. The senior citizens can mortgage their house with a scheduled bank or housing finance company, in return for a lump sum amount or for a regular monthly/quarterly/annual income.

Senior citizens can continue to live in the house and receive regular income without the botheration of having to repay the loan. They can use the loan amount for renovation and extension of residential property, family's medical expenditure and emergency expenditure, etc, but not for speculative or trading purpose. The bank will recover the loan along with the accumulated interest by selling the house after the death of the borrower. The excess amount, if any, will be given to the legal hei₹ However, before resorting to the sale of the house, preference will be given to the legal heirs to repay the loan and interest and vacate the mortgaged property.

(i) Mohini, a non-resident Indian, purchased 5,000 shares in Happy Days Ltd, an Indian Company, in foreign currency for $50,000 in August 2010. She sold these shares to Mrigakshi, another non-resident in Singapore, in March 2012 for $67,000. Discuss the impact of the given transactions, if any, in the assessment of Mohini.

Answer: As per Sec.47(viia), where a Non-resident Indian acquires or bonds in foreign currency, and the same is transferred outside India to another non-resident in foreign currency, then the transaction is not a transfer and hence not chargeable to capital gains.

However, if the asset was transferred in India, then provisions of Sec.115AC shall apply and the Capital Gain shall be chargeable to tax @ 10%, as it is a Long-Term Capital Asset.

(j) X Ltd. having an issued capital of ₹50,00,000 in equity shares of ₹100 each. On March 2012, Company decided to buy-back equity shares to the extent of 20%. Tushar, holding 500 shares of the company, has received the buy-back consideration on the shares bought-back, @ ₹130 per share. He had purchased these shares 14 months earlier @ ₹105 per share. Discuss the taxability.

Answer: Where a shareholder receives any consideration from the company for purchase of its own shares or other specified securities, it is a transfer chargeable under the head capital gains. Such capital gain is chargeable to tax in the previous year in which the shares or securities are purchased by the company.

Computation of Capital Gains

Consideration for transfer of 100 equity shares [500 shares x 20%] @ ₹130 per share	13,000
Less: Indexed Cost of Acquisition [100 equity shares x 105 x 785/711]	11,592
Long term Capital Gains	**1,408**

(k) Mr. Kashyap, a Government servant, died on 15th April, 2009, while in service. In terms of the rules governing his service, his widow Mrs.Kashyap, is paid a family pension of ₹5,937 p.m. and a dearness allowance @ 58% thereof. For the assessment year 2012-13, is Mrs. Kashyap assessable on the receipt and if no, under what head of Income? Is she entitled to any relief or deduction on the above receipt?

Answer: Family pension received by Mrs. M is chargeable under the head Income from other sources. She can claim the lower of ₹15,000 or 1/3rd of her family pension, as deduction u/s 57 in respect of such income.

Computation of Taxable Family Pension

Family Pension Received [₹ 5,937 x 12 months]	71,244
Add: Dearness Allowance @ 58% of ₹71,244	41,322
Total Pension Received	1,12,566
Less: Deduction u/s 57 : Least of the followings:	
(i) 1/3rd of Gross Pension (₹1,12,566 x 1/3) = ₹37,522 (ii) Maximum deduction ₹15,000	15,000
Taxable Family Pension	**97,566**

(l) A company issued discount coupons to its shareholders which entitled them to purchase the products of the company at a discount. The Assessing Officer is of the opinion that this is to be considered as deemed dividend. Discuss the tenability.

Answer:

(i) Arguments for treating discount coupons as deemed dividend u/s 2(22)(e):

❖ Since the shareholders are only entitled to receive those coupons, therefore, these coupons can be considered as release of profits, otherwise, than by way of actual cash payment/outflow;

❖ The company suffers a reduction in the gross value of sales to the extent of discount coupons are used and therefore it can be inferred that the assets to that extent get released indirectly in favour of the shareholders.

(ii) Arguments against treatment of discount coupons as deemed dividend u/s 2(22)(e):

❖ Issue of discount coupons is a managerial decision and hence cannot be considered at par with dividend;

❖ There is no certainty that each shareholder will use the discount coupons.

❖ The discount coupons do not necessarily confer any vesting right in favour of the shareholders and it does not create any liability for the company to the shareholder.

(m) Ashim incurred an expenditure of ₹ 5 lakhs, on the occasion of his daughter's marriage on 14th February, 2012. He has no explainable source of this expenditure. What is the tax implication, if any?

Answer: Vide Sec. 69C, unexplained expenditure incurred by the assessee shall be treated as income under the head "Income from Other Sources". It is chargeable to tax as income of the previous year, in which the expenditure was incurred.

In view of the above, the sum of ₹ 5 lakhs, expended by Ashim, on his daughter's marriage, shall be treated as income for the financial year 2011-12 and chargeable to tax.

(n) Aniket was holding 5,000 listed shares in Blue Arrow Ltd. purchased by him on 15.9.2010 at ₹50 per share. He gifted them to his girlfriend, Chitralekha on 14.2.2011. Aniket married Chitralekha on 17.2.2011. Chitralekha was allotted bonus shares by the company at the rate of one for every four shares held on 21.9.2011. She sold all shares including bonus shares at ₹135 per share. State in whose hands capital gain on sale of shares is taxable. Also compute the capital gain.

Answer: U/s 64(1)(vi), where an individual transfers an asset to his/her spouse for inadequate consideration, then the income from such asset shall be clubbed in the hands of the individual. The spouse relationship shall exist both at the time of transfer of asset, and at the time of accrual of income. In this case, spouse relationship between Aniket and Chitralekha did not exist on the date of transfer, i.e. on 14.2.2011., and so income of Chitralekha shall not be clubbed in the hands of Aniket.

Computation of Capital Gains in the hands of Chitralekha for the assessment year 2012-13

Particulars	Original Shares	Bonus Shares
Consideration for Transfer (No. of shares x Sale Price per share)	5,000 x ₹135 = ₹6,75,000	5,000 x ¼ x ₹135 = ₹ 1,68,750
Less: Indexed Cost of Acquisition of Shares	5,000 x 50 x 785/711= ₹2,76,020	NIL
Capital Gains	₹3,98,980	1,68,750
Nature of Capital Gains	**LTCG**	**STCG**

(o) A proprietary business was started by Mr.Ratnesh in 2010. As on 1.4.2010, his capital was ₹4,00,000. His wife, gifted ₹ 5,00,000 on that day, which was also invested by him in the business. For the financial year 2010-11 and 2011-12, profits earned from business ₹1,90,000 and ₹4,50,000. Discuss taxability of income, to be clubbed in the hands of Mrs. Ratnesh for the assessment year 2012-13.

Answer: The amount of profit to the extent of gifted amount to total capital on the first day of the previous year must be clubbed in the hands of M₹ Ratnesh. Income arising from transferred asset shall only be clubbed. Any income earned out of such income should not be clubbed.

Particulars	Financial Year 2010-11	Financial Year 2011-12
Profit earned	₹1,90,000	₹4,50,000
Amount gifted	₹5,00,000	Nil
Total Capital	₹ 9,00,000 (₹4,00,000 + ₹5,00,000)	₹10,90,000 (₹9,00,000 + ₹1,90,000)
Clubbed Amount	Profit earned x Gifted amount / Total Capital = ₹ 1,90,000 x 5,00,000/9,00,000 = ₹ 1,05,555	Profit earned x Gifted amount / Total Capital = ₹4,50,000 x 5,00,000/10,90,000 = ₹2,06,422

(p) Interest of ₹15,000 on Bank Fixed Deposits, received by minor son of Ms. Soma. These FDRs were made by Ms. Soma, out of his son's earnings from stage acting. Discuss the tax treatment in this case.

Answer: If the minor receives any income by exercise of labour, hard work, skill, knowledge or experience then such income shall not be clubbed. In the given case, the income of the minor son of Ms. Soma, is from application of special talent, hence, shall not be clubbed in the hands of parents.

(q) An assessee sustained a loss under the head "Income from House Property" in the previous year relevant to the assessment year 2011-12, which could not be set off against income from any other head in that assessment year. The assessee did not furnish the return of loss within the time allowed u/s 139(1) in respect of the relevant assessment year. However, the assessee filed the return within the time allowed u/s 139(4). Can the assessee carry forward such loss for set-off against income from house property of the assessment year 2012-13?

Answer: Loss u/s 71B and Section 32(2), can be carried forward even if the return of income has been filed after the due date u/s 139(1) but before the time limit u/s 139(4) for filing belated return.

As per Sec. 139(4) of the Act, it states that, where an assessee failed to file return of income for any assessment year within the prescribed time limit u/s 139(1), the belated return can be filed either before:

(i) The expiry of one year from the end of the relevant assessment year; or

(ii) Completion of assessment, whichever is earlier.

In the instant case, the assessee has filed the return of income for the assessment year 2011-12 belatedly but within the time limit u/s 139(4). In view of the above provisions of law, the loss under the head house property, can be carried forward and set off against the income of the assessment year 2012-13.

(r) Resham & Co. started two separate industrial undertakings, which prima facie are eligible for deduction u/s 80-IB. For the year ending 31.3.2012, the profit of one unit was ₹11 lakhs while the other unit suffered a loss of ₹3 lakhs. The Assessing officer has allowed the deduction u/s 80-IB on the net profit of ₹8 lakhs. Discuss the validity of the order of the Assessing Officer.

Answer:

Vide Sec.80-IB, deduction is available in respect of the profits and gains derived from the eligible industrial undertaking of the assessee. Even u/s 80-IB, it is expressly stated that the deduction under this section shall be calculated on the gains derived from such undertaking. In view of the above, Resham & Co. is entitled for deduction u/s 80-IB at 25% of income derived from first undertaking, not on the net income of the two undertakings.

The amount, eligible for deduction = 25% of ₹11 lakhs = ₹2,25,000. Total Income = ₹ (11,00,000 – 3,00,000 – 2,25,000) = ₹5,75,000.

The action of the Assessing Officer is not valid in law.

(s) Is a firm allowed to carry forward share of accumulated loss of a retired/deceased partner?

Answer: Vide Sec.78, in case of retirement or death of a partner, the share of the retired or deceased partner in the accumulated losses of the firm, excluding unabsorbed depreciation, shall not be allowed to be carried forward by the firm.

(t) A company received a sales tax refund from the Government, which was refunded to the customers, from whom it was collected. Discuss the taxability of receipt of refund.

Answer: Sales Tax refund made by Government shall be deemed as business income u/s 41(1) unless the same was refunded to the customers from whom it was collected. **[Tirumalaiswamy Naidu & Sons 230 ITR 534(SC)].**

(u) Biswas & Co., a partnership firm, was dissolved on 31st March, 2011. The dues of the firm were received by its erstwhile partners during the period May 2011 to April 2012. Can the same be taxed in the hands of the firm for the Assessment Year 2012-13? If not, in those hands can they be taxed?

Answer: Vide Sec.176 (3A), any sum received after discontinuance of a business shall be taxable in the hands of the recipient in the year of receipt under the following circumstances:

- Business should have been discontinued;
- Any sum should have been actually received;
- Such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance;

In the above case, the amount received shall be taxable in the hands of the partners.

(v) Discuss the taxability of the followings:

(i) Unpaid excise credit	Taxable	Transfer of unpaid excise credit to the Profit & Loss Account of the assessee is chargeable to tax [CIT Vs. London Machinery Company 146 Taxman 326 (All.)]
(ii) Remission of unsecured loan	Not taxable	Remission of unsecured loan cannot be treated as income u/s 41(1), since there have been no allowance of deduction in any of the preceding years in respect of such loan.[Chetan Chemicals Pvt. Ltd. 139 Taxman 301 (Guj.)]
(iii) Sales tax refund received by agent	Not taxable	Amount collected as sales tax by a commission agent and paid to Department. Sales tax was found not payable and refunded. It was held as not an income of the Assessee [D.Shankariah 247 ITR 798(SC)]
(iv) Concession to sick unit	To be decided by CBDT, case to case basis	In case of financial concession or assistance to a sick unit referred to BIFR (Board for Industrial and Financial Reconstruction), then the taxability of such concession or assistance shall be considered by CBDT in each individual case in coordination with a nodal agency [Circular No.683 dated 8.6.1994]
(v) Bad debts earlier allowed, subsequently recovered by the Assessee	Taxable	Taxable for all assesses excluding successor of business. The amount received shall be taxable in the year of receipt/recovery. Predecessor's debt recovered by the successor shall not be treated as income of the successor.

(w) A soft drink manufacturer, claimed 100% depreciation on bottles and crates used by them. Subsequently, such bottles were sold. Discuss taxability, if any.

Answer: Income arising from sale of such written off bottles shall be liable to capital gains tax u/s 50. [Nectar Beverages Pvt. Ltd. (2009) (SC) 314 ITR 314]

(x) Ritu received a gift, from her mother, 6 ½ % Gold Bonds of the value of ₹5 lakhs in 1980. These bonds were redeemed by the Government on 1.10.2000 and he received gold of equivalent value, weighting 5,000 grams approximately of fair market value of ₹10 lakhs. The gold was sold by him on 1.7.2011 for ₹21 lakhs. Examine the impact of the transactions in Ritu's assessment.

Answer: Vide Circular No.415 dated 14.3.1985 [152 ITR (St.) 205], exchange of gold bonds for gold on redemption does not attract Capital gains because it is not a capital asset. In case of subsequent sale of such gold, capital gain is chargeable to tax. For this purpose:

- ❖ Date of acquisition = date of redemption of such gold bonds;
- ❖ Cost of acquisition of gold = market value of the gold on the date of redemption.

<u>Computation of Capital Gains on sale of gold</u>	₹
Consideration for transfer of gold	21,00,000
Less: Indexed Cost of Acquisition [₹ 10,00,000 x 785/406]	<u>19,33,498</u>
Long Term Capital Gains	**<u>1,66,502</u>**

(y) EPABX and Mobile Phones owned by a company are charged to depreciation @ 60%, similar to Computers. Discuss the tenability.

Answer: EPABX and mobile phones are not computer and therefore, not entitled to higher depreciation @ 60%, like computer. [Federal Bank Limited Vs. ACIT (2011) 322 ITR 319 (Kerala)]

(z) X Ltd. transferred unpaid excise credit to the Profit & Loss A/c. Discuss taxability, if any.

Answer: Transfer of unpaid excise credit to the Profit & Loss A/c of the assessee is chargeable to tax. [CIT vs. London Machinery Company 146 Taxman 326 (All.)]

(aa) Agricultural income in India earned by Master Soham (aged 15 years). Discuss taxability.

Answer: Agricultural income of minor son of the assessee has to be included in the income of the assessee for the purpose of determining the rate of income-tax applicable to the income of the assessee. [Suresh Chand Talera vs. Union of India 152 Taxman 348 (MP)].

(bb) A farmer resident of Bikaner sold his rural agricultural land in Nepal and received Indian Rupees of 5 lacs over the cost of acquisition of this land. Explain the taxability of sale.

Answer: U/s 2(14), only rural agricultural lands in India are not a capital asset. In this given case, the farmer has sold rural agricultural lands in Nepal and therefore, the transaction shall be attracted by the provisions of capital gains.

(cc) A Plantation company, holding several acres of land, sold trees of spontaneous growth. The Assessing officer is of the opinion that there arises capital gains. Discuss

Answer: Sale proceeds of spontaneous growth will not result in capital gains, as they do not bring in any profit or gain [Suman Tea & Plywood Industries Pvt. Ltd (1997) 226 ITR 34 (SC)].

(dd) Amit owns a plot of land acquired on 1.7.2002 for a consideration of ₹4 lakhs. He enters into an agreement to sell the property on 23.3.2012 for a consideration of ₹11 lakhs. In part performance of the contract, he handed over the possession of land on 25.3.2012 on which date, he received the full consideration. As on 31.3.2012, the sale was pending registration. Discuss liability of capital gains for the assessment year 2012-13 (no computation is required)

Answer: U/s 2(47), transfer includes part performance of a contract of the nature specified in Sec.53A of the Transfer of Property Act. In the given case, consideration was received by Amit and the possession was handed over on 25.3.2012. hence, the part performance condition is satisfied.

Capital gains on the above transaction is chargeable to tax as income for the assessment year 2012-13.

(ee) Well Wishers & Associates, a partnership firm, is holding land. This firm is not engaged in real estate business. The land was sold during the year. Discuss taxability, whether, this would be assessed to tax as business income or capital gain.

Answer: Land held by partnership firm, which is not engaged in real estate business, would be treated as fixed asset of the firm. Transfer of the same is assessable as capital asset, hence capital gains and not as business income. [Mohakampur Ice & Storage 281 ITR 354 (All.)]

(ff) Explain the tax treatment of income from Deep Discount Bonds (DDBs).

Answer: Deep discount bonds as clarified vide Circular No.2/2002 as follows:

1. Income based on market value

    (i) Income treated as interest for investors

(ii) Income treated as business income for traders

2. (i) For original subscribers, Income = difference between market value on 31st March of the previous year and 1st April of the previous year

   (ii) for subsequent purchases, income = difference between market value on 31st march of the previous year and cost of purchase of the bond

3. If there is a transfer before maturity:

   (i) For the Investor, Short term Capital Gains = Sale Price less Cost of Bond;

   (ii) For Traders, Business Income = Sale price less cost of bond.

4. Cost of bond = Cost of acquisition + Income already taxed upto the date of transfer.

5. If there is a redemption on maturity:

   (i) For the Investor, Interest Income = Redemption Price less market value as on the last valuation date, immediately preceeding the maturity date.

   In case of a trader, this interest income would be construed as Business Income.

   (ii) For subsequent purchasers, Interest Income = Redemption price less cost of the bond to such purchaser.

   In case of a trader, this interest income would be construed as Business Income.

   Where, Cost of bond = cost of acquisition + income already taxed by the bond holder upto the date of redemption

(gg) Tina was the owner of two residential houses. On 5th April,2011, she disposed one of the houses and utilized the entire sale proceeds to construct first floor on her second house which he completed by 15th March,2012. She seeks your advice as to the taxability of transaction to capital gains under the provisions of Income Tax Act, 1961.

Answer: Vide Sec.54, where an assessee transfers a residential house being a Long-term Capital Asset and the Long-term capital gain on such transaction is utilized for construction of another residential house, within a period of 3-years from the date of transfer, is entitled for exemption.

Construction of first floor in the existing building should be treated as independent residential unit entitled for exemption u/s 54/54F. [P.V.NARASIMHAN 181 ITR 101]

(hh) Write short notes on Reverse Merger

Answer: Reverse merger refers to the arrangement where a profit making company merges with a sick company and thereby is eligible to carry forward the losses of the sick company. Profit making company becomes extinct losing its name and the surviving sick company retains its name. It is a device to avoid implications of merger u/s 72A.

The following benefits are expected to be derived from reverse merger:

- Losses shall be carried forward without compliance of provisions of Sec.2(1B) or Sec.72A, but only for the balance period;

- ❖ Goodwill of the profit making company shall also be retained.

(ii) Gross Total Income ₹5,00,000 (including LTCG ₹3,90,000]. Deductions under Chapter VIA [Sections 80C to 80U] ₹1,79,000. Compute tax liability for Mr.A.

Computation of Total Income for Mr.A

Gross Total Income	5,00,000
Less : Deduction under Chapter VIA Eligible deduction ₹1,79,000, but restricted to the balance of other income, i.e. ₹(5,00,000 – 3,90,000) = ₹1,10,000. Deductions under Chapter VIA are not deductible against LTCG.	1,10,000
Total Income (consisting of LTCG only)	₹3,90,000

Tax Liability:

On other income Nil

On LTCG = @ 20% on [LTCG – Unavailed basic exemption limit]

= 20% of [₹ 3,90,000 – (Basic exemption limit – other income)]

= 20% of [₹ 3,90,000 – (1,80,000 – Nil) = 20% of ₹ 2,10,000 = ₹ 42,000

Tax Liability = ₹42,000/- (excluding Education Cess and SHEC)

(jj) A partnership firm, consisting of two partners, X and Y is engaged in the business of civil construction, had a turnover of ₹53 lakhs for the assessment year 2012-13. The firm submitted its return of income wherein it had been stated that it wished to be governed by the provision of Sec.44AD of Income Tax Act. As authorized by the Partnership Deed, the firm paid remuneration to the partners within the limit of Sec.40(b). The Assessing officer declines to allow such remuneration in computation of the firm's business income. Discuss the validity of AO's action.

Answer: As per provision of Sec.44AD(2), where the assessee is a partnership firm, the salary and interest paid to its partners shall be deducted from the income computed on presumptive basis under this section i.e. income computed u/s 44AD shall be the book profit for the purpose of computing allowable remuneration to partners u/s 40(b)

Computation of Income of the firm

Presumptive Income u/s 44AD – 8% of ₹53,00,000	₹4,24,000
Less: Interest allowable u/s 40(b)	Nil
Book Profit	₹4,24,000
Less: Maximum remuneration on book profit : 90% of first ₹3,00,000 + 60% of ₹ (4,24,000 – 3,00,000)	₹3,44,400
Total	₹79,600

As the partners have drawn remuneration within the prescribed limits u/s 40(b), the action of the Assessing officer is not justified.

(kk) ABC LLP is liquidated. What is the liability of partners of XYZ LLP in respect of its tax dues?

Answer: U/s 167C, every person who was a partner of the limited liability partnership at any time during the relevant previous year, shall be jointly and severally liable for the payment of such tax. However, this rule will not be applicable if the partner proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.

(ll) Who shall sign and verify the return of income of a Limited Liability Partnership?

Answer: U/s 140, for LLP the return should be signed by the designated partner. Where, however, there is no designated partner as such, return of income can be signed by any partner except by minor.

(mm) Write short notes on Alternate Minimum Tax (AMT)

Answer: Where the income tax payable by a limited liability partnership is less than the alternate minimum tax payable for a previous year, it is liable to pay income tax @ 18.5% u/s 115JC. Tax would be computed on adjusted total income. Adjusted total income shall be the total income before giving effect to this chapter and must be increased by the followings:

- Deductions claimed (if any) included in Chapter VIA from Sec. 80H to 80TT ; and
- Deduction claimed (if any) under Sec.10AA

(nn) ABC LLP has income of ₹ 15,00,000 under the head profits and gains from business or profession. One of its business is eligible for deduction @ 100% of profits u/s 80IB for the assessment year 2012-13. The profit from such business included in the business income is ₹ 6,50,000. Compute Tax payable by the LLP assuming that it has no other income during the previous year 2011-12.

Solution: Computation of Tax Payable under Income Tax for the A.Y. 2012-13.

Profits and gains from Business or Profession	₹15,00,000
Less: Deduction u/s 80IB	₹6,50,000
Total Income	₹8,50,000
Tax Payable (₹8,50,000 x 30%)	₹2,55,000
Add: Education Cess @ 2%	₹5,100
Add: SHEC @ 1%	₹2,550
Total Tax Payable	₹2,62,650

Computation of Alternate Minimum Tax (AMT)

Total Income as per provisions of Income Tax Act,1961	₹8,50,000
Add: Deduction u/s 80IB	₹6,50,000
Adjusted Total Income	₹15,00,000
Alternate Minimum Tax Payable (₹15,00,000 x 18.5%)	₹2,77,500
Add: Education Cess @ 2%	₹5,550
Add: SHEC @ 1%	₹2,775
Total Tax Payable	**₹2,85,825**

Note:

(1) Income Tax payable as per the provision of Income Tax Act is less than the Alternate Minimum Tax. So the adjusted total income of ₹ 15,00,000 would be deemed to be the total income of the LLP and the LLP would be liable to pay tax @18.5% thereof.

(2) The Tax payable by the LLP for the Assessment Year 2012-13 would be ₹ 2,85,825

(3) The LLP is eligible for the credit to the extent of ₹23,175 (= ₹2,85,825 – ₹2,62,650), to be set off in the year in which tax on total income computed under the regular provisions of the Act exceeds the AMT.

(oo) Is a Company liable to pay advance tax on Book profits?

Answer: The Book profit computed u/s 115JB shall be deemed to be the Total Income of the Assessee for the purpose of payment of any tax under the Income Tax Act, 1961. Where the company fails to pay advance tax on such book profits, then it is liable to pay interest u/s 234B and 234C. [Circular No.13/2001] [Kotak Mahindra Finance Ltd.265 ITR 114 (Bom)]

(pp) A foreign company has put forth the following arguments amongst others to say that provisions of Sec.115JB regarding minimum alternate tax is not applicable to it:

(i) The company does not prepare the accounts in accordance with the provisions of part II and III of Schedule VI of the Companies Act,1956

(ii) It does not lay its accounts before the general meeting in accordance with Sec.210 of the Companies Act, since no meeting is held in India.

(iii) It does not declare any dividend in India

Answer: U/s 2(17), company includes any company incorporated outside India, i.e. a Foreign Company. The provisions of Sec.115JB are applicable for an assessee being company. Since Sec.115JB are applicable to an assessee, who is a foreign company also, it is immaterial, as to whether the company actually declares any dividend or lays its accounts in a general meeting or not.

Hence, they are liable to pay tax u/s 115JB.

(qq) A company is owning animals, which are being used for their business purpose. Cost of animals ₹5,00,000. Due to an accident, the animals died and their carcass was sold for ₹45,000. What is the tax implication arising out of this incident?

Answer: Loss in respect of dead animals is an allowable expenditure u/s 36(1) (vi). This is computed as follows:

Actual cost of animal	₹ 5,00,000
Less: Sale proceeds of carcass	₹ 45,000
Amount to be debited in P & L A/c	₹ 4,55,000

(rr) A company paid ₹35,000/- as bonus through bearer cheque to an employee, who has resigned from the company. Discuss taxability.

Answer: Expenditure for which aggregate payment made in excess of ₹20,000 in a day to a single person, otherwise by account payee cheque/bank draft shall be fully disallowed as per Sec.40A(3). Hence, bonus of ₹35,000/- should be disallowed, as this was paid by bearer cheque.

(ss) State the conditions for claiming exemption u/s 11

Answer: The conditions for claiming exemption u/s 11 are:

(i) Registration of the trust must be made with the Commissioner of Income tax;

(ii) The activities of the charitable trust should be confined within India;

(iii) Not less than 85% of such income shall be applied for charitable purposes within the previous year. It can be accumulated for a period of 5 years;

(iv) If the total income before claiming exemption exceeds the maximum amount not chargeable to tax, the accounts should be audited;

(v) Unapplied income should be invested in specified deposits. Corpus donations are not considered as income but as capital receipt;

(vi) Agricultural income will not form part of total income for the purpose of computing application of 85% as laid down u/s 11.

(tt) Income from House Property before considering arrears of rent ₹98,000. Arrears of rent received ₹42,000. Calculate net Income from House Property.

Answer: Computation of Taxable Income from House Property

Income from house property before considering arrears of rent	98,000
Add: Arrears of rent received	42,000
Less: Deduction u/s 25B : [30% of ₹42,000]	12,600
Net Income from House Property	1,27,400

(uu) An assessee, whose turnover in the previous year was ₹16 lakhs had neither opted to be taxed u/s 44AE of the Act nor had kept and maintained books of accounts. Discus the consequences, which the assessee may likely have to come across.

Answer: If the assessee has not opted for Sec.44AE, he has to maintain the books of accounts u/s 44AA and get them audited u/s 44AB. In the given case, since the assessee has not maintained the books of accounts, he is liable for penalty u/s 271A. Where the books of accounts for preceding assessment years were not upto date, it is not possible to get the books audited. Hence, penalty u/s 271B cannot be imposed for subsequent yea₹

(vv) State the conditions stated in Sec. 44AA.

Answer: As per Sec.44AA, maintenance of books of accounts is compulsory in the following cases:

Specified Professionals	Assessees carrying on profession of :- (i) Law, (ii) Medicine , (iii) Accountancy; (iv) Architecture (iv) Technical Consultancy (v) Interior Decoration (vi) Authorized Representative (vii) Film Artist (viii) Information Technology Professionals Whose gross receipts exceed ₹1,50,000, in all the prior three years or during current previous year in which the business is commenced
Others	(i) Where income from business or profession exceeds ₹1,20,000 in any of the 3 preceeding previous years or likely to exceed during current year; (ii) Where the turnover or sales or gross receipts exceeds ₹10,00,000 in any of the 3

		preceding previous years or likely to exceed during the current year;
	(iii)	Upto Assessment Year 2010-11, declaring lower income than as prescribed u/s 44AD/44AE/44AF/44BB/44BBB
	(iv)	W.e.f. Assessment Year 2011-12, when the Assessee has declared lower income than as prescribed u/s 44AE,44BB,44BBB;
	(v)	W.e.f. Assessment Year 2011-12, Assessee whose income exceeds basic exemption, but declaring lower income than as prescribed u/s 44AD

(ww) Discuss the allowability of the following expenditures for scientific research:

Contribution to	Amount donated (₹)	Section reference	Deduction @ (%)	Amount eligible for Deduction
Scientific Research Company	₹50,0000	Sec. 35(1)(iia)	125%	= ₹50,000 x 125% = **₹62,500**
Research Association for Scientific Research	₹1,00,000	Sec.35(1)(ii)	175%	= ₹1,00,000 x 175% = **₹1,75,000**
National Laboratory/University/IIT	₹40,000	Sec.35(2AA)	200%	= ₹40,000 x 200% =**₹80,000**
Social /Statistical Research undertaking	₹30,000	Sec.35(1)(iii)	125%	= ₹30,000 x 125% = **₹37,500**

(xx) What is arm's length price? State the methods prescribed for its computation.

Answer: Arm's length price is a price which is applied or proposed to be applied in a transaction:

(i) Between persons other than associated enterprises;

(ii) In uncontrolled conditions.

The methods prescribed u/s 92C for computation of arm's length price are:

(i) Comparable Uncontrolled Price method;

(ii) Resale Price method;

(iii) Cost Plus method;

(iv) Profit split method;

(v) Transactional net margin method;

(vi) Such other method as may be prescribed by the Board.

Question No.2. (a)

Mr. X furnishes the particulars of his income earned during previous year 2011-12:

(i) Income from agriculture in Bangladesh, received there ₹ 2,00,000, subsequently remitted to India,

(ii) Interest on Asian Development Bonds, ₹ 90,000, one-third of which received outside India,

(iii) Gift of ₹ 50,000 received in foreign currency from a relative in India,

(iv) Arrears of salary ₹ 50,000 received in India from a former employer in Pakistan.

(v) Income from property received outside India ₹ 3,00,000 (₹ 1,00,000 is used in Bahrain for the educational expenses of his son in Bahrain, and ₹ 2,00,000 later on remitted to India).

(vi) Income from business in Iran which is controlled from India (₹ 90,000 being received in India) ₹ 2,00,000.

(vii) Dividends received on 30.06.2011 outside India from an Indian company, ₹ 2,50,000.

(viii) Untaxed profit of the FY 2008-2009 brought to India in July 2011, ₹ 2,50,000.

(ix) Profit (computed) on sale of building in India received in Pakistan ₹ 2,00,000.

(x) Profit from business outside India managed from India ₹ 90,000, received outside India.

Find out gross total income of Mr. X for AY 2012-2013, if Mr. X is (a) resident and ordinarily resident; (b) resident but not ordinarily resident; (c) non-resident.

Solution: **Computation of Gross Total Income for Assessment Year 2012-2013**

Particulars	ROR ₹	RNORs ₹	Non-resident ₹
(i) Income from agriculture in Bangladesh, received there but later on remitted to India	2,00,000	—	—
(ii) Interest on Pakistan Development Bonds:			
1/3rd of ₹ 90,000 received outside India	30,000	---	---
2/3rd of ₹ 90,000 being received in India	60,000	60,000	60,000
(iii) Gift received from a relative in India: Exempt [Sec. 57(v)]	—	—	—
(iv) Salary arrears received in India from a former employer in Pakistan	50,000	50,000	50,000
(v) Income from property received outside India but later on remitted to India	3,00,000	—	—
(vi) Profit from Iran business controlled from India:			
(a) Profits received in India	90,000	90,000	90,000
(b) Profits received outside India	1,10,000	1,10,000	—
(vii) Dividends received from an Indian company, outside India, deemed to accrue or arise in India but exempt under Sec. 10(34)	—	—	—
(viii) Untaxed foreign profit of PY 2008-2009 brought to India	—	—	—
(ix) Profit on sale of building in India, received outside India deemed to accrue or arise in India	2,00,000	2,00,000	2,00,000
(x) Profit from business outside India, managed from India	90,000	90,000	----
Gross Total Income	**11,30,000**	**6,00,000**	**4,00,000**

Question No.2 (b):

An US Company invested in shares of Indian Joint Venture and RBI permitted shares to be issued in the name of its 100% Mauritius Subsidiary. On sale of share to Indian JV partners, gains accrued in India. Discuss the taxability and the company on which the tax is to be levied.

Answer: In the given case, since gains accrued in India, this would attract levy of tax and the liability shall vest in the hands of US Company and not in the hands of Mauritius Company. [Aditya Birla Nuvo Ltd. vs. DDIT(International Taxation) (2011)(Bom.)]

Question No.2(c):

An Indian Insurance Company paid to a Singapore Company for providing access to applications and to serve hardware system hosted in Singapore and related support under the terms of Service Agreement. Can this be taxed as royalty?

Answer: Payment made by an Indian Insurance Company to a Singapore Company for providing access to applications and to serve hardware system hosted in Singapore and related support under the terms of Service Agreement is not in the nature of royalty within the meaning of term in Explanation 2 to Clause (vi) of Sec.9(1). [Bharati Axa General Insurance Co. Limited, In re 2010 (AAR)]

Question No. 2(d)

A nonresident TV channel uplinks TV programme to Satellite through their own facilities situated outside India and satellite, which are not stationed over Indian Airspace amplifies and relays waves using transponders capacity and Indian Cable Operators receive the signals, merely because footprint area of Satellite Transponders includes India and ultimate viewer are watching programmes in India. The income received is taxed as royalty for business operations in India. Discuss the validity of this action.

Answer:

In this given case, the fact that viewers are viewing the telecast in India would not mean that Satellite owners are carrying on its business operations in India. Such amounts is not a royalty as defined in Explanation 2 to Sec. 9(1)(vi) [Asia Satellite Telecommunications Co. Ltd vs DIT (2011)(Del.)]

Question No. 2(e)

Mr. Harry, after 25 years of residing in India, returns to UK on 2.2.2009. He again returns to India on 19th September, 2011 to join British Company in India. Determine his residential status for the assessment year 2012-13.

Answer: No. of days physically present in India during the previous year: [19.09.2011 to 31.3.2012]
= 12 + 31 + 30 + 31 + 31+ 29+ 31= 195 days. He satisfies the basic condition of at least 182 days physically present in India during the previous year.

Further, considering the information provided in this case, it is construed that Mr. Harry satisfies both the additional conditions, i.e. at least 2 times resident out of the 10 previous years, immediately preceding the previous year and at least 730 days physically present in India during the 7 previous years immediately preceding the previous year.

Hence, Mr. Harry is a Resident and Ordinary Resident for the assessment year 2012-13.

Question No. 3(a):

Ms.A, a Sikkimese woman married Mr.B, a non-sikkimese on 17th March, 2008. During the previous year 2011-12, she received rent of ₹6 lakhs from letting out house properties situated in the State of Sikkim. Is she liable to income tax for the assessment year 2012-2013? What will be your opinion, if she married Mr.B on 10th April, 2008?

Answer: In case of an individual, being a Sikkimese, any income which accrues or arises to him:

- From any source in Sikkim, or
- As dividend or interest on securities.

This provision shall not apply to a Sikkimese woman who on or after 01.04.2008 marries an individual who is not Sikkimese.

Situation 1:
In the instant case, the assessee marries a Non-Sikkimese individual before the cut-off date, i.e. 1st April, 2008. Therefore, the exemption u/s 10(26AAA) shall continue to apply to her. Hence, Ms. J is eligible for exemption in respect of House Property income situated in the State of Sikkim.
Situation 2:
Here, since they got married on 10th April,2008, i.e. after the cut-off date, Ms. A will not be eligible for claiming exemption u/s 10(26AAA).

Question No. 3(b)
State the difference between Exemption u/s 10 and deduction under Chapter VIA of the Income Tax Act.
Answer:

Exemption u/s 10	Deduction under Chapter VIA
Income exempt does not form part of total income	Income forms part of Total Income
Expenditure in relation to income exempt is not deductible	Expenditure in relation to income is deductible
It will not be considered for the purpose of computing total income	It will be considered for the purpose of deduction from Gross Total Income
Income is normally exempt subject to certain conditions	Deduction is normally allowed based on payment or fulfillment of specified conditions

Question No.3(c):
Z is employed in A Ltd. As on 31.3.11, his basic salary ₹ 16,000 p.m. He is also entitled to a dearness allowance of 65% of basic salary. 70% of the dearness allowance is considered for retirement benefits. The company gives him HRA ₹8,000pm. With effect from 1.1.11 he receives an increment of ₹1,000 in his basic salary and was staying with his parents till 31.10.2011. From 1.11.11 he takes an accommodation on rent in Delhi and pays ₹ 10,500 pm as rent for the accommodation. Compute taxable HRA for the assessment year 2012-13.

Solution:

Salary for the purpose of HRA shall cover the time period for which the assessee, who is in receipt of HRA, resided in a rented accommodation and the rent paid by such assessee, is more than 10% of salary.

Salary for HRA (for 5 months) = Basic Pay + DA (considered for retirement benefits) + Commission (if received as a fixed percentage on turnover as per terms of employment)

Basic Pay = (15,000 × 2) + (16,000 × 3)	= 78,000
DA = 65% of Basic Pay × 70% forming part of retirement benefits [65 % × 78,000 × 70%]	= 35,490
Total Salary for HRA	**1,13,490**

Computation of Taxable House Rent Allowance

Particulars	₹	₹
Amount received during the financial year for HRA (8,000 × 12)		96,000
Less: Exemption u/s 10(13A) Rule 2A		
Least of the followings:		
(i) Actual amount received	96,000	
(ii) 50% of Salary[50% of 1,13,490]	56,745	
(iii) Rent paid less 10% of Salary [10,500x 5 – 10% of 1,13,490]	41,151	41,151
Taxable HRA		**54,849**

Question No.3 (d):

Mr. King is getting a salary of ₹5,400 pm since 1.1.10 and dearness allowance of ₹3,500 pm, 50% of which is a part of retirement benefits. He retires on 30th November 2011 after 30 years and 11 months of service. His pension is fixed at ₹ 3,800 pm. On 1st February 2012 he gets 3/4ths of the pension commuted at ₹1,59,000. Compute his gross salary for the previous year 2011-12 in the following cases:

(i) If he is a government employee, getting gratuity of ₹ 1,90,000

(ii) If he is an employee of a private company, getting gratuity of ₹ 1,90,000

(iii) If he is an employee of a private company but gets no gratuity.

Solution:

Previous Year 2011-12. Tenure of Service: 1.4.11 to 30.11.11 = 8 months

Post-retirement period: December '11 to March '12 = 4 months

Particulars	Case (i)	Case (ii)	Case (iii)
Salary	43,200	43,200	43,200
D.A	28,000	28,000	28,000
Taxable Gratuity	Exempted	82,750	Nil
Uncommuted Pension [(3,800×2)+(950×2)]	9,500	9,500	9,500
Commuted Value of Pension	Exempted	88,333	

Case (ii) <u>Gratuity received by an employee of a private company</u>

		₹
Actual amount received		1,90,000
Less: Exempted amount (least of the followings):		
(i) Actual amount received	1,90,000	
(ii) ½ x Avg. Salary x No. of years of Completed service [½ × 7,150 × 30]	1,07,250	
(iii) Maximum Limit	10,00,000	1,07,250
Taxable Gratuity		**82,750**

Commuted Value of Pension

(Non-govt employee, gratuity received)	
Actual commuted value of pension received	1,59,000
Less: Exempted u/s 10(10A)	
1/3rd of Full Value of Commuted Pension [1/3 × 2,12,000]	70,667
Full Value of Commuted Pension	
Taxable Commuted Value of Pension	**88,333**

Case (iii) Commuted Value of Pension (Non-govt employee, gratuity not received)

Actual commuted value of pension received	1,59,000
Less: Exempted u/s 10(10A)	
1/2 of Full Value of Commuted Pension [1/2 × ₹ 2,12,000]	1,06,000
Full Value of Commuted Pension = [₹ 1,59,000 x 4/3=2,12,000]	
Taxable Commuted Value of Pension	**53,000**

Question No. 3(e) :

M₹ Vandana retires on 16th October 2011 after 30 years and 8 months of service. Salary structure is given below:

FY 2011-12	**Salary ₹ 15,000 pm**	**D.A ₹ 7,500 pm**
FY 2010-11	**Salary ₹ 12,000 pm**	**D.A ₹ 6,000 pm**

60%of dearness allowance forms a part of superannuation benefits. Record of Earned Leave is given below:

Leave allowed for one year of completed service -23 days; Leave taken while in service-150 days; Leave encashed during the year-60 days.

Determine the gross salary in the following cases:

(i) she retires from government service

(ii) she retires from the service of Delhi Municipal Corporation

(iii) she retires from the service of Life Insurance Corporation of India

(iv) she retires from private sector

Solution:

Particulars	**Case (i)**	**Case (ii)**	**Case(iii)**	**Case(iv)**
Salary for 6months & 16 days	98,000	98,000	98,000	98,000
Dearness Allowance	49,000	49,000	49,000	49,000
Taxable amount of Leave encashment	Exempted	1,24,980	1,24,980	1,24,980
Gross Income from Salary	**1,47,000**	**2,71,980**	**2,71,980**	**2,71,980**

Working Notes:

Average monthly salary for 10 months, prior to retirement:		₹
Salary of 6 months 16 days: (1st April 2011 to 16th October 2011)		= 98,000
Salary of 3 months 14 days: (14th December 2010 to 31st March 2011)		= 41,600
Total Basic Salary		1,39,600
Add: Dearness allowance		
For 6 months 16 days: (1st April 2011 to 16th October 2011)	= 49,000	
For 3 months 14 days: (14th December 2010 to 31st March 2011)	= 20,800	
Total D.A.	69,800	
D.A. [60% of 69,800, forming part of retirement benefits]		41,880
Total salary of 10 months		**1,81,480**

Average Salary = 1,81,480 / 10 = 18,148

Computation of Taxable Leave Encashment

Amount of encashment received:		
(30 x 23) – (150 + 60) x (15,000 + 7,500)/ 30 =		3,60,000
Less: Exempted u/s 10(10AA) [Least of the followings]		
(i) Actual amount received	3,60,000	
(ii) 10 months' salary (preceding the month of retirement)	1,81,480	
(iii) Leave credit on the date of retirement		
[(30 × 23) – (150 + 60) × (18,148/ 30)]	2,90,368	
(iv) Maximum Limit	3,00,000	1,81,480
Taxable amount of Leave encashment		**1,78,520**

Question No.4 (a)

Mr. Z is the manager of F Ltd. his son is a student of Amity International School. School fees of ₹ 6,000 pm and hostel fees of ₹ 4,000 pm., are directly paid by F Ltd. to the school but it recovers from Mr. Z only 40%. Mr. Z also joins an advanced course of Marketing Management for 4 months at IIM, Ahmedabad, fees of the course, ₹ 4,50,000 is paid by F Ltd. Determine the perquisite value of the education facility.

Solution:

Computation of taxable value of education facility [As per Rule 3(5)]

Particulars	Taxable value of perquisite (₹)
(1)(a) School fees of his children, studying in a school run by employer:	
(₹6,000 x 12) - (2,400 x 12)	43,200
(b) Hostel fees: (4,000 x 12) – (1,600 x 12)	28,800
2) Fees paid for Marketing Management course for Mr.Z (it is a fully exempted perquisite)	Nil
Total value of taxable perquisite	**72,000**

Question No.4 (b)

Mr. D takes interest-free loan of ₹ 6,00,000 on 1.11.11 from his employer to construct his house. The loan is repayable in 40 monthly installments from January 2011. Compute the value of interest free loan. SBI Lending rate 10.5% p.a. (for housing loans not exceeding 5 years).

Solution: Computation of taxable value of Loan provided by employer [As per Rule 3(7)(i)]

Time period during which loan remains outstanding	Balance on the last day of the month
November	6,00,000
December	6,00,000
January	5,85,000
February	5,70,000
March	5,55,000
Total	**29,10,000**

Perquisite value of interest-free loan: = ₹29,10,000 × 10.5% × 1/12 = ₹ 25,463

Question No.4 (c)

Mr. Prabir Nandy is a Manager in H Ltd. He gets salary @ ₹ 30,000 pm. He is also allowed free use of computer, video-camera and television of the company. H Ltd. has purchased (i) Computer for ₹ 1,00,000 (ii) Video-camera for ₹ 30,000. Their written down value on 1.4.09 is ₹ 60,000 and ₹ 30,000 respectively. Television set has been taken on lease rent @ ₹ 100 pm. The employer recovers ₹ 500 per month for use of the assets. Compute his gross salary for the assessment year 2012-13.

Solution: Computation of taxable value of Loan provided by employer [As per Rule 3(7)(vii)]

Salary: 30,000 × 12	3,60,000
Add: Free use of computer, u/s 17(2)(vi) read with Rule 3(7)(vii)	Nil
Add: Free use of video camera, u/s 17(2)(vi) read with rule 3(7) (vii) [10% of 30,000]	3,000
Add: Free use of telephone, u/s 17(2)(vi) read with rule 3(7)(vii) (100 × 12)	1,200
Gross Salary	**3,64,200**

Question No.4 (d)

Mr. C is an accountant of D Ltd. He gets salary of ₹25,000 pm. He has purchased motor car and washing machine from the company on 1 February 2011. He was also provided with a laptop and Particulars of cost and sale price of the two assets are given below:

Year of Purchase	Particulars of the Asset	Purchase Price (₹)	Sale price (₹)
01.07.1998	Motor car	2,50,000	25,000
15.09.2007	Washing Machine	10,000	5,000

Compute the taxable value of perquisites for the assessment year 2012-13.

Solution:

Laptop provided to an employee by the employer is not taxable as a perquisite. Further, any movable asset, which is used for more than 10 years and thereafter transferred/sold to an employee, would not be considered for the purpose of valuation of perquisites.

Computation of taxable value of perquisites on transfer of moveable assets [As per Rule 3(7) (viii)]

TRANSFER OF MOVABLE ASSET TO EMPLOYEE

	Washing Machine (Actual Cost)	10,000
Less:	Depreciation @ 10% on SLM from 15.09.2007 to 14.09.2008	1,000
	WDV	9,000
Less:	Depreciation @ 10% on WDV from 15.09.2008 to 14.09.2009	1,000
	WDV	8,000
Less:	Depreciation @ 10% on WDV from 15.09.2009 to 14.09.2010	1,000
	WDV	7,000
Less:	Depreciation @ 10% on WDV from 15.09.2010 to 14.09.2011	1,000
	WDV	**6,000**

Computation of Taxable Value of Perquisite

Particulars	**Washing Machine**
WDV on the Asset	6,000
Less: Amount recovered from employee	5,000
Taxable value of perquisite	**1,000 (as the amount recovered is more than WDV)**

Question No.4 (e)

Vineet had been working with M Ltd., in a tribal area since 1-10-1997. He was entitled to the following emoluments:

1. Basic salary w.e.f. 1-1-2011 ₹ 6,000 p.m.
2. Dearness allowance 50% of basic salary (40% of which forms part of salary for retirement benefits)
3. Medical allowance ₹ 1500 p.m., (entire amount is spent on his own medical treatment).
4. Entertainment allowance ₹ 400 p.m.
5. Children education allowance ₹ 80 p.m. per child for three children.
6. Hostel expenditure allowance ₹ 100 p.m. per child for three children.
7. Uniform allowance ₹ 250 p.m. (He spends ₹ 1,500 on the purchase and maintenance of uniform)
8. House rent allowance ₹ 750 per month. He pays ₹ 1,000 per month as rent.

9. He contributes ₹ 900 per month to a recognised provident fund to which his employer contributes an equal amount.

He resigned from his job on 1.1.2012 and shifted to Delhi. He was entitled to the following benefits at the time of his retirement:

(a) Gratuity ₹ 1,35,000
(b) Pension from 1.1.2012 ₹ 3,000 p.m.
(c) Payment from recognised provident fund ₹ 3,00,000
(d) Encashment of earned leave for 150 days ₹ 36,000

He was entitled to 40 days leave for every completed year of service. He got 50% of his pension commuted in lump sum w.e.f. 1.3.2012 and received ₹ 1,20,000 as commuted pension.

He joined K Ltd. at Mumbai w.e.f 1-2-2012 and was entitled to the following emoluments:

(1) Basic salary ₹ 5,000 p.m.
(2) Dearness allowance (forming part of salary) 20% of basic salary
(3) Rent-free unfurnished accommodation in Delhi which is owned by the employer and whose fair rental value is ₹ 48,000 p.a.

He was also given the following facilities by the employer:

(a) Motor car (1.4 ltr. engine capacity) with driver, which he uses partly for official and partly for personal purposes.
(b) The monthly expenses incurred by 'A' on gas and electricity were ₹ 500 which were reimbursed by the employer.
(c) Reimbursement of educational expenses of his two children which amounted to ₹ 350 p.m.
(d) On 4.3.2011 his wife fell ill and the employer reimbursed the expenditure of medical treatment amounting to ₹ 17,500.
(e) A watchman, a sweeper, a cook and a gardener have been provided to whom the company pays a salary of ₹ 400 p.m. each.
(f) Loan of ₹ 1,00,000 @ 8% p.a. for construction of his house was given by the company. SBI rate of interest is 7% p.a.

He made the following payments during the previous year:

(1) Professional tax ₹ 500
(2) Premium on Life Insurance Policy of his own, ₹ 1,00,000 amounting to ₹ 15,000.
(3) Deposit in PPF account ₹ 50,000.

Compute his total income and tax liability for the assessment year 2012-13.

Solution:

Assessee : Mr. Vineet **A. Y : 2012-13**

Computation of Total Income and Tax Liability

Particulars	**₹**	**₹**
<u>Employer – M Ltd</u>		
Basic salary 6,000 × 9		54,000
DA @ 50% of Basic Salary		27,000
Medical allowance @ ₹ 1,500 pm × 9 months		13,500
Entertainment allowance @ ₹ 400 pm × 9 months		3,600
Children education allowance ₹80 × 3 × 9	2,160	
Less : Exempt u/s 10(14) = ₹80 × 2 × 9	440	720
Hostel expenditure allowance= ₹100 × 3 × 9	2,700	

Less: Exempt u/s 10(14) = ₹100 × 2 × 9			1,800	900
Uncommuted pension (₹2,000 × 2 + ₹ 1,000 × 1)				5,000
Uniform allowance (₹250 ×9 – ₹1,500)				750
House Rent Allowance				
Amount Received ₹750 × 9			6,750	
Less : Exemption u/s 10(13A) Rule 2A				
Lease of the following:				
(i) Amount Received	6,750			
(ii) 40% of Salary	25,920			
(iii) Rent paid – 10% of Salary	2,520		2,520	4,230
(₹1000 × 9 – ₹6,480)				
Salary for HRA = Basic Pay + Dearness Allowance				
(forming part of salary) + Commission (if received at a fixed percentage on turnover)				
= 54,000 + (40% of 27,000) = 54,000 + 10,800 = 64,800				
Employer's Contribution to RPF @ ₹ 900 pm × 9 months			8,100	
Less : Exemption u/s 10(14) upto 12% of salary				
Salary = Basic Pay + D.A (forming part)				
= 54,000 + 40% of 27,000 = 64,800				
= 12% of 64,800 =			7,776	324
Gratuity — (from A Ltd.)				
Actual Amount Received		1,25,000		
Less : Exemption u/s 10(10)				
Least of the followings:				
(i) Actual Amount Received		1,25,000		
(ii) Max. limit		10,00,000		
(iii) 1/2 months average salary for each				
Years' of completed service		50,400	50,400	74,600
[1/2 × 7,200 × 14]				

Salary for Gratuity (not covered by Payment of Gratuity Act) = Basic Pay + D/A (forming part for retirement benefits) + Commission (if received at a fixed percentage on turnover)

Again, Average Salary = Salary for 10 months preceeding the month of retirement				
B/P = 6,000 × 10 =		60,000		
D/A (forming part) = 40% × 50% × 6,000 =		12,000		
		72,000		
Therefore, Average Salary per month = ₹ 7,200				
<u>Commuted Value of Pension</u>				
Amount Received			1,20,000	
Less: Exemption u/s 10(10A)				
1/3 of Full Value of Commuted Pension [1/3 of ₹2,40,000]			80,000	40,000
Full Value of Commuted Pension = [₹1,20,000/50% = ₹2,40,000]				
Payment from RPF (Exempt)				—
Leave encashment – Actual amount			36,000	
Less: Exemption u/s 10(10AA)			4,800	31,200
				2,55,824

Least of the followings:

(a)	Actual encashment	₹ 36,000
(b)	Eligible encashment (7,200/30 × 20)	₹ 4,800
(c)	10 months average salary (7,200 × 10)	₹ 72,000
(d)	Amount specified	₹ 3,00,000

Leave encashment shall be exempt to the extent , calculated as follows :

Completed years of service	13 years
Number of days leave allowed every year	40
Total leave allowable	520 days
Leave encashed	150 days
Therefore leave availed (520 – 150)	370 days
Leave available on basis of 30 days (30 ×13)	390 days
Less: Leave availed	370 days
Therefore encashment eligible for exemption (390 – 370)	20 days

Employer—S Ltd

Basic salary 5,000 ×2	10,000	
Dearness Allowance @ 20% of B/Pay	2,000	
Motor Car facility (1,800 + 900) × 2 months	5,400	
Free Gas/Electricity (500 × 2)	1,000	
Education Re-imbursement (350 × 2)	700	
Medical Re-imbursement (17,500 – 15,000)	2,500	
Watchmen (400 × 2)	800	
Sweeper (400 × 2)	800	
Cook (400 ×2)	800	
Gardener (400 × 2)	800	
Interest on Loan (not taxable as interest charged is more than the rate of SBI)	—	
Perquisite for Value of Rent-free unfurnished accommodation	2,250	27,050

Valuation of unfurnished rent-free accommodation:

15% of salary which includes the following:	
Basic (5,000 × 2)	₹ 10,000
DA	₹ 2,000
Uncommuted pension from R Ltd. (2,000 + 1,000)	₹ 3,000
	₹ 15,000

Value of the unfurnished accommodation 15% of ₹ 15,000 = ₹ 2,250

Aggregate salary from M Ltd. and S Ltd.			2,82,874
Less :	(i) Entertainment allowance u/s 16(ii)	Nil	
	(ii) Professional-tax u/s 16(iii)	500	500
Income from salary			2,82,374
Other Income			Nil
Gross Total Income			2,82,374
Less :	Deduction u/s 80C		
	RPF (900 × 9)	8,100	
	LIP	15,000	
	PPF	50,000	73,100
Total Income (rounded off)			**2,09,274**

Total Income (Rounded of u/s 288)		2,09,270
Tax on ₹ 2,09,270		
upto ₹ 1,80,000	= Nil	
@ 10% on (209270 – 1,80,000) = 10% of 29270	= 2,927	2,927
Add : Education cess @ 2%		58
Add : SHEC @ 1%		29
Total tax liability		3,014
Tax Payable (Rounded off u/s 288A)		= ₹ 3010

Since he has received lump sum payment on account of gratuity, commuted pension and leave encashment, he can claim relief u/s 89 if the same is beneficial to him.

Question No.5 (a)

Discuss Deemed owner as per Section 27.

Answer: Deemed owner is defined as per Sec.27 of the Income Tax Act, 1961. Under the following circumstances, Income from House Property is taxable in the hands of the Individual, even if the property is not registered in his name —

(i) Where the Property has been transferred to spouse for inadequate consideration other than in pursuance of an agreement to live apart.

(ii) Where the Property is transferred to a minor child for inadequate consideration (except a transfer to minor married daughter)

(iii) Where the Individual holds an impartible estate.

(iv) Where the Individual is a member of Co-operative Society, Company, or other Association and has been allotted a house property by virtue of his being a member, even though the property is registered in the name of the Society / Company / Association.

(v) Where the property has been transferred to the individual's name as part-performance of a contract u/s 53A of the Transfer of Property Act, 1882. (i.e. Possession of the Property has been transferred to Individual, but the Title Deeds have not yet been transferred).

(vi) Where the Individual is a holder of a Power of Attorney enabling the right of possession or enjoyment of the property.

(vii) Where the property has been constructed on a leasehold land.

(viii) Where the ownership of the Property is under dispute.

(ix) Where the property is taken on a lease for a period of not less than 12 years, then the lessee shall be deemed as the owner of the property.

Question No.5 (b)

State the conditions for allow ability of unrealized rent.

Answer: As per Rule 4, Unrealized Rent means the rent not paid by the tenant to the owner and the same shall be deducted from the Actual Rent Receivable from the property before computing income from that property, provided the following conditions are satisfied:

(i) The tenancy is bonafide;

(ii) The defaulting tenant should have vacated the property;

(iii) The assessee has taken steps to compel the defaulting tenant to vacate the property;

(iv) The defaulting tenant is not in occupation of any other property owned by the assessee;

(v) The assessee has taken all reasonable steps for recovery of unrealised rent or satisfies the Assessing Officer that such steps would be useless.

Question No. 5(c)

Puja has occupied three houses for his self-occupancy. Their particulars for the previous year 2011-2012 are given below:

Particulars	House X ₹	House Y ₹	House Z ₹
Municipal value	3,60,000	9,60,000	9,50,000
Municipal taxes paid	40,000	80,000	90,000
Fair rent	5,40,000	8,00,000	10,00,000
Standard rent	4,50,000	6,00,000	9,00,000
Repairs	1,50,000	2,50,000	3,00,000
Ground rent paid	20,000	25,000	30,000
Insurance premium paid	5,000	6,000	7,000
Interest on loan taken for purchase of H.P.	75,000	1,20,000	2,00,000
Year of the loan	1997-98	2000-2001	2005-06

She has suffered loss in his business, amounting ₹ 3,00,000

Compute her total income, advising her which house should be specified for self-occupancy concession:

Solution: **Computation of income from house property under different options:**

(a) Assuming all the properties are self-occupied (SO)	House X (SO) ₹	House Y (SO) ₹	House Z (SO) ₹
Annual value	Nil	Nil	Nil
Less: Interest on loan	30,000	30,000	1,50,000
Loss from house property	30,000	30,000	1,50,000

(b) Assuming all the properties as Deemed Let Out (DLO)	House X (DLO) ₹	House Y (DLO) ₹	House Z (DLO) ₹
Gross annual value	4,50,000	6,00,000	9,00,000
Less: Municipal taxes paid	40,000	80,000	90,000
Net annual value	4,10,000	5,20,000	8,10,000
Less: Statutory deduction u/s 24(a) @ 30% of net annual value	1,23,000	1,56,000	2,43,000
Interest on Loan u/s 24(b)	(-) 75,000	(-) 1,20,000	(-) 2,00,000
Income from house property	2,12,000	2,44,000	3,67,000

(c) Total Income under different options for self-occupancy:

Particulars	Option 1 House X ₹	Option 2 House Y ₹	Option 3 House Z ₹
House X	(-) 30,000 (SO)	2,12,000 (DLO)	2,12,000 (DLO)
House Y	2,44,000 (DLO)	(-) 30,000 (SO)	2,44,000 (DLO)
House Z	3,67,000	3,67,000	(-) 1,50,000

	(DLO)	(DLO)	(SO)
Income from house property	**5,81,000**	**5,49,000**	**3,06,000**
Loss from business	**(-) 3,00,000**	**(-) 3,00,000**	**(-) 3,00,000**
Total income	**2,81,000**	**2,49,000**	**(-) 6,000**

Conclusion: A house with minimum income/maximum loss should be opted for self-occupancy concession to minimise the tax liability. The option can be changed from year to year.

In the instant case, House Z should be treated as self-occupied. There will be no tax-liability, and the assessee will carry forward the unabsorbed business loss of ₹ 94,000 for next 8 assessment yea₹

Question No.5 (d)

Mr. Pradipto completed construction of a residential house on 1.4.2011. Interest paid on loans borrowed for purpose of construction during the 2 years prior to completion was ₹ 40,000. The house was let-out on a monthly rent of ₹ 4,000. Annual Corporation Tax paid is ₹ 2,000. Interest paid during the year is ₹ 16,000. Amount spent on repairs is ₹ 2,000. Fire Insurance Premium paid is ₹ 1,500 p.a. Property was vacant for 3 months. Annual letting value as per corporation records is ₹ 30,000. Compute the income under the head "Income from House Property" for the A.Y. 2012-13.

Solution:

Assessee : Mr. Pradipto **Previous Year : 2011-2012** **Assessment Year : 2012-13**

Computation of Income from House Property

	Particulars			₹	₹
	Gross Annual Value u/s 23(1)(c)	(Note 1)			36,000
Less :	Municipal Taxes Paid				(2,000)
	Net Annual Value (NAV)				34,000
Less :	Deduction u/s 24 —				
	(a) 30% of Net Annual Value	(₹ 30,000 × 30%)		9,000	
	(b) Interest on Borrowed Capital:				
	Interest for Current Year		₹ 16,000		
	Interest of Prior Period	(₹ 40,000 × 1/5)	₹ 8,000	24,000	(33,000)
	Income from House Property				**1,000**

Note:

Computation of Gross Annual Value

Municipal Value	30,000
Annual Rent (4,000 × 12)	48,000
(–) Unrealised Rent	Nil
Annual Rent	48,000
Higher of MV & Actual Rent	48,000
Less : Vacancy Allowance	12,000
Gross Annual Value	**36,000**

Question No. 5(e)

A House property in Kolkata, having a municipal value of ₹5 lacs, Fair Rental Value ₹6 lacs, was intended for let-out to tenants. Unfortunately, during the entire previous year, there was no tenant for this house property. Municipal Tax ₹5,000 (of which ₹1,200 is payable). Interest paid on loan taken for purchase of this property ₹1,79,000. Compute Income from House Property.

Answer:

Computation of Income from House Property

Annual Value u/s 23(1)(c)	NIL
Less: Municipal tax and tax for services paid	3,500
Net Annual Value	(3,500)
Less: Deduction u/s 24(a): - Interest on borrowed capital (no limit)	(1,79,000)
Income from House Property	(1,82,500)

Question No.6 (a):

The WDV of plant and machinery on 1.4.2011 of Z Ltd. engaged in manufacturing of PVC granules is ₹ 3000 lacs. Company purchased additional plant and machinery for ₹ 1,600 lacs on 18.4.2011 inclusive of second-hand machine imported from Ireland of ₹ 400 lacs to increase its installed capacity of production from 1000 TPA to 1500 TPA. The production from new machine commenced w.e.f 1.12.2011. Work out by giving reasons the amount of allowable depreciation.

Assessee : Z Ltd. **Previous Year: 2011-12** **Assessment Year : 2012-13**

Computation of Depreciation

Particulars		Lakhs	
		₹	₹
	Opening WDV		3,000
Add:	Additions During the year		1,600
	Net Value for the purpose of Depreciation		4,600
Less:	Depreciation of the Year		
—	On Opening Block – ₹ 3,000 Lakhs × 15%	450	
—	On Additions (Period of usage less than 180 days) — ₹ 1,600 lakhs × 15% × 50%	120	
—	Additional Depreciation on Eligible Assets (Notes)	120	690
	Closing WDV		3,910

Notes:

1. Second hand machinery imported from China is not an eligible asset for the purpose of Additional Depreciation computation. Therefore, cost of eligible assets = ₹ 1,600 lakhs – ₹ 400 lakhs = ₹ 1,200 lakhs.
2. Period of usage of new machine is less than 180 days. Therefore, they are entitled to only 50% of additional depreciation rate of 20%.

Question No.6 (b)

ZED Ltd. imported machinery from South Korea on 12.5.2011 for US$ 50,000. Exchange rate on that date : US$ = ₹ 44. 70. Customs Duty paid @ 20%. Government granted subsidy of ₹ 15,00,000. The assessee had a forward contract on 2.4.2011 at US$ 45.30. Logistics services was provided by Carrywell Courier Ltd. Service

Charges paid ₹ 2,00,000 including service tax of ₹ 25,000. Engineers and labourers were engaged at site for installation of the machinery. Salary and wages paid for site engineers and labourers including their travelling expenses amounted to ₹ 4,60,000. Expenses incurred during trial run period ₹ 1,50,000. Sale of output produced during trial run period ₹ 90,000. Interest earned on deposits made to open Letter of Credit for purchase of this machinery ₹ 15,000. The machine was put to use from 05.10.11. Depreciation @ 15%. Compute Actual Cost and Written Down Value.

Solution: Assessee: ZED Ltd. **Previous Year: 2011-12**

Computation of Actual Cost and Written Down Value

Particulars		Amount (₹ crores)
Cost of the Asset (US$ 50,000 × ₹ 44.70)		22,35,000
Add :	Customs Duty paid @ 20% on ₹ 22,35,000	4,47,000
Less :	Government Subsidy granted	(15,00,000)
Add :	Exchange Rate Difference [US$ 50,000 × ₹ (45.30 - 44.70)]	30,000
Add :	Transportation charges paid ₹ 2,00,000 (including Service Tax ₹ 25,000)	2,00,000
Less :	CENVAT credit adjustment (credit for Service tax included in service charges paid to Carrywell Courier Ltd.)	(25,000)
Add :	Installation expenses incurred for payment of site engineers & labourers including travelling expenses	4,60,000
Add :	Expenses incurred during trial run period	1,50,000
Less :	Sale of output generated during trial run period	(90,000)
Less :	Interest earned on deposits made to open Letter of Credit for purchase of this machinery	(15,000)
Actual Cost for the purpose of determining depreciation		**18,92,000**
Less :	Depreciation @ 50% of 15% (since Put to Use < 180 days) for previous year 2011-12 (₹ 18,92,000 × 50% x 15%)	1,41,900
WDV as on 01.04.2012		**17,50,100**

Question No.6(c)

Mr. Hari purchased a house property on 18.11.2007 for ₹ 15,00,000. Till 1.7.2011, the same was self-occupied for own residence. Thereafter, the said building was brought into use for the purpose of his profession. Determine the amount of depreciable admissible for the Assessment Year 2012-13, given rate of depreciation @ 10%.

Solution:

(a) Property acquired by the assessee himself: As per Sec. 43(1), if a building/asset used for private purpose of the assessee is subsequently put to use for the purpose of business, the cost of acquisition shall be determined in the following manner:

Assessee : Mr. Hari Previous Year : 2011-12 Assessment Year : 2012-13

		₹
Cost of acquisition of Residential House Property as on 18.11.2007		15,00,000
Less:	Deemed depreciation for the Financial year 2007-08 @ 50% of 10% on ₹ 15,00,000 (since period of usage is less than 180 days)	75,000
WDV as on 01.04.2008		14,25,000
Less:	Deemed Depreciation for Financial year 2008-09 @ 10% on ₹14,25,000	1,42,500
WDV as on 01.04.2009		12,82,500

Less: Deemed Depreciation for Financial year 2009-10 @ 10% on ₹12,82,500	1,28,250
WDV as on 01.04.2010	11,54,250
Less: Deemed Depreciation for Financial year 2010-11 @ 10% on ₹11,54,250	1,15,425
WDV as on 01.04.2011 = Actual cost for the purpose of charging depreciation	10,38,825
Less: Deemed Depreciation for Financial year 2011-12 @ 10% on ₹10,38,825	1,03,883
WDV as on 01.04.2012	**9,34,942**

Question No.6 (d)

Jammer International Ltd. incurs an expenditure of ₹300 crores for acquiring the right to operate telecommunication services for Orissa and Jharkhand. The payment was made in August 2010 and the licence to operate the services was valid for 12 yea₹ In December 2011, the company transfers part of the licence, in respect of Orissa to Hammer International Ltd. for a sum of ₹280 crores and continue to operate the licence in Jharkhand . What is the deduction allowable u/s 35ABB to Jammer International Ltd. for the Assessment Year 2012-13?

Solution:

Assessee: Jammer International Ltd. Previous Year: 2011-12 Assessment Year : 2012-13

(a) u/s 35ABB, where part of the Telecom Licence is transferred and Net Consideration received on such transfer, is more than the expenditure remaining unallowed, the amount of deduction shall be computed as follows:

(i)	Unallowed amount as on 01.04.2011	= Total Expenditure Less Deduction for Financial Year 2009-10
		= ₹300 crores Less (₹300 crores / licence period of 12 years)
		= ₹300 crores less ₹25 crores= ₹275 crores.
(ii)	Net Consideration received	= ₹280 crores
(iii)	Remaining period of licence	= 11 years (including current previous year)
(iv)	Deduction u/s 35 ABB	= ₹ (224 crores less 56 crores) / 14 years
		= ₹12 crores.

Question No.6 (e)

Sleepwell Ltd. is an existing Indian Company, which sets up a new industrial unit. It incurs the following expenditure in connection with the new unit:

	₹
Preparation of project report	4,00,000
Market survey	5,00,000
Legal and other charges for issue of additional capital required for the new unit	2,00,000
Total	11,00,000
The following further data is given:	
Cost of project	30,00,000
Capital employed in the new unit	40,00,000

What is the deduction admissible to the company under section 35D for Assessment Year 2012-13?

Solution:

The deduction admissible under section 35D is one-fifth of the expenditure incurred for the project. This works out to ₹2,20,000.

However, such expenditure should not exceed the following limits as prescribed in section (3):

(a) 5% of cost of the project or

(b) 5% of the capital employed in the new industrial undertaking (being a company) — whichever is higher.

In this case

(a) 5% of the project cost is ₹1,50,000 and

(b) 5% of the capital employed is ₹2,00,000.

Hence, the expenditure eligible for amortization under section 35D would be ₹ 2,00,000.

And the admissible deduction for the current assessment year is ₹ 2,00,000 × 1/5 = ₹ 40,000.

Question No.7 (a)

A firm comprising of four partners A, B, C and D carrying on business in partnership, sharing profits/losses equally shows a profit of ₹ 2,00,000 in its books after deduction of the following amounts for the year :

	Particulars	₹
(a)	Remuneration to partner 'A' who is not actively engaged in business	60,000
(b)	Remuneration to partners 'B' & 'C' actively engaged in business	
	Partner 'B'	80,000
	Partner 'C'	90,000
(c)	Interest to partner 'D' on loan of ₹ 1,50,000	36,000

The deed of partnership provides for the payment of above remuneration and interest to partne₹ You are required to work out the taxable income of the firm as well as partners for assessment year 2012-13.

Solution:

Computation of Income under the head Profits and Gains of Business or Profession

		Particulars			₹
Net profit as per P/L A/c					2,00,000
Add :	Inadmissible expenses —				
	(i)	Remuneration to A (not an active partner) – disallowed u/s 40(b)			60,000
	(ii)	Remuneration to B and C – (considered separately [₹ 80,000 + 90,000]			1,70,000
	(iii)	Interest paid to D on Loan advanced			36,000
Net Profit before Interest and Remuneration to Partners					**4,66,000**
Less :	Maximum Permissible Interest u/s 40(b) @ 12% on Loan from D = ₹ 1,50,000 × 12% p.a.				18,000
Book Profit					**4,48,000**
Less :	Maximum Permissible Remuneration to B and C u/s 40(b)				
	(i)	upto ₹ 3,00,000 – ₹ 1,50,000 or 90% of Book Profits, whichever is higher	= 2,70,000		
		Balance of Book Profits – 60% of Book Profits = 60% of 1,48,000	= 88,800	3,58,000	
	(ii)	Actual Remuneration paid			
		lower of (i) & (ii), allowed as deduction		1,70,000	1,70,000
		Taxable Income			**2,78,000**

Taxable Income of the partners

Particulars	A	B	C	D
Remuneration	Nil	80,000	90,000	Nil
Interest	Nil	Nil	Nil	18,000
Taxable income	**Nil**	**80,000**	**90,000**	**18,000**

Working notes:

(1) In the case of a firm, remuneration to a partner who is not a working partner is not eligible for deduction. In the case of working partners the remuneration paid is disallowed if it exceeds the limit prescribed u/s 40(b) with reference to "book profit".

Book working partners remuneration is worked out as under:

	₹
First ₹ 3,00,000 of the book profit @ 90%	2,70,000
On the balance ₹ 1,98,000 of book profit @ 60%	1,18,800
Total	3,88,800

(2) Any interest and salary to partners disallowed in the firm's case shall not be included in the total income of the partner and shall not be chargeable to tax in the partner's hands.

(3) Share of profits of the partners is exempt u/s 10(2A) of the Income-tax Act and therefore, not included in the partner's taxable income.

Question No. 7(b)

D Ltd., carrying on business in manufacture, sale and export of tyres, tubes and accessories, has disclosed a net profit of ₹ 21,00,000 in its P & L account for the period ending March 31, 2012. On the basis of the following particulars furnished by the company and ascertained on inquiry, compute, giving reasons, its total income for the assessment year 2012-13. The company follows the mercantile system of accounting:

(a) A sum of ₹ 20,000 is debited to compensation account. The company had placed an order for machinery to manufacture tyres with a UK company. However, due to a sudden increase in the price of machinery by the vendor, the assessee, had to cancel the contract, in lieu of compensation The company claims the said amount as deduction on revenue account or, in the alternate, as loss under the head "Capital gains" as the payment was mode towards extinguishment of right to acquire a capital asset.

(b) "Loss on export of accessories account" shows a debit of ₹ 4 lakh. In this connection it is explained that two trucks belonging to the company carrying tyres accessories were intercepted at the international border and seized by customs authorities for illegal export. The goods were confiscated by the customs authorities and a fine of ₹ 2 lakh was levied. The company claims the value of confiscated goods as a trading loss under section 28 and the payment of the fine of ₹ 2 lakh which is debited to rates and taxes account as on expenditure in the course of business under section 37(1).

(c) The company had set up a separate unit for manufacture of plastic tubes at Bangalore in 1996. The said unit suffered heavy losses. As a result the same was closed down and the plant and machinery were sold away. The company, however, claims unabsorbed depreciation amounting to ₹ 8 lakh in its return of income. It is not debited to the profit and loss account.

(d) During the previous year 1996-97, the assessee-company acquired 5,000 shares of E Ltd., on Indian company, as a result, the entire share capital of the said company is now held by the assessee-company. In May 2011, the assessee-company sold to E Ltd. plant and machinery for ₹ 6,00,000. The actual cost is ascertained at ₹ 4,00,000 and written down value at ₹ 1,50,000.

(e) In the years 2001-2002 and 2002-03, the Government of India arranged exports of tyres and tubes through the Federation of Tyre Dealers of which the company was a member. The exports which were made to For Eastern countries resulted in loss which was shared by all members including the company. The Federation thereafter took up the questions of reimbursement of losses with the Government, which after protracted discussion and correspondence agreed to grant a subsidy calculated at a certain percentage of exports. The assessee-company received its share of subsidy amounting to ₹ 3 lakh in the previous year. The amount stands credited to the "Capital reserve account" and claimed as exempt.

Solution: **Computation of Total Income for A.Y. 2012-13**

	₹
Net profit as per Profit and Loss Account	21,00,000
Adjustments:	
(i) Payment of compensation [not allowable since payment is in the nature of capital expenditure, being made to avoid unnecessary investment in capital asset ; nor can it be allowed as capital loss as there is no transfer of capital asset]	(+) 20,000
(ii) Loss arising out of confiscation of stock by customs authorities [not deductible by virtue of Explanation to section 37(1)]	(+) 4,00,000
(iii) Fine [not allowable as penalty paid for breach of law is not normal incidence of business	(+) 2,00,000
(iv) Unabsorbed depreciation of a unit closed before the commencement of previous year [allowable as deduction]	(–) 8,00,000
(v) Recovery of loss [taxable under section 41 (1)]	(+) 3,00,000
(vi) Compensation paid on voluntary retirement of employees [under section 35DDA, one-fifth of such compensation is deductible in the year in which the expenditure is incurred and the balance is deductible in the next four years; section 35DDA is applicable even if the voluntary retirement scheme has not been framed in accordance with the guidelines given under section 10(10C);	(+) 22,40,000
Business Profit	**44,60,000**
Capital gain on sale of machinery to wholly owned subsidiary company [since transferee-company is wholly owned Indian subsidiary company of the assessee, the transaction is not treated as transfer under section 47(iv) and surplus arising on transfer is not taxable as capital gain]	—
Net Income	**44,60,000**

<u>Question No. 7(c)</u>

During the previous year 2011-12, profit and loss account of Shri Amarnath, proprietor of Free Bird Enterprises engaged in the business of dye-made garments, shows profits of ₹ 4,50,000. With the following information, compute his taxable income from business :

(a) Interest on capital ₹ 5,000

(b) Purchases include goods of ₹ 42,000 from his younger brother in cash. However, market value of such goods is ₹ 35,000.

(c) Interest paid outside India ₹ 1,00,000 without deducting tax at source.

(d) Penalty paid to local government for non-filing of sales tax return ₹ 5,000

(e) Penalty paid to customer for non-fulfilling of order within time ₹ 10,000

(f) Bad debts ₹ 1,00,000. Money has been advanced for purchase of Building.

(g) Revenue expenditure on promoting family planning among employees ₹ 10,000.

(h) Premium paid on health of employees ₹ 6,000 in cash

(i) Premium paid on health of his relatives ₹ 6,000 in cheque

(j) Employer's contribution to RPF ₹ 12,000. One-half of the amount is paid after due date as per relevant Act but before 31.3.2011

(k) Employees contribution to RPF ₹ 10,000. ½ of the amount is paid after due date as per relevant Act.

(l) Interest on late payment of sales tax ₹ 1,000 (yet to be paid)

(m) Interest on loan from State Bank of India ₹10,000 (₹ 5,000 is not paid till due date of filing of return)

(n) Interest on late refund from income tax department ₹ 500

(o) Sale includes sale to Raj ₹ 10,000. (Cost of such goods ₹ 8,000; Market value of such goods ₹ 12,000)

(p) He received ₹ 80,000 from a debtor at a time in cash.

(q) Recovery of bad debt ₹10,000 (out of which ₹ 8,000 was allowed as deduction during AY. 2007-08)

(r) Depreciation (being not debited in accounts) ₹ 20,000 allowed as deduction u/s 32

Solution:

Computation of Profits and Gains of business or profession of Shri Amarnath for the AY. 2012-13

Particulars	Note	Details	Amount
Net profit as per Profit and Loss account			4,50,000
Add : Expenditure disallowed but debited in P &L A/c			
Interest on capital	1	15,000	
Payment to relative in excess of market value of goods	2	7,000	
Interest paid outside India without deducting tax at source	3	1,00,000	
Penalty paid to local government for non-filling of sales tax return	4	5,000	
Bad debt	6	1,00,000	
Premium paid on health of employees in cash	8	6,000	
Premium paid on health of his relatives in cheque	9	6,000	
Employees contribution to RPF	11	5,000	
Interest on loan from State Bank of India	13	5,000	
Cost of goods sold to himself	14	8,000	2,43,000
			6,93,000
Less: Expenditure allowed but not debited in P & L A/c			
Depreciation u/s 32		20,000	
Less: Income not taxable but credited to P & L A/c			
Sales to himself (goods withdrawn for personal purpose)	14	10,000	
Recovery of bad debts	15	2,000	
Less: Income taxable under other head but credited to P & L A/c			
Interest on late refund from income tax department	16	500	32,500
Profits and Gains of business or profession			**6,60,500**

Notes:

(1) Interest on capital to proprietor is not allowed as no one can earn from a transaction with himself. The provider of loan and receiver of loan are same hence does not involves any actual expenses.

(2) Any unreasonable payment to relative is disallowed u/s 40A(2). Hence, ₹3,000 is disallowed. Since cash payment towards allowed expenditure (i.e. ₹19,000) does not exceed ₹ 20,000, hence provision of sec. 40A (3) is not applicable.

(3) Any salary paid outside India without deducting tax at source is disallowed u/s 40(a).

(4) Any payment made for infringement of law is disallowed.

(5) Payment made for non-fulfilling of contract is not a payment for infringement of law Hence, allowed u/s 37(1).

(6) Bad debt is allowed only when such debt has been taken into account as income of previous year or any earlier previous year(s) [Sec. 36(1)(vii)]. Since, the debt is in respect of purchase of a building, which was not considered as income of any previous year, hence it is disallowed.

(7) Any expenditure for promoting family planning is allowed to company assessee [Sec. 36(1)(ix)]. However, such expenditure (revenue in nature) incurred by assessee other than company shall be allowed u/s 37(1).

(8) Payment of insurance premium on health of employees in cheque is allowed u/s 36(1)(ib).

(9) Payment of insurance premium on health of relative is not related to business, hence disallowed.

(10) Employer's contribution towards RPF is allowed if payment is made before due date of filing of return irrespective of fact that such payment was made after due date prescribed in the relevant Act.

(11) Any sum received from employees as their contribution towards RPF is allowed only when such sum has been credited to such fund within the due date prescribed in the relevant Act [Sec. 36(1)(va)].

(12) Interest on late payment of sales tax is not a penalty but compensatory in nature. Hence, it is allowed u/s 37(1) Further such interest is not governed by the provisions of sec. 43B.

(13) Any interest payable to any scheduled bank is allowed on cash basis [Sec. 43B]. Hence, unpaid amount is disallowed.

(14) Any expenditure of personal nature is not allowed. Further, no one can earn from a transaction with himself. Hence, sale made to himself is not treated as income.

(15) Bad debt recovery is treated as income in the year of recovery to the extent of bad debt allowed in the earlier year [Sec. 41(4)]

(16) Interest on late refund of income tax is taxable under the head 'Income from other sources'.

(17) Receipt from debtor ₹ 80,000 in cash is not attracted by provision of sec. 40A (3).

Question No. 7(d)

Discuss the admissibility or otherwise of any five of the following claims in connection with assessment to income-tax. They do not necessarily relate to the same assessee:

(i) An expenditure of ₹ 1,00,000 was incurred on the occasion of the silver jubilee of the company for presentation of silver mementos to shareholders and directors, the value of each memento being ₹ 1,000 only.

(ii) An assessee carries on business in respect of which it holds tenancy rights. It carries out improvements to the said building at a cost of ₹ 2,00,000 and claims depreciation @ 10% thereon. The assessing officer rejects the claim on the ground that the assessee is not the owner of the building.

(iii) Excise duty amounting to ₹ 2,00,000 for the period 2010-11 was paid by the company by 30-9-2011 before furnishing the return of income for the assessment year 2011-12.

(iv) A criminal case was filed against a company under the Essential Commodities Act, 1955. The company incurred litigation expenses amounting to ₹ 50,000 to defend the directo₹ The directors were ultimately acquitted.

(v) A company was generating electricity privately for its factory. Later, at its expense, electric lines were laid from the trunk road to the factory. It paid ₹ 5,00,000 to the State Electricity Board as its contribution for this purpose. The ownership of the power-line was to vest with the State Electricity Board.

(vi) X and Y are two shareholders of Pooja Ltd., a closely held company. X holds 55% share capital on 30-1-2011, X transfers his shares to A. Pooja Ltd. wants to set off brought forward loss of ₹ 4,00,000 (business loss ₹ 1,00,000; unadjusted depreciation ₹ 3,00,000) of the previous year 2009-10 against the income of the previous year 2010-11 (i.e., ₹ 9,00,000). Can it do so?

Solution:

(i) As per the decision of the Apex Court in the case of *Aluminum Corporation of India Ltd.* v *CIT* (1972) 86 ITR 11 (SC) and various other decisions, where an expenditure is incurred for commercial expediency, the same shall be allowed as deduction under section 37(1). If at the time the expenditure is incurred, commercial expediency justifies it, it will be taken to be for the purpose of the business even though not supported by any prevailing practice.

Presentation of silver mementos to the directors and shareholders on the occasion of silver jubilee is to motivate both the directors and the shareholde₹ The expenditure has been incurred on account of commercial expediency and should qualify for deduction under section 37(1).

(ii) According to Explanation to section 32(1) where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work, in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of section 32 shall apply as if the said structure or work is a building owned by the assessee. Hence, depreciation in this case will be allowable.

(iii) As the excise duty has been paid or before the due date of furnishing return under section 139(1) in respect of the previous year in which the liability to pay such sum was incurred, the same shall be allowed as deduction on due basis as per section 43B.

(iv) Section 37(1) does not make any distinction between expenditure incurred in civil litigation and that incurred in criminal litigation. All that the court has to see is whether the legal expenses were incurred by the assessee in his character as a trader, in other words, whether the transaction in respect of which proceedings are taken arose out of and was incidental to assessee's business. Further, it is to be seen whether the expenditure was *bona fide* incurred wholly and exclusively for the purpose of the business. [CIT v Birla Cotton Spg. & Wvg. Mills Ltd. (1971) 82 ITR 166 (SC)]. In view of this, the litigation expenses of ₹ 50,000 incurred in detending directors is deductible under section 37(1).

(v) The new electric power lines were laid to run the factory efficiently but since the ownership of the power lines was to vest with the State Electricity Board, the contribution of ₹ 5,00,000 paid to the State Electricity Board shall be allowable as revenue expenditure under section 37(1).

(vi) According to section 79 the losses of a closely held company can be carried forward and set off in the subsequent assessment year only when at least 51% of the shares of the company carrying voting rights are held by the same persons as on the last day of the previous year in which the loss was incurred and the last day of the previous year in which the losses are set off. In this case business loss will not be allowed to be set off but unabsorbed depreciation is not a loss and shall be allowed to be set off.

Question No. 7(e)

Discuss the correctness or otherwise of the following propositions with reasons thereof:

(a) Where a person draws from his own stock-in-trade for personal use, there can be no taxable profit.

(b) Even an outlay for acquiring an enduring advantage for business may be deductible as revenue expenditure.

Solution:

(a) The Supreme Court in CIT v. Kikabhai Premchand (1953) 24 ITR 506 held that when a person draws from his own stock-in-trade for personal use, there can be no taxable profit as in this case the vendor and the vendee are not different. To constitute a sale these should be one buyer and seller. The buyer and seller has to be different entity to constitute a proper sale.

(b) Normally, an amount spent for acquiring an enduring advantage for business is of capital nature but there can be certain cases when the amount spent on acquiring an enduring advantage may be treated as revenue expenditure. The Supreme Court in *CIT* v. *Empire Jute Co. Ltd.* (1980) 124 ITR 1 held that when a jute mill as a result of an arrangement with other Jute mil had undertaken to work only for specified hours during a week but exceeded the same and paid for such excess period to other members of the pooling arrangement, such payment is known as purchasing loom hou₹ Though looms are capital assets, the payment was for their operations. By the purchase of loom hours no new asset was created and there was no addition to or expansion of the profit-making apparatus of the company. Hence, such payment is of revenue nature.

Question No. 8(a)

Mr. Tony has estates in Rubber, Tea and Coffee. He derives income from them. He has also a nursery wherein he grows plants and sells. For the previous year ending 31.3.2012, he furnishes the following particulars of his sources of income from estates and sale of Plants. You are requested to compute the taxable income for the Assessment year 2012-2013.

(a)	Manufacture of Rubber	₹ 5,00,000
(b)	Manufacture of Coffee grown and cured	₹ 3,50,000
(c)	Manufacture of Tea	₹ 7,00,000
(d)	Sale of Plants from Nursery	₹ 1,00,000

Solution:

Assessee : Mr. Tony **Previous Year : 2011-12** **Assessment Year : 2012-2013**

From the words 'Mr. Tony has estates', it is presumed that the had grown Tea, Coffee and Rubber, and also Plants in his Estates, and the amount given is the Profits of the Business.

Computation of Taxable Income

Particulars	Agricultural Income	Non-Agricultural Income
Growing and Manufacture of Rubber [Rule 7A]	5,00,000 × 65% = ₹ 3,25,000	5,00,000 × 35% = ₹ 1,75,000
Grown and Cured Coffee [Rule 7B]	3,50,000 × 75% = ₹ 2,62,500	3,50,000 × 25% = ₹ 87,500
Growing and Manufactured of Tea [Rule 8]	7,00,000 × 60% = ₹ 4,20,000	7,00,000 × 40% = ₹ 2,80,000
Growing & Sale of Plant by Nursery [See Note]	₹ 1,00,000	—
Total	₹ 11,07,500	₹ 5,42,500
	Taxable Income	Exempt u/s 10(1)

Question No. 8(b)

Romit acquired a plot of land on 1.6.75 for ₹ 5,00,000. He converts the plot into stock in trade of his real estate dealing business on 18.2.2007 when the fair market value of the plot was ₹ 39,00,000. The stock-in-trade is sold by him on 18.5.2011 for ₹ 40,00,000 (FMV as on 1.4.81 was ₹ 7,00,000 and FMV as on 1.4.76 ₹4,50,00).

Solution: The conversion of capital asset into stock-in-trade is treated as a transfer as per sec. 2(47). Capital asset was converted into stock-in-trade on 18.2.2007 i.e. previous year 2006-07.

Computation of Capital Gains

		₹
Consideration for Transfer (FMV)		39,00,000
Less :	Indexed Cost of Acquisition [7,00,000 x 519/100]	36,33,000
	Long term Capital Gains	2,67,000

Computation of Business Income

	Sale Proceeds of HP	40,00,000
Less :	FMV on the date of conversion	39,00,000
		1,00,000

Question No. 8(c)

Mr. B acquired a house property for ₹ 50,000 in 1969-70. On his death in October 1985 the house was acquired by his son C. The market value of the house as on 1/4/81 was ₹ 3,50,000. This house was acquired by the Government on 15.3.2008 and a compensation of ₹ 16 lacs is paid to him on 25.3.2011. C filed a suit against the Government challenging the quantum of compensation and the court ordered for giving additional compensation of ₹ 24,00,000. He incurred an expenditure of ₹ 60,000 as an expenditure in connection with the suit. The additional compensation was received on 25.3.2012. Compute capital gains chargeable to tax.

Solution:

Capital Gain on initial compensation shall be chargeable in the A.Y. 2011-12.

Computation of Long Term Capital Gains for the A.Y. 2011-12

		₹
Consideration for transfer (being the compensation)		16,00,000
Less :	Indexed Cost of Acquisition [3,50,000 x 711/133]	18,71,053
	Long Term Capital Loss	**2,71,053**

Note: This loss shall be carried forward for adjustment only against Long Term Capital Gains arising within the next 4 assessment yea₹

Computation of Long Term Capital Gains for the A.Y. 2012-13

		₹
Enhanced Compensation received		24,00,000
Less :	Cost of Acquisition	NIL
	Cost of Improvement	NIL
	Expenses on Transfer	(60,000)
	Long Term Capital Gains	23,40,000
Less :	Long Term Capital loss – Set off from the A.Y. 2011-12	(2,71,053)
	Balance of LTCG	20,68,947

Question No. 8(d)

A holds 15,000 shares (10% of total share holding) in B Ltd. which he had purchased on 10.2.96 for ₹ 7,00,000. The company went into liquidation on 16.7.2011 and paid a sum of ₹ 23 per share in cash and an asset whose market value as on the date of distribution i.e. 5.10.11 was ₹ 18,20,000 to A. the accumulated profits of the company were ₹ 15 lacs.

(a) Compute the income of A for the A.Y. 2012-13 assuming that he has no other income.

(b) Compute the capital gain chargeable to tax if the asset of B Ltd. is sold by A for ₹ 25 lacs on 28.3.12.

Solution:

Computation of Capital Gains of Mr. B for the A.Y. 2012-13

	₹
(a) (i) Capital Gain on transfer of shares	
Total consideration (15,000×23+ 18,20,000)	21,65,000
Less: Proportionate amount of deemed dividend	
(10% of ₹ 12,86,353)	1,28,635

Less: Indexed Cost of Acquisition [₹7,00,000 x 785/281]	19,55,516
Long Term Capital Gains	80,849
(ii) Income from others Sources	
Dividend from Indian Company	Exempted
	80,849
(b) Capital Gain on transfer of asset (B Ltd.)	
Full Value of Consideration	25,00,000
Less: Cost of Acquisition (being the market value as on the date of distributions)	18,20,000
Short Term Capital Gains	**6,80,000**
Accumulated Profits	15,00,000

Dividend tax @ 16.60875% (= 15% + 7.5% + 2% Education Cess + 1% SHEC)

Hence, the amount to be distributed plus tax @ 16.60875% on such amount should be ₹ 15,00,000

- Amount of tax = ₹ 2,13,647
- Profits available for distribution = ₹ (15,00,000 – 2,13,647) = ₹ 12,86,353.

Question No. 8 (e)

(a) P commenced a business on 10.5.92. The said business is sold by P on 25.8.11 and he received ₹ 12 lacs towards goodwill.

(b) What will be your answer in the above case, if P had acquired the goodwill for this business for a consideration of ₹ 3,00,000.

Solution :

Computation of Long Term Capital Gains for the A.Y. 2012-13

	₹
(a) Consideration for transfer	12,00,000
Less: Indexed Cost of Acquisition (Self-Generated)	NIL
Long term Capital Gains	**12,00,000**
(b) Consideration for transfer	12,00,000
Less: Indexed Cost of Acquisition = [₹ 3,00,000 x 785/223]	10,56,054
Long term Capital Gains	**1,43,946**

Question No. 9(a)

R has been living in a rented accommodation since August 1983, and he is paying a rent of ₹ 4000 per month. The landlord got the house vacated from R on 16.7.2011 and paid a sum of ₹ 5 lacs for vacating the house.

Compute Capital Gains, if any, in the hands of R.

Solution:

Computation of Long Term Capital Gains for the A.Y. 2012-13

	₹
Consideration for transfer	15,00,000
Less : Indexed Cost of Acquisition (Self-Generated asset)	NIL
Long term Capital Gains	15,00,000

Question No. 9(b)

Rohit purchased a house in Delhi in December 2003 for ₹ 2,50,000. In March 2011, he entered into an agreement to sell the property to Z for a consideration of ₹ 5,00,000 and received an earnest money of ₹ 50,000. As per the terms of agreement, the balance payment was to be made within 30 days of the agreement. If the intending purchaser does not make the payment within 30 days, the earnest money would be forfeited. As Z could not make the payment within the stipulated time the amount of ₹ 50,000 was forfeited by Rohit. Subsequently, on 16.6.11, Rohit sold the house to Mohit for ₹ 9,00,000. He paid 2% brokerage on sale of the house. Compute capital gains chargeable to tax for the assessment year 2012-13.

Solution:

Computation of Capital Gains for the A.Y. 2012-13

		₹
Consideration for transfer		9,00,000
Less : Expenses on transfer (Brokerage @ 2% on 6,00,000)		18,000
Net Consideration		8,82,000
Less : Indexed Cost of Acquisition		
Cost of Acquisition	2,50,000	
Less : Amount received and forfeited (u/s 51 to be adjusted against cost)	50,000	
Net Cost of Acquisition	2,00,000	
Indexed Net cost of Acquisition [₹ 2,00,000 x 785/463]		3,39,093
Long Term Capital Gains		**5,42,907**

Question No. 9(c)

Ravi owns a residential house which was purchased by him in 1975 for ₹ 2,40,000. The FMV as on 1.4.81 was ₹ 2,00,000. This house is sold by him on 16.7.2011 for a consideration of ₹ 25,00,000. The brokerage and expenses on transfer was ₹ 55,000. Compute capital gains for the assessment year 2012-13.

If he invests ₹ 6,00,000 for purchase of a new house on 15.3.2012.

If the HP so purchased in 15.3.2012 is again sold in 21.10.12 for ₹ 12 lacs, what will be the tax liability?

Solution:

Computation of Capital Gains for the A.Y. 2012-13

	₹
Consideration for transfer	25,00,000
Less: Expenses on transfer	55,000
Net Consideration	24,45,000
Less: Indexed Cost of Acquisition [₹2,40,000 x 785/100]	18,84,000
[Since FMV as on 1.4.1981 was less than the original cost, the original cost is considered for indexation purpose]	
Long term Capital Gains	5,61,000
Less: Exemption u/s 54	
Cost of New HP Purchased ₹ 6,00,000 (exemption restricted upto the balance of LTCG)	5,61,000
Taxable Long term Capital Gains	**NIL**

If the HP purchased in 15.3.2012 is again sold on 21.10.12 for ₹ 12 lacs, there share a rise short term capital gains. The cost of acquisition shall be adjusted to the extent of long term capital gains exemption already availed.

Computation of Capital Gains for the A.Y. 2013-14

		₹
Consideration for transfer		12,00,000
Less: Cost of Acquisition		
Cost of purchase	6,00,000	
Less: Exemption u/s 54 availed during A.Y. 2012-13 now withdrawn	5,61,000	39,000
Short term Capital Gains		**11,61,000**

Question No. 9 (d)

Saptarshi acquired shares of G Ltd. on 15.12.98 for ₹ 5 lacs which were sold on 14.6.11 for ₹ 19 lacs. Expenses on transfer of shares ₹ 40,000. He invests ₹ 8 lacs in the bonds of Rural Electrification. Corporation Ltd. on 16.10.2011.

(a) Compute capital gain for the assessment year 2012-13.

(b) State the period for which the bonds should be held by the assessee. What will be the consequences if such bonds are sold within the specified period?

(c) What will be the consequences if Saptarshi takes a loan against the security of such bonds.

Solution:

Computation of Capital Gains for the A.Y. 2012-13

	₹
Consideration for transfer	19,00,000
Less : Expenses on Transfer	40,000
Net Consideration	18,60,000
Less : Indexed Cost of Acquisition [5,00,000 x 785/351]	11,18,234
Long-term Capital Gains	7,41,766
Less : Exemption u/s 54EC	7,41,766
Taxable long-term Capital Gain	**NIL**

(b) Saptarshi should not transfer or convert (otherwise than transfer) into money such bonds within 3 years from the date of their acquisition.

If these bonds are transferred or converted into money within 3 years, capital gain exempted earlier shall attract taxability towards long-term capital gain of the previous year in which such asset is transferred or converted into money.

(c) If any loan is taken against security of such bonds, it shall be taxable as long-term capital gains of the previous year in which such loan is taken against the security of such bonds.

Question No. 9 (e)

Mr. N is employed at a gross salary of ₹ 8,00,000. He gets ₹ 15,000 interest on bank deposit. He has made the following investment/deposit during the year 2010-2012:

	₹
1. Life insurance premium:	
(i) Own life, insured for ₹ 80,000	15,000

	(ii) Brother's life, dependent on him	5,000
	(iii) Major son, not dependent on him	4,000
2.	Contribution to unrecognised provident fund	60,000
3.	Contribution to public provident fund	20,000
4.	Contribution to ULIP	5,000
5.	Repayment of loan to SB1 to purchase a residential house: 50% repayment is towards interest.	1,20,000
6.	Infrastructure bonds of an Indian public company under Sec. 80C(2)(xix)	10,000
	He has paid education fees for his 3 children:	
	A	12,000
	B	9,000
	C	6,000

Besides, interest of ₹ 1,632 on NSC-VIII, (purchased during the year 2008-2009) has been credited on them during the year 2011-2012.

Compute deduction u/s 80C for the assessment year 2012-2013.

Solution: **Computation of Deduction u/s 80C of Mr. N for the assessment year 2012-2013**

Particulars	₹	₹
Deduction in respect of contribution to approved savings (Sec. 80C) :		
1. Life insurance premium;		
(i) Own life-	15,000	
(ii) Brother's life	—	
(iii) Major son	4,000	
2. Contribution to unrecognised provident fund	—	
3. Contribution to ULIP	5,000	
4. Contribution to public provident fund	20,000	
5. Repayment of housing loan to SBI	60,000	
6. Infrastructure bonds of Indian public company [Sec. 80C(xix)]	10,000	
7. Accrued interest on NSC- VIII issue	1,632	
8. Education fees for two children:		
A	12,000	
B	9,000	
	1,33,632	
Deduction restricted upto ₹ 1,00,000		**1,00,000**

Question No.10 (a)

Mr Jamal, a resident assessee, runs a manufacturing business in Delhi. For the previous year 2011-2012, he disclosed his taxable income as below:

	₹
Business profits	2,55,000
Long-term capital gains	25,000
Short-term capital gain	15,000

He has hired furnished accommodation for his own use and pays ₹ 4,000 p.m. He has paid donation amounting to ₹10,000 to National Defence Fund. He has deposited ₹ 50,000 under a scheme framed by the Life Insurance Corporation for maintenance of his dependant brother with a disability. The disability is certified by the medical authority. Compute his total income for the assessment year 2012-2013.

Solution: **Computation of Total Income of Mr. Jamal — Assessment Year 2012-2013**

Particulars	₹	₹
Income from business (computed)		2,55,000
Long-term capital gain (computed)		25,000
Short-term capital gain (computed)		15,000
Gross Total Income		**2,95,000**
Deductions from gross total income:		
(i) Deposit for maintenance of a dependent with disability [Sec. 80DD]:	50,000	
(ii) Charitable donations to National Defence Fund [Sec. 80G]:	10,000	
Amount of Deduction @ 100% of ₹ 10,000		
	60,000	
(iii) Expenditure incurred on rent [Sec. 80GG] [W.N.1]	17,000	77,000
Total Income		**2,18,000**

Workings Note 1:

Particulars	₹	₹
Expenditure incurred on rent [Sec. 80GG]:		
• [Rent paid -10% of ATI], i.e. 48,000 -21,000 = 17,000, or		
• 25% of AGTI, i.e. 25% of 2,10,000 = 52,500, or		
• ₹ 2,000 p.m. = ₹ 24,000		
whichever is less, is to be deducted, i.e. ₹ 17,000		
Adjusted Total Income for Sec. 80GG:		
Gross total income		
Less: Aggregate of		2,95,000
(i) All permissible deduction from GTI except for deduction for u/s 80GG	60,000	
(ii) Any long-term capital gain	25,000	85,000
Adjusted Gross Total Income [AGTI] for Sec. 80GG		**2,10,000**

Question No.10 (b)

M, resident in India, furnishes the following particulars of his receipts and outgoings during the previous year 2011-2012.

		₹
Receipts:		
(i)	Income from salary	2,00,000
(ii)	Income from house property	3,00,000
(iii)	Gross winning from crossword puzzle	3,00,000
Outgoing :		
(i)	Contribution to LIC annuity plan	15,000
(ii)	Medical insurance premium:	
(a)	For himself	4,000
(b)	His wife, not dependent	3,000
(c)	Mother, non-resident, 67 years, dependent	5,000

(d)	Nephew, wholly dependent with disability	3,000
(e)	Grandson, dependent	2,000
(iii)	Expenditure on medical treatment and maintenance of the nephew referred to	30,000
(iv)	Medical treatment for grandson, suffering from a disease specified under income-tax rules(v)	50,000
(v)	Donation to Gujarat government for family planning	50,000
(vi)	Scholarship to a poor but meritorious student	20,000
(vii)	Contribution to approved scientific research association	30,000
(viii)	Contribution to Delhi Municipal Corporation for sewage scheme for slum-dwellers, approved by National Committee	50,000
(ix)	Donation to Political party paid during November 2011	20,000

Compute his total income for the assessment year 2012-2013. Make necessary assumptions and clarify them.

Solution: **Computation of Total Income for AY 2012-2013**

Particulars		₹	₹
Income from salary			2,00,000
Income from house property			3,00,000
Gross winnings from crossword puzzle			3,00,000
Gross Total Income			8,00,000
Less: Deductions under Chapter VIA :			
Contribution to LIC annuity plan [Sec. 80CCC]		10,000	
Medical insurance premium [Sec, 80D]			
Self	4,000		
His wife	3,000		
Mother, 67 years old	5,000		
Nephew dependent with disability	x		
Grand son	x	12,000	
Maintenance and medical treatment of a dependent with disability [Sec. 80DD]			
Expenditure for medical treatment of grandson [Sec. 80DDB]		Nil	
Donations for scientific research or rural development [Sec. 80-GGA]			
(a) Donation to approved scientific research association		30,000	
(b) Contribution to MCD for slum-dwellers scheme, approved by National Committee		50,000	
Donations to political party [Sec. 80GGC w.e.f. 22.9.2004]		20,000	
Charitable donations [Sec. 80G]			
(a) Scholarship to a poor meritorious student		xxx	
(b) Gujarat government for family planning: 100% of qualifying amount			
1. Actual donation = 50,000, or			
2. 10% of specified GT1 = 37,800			
8,00,000 – (3,00,000 + 10,000 + 12,000 + 30,000 + 50,000 + 20,000) = ₹3,78,000			
whichever is less, is QA 37,800= 100% of 37,800		37,800	1,59,800
Total Income			**6,40,200**

Question No.10 (c)

SK Industries, a diversified group, discloses profit from the following sources for the previous year 2011-2012:

		(₹ in lakhs)
(i)	Profits from small-scale unit, started in 2002-2003	6.00
(ii)	Profit from industrial undertaking 2003-2004, in Vidisha, a B-class industrially backward district.	10.00
(iii)	Profit from multiplex theatre, started in 2007-2008	
	(a) Delhi	4.00
	(b) Allahabad	2.00
(iv)	Profits from convention centre, started in 2009-2010	
	(a) Delhi	5.00
	(b) Allahabad	3.00
(v)	Profits from Hill View, a hotel started in 2003-2004 at Manali in Himachal Pradesh. Hotel is approved by prescribed authority	10.00
(vi)	Profits from undertakings engaged in refining of mineral oil since 1 January 2005 in Uttar Pradesh, not listed in backward state in Eighth Schedule.	10.00

Compute the total income for the assessment year 2012-2013.

Solution: **Computation of Total Income**

Particulars	(₹ lakhs)	(₹ lakhs)
(i) Profits from SSI		6.00
(ii) Profits from undertaking located in industrially backward B-class district		10.00
(iii) Profits from multiplex theatre: (4 + 2) =		6.00
(iv) Profits from convention centre: (5+3) =		3.00
(v) Profits from Hill View Hotel		10.00
(vi) Profits from refining undertaking		10.00
Gross Total Income		**50.00**
Less: Deduction in respect of profits and gains from certain industrial undertaking, other than infrastructure undertakings (Sec. 80-IB) :		
1. Profits from SSI [Sec. 80-IB (3)] : 25% of ₹ 6 Lakh :	1.50	
2. Profits from undertaking in B-class industrially backward district [Sec. 80-IB (4)] 25% of ₹ 10 lakh	2.50	
3. Profits from multiplex theatre [Sec. 80-IB(7A) 50% of ₹ 2 lakh (No deduction for Delhi)	1.00	
4. Profits from convention centre [Sec. 80-IB(7B)] 50% of ₹ 8 lakh	4.00	
5. Profits from Hill View Hotel [Sec. 80-IB(7)] Allowed only for Indian company	Nil	
6. Profits from refining undertaking [Sec. 80-IB(9)]-100% of profits for 7 assessment years	10.00	19.00
Total Income		**31.00**

Question No.10 (d)

Mekon Ltd., an Indian company, starts an industrial undertaking on 1 April 2011. During the previous year, it earns profits of ₹ 80 lakh before allowing any deduction for wages. Compute its total income for the previous year 2011-2012 taking into account the following employment schedules of workers:

Date of employment	Number of workers	Status of workers	Rate of wages
1-5-2011	90	Casual	300 p.m.
1-6-2011	20	Reuglar	4000 p.m.
1-7-2011	10	Regular	4000 p.m.

Solution: **Computation of Total Income for the AY 2012-2013**

Particulars	₹	₹
Profits before allowing deduction for wages		80,00,000
Less: Wages paid to workers [Sec. 37(1)] :		
(i) 90 × ₹ 3000 × 11	29,70,000	
(ii) 20 × ₹ 4000 × 10	8,00,000	
(iii) 10 × ₹4000 × 9	3,60,000	(-) 41,30,000
Business Profits and Gross Total Income		38,70,000
Less: Deduction in respect of employment of new workmen [Sec. 80 JJAA] 30% (₹ .4000 x 10 x 10)		(-) 1,20,000
Total Income		**37,50,000**

Question No.10 (e)

Mr. R has developed an improved economical model of a motor cycle and got it patented on 31-3-2011 under the Patent Act, 1970. He allowed Z Ltd. to use his patent rights and licenses has been granted to it under the Patent Act, 1970. He has received royalty of ₹ 8,00,000 during the previous year 2011-2012. However, the royalty in accordance with the terms and conditions of the license settled by the Controllers under the said Act is ₹ 2,80,000. He has incurred ₹ 1,00,000 expenses in developing his invention and getting it patented.

Compute his total income for the assessment year 2012-2013 (i) if he is resident in India, (ii) non-resident India.

Solution: **Computation of Total Income for the Assessment Year 2012-2013**

Particulars	(i) ₹	(ii) ₹
Income from other sources	8,00,000	8,00,000
Less : Expenses	60,000	60,000
Gross Total Income (GTI)	**7,40,000**	**7,40,000**
Less : Deduction for respect of royalty on patent (Sec. 80-RRB)		
Least of the followings:		
(a) Income from royalty 5,00,000; or		
(b) Royalty under the terms of license settled by the Controller 2,80,000;		
(c) Maximum limit ₹ 3,00,000		
Whichever is less, is to be deducted	2,80,000	xxx
Total Income	**2,20,000**	**7,00,000**

Question No.11 (a)

Mr. J is suffering with 60% locomotor disability which is certified by medical authority. He is employed as Technical Supervisor with Air Tel at a salary of ₹ 20,000 p.m.

	Particulars	₹
(i)	Income from government securities	20,000
(ii)	Long-term capital loss	(-) 40,000
(iii)	Short-term capital gain (Sec. 111A)	1,00,000
(iv)	Insurance commission (gross)	1,00,000
(v)	Interest on Saving Fund a/c from bank	10,000

He has incurred the following expenses:

(i)	Medical insurance paid by cheque for his father, resident in India and 70 years	18,000
(ii)	Deposit with LIC for maintenance of father, mainly dependant on him for support and maintenance and suffering from low-vision with a severe disability of 80%, as per certificate of the medical authority	
(iii)	Rent paid for the year 2011-2012 for accommodation hired by him.	40,000

Compute his total income for the assessment year 2012-2013.

Solution: **Computation of Total Income for the Assessment Year 2012-2013**

Particulars	₹	₹
1. Income from salaries		2,40,000
2. Income from capital gains :		
(a) Short-term capital gains (Sec. 111A)		
(b) Long-term capital loss to be carried forward		1,00,000
3. Income from others sources :		Nil
(a) Interest government securities	20,000	
(b) Interest on savings fund a/c with Bank	10,000	
(c) Insurance commission	1,00,000	1,30,000
Gross Total Income		**4,70,000**
Less : Deductions under Chapter VIA:		
Medical insurance (Sec. 80D)	18,000	
Deduction in respect of maintenance including medical treatment of a department, a person with severe disability (Sec. 80DD)	1,00,000	
Deduction in case of a person with disability (Sec. 80U) :	50,000	
Deduction u/s 80GG :(Least of the followings)		
(a) (i) Rent paid less 10% of Adjusted Gross Total Income 40,000-23,300 = 16,700,		
(b) (ii) 25% of 2,33,000 Adjusted Gross Total Income=58,250,		
(iii) 2,000 p.m. × 12 = 24,000	16,700	1,84,700
Whichever is less, is or be deducted		
Total Income		**2,85,300**

Question No.11 (b)

Mr. Krishna is a lawyer of Allahabad High Court. He keeps his accounts on cash basis. His Receipts and Payments A/c for the year ending 31-03-2012 is given below :

Dr. **Cr.**

Receipts	₹	Payments	₹
Balance b/d	3,820	Purchase of Infrastructure Bonds	20,000
Legal fees	3,45,000	Subscription and membership	4,500
Special commission fees	5,500	Purchase of legal books	17,500
Salary from Law College		Rent	47,500
as part time lecture	87,000	Municipal Tax paid on H. P.	3,000
Exam. Remuneration	1,480	Car expenses	44,000
Interest on Bank Deposit	3,500	Office expenses	38,500
Sale proceeds of residential		Electricity Expense	4,000
property	3,01,000	Income tax	8,000
Dividend from Co-operative		Gift to daughter	12,000
society	1,000	Domestic expenses	85,000
Dividend received from		Donation to Institutions	
units of UTI	2,000	approved u/s 80G	12,000
Rent from house property	15,000	Car purchased	3,27,000
		Life Insurance premium	16,000
		Balance c/d	1,26,300
	7,65,300		**7,65,300**

Following information are available:

1. The Rent and electric expenses are related to a house, of which half portion in used for self residence and remaining half portion in used for office.
2. Car is used only for professional purposes.
3. Outstanding legal fees ₹ 10,000.
4. Rent has been paid for 10 months only.
5. Car was purchase on 25-09-2011. Law books purchased are annual publications out of which books of ₹ 2,000 were purchased on 6-4-2011 and balance on 31-10-2011.
6. The house was purchased in January 1987 for ₹ 50,000 and sold on 1-7-2011.
7. Rent of the property which has been sold was ₹ 5,000 p.m. The property was vacated by the tenant on 30-6-2011.

Compute his Total Income for the assessment year 2012-13.

Solution:

Computation of Total Income of Mr. Sen for the assessment year 2012-13

	Particulars	₹	₹
1.	Income from salary		
	Salary as a part time lecturer	87,000	
	Less: Deduction	Nil	87,000
2.	Income from House Property		
	Annual Rent	60,000	
	Less: Vacancy Allowance	45,000	
	Gross Annual Value (GAV)	15,000	
	Less: M/ Tax paid	3,000	

	Net Annual Value (NAV)		12,000	
	Less: Standard deduction @ 30% of NAV		3,600	8,400
3.	Income from Profession			
	Professional Earnings:			
	(i) Legal fees		3,45,000	
	(ii) Special commission		5,500	
			3,50,500	
	Less: Allowable expenses			
	(i) Subscription etc.	4,500		
	(ii) 1/2 Rent (Office)	23,750		
	(iii) Car expenses	44,000		
	(iv) 1/2 electric charges	7,000		
	(v) Office expenses	38,500		
	(vi) Depreciation on car @ 15% on 3,27,000	49,050		
	(vii) Depreciation on books			
	[@ 100% on Annual Publication of ₹ 2,000 = 2,000			
	@ 50% on Others of 15,500 = 7,750	9,750	1,76,550	1,73,950
4.	Capital gains:			
	Sale consideration		3,01,000	
	Less: Indexed cost of acquisition 50,000 ×		2,80,357	20,643
5.	Income from Other Sources :			
	Interest on bank deposit		3,500	
	Examiner's fees		1,480	
	Dividend from Co-operative Society		1,000	
	Dividend from UTI		Exempt	5,980
	Gross Total Income			2,95,973
	Less : Deductions			
	(i) 80C - LIP		16,000	
	(ii) 80G - Donation @ 50% of ₹ 12,000		6,000	
	(iii) 80CCF - Purchase of Infrastructure Bonds		20,000	42,000
	Total Income			2,53,973
	Total Income (rounded off u/s 288A)			**2,53,970**

Notes:

1. As the assessee follows the cash system of accounting, amount actually received and payment actually made on account of expenditure, during the year, shall be considered for computing the income. Therefore, any outstanding receipts will not be included in the Total Income. Similarly rent not paid for two months will not be allowed as deduction.

2. The system of accounting does not affect the computation of income from salary, house property and capital gains. Therefore, in this case, rent for three months, though not received (as it has not been shown in the Receipt and Payment Account) shall be taken into account in computing the income under the head house property.

3. Car was purchased and put to use for more than 180 days. Therefore, full depreciation @15% has been claimed.

4. Law books worth ₹ 2,000 were purchased and put to use for more than 180 days and are. therefore, eligible for depreciation @100%. The balance books worth ₹ 15,500 were purchased on 31-10-2011; therefore, 50% of the normal depreciation will be allowed as the books were purchased and put to use for less than 180 days. The total depreciation shall, therefore, be ₹ 2,000 + 50% of ₹15,500 = ₹ 9,750.

Question No.11 (c)

From the following details compute the total income of Mr. X, a resident of Delhi, for the AY 2012-13.

	Particulars	₹
(a)	Salary including Dearness Allowance	6,30,000
(b)	Bonus	57,600
(c)	Contribution to a Recognised Provident Fund	36,000
(d)	Life Insurance Premium	57,000
(e)	Rent paid by the Employer for flat provided to Mr. X	90,000
(f)	Cost of Furniture provided by the employer at the aforesaid flat	80,000
(g)	Rent recovered from Mr. X by employer	36,000
(h)	Bills paid by the employer for gas, electricity and water provided free of cost at the above flat	18,000
(i)	Mr. X was provided with Company's car (self-driven) also for personal use, not possible to determine expenditure on personal use and all expenses were borne by the employer.	

Mr. X owns a house. The particulars are :	₹
Rent received (12 months)	72,000
Municipal valuation	48,000
Municipal taxes paid	12,000
Ground rent	2,000
Insurance charges	1,000
Collection charges	3,400
Interest on borrowing used for construction of house (constructed in June 2004)	48,000
Other Information :	
Dividend received from UTI India	14,000
Deposits under National Saving Certificate	20,000

Solution:

Assessee: Mr. X **Previous Year: 2011-12** **Assessment Year: 2012-13**

Computation of Total Income

Particulars	₹	₹
Income under the head Salary		
Salary including Dearness Allowance		6,30,000
Bonus		57,600
Gross Salary before including value of perquisites		6,87,600
Value of Concessional Furnished Accommodation [Rule 3(1)]		
Least of Rent Paid by employer		
[₹ 90,000 or 15% of Salary ₹ 6,87,600]		62,000
10% of Furniture Value		
[₹ 80,000 × 10%]	8,000	
Less : Rent recovered from Mr. X	(36,000)	
Gas, Electricity and Water provided by the employer		18,000
Motor Car provided to the employee for use (assumed		
capacity upto 1.6 liitres)		32,400
([₹ 1,800 p.m. + ₹ 900 p.m. for chauffeur]		
× 12 Months) as per Rule 3		
Gross Income from Salary		**8,00,000**

Income from House Property:		
Gross Annual Value u/s 23(1) Higher of Municipal Value ₹ 48,000		
or Rent Received ₹ 72,000	72,000	
Less : Municipal Taxes paid	(12,000)	
Net Annual Value	60,000	
Less : Deduction		
Standard deduction @ 30% of Net Annual Value u/s 24(a)	(18,000)	
Interest on borrowed capital u/s 24(b)	(48,000)	(6,000)
Income from Other Sources:		
Income from UTI	14,000	
Exemption u/s 10(35)	(14,000)	Nil
GROSS TOTAL INCOME		**7,94,000**
Less : Deduction under Chapter VIA - Section 80C		
- Contribution to RPF	36,000	
- LIC Premium	57,000	
- Deposits in NSC	20,000	
	1,13,000	
Deduction u/s 80C restricted to ₹1,00,000 [sec. 80CCE]		(1,00,000)
TOTAL INCOME (Rounded Off u/s 288A)		**6,94,000**

Question No.11 (d)

Mr. X, Finance Manager of K Ltd. Mumbai, furnishes the following particulars for the previous year 2011-2012.

		₹
(a)	Gross Salary (per month) [Tax deducted from Salary ₹ 1,09,000]	64,000
(b)	Valuation of medical facility in a hospital maintained by the Company	7,000
(c)	Rent Free Accommodation owned by the Company	
(d)	Housing Loan of ₹ 6,00,000 at the interest rate of 5% p.a. (no repayment made during the year, to be repaid within 10 years)	
(e)	Gift made by the Company on the occassion of wedding anniversary of X	4,750
(f)	A wooden table and 4 Chairs were provided to X at his residence (Dining Table). This was purchased on 1.5.2008 for ₹ 60,000 and sold to X on 1.8.2011 for ₹ 30,000	
(g)	Personal purchases through Credit Card provided by the Company amounting to ₹ 20,000 was paid by the Company. No part of the amount was recovered from X.	
(h)	A Maruti Esteem Car which was purchased by the Company on 16.7.2007 for ₹ 5,50,000 was sold to the assessee on 14.8.2011 for ₹ 1,30,000.	
(i)	Other income received by the assessee during the previous year 2011-2012 are :	₹
	Interest on Fixed Deposits with a Company	5,000
	Income from specified mutual fund	3,000
	Interest on bank deposits of a minor married daughter	3,000
	Income from UTI received by his handicapped minor son	1,200
(j)	Contribution to LIC towards Premium u/s 80CCC	10,000

(k)	Deposit in PPF Account made during the year 2011-2012	75,000
(l)	Bonds of ICICI (Tax Savings) eligible for tax deduction	25,000

Compute the Taxable Income of Mr. X and the tax liability for the Asst. Year 2012-2013.

Solution:

Assessee: Mr. X **Previous Year: 2011-12** **Assessment Year : 2012-13**

Computation of Total Income

	Particulars		₹	₹
	Income from Salaries :			
	Basic Salary (₹ 64,000 × 12)			7,68,000
	Add : Value of Perquisites :			
1.	Value of Medical Facility in hospital maintained by K Ltd.			
	— Treatment in hospital maintained by Employer — Fully Exempt			Nil
2.	Rent Free Accommodation owned by Company — Explanation 1 to Sec. 17(2)			1,15,200
	15% of salary = 15% of ₹ 7,68,000 (Population > 25 Lakhs)			
3.	Housing Loans at concessional rate – Rule 3(7)(i)			
	= ₹ 6,00,000 × (10% – 5%)			30,000
4.	Use of Furniture & Fittings upto 1.8.2011 - Rule 3(1)(vii)			
	= 10% × ₹ 60,000 × 4/12			2,000
5.	Transfer of Assets - Rule 3(7)(viii)			
	— Dining Table as per WN 1 (a)		12,000	
	Motor Car as per WN 1 (b)		95,280	1,07,280
6.	Gifts made by the Company on the occasion			
	of the Wedding Anniversary			Nil
7.	Credit Card Purchases taxable as perquisite u/s 17(2)			20,000
	Gross Income from Salary			**10,42,480**
	Less : Deduction u/s 16			Nil
	Net Income from Salaries			**10,42,480**
	Income from Other Sources :			
	Interest on Fixed Deposits with a Company		5,000	
	Income from specified mutual fund	3,000		
	Less : Exempt u/s 10(35)	(3,000)		
	Interest on Bank Deposits of minor married daughter	3,000		
	Less : Exempt u/s 10(32)	(1,500)	1,500	
	Income received by handicapped minor son - not clubbed u/s 64(lA)		Nil	6,500
	GROSS TOTAL INCOME			**10,48,980**
	Less : Deduction under Chapter VI-A			
	U/s 80CCC – Contribution towards Pension Fund			10,000
	U/s 80C – Contribution towards PPF			75,000
	U/s 80CCF – Bonds of ICICI (Long term infrastructure bonds)			25,000
	TOTAL INCOME			**9,38,980**
	TAX PAYABLE			1,33,694
	Add : Education Cess @ 2%			2,674
	Add : Secondary and Higher Education Cess @ 1%			1,337
	Gross Tax Payable			**1,37,705**
	Less : Tax Deducted at source			1,09,000
	Net Tax Liability			**28,705**

Working Notes:

1. Valuation of Perquisites on transfer of Movable Assets :

(a) Transfer of Assets: Dining Table

	(₹)
Purchase Price	60,000
Less: Depreciation till date of Sale (₹ 60,000 × 3 × 10%)	(18,000)
WDV as at date of transfer	42,000
Less: Deduction for collection from Employee	(30,000)
Value of Perquisite	**12,000**

(b) Motor Car

	₹
Cost of Purchase (16.7.2007)	5,50,000
Less : Depreciation @ 20% (16.7.2007 - 15.7.2008)	1,10,000
16.7.2008 WDV	4,40,000
Less : Depreciation for 16.7.2008 - 15.7.2009	88,000
16.7.2009 WDV	3,52,000
Less : Depreciation for 16.7.2009 - 15.7.2010	70,400
16.7.2010 WDV	2,81,600
Less : Depreciation for 16.7.2010 - 15.7.2011	56,320
16.7.2011 WDV	2,25,280
Less : Amount Recovered on Transfer	1,30,000
Value of Perquisite	**95,280**

2. Gifts received from the employer on the occasion of the wedding anniversary
   (a) Taxable as perquisite u/s 17(2).
   (b) As per Rule 3(7)(vi), value of any gift or voucher or token (other than made in cash) or convertible ; in cash on ceremonial occasion or otherwise shall be taxable if the aggregate value of Gift during the previous year is ₹ 5,000 or more. Since the value of gifts received is less than ₹ 5,000, it shall be exempt from tax.

Question No.11 (e)

M, an individual, retired from the services of a Company on 31.10.2011. He joined another employer on 1.11.2011 and was in service till end of March 2012, when he furnishes the following details and information —

1. Salary and Allowances for the period

From First Employer	₹ Per month
Basic Salary	30,000
Dearness Allowance	16,000
Conveyance Allowance	6,000

From Second Employer	₹ Per month
Basic Salary	35,000
Fixed Conveyance Allowance	8,000

2. While he was with the first employer, M contributed 10% of his basic salary to a Provident Fund Account with the Regional Provident Fund Commissioner. He did not become a member of the Provident Fund maintained by the second employer.
3. M was permitted by the second employer to encash 15 days leave he had accumulated during his service and received ₹12,500 from his employer.
4. M had constructed a residential house in Chennai in February 2008 for ₹30 Lakhs. Part of the costs of construction was met by borrowals of ₹ 20 lakhs from the Housing Development Corporation, at interest of 12.5% p.a. The loan was taken on June 2006. The loan outstanding at the beginning of the current year was ₹12,00,000. The rate of interest applicable for the current year was reduced to 9% p.a. due to reduction in rates. [He had also borrowed from some relatives ₹4,00,000 on which interest at 15% p.a. was due.] The property had been let-out soon after completion.
5. In the Assessment Year 2008-09, M was allowed a deduction of ₹50,000 for irrecoverable rents. The annual value decided by the Corporation of Chennai for the property is ₹ 80,000. The property was let-out in the current year to a Company on a rent of ₹20,000 p.m. The half-yearly municipal taxes on the property were fixed by the Corporation of Chennai only in August 2011 at ₹15,000 for every half year from 1.4.2008. M paid the taxes due in September 2011 upto the half-year ending 31.3.2011.
6. M also received from the previous tenant ₹ 40,000 (out of the dues of ₹ 50,000).
7. After retirement from the first employer, M received ₹ 4,50,000 from the Regional Provident Fund Commissioner, money was fully invested by him in the 15% Non-Redeemable Debentures issued by the Indian Oil Corporation interest on these had not come in by the end of March 2012.
8. M received interest of ₹ 60,000 on long-term fixed deposits with Banks, ₹ 25,000 as interest on Post Office Savings Bank Accounts and ₹ 20,000 as income from units.
9. M owns a car which is used for office purposes also and it is found that the entire conveyance allowance from his employer had been fully spent on travel for official purposes.
10. One of the policies of insurance taken by M had matured for payment and ₹ 8,00,000 received by him in June 2011 from the LIC was invested by him, in the name of his 16-year old son, in fixed deposits with companies. Interest received uplo 31.3.2012 on these deposits was ₹ 90,000. On one of the continuing policies of insurance, M paid a premium of ₹ 60,000 in the year.

Compute M's total income for the Assessment Year 2012-13.

Solution :

Assessee : Mr. M **Previous Year : 2011-12** **Assessment Year : 2012-13**

Computation of Total Income

			₹	₹	₹
Income under the head Salaries					
From First Employer					
	Basic Pay	(₹ 30,000 × 7)		2,10,000	
	Dearness Allowance	(₹ 16,000 × 7)		1,12,000	
	Conveyance Allowance	(₹ 6000 × 7)	42,000		
Less:	Exempt u/s 10(14)		(42,000)	Nil	3,22,000
	Amount received from Regional Provident				
	Fund Commissioner	4,50,000			
Less:	Exempt u/s 10(12)		(4,50,000)	Nil	
From Second Employer					
	Basic Salary	(₹ 35,000 × 5)		1,75,000	
	Conveyance Allowance	(₹ 8,000 × 5)	40,000		
Less: Exempt u/s 10(14) (incurred for official					
	performance of duties)		(40,000)	Nil	

Leave Encashment - Fully taxable while in service		12,500	1,87,500
Gross Income from Salary			**5,09,500**
Income from House Property:			
Gross Annual Value u/s. 23(1) — Higher of Municipal Value of ₹80,000 or Actual Rent of ₹ 2,40,000		2,40,000	
Less: Municipal Taxes paid during the year @ ₹ 15,000 for every half year from 1.4.2008 upto 31.3.2011 (Current Year - Not Paid)		(90,000)	
Net Annual Value (NAV)		1,50,000	
Less: Deduction			
@ 30% of NAV u/s 24(a)		(45,000)	
Interest on Borrowed Capital u/s 24(b)			
Loan from Housing Development Corporation:			
Current Period Interest: ₹12,00,000 × 9%	1,08,000		
Prior Period Interest (Interest upto 31.3.2007) [(₹20,00,000 × 12.5%) + (4,00,000 × 15%)] × 10/12 × 1/5	51,667		
Loan from Relative - Current Period Interest (₹ 4,00,000 x 15%)	60,000	(2,19,667)	
Add: Unrealised Rent recovered (taxable in the year of recovery u/s 25AA]		40,000	(74,667)
Income from Other Sources			
Interest on Long-term Fixed Deposits with Bank		60,000	
Interest on Post Office Savings Bank A/c	25,000		
Less: Exempt u/s 10(15)	(25,000)	Nil	
Income from Units of UTI	20,000		
Less: Exempt u/s. 10(35)	(20,000)	Nil	
LIC Policy matured	8,00,000		
Less: Exempt u/s. 10(1D)	(8,00,000)	Nil	
Interest from Fixed Deposits with Companies in the name of minor son	90,000		
Less: Exemption u/s. 10(32)	(1,500)	88,500	1,48,500
Gross Total Income			**5,83,333**
Less: Deduction under Chapter VI–A			
u/s 80C –LIC Premium		(60,000)	
– RPF – 10% of ₹ 1,40,000		(14,000)	(74,000)
Total Income			**5,09,333**
Total Income (Rounded Off u/s 288A)			**5,09,330**

Assumptions:

1. It is presumed that Mr. M accounts for his interest income on receipt basis.
2. Assumed that there has been no repayment of Housing Loan Principal during the year ending 31.3.2006 for the purpose of calculation of prior period interest.

3. Recognised Provident Fund received on retirement shall not be taxable u/s 10 (assuming conditions are satisfied).
4. Unrealised Rent recovered : Since the assessee has been allowed a deduction of ₹ 50,000 from his house property income in ealier years in respect of Unrealised Rent, entire ₹ 40,000 recovered during current year becomes taxable.
5. Deduction of Interest u/s 24 shall be allowed even if the amount is borrowed from any person other than the Banks/Financial Institutions in respect of Let Out property.

Question No.12 (a)

Mr. A, a Senior Citizen, has furnished the following particulars relating to his House Properties —

Particulars	House I — ₹	House II — ₹
Nature of Occupation	Self Occupied	Let-out
Municipal Valuation	60,000	1,20,000
Fair Rent	90,000	1,50,000
Standard Rent	75,000	1,40,000
Actual Rent per month	—	12,000
Municipal Taxes paid	6,000	12,000
Interest on Capital borrowed	90,000	80,000

Loan for both Houses were taken on 1.4.2007. House II remained vacant for 4 months.

Besides the above two house, A has inherited during the year 1987-88 an old house from his grandfather. Due to business commitments, he sold the house immediately for a sum of ₹ 250 Lakhs. The house was purchased in 1962 by his grandfather for a sum of ₹ 2 Lakhs. However, the Fair Market Value as on 1.4.1981 was ₹ 30 Lakhs. With the sale proceeds, A purchased a new house in March 2011 for a sum of ₹ 140 Lakhs and the balance was used in his business.

The other income particulars of Mr. A besides the above are as follows (AY 2012–2013) —

- Business Loss ₹ 9 Lakhs
- Income from Other Sources (Bank Interest) ₹ 1 Lakh
- Investments made during the year PF ₹ 70,000
- ICICI Infrastructure Bond Purchased (u/s 80CCF) ₹ 30,000

Compute Total Income of Mr. A and his Tax Liability for the Assessment Year 2012–2013.

Solution:

Assessee : Mr. A **Previous Year : 2011-12** **Assessment Year : 2012-13**

Computation of Total Income

Particulars	₹	₹	₹
1. Income from House Property :			
(a) House I : Self Occupied — Annual Value u/s 23(2)	Nil		
Less : Deduction u/s 24(b) = Interest on Housing Loan			
taken on 1.4.2007 (Note 1)	90,000	(90,000)	
(b) House II : Let-out – (Note 2)		(21,000)	(1,11,200)
2. Profits and Gains of Business or Profession – Loss			(9,00,000)
3. Capital Gains — Sale of Residential House Property — Long Term Asset			
Sale Consideration		2,50,00,000	

Less :	Expenses on Transfer	Nil	
	Net Consideration	2,50,00,000	
Less :	Indexed Cost of Acquisition — Fair Market Value as on 1.4.81 × CII of year of Sale /CII of year of first holding (₹ 20 Lakhs × 785/150)	1,04,66,667	
	Long Term Capital Gain	1,45,33,333	
Less :	Exemption u/s 54 — New House purchased	1,40,00,000	5,33,333
4. Income from Other Sources: Bank Interest			1,00,000
	Gross Total Income [representing unabsorbed business loss to be carried forward]		**(3,77,867)**

Hence, no Deduction under Chapter VI-A is allowed in this year.

Notes:

1. Assumed that loss from House Property & Loss from Business are at first adjusted inter-head, against Long Term Capital Gains and then against Income from other sources since it is beneficial to the assessee.
2. It is assumed that the construction of the house was completed within 3 years from the end of the financial year in which the loan was taken.
3. Annual Value of House Property II is computed as under —

(i)	Municipal Value (MV)	1,20,000
(ii)	Fair Rental Value (FRV)	1,50,000
(iii)	Higher of MV + FRV	1,50,000
(iv)	Standard Rent	1,40,000
(v)	Reasonable Expected Rent (RER) [lower of (iii) + (iv)]	1,40,000
(vi)	Annual Rent @ ₹ 12,000 pm	1,44,000
(vii)	Unrealised Rent	Nil
(viii)	Actual Rent [(vi) – (vii)]	1,44,000
(ix)	Vacancy Allowance	48,000
(x)	Gross Annual Value [(viii) – (ix)]	96,000
	Less: Municipal Tax paid	12,000
	Net Annual Value (NAV)	84,000
	Less: Standard deduction @ 30% of NAV u/s 24(a)	25,000
	Less: Interest on borrowed Capital u/s 24(b)	80,000
	Income for House II	(21,200)

Question No.12 (b)

Mr. Anurag is a Cost Accountant in practice. The Income & Expenditure Account for the year ending March 31, 2012 read as follows:

	Expenses	₹		Income	₹
To	Employees cost	1,50,000	By	Professional earnings	12,00,000
To	Travelling & Conveyance	50,000	By	Dividend income	
To	Administration & Office exp.	4,00,000	–	from shares	6,00,000
To	Interest	1,50,000	–	from equity oriented	
To	Demat Charges	10,000		mutual funds	1,00,000
To	Net profit	11,40,000			
Total		**19,00,000**	**Total**		**19,00,000**

Other Information:

(a) Entire Dividend income is claimed as exempt from taxation by virtue of Section 10(34) and 10(35).

(b) Anurag claims that no expenditure has been incurred against the dividend income, which is claimed as exempt from tax.

(c) The value of investment in shares as on the first day and the last day of the previous year is ₹ 7,50,000 and ₹ 9,00,000 respectively.

(d) The value of investment in units of Mutual Funds as on the first day and the last day of the previous year is ₹ 5,00,000 and 2,00,000 respectively.

(e) All expenditure including interest expenditure of ₹ 1,50,000 incurred by Anurag are relating to taxable and non taxable Income. Demat charges are directly attributable to exempt income.

(f) The value of the total assets as appearing in the Balance sheet of the assessee as on the first day and last day of the previous year is ₹ 60,00,000 and ₹80,00,000 respectively.

You are required to compute the taxable income of Anurag for the assessment year 2012-13.

Solution:

Computation of Taxable Income A.Y. 2012-13

Particulars		₹
Income from Profits & Gains of Business or Profession(W.N.1)		4,40,000
Income from other sources (W.N. 2)		Nil
	Total	4,40,000
Add : Disallowance u/s 14A		
– as per Working Note 3		31,804
	Taxable Income	**4,71,804**

Working Note 1 — Profits & Gains of Business or Profession	**₹**	**₹**
Net profit as per Income & Expenditure Account		11,40,000
Less : Income considered under other heads		
– Dividend Income from shares	6,00,000	
– Income from UTI	1,00,000	7,00,000
Taxable Income from Profession		**4,40,000**

Working Note 2 — Income from other sources	**₹**	**₹**
1. Dividend Income from Shares	6,00,000	
Less : Exempt under sec 10(34)	6,00,000	Nil
2. Income from units in Mutual funds	1,00,000	
Less : Exempt under sec 10(35)	1,00,000	Nil
Taxable income from other sources		**Nil**

Working Note 3 — Disallowance u/s 14A

		₹
(a)	Amount of expenditure directly relating to exempt income (Other than interest) — Demat charges	10,000
(b)	Amount of interest incurred by way of expenditure other than those included above (1,50,000 × 8,25,000 / 70,00,000)	17,679
(c)	Amount equal to 0.5% of the average value of Investments (8,25,000 × 0.5%)	4,125
	Total amount disallowed u/s 14A (a) + (b) + (c)	31,804

Note :

1. Average value of Investment = (7,50,000 + 9,00,000) / 2 = ₹ 8,25,000.
2. Average value of Total Assets = (60,00,000 + 80,00,000) / 2 = ₹ 70,00,000.

Question no. 12(c)

XY & Co., a partnership concern had established an undertaking for manufacturing computer software in Free Trade Zone. It furnishes the following particulars of its second year operations, ending on 31-03-2012:

Particulars	₹ (in lakh)
Total sales of business	100.00
Export sales	80.00
Profit of the business	10.00

Out of the total sales, realisation of sale of ₹ 7 lakh is difficult because of the deficiency of the buyer. realisation of rest of the sales is received in time. The plant and machinery used in the business had been depreciated @ 15% on SLM basis of depreciation and depreciation of ₹ 3 lakh was charged to the Profit and Loss Account. Compute the taxable income of XY & Co for the assessment year 2012-2013.

Solution: **Computation of Taxable Income for the A.Y. 2012-13**

Particulars	₹ (in lakh)
Profit of business	10,00,000
Add : Depreciation charged on SLM basis	3,00,000
	13,00,000
Less : Depreciation on WDV basis @ 15% of 17,00,000 – [See Note below]	2,55,000
	10,45,000
Less : Deduction under Sec. 10A : 10,45,000 × 73 ÷ 100	7,62,850
Taxable income	**2,82,150**

Note :

		₹
1.	Computation of Depreciation :	
	Total purchase price of machine : 3,00,000 15 × 100	20,00,000
	Less : Depreciation in the first year @ 15%	3,00,000
	WDV at the end of first year	17,00,000
	Less: Depreciation for second year @ 15%	2,55,000
	WDV at the end of second year	14,45,000
2.	Export Turnover:	
	Export Sales	80,00,000
	Less: Remittance not received due to insolvency of buyer	7,00,000
		73,00,000

Question no. 12(d)

Mr.B holds agricultural fields for growing sugarcane to manufacture sugar in his factory. The data for the financial year 2011-12 is as follows:

Cost of cultivation of sugarcane	₹ 8,00,000
Market value of sugarcane when transferred to factory	₹ 12,00,000
Other manufacturing cost (excluding overheads)	₹ 9,00,000
Sales of sugar	₹ 23,00,000
Overhead expenses related to production	₹ 4,00,000

Solution:

(1) Business Income:

Sales of Sugar	₹ 23,00,000
Less: Market value of sugarcane when transferred to factory	₹ 12,00,000
Other manufacturing cost (excluding overheads)	₹ 9,00,000
Overhead expenses related to production	₹ 4,00,000
Business Loss	**(₹ 2,00,000)**

This business loss shall have to be carried forward for adjustment, against profits from business, arising within the immediately succeeding 8 previous years.

(2) Agricultural Income:

Market value of sugarcane when transferred to factory	₹ 12,00,000
Less: Cost of cultivation	₹ 8,00,000
	₹ 4,00,000

Question no. 13(a)

The following is the profit and loss account for the year ending 31.3.2012 of XYZ (LLP) having 3 partners:

Profit and Loss Account

		₹		₹
Establishment & other expenses		48,00,000	Gross profit	68,20,000
Interest to partner @ 15%			Profit on sales of equity shares sold after	
X	90,000		2 years through recognised stock exchange	1,40,000
Y	1,20,000			
Z	60,000	2,70,000		
Salary to designated partners			Rent from house property	60,000
X	2,40,000		Interest on bank deposits	10,000
Y	1,80,000	4,20,000	Profit on equity shares sold after	
Net profit		17,60,000	10 months through RSE	1,20,000
		72,50,000		**72,50,000**

Additional information:

(1) Establishment expenses include ₹ 1,20,000 on account of bonus which was due on 31.3.2012.

(2) The LLP is eligible for 100% deduction under section 80-IC as it is established in notified area in Himachal Pradesh.

(3) Shares were sold through recognized stock exchange and securities transaction tax of ₹ 1000 is included in the establishment expenses on account of the same.

Compute the tax payable by the Limited Liability Firm

Solution :

Computation of total income of XYZ (LLP) for the A.Y. 2012-13

	₹	₹	₹
Income under the head house property			
Actual rent		1,60,000	
Less : Deduction 30%		48,000	1,12,000

Income from Business			
Net profit as per P&L A/c		16,60,000	
Less: Income credited but either exempt or taxable under other head			
Rent	60,000		
Profit on sale of shares sold after 2 years	1,40,000		
Interest on bank deposit	10,000		
Profit on sale of shares sold after 10 months	1,20,000	3,30,000	
		13,30,000	
Add : Expenses disallowed			
Bonus as per section 43B	1,20,000		
Securities Transaction Tax	1,000		
Interest to partners in excess of 12%	54,000		
Salary to partners	4,20,000	5,95,000	
Book profit		19,25,000	
Less : Salary as per section 40(b) (See working note)		4,20,000	15,05,000
Short-term capital gain on sale of equity shares			1,20,000
Income from other sources			10,000
Gross Total Income			**17,47,000**
Less : Deduction under section 80-IC			15,05,000
Total income			**2,42,000**

Regular income tax payable on total income

(1) Short-term capital gain of ₹ 1,20,000 @ 15%	18,000
(2) Balance total income ₹ 1,22,000 @ 30%	36,600
	54,600
Adjusted total income	
Total income	2,42,000
Add : Deduction u/s Chapter VIA	15,05,000
	17,47,000

Alternate Minimum Tax (AMT) 18.5% on ₹ 17,47,000 = ₹ 3,23,195

Hence, adjusted total income shall be total income and the tax (payable shall be the alternate minimum tax i.e. on ₹ 17,47,000 @ 18.5% + 3% (EC + SHEC).

Tax payable

	₹
Alternate minimum tax 18.5% on ₹ 17,47,000	3,23,195
Add: Education Cess @ 2% & SHEC @ 1%	9,696
	3,32,891
Rounded off	**3,32,890**

Working Note

Book profit	19,25,000
Maximum salary allowed	
First 3,00,000 of book profit — 90%	2,70,000
Balance ₹ 16,25,000 of book profit 60%	9,75,000
	12,45,000

Salary allowed shall be ₹ 12,45,000 or ₹ 4,20,000 whichever is lower i.e. ₹ 4,20,000.

Question no. 13(b)

D Ltd., a closely-held Indian company, is engaged in the business of manufacture of chemical goods (value of plant and machinery owned by the company is ₹ 55 lakh). The following information for the financial year 2011-12 are given :

D Ltd. is engaged in the business of manufacture of garments.

	₹
Domestic Sales	20,00,000
Export Sales	7,00,000
Amount withdrawn from general reserve (reserve was created in 1997-98 by debiting P&L A/c)	2,00,000
Amount withdrawn from revaluation reserve	1,50,000
Total	**35,50,000**
Less : Expenses	
Depreciation (normal)	6,16,000
Depreciation (extra depreciation because of revaluation)	2,70,000
Salary and wages	2,10,000
Wealth tax	10,000
Income-tax	3,50,000
Outstanding customs duty (not paid as yet)	17,500
Proposed dividend	60,000
Consultation fees paid to tax expert	21,000
Other expenses	1,39,000
Net Profit	**13,56,500**

For tax purposes the company wants to claim the following:

—Deduction under section 80-1B (30 per cent of ₹ 14,56,500).

—Depreciation under section 32 (₹ 5,36,000)

The company wants to set off the following losses/allowances:

	For tax purposes ₹	For accounting purposes ₹
Brought forward loss of 2004-05	14,80,000	4,00,000
Unabsorbed depreciation	—	70,000

Compute the net income and tax liability of D Ltd. for the assessment year 2012-13 assuming that D Ltd. has a (deemed) long-term capital gain of ₹ 60,000 under proviso (i) to section 54D(2) which is not credited in profit and loss account.

Solution:

Computation of Book Profit & Minimum Alternate Tax

	₹
Net profit as per P&L A/c	13,56,500
Add :	
Excess depreciation [i.e., ₹ 6,16,000 + ₹ 2,70,000 — ₹ 5,36,000]	3,50,000
Wealth tax	10,000
Income tax	3,50,000
Customs duty which is not paid	17,500
Proposed dividend	60,000
Total	**21,44,000**
Less : Amount withdrawn from reserve (i.e., ₹ 2,00,000+ ₹ 1,50,000)	3,50,000
Business income	**17,94,000**
Less : Unabsorbed loss carried forward, now adjusted	14,80,000
Business Income (after adjustment of carried forward unabsorbed business losses)	**3,14,000**
Long-term capital gain	60,000
Gross Total Income	**3,74,000**
Less : Deductions under section 80-IB [30% of ₹ 3,14,000] (= ₹3,74,000 – ₹60,000 LTCG)	91,200
Net Income (rounded off)	**2,82,800**
Tax liability (under normal provisions) [20% of ₹ 60,000 + 30% of ₹ 2,22,800, plus 3% of tax as cess]	**81,205**

Computation of Book Profit

Net Profit as per Profit & Loss A/c	13,56,500
Add :	
Depreciation (i.e. ₹ 6,16,000 + ₹ 2,70,000)	8,86,000
Wealth tax	Nil
Income-tax	3,50,000
Proposed dividend	60,000
Less : Amount withdrawn from general reserve	(–) 2,00,000
Unabsorbed depreciation	(–) 70,000
Depreciation (normal)	(–) 6,16,000
Amount withdrawn from revaluation reserve to the extent it does not exceed extra depreciation because of revaluation	(–) 1,50,000
Book profit	**16,16,500**
Tax liability (19.055% of ₹ 16,16,500)	3,08,024

D Ltd. will pay ₹ 3,08,024 as tax for the assessment year 2012-13 as per section 115JB. Tax credit is however, available in respect excess tax (=₹2,26,819 = ₹ 3,08,024 – 81,205) under section 115JB.

Question no. 13(c)

Y Ltd. is a company in which 60% shares are held by P Ltd. Y Ltd declared a dividend amounting to ₹45 lakhs to its share holders for the financial year 2010-11 in its AGM held on 12th May,2011. Dividend Distribution Tax was paid by Y Ltd. on 14th May,2011. P Ltd declared an interim dividend amounting to ₹70 lakhs on 15th October, 2011 for the year ended 31st March, 2012.

Compute:

(i) The amount of tax on dividend payable by P Ltd.

(ii) What would be your answer, if 58% shares of P Ltd are held by K Ltd. an Indian company?

(iii) Does the position change further, if K Ltd. is a foreign company?

Answer:

Assessee : P Ltd. **Previous Year: 2011-12** **Assessment Year : 2012-13**

Status: Residential Company

1. Principle:

(a) Since P Ltd holds more than 50% of nominal value of equity shares in Y Ltd., Y Ltd is a subsidiary of P Ltd.

(b) Dividends subject to Dividend Distribution Tax shall be reduced by the dividend received by the domestic company during the financial year if:

- Such dividend is received from its subsidiary
- Subsidiary has paid dividend distribution tax
- Domestic company is not a subsidiary of any other company

2. Computation of Dividend Distribution Tax

Particulars	Case I (Note 2) ₹	Case II & III (Note 3) ₹
(a) Dividend declared by P Ltd	70,00,000	70,00,000
(b) Less: Dividend received by P Ltd from Y Ltd, being a subsidiary [60% of ₹45,00,000]	27,00,000	Nil
Net Dividend on which Dividend Distribution Tax is payable [(a) –(b)]	**43,00,000**	**70,00,000**
Dividend distribution tax @ 15%	**6,45,000**	**10,50,000**
Add: Surcharge @ 5% on DDT	32,250	52,500
Dividend Distribution Tax + Surcharge	**6,77,250**	**11,02,500**
Add: Education Cess @ 2% on [DDT + Surcharge]	13,545	22,050
Add: SHEC @ 1% on [DDT + Surcharge]	6,773	11,025
Total Dividend Distribution Tax Payable	**6,97,568**	**11,35,575**
Dividend Distribution Tax (rounded off)	**6,97,570**	**11,35,580**

Notes:

1. Dividend u/s 115-O includes all dividend except dividend u/s 2(22)(e). Hence, interim dividend is also covered u/s 115-O.
2. Case (I) – refers to dividend received by a domestic company which is a holding company of another company and is not a subsidiary of any other company. Benefit of set off of dividend received during previous year 2011-12 available as all the conditions are satisfied.
3. Case (II) and Case (III): Domestic company is a subsidiary of another company:
   (a) Case (II)- P Ltd is a subsidiary of K Ltd. an Indian Company. Benefit of set-off of dividend received not available as all the conditions are not satisfied [Refer Point No.(b) of the Principle]
   (b) Case (III) – P Ltd. is a subsidiary of K Ltd. a Foreign Company. Benefit of set-off of dividend received not available as all the conditions are not satisfied as the Holding company should not be a subsidiary of "any other company". [Refer Point no (b) of principle]. U/s 2(17), Company includes a Foreign company.

Question no. 13(d)

Explain briefly the consequences of opting for tonnage tax scheme.

Answer: The following are the consequences:

(i) All deductions u/s 30 to 43B shall be deemed to be allowed

(ii) Depreciation shall be deemed to be allowed. No question of unabsorbed depreciation of operating qualifying ship

(iii) No benefit of Sections 70,71,72,72A,73 relates to the loss of operating qualifying ship

(iv) No chapter VI deduction available on the tonnage income

(v) Book profit or loss of the tonnage tax company shall be excluded in computation of book profit u/s 115JB.

(vi) In case relevant shipping income is a loss, it shall be ignored while computing tonnage income.

Question no. 14(a)

Write short notes on the scheme of submission of returns through tax return preparers [Section 139B]

Answer:

The Tax Return Preparer shall assist the persons furnishing the return in a manner that will be specified in the Scheme, and shall also affix his signature on such return. The "specified class or classes of persons" for this purpose means any person other than a company or a person whose accounts are required to be audited under section 44AB (tax audit) or under any other existing law, who is required to furnish a return of income under the Act.

Question no. 14(b)

Write short notes on Tax Return Preparer.

Answer: A Tax Return Preparer can be an individual, other than

(i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.

(ii) any legal practitioner who is entitled to practice in any civil court in India.

(iii) a chartered accountant.

(iv) an employee of the 'specified class or classes of persons'.

(3) The Scheme notified under the said section may provide for the following —

(i) the manner in which and the period for which the Tax Return Preparers shall be authorised,

(ii) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Tax Return Preparer,

(iii) the code of conduct for the Tax Return Preparers,

(iv) the duties and obligations of the Tax Return Preparers,

(v) the circumstances under which the authorisation given to a Tax Return Preparer may be withdrawn, and

(vi) any other relevant matter as may be specified by the Scheme.

Question no. 14(c)

Write short notes on Permanent Account Number (PAN) [Sec. 139A]

Answer: Permanent Account Number (PAN) is a 10-character alpha-numeric number, allotted to an assessee by the Income Tax Department.

(1) Where any person in th the following category has not been allotted a permanent account number (PAN), he should apply to the Assessing Officer within the prescribed time for allotment of a PAN -

(i) Every person whose total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the basic exemption limit; or

(ii) Every person carrying on any business or profession whose total sales, turnover or gross receipts exceeds or is likely to exceed ₹5 lakhs in any previous year; or

(iii) Every person who is required to furnish a return of income under section 139(4A); or

(iv) Every person, being an employer, who is required to furnish a return of fringe benefits under section 115WD [Sub-section (1)].

(2) The CBDT had introduced a new scheme of allotment of computerized 10 digit PAN. Such PAN comprises of 10 alphanumeric characters and is issued in the form of a laminated card.

(3) All persons who were allotted PAN (Old PAN) earlier and all those persons who were not so allotted but were required to apply for PAN, shall apply to the Assessing Officer for a new series PAN within specified time.

(4) Once the new series PAN is allotted to any person, the old PAN shall cease to have effect. No person who has obtained the new series PAN shall apply, obtain or process another PAN.

(5) On receipt of allotment of PAN it must be mentioned on all tax payment challans, returns, correspondence.

(6) Where TDS or TCS is made, the person from whom it is made must communicate his PAN to the person deducting or collecting tax.

(7) Every person receiving any document relating to a transaction prescribed under clause (c) of sub-section (5) shall ensure that the permanent account number or the General Index Register Number has been duly quoted in the document.

Question no. 14(d)

(i) What is the due date of filling of return of income in case of a non-working partner of a firm whose accounts are not liable to be audited?

Answer : Due date of furnishing return of income in case of non-working partner shall be 31st July of the assessment year whether the accounts of the firm are required to be audited or not. A working partner for the above purpose shall mean an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner and is drawing remuneration from the firm.

(ii) Can unabsorbed depreciation be carried forward even if the return is filed after due date?

Answer : Unabsorbed depreciation can be carried forward even if the return of loss is submitted after the due date, as it is not covered under Chapter VI of set off or carry forward of losses but covered u/s 32(2).[East Asiatic Co.(India) Pvt. Ltd. vs.CIT (1986) 161 ITR 135(Mad.)]

(iii) Can a belated return of income filed u/s 139(4) be revised?

Answer: There was a difference of opinion among various courts regarding filling of revised return in respect of belated returns. However, it has been held that a belated return filed u/s 139(4) cannot be revised as section 139(5) provides that only return filed u/s 139(1) or in pursuance to a notice u/s 142(1) can be revised [Kumar Jagdish Chandra Sinha vs.CIT(1996) 220 ITR 67(SC)].

(iv) Can a revised return be further revised?

Answer: If the assessee discovers any omission or any wrong statement in a revised return, it is possible to revise such a revised return provided it is revised within the same prescribed time [Niranjan Lal Ram Chandra Vs.CIT (1982) 134 ITR 352 (All.)]

(v) Can an Assessing Officer himself allot permanent account number to an assessee?

Answer: The Assessing Officer having regard to the nature of the transactions as may be prescribed may also allot a permanent account number to any other person(whether any tax is payable by him or not) in the manner and in accordance with the procedure as may be prescribed.

<u>Question no. 15(a)</u>

(i) Joseph engaged in profession filed his return of income for assessment year 2011-12 on 15th November, 2011. He disclosed an income of ₹4,00,000 in the return. In February, 2012 he discovered that he did not claim certain expenses and filed a revised return on 3rd February, 2012 showing an income of ₹1,80,000 and claiming those expenses. Is the revised return filed by Joseph acceptable?

Answer: Joseph is engaged in profession. The due date for filing income tax return for assessment year 2011-12 as per section 139(1) of the Income-tax Act is 30th September, 2011 if his accounts are required to be audited under any law. The due date is 31st July, 2011 if the accounts are not required to be audited under any law.

The return was filed beyond the due date prescribed in section 139(1). The return so filed is covered by section 139(4) and the time limit is one year from the end of the relevant assessment year. The Apex court in *Kumar Jagadish Chandra Sinha v. CIT 220 ITR 67 (SC)* has held that a return filed under section 139(4) is not eligible for revision and hence a revised return cannot be filed.

Hence, the return filed by Joseph is not valid as the original return was not filed before the due date mentioned in section 139(1).

(ii) An assessee filed a return of income on 31.8.2011 in respect of Assessment year 2011-12 disclosing an income of ₹5 lakhs from business. It was not accompanied by proof of payment of tax due on self-assessment. Discuss the validity of such a return.

Answer :As per Explanation to sub-section (9) of section 139 a return is regarded as defective unless it is accompanied by proof of tax deducted at source, advance tax and tax on self-assessment, if any, claimed to have been paid. Therefore, the return is prima facie defective. It is not invalid at that stage. On receipt of the return, the Assessing Officer has to intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation or within such further period which, on application by the assessee, he may, in his discretion allow. If the defect is not rectified within the said period, the return will be treated as an invalid return and the provisions of the Income-tax Act shall apply, as if the assessee has failed to furnish the return.

Also, it may noted that section 140A(3) says that if an assessee fails to pay tax or interest on self assessment he shall be deemed to be an assessee in default in respect of the tax or interest or both remaining un paid and all the provisions of the Act shall apply accordingly.

(iii) If an assessment is remanded back to Assessing Officer, can he introduce new sources of income for assessment?

Answer: Where the assessment is set aside by the Tribunal and the matter remanded to the Assessing Officer, it is not open to him to introduce into the assessment new sources of income so as to enhance the assessment. Any power to enhance is confined to the old sources of income which were the subject matter of appeal [Kartar Singh vs.CIT (1978) 111 ITR 184 (P &H)].

(iv) Can Department make fresh computation, once the assessment is made final?

Answer: It is now a well settled principle that an assessment once made is final and that it is not open to the department to go on making fresh computation and issuing fresh notices of demand to the end of all time. [ITO vs.Habibullah (S.K.) (1962) 44 ITR 809 (SC)]

(v) Can an Assessing Officer make an assessment for a year other than the assessment year for which the return is filed?

Answer: It is not open to the Assessing Officer to make assessment in respect of a year other than the Assessment Year for which the return is filed. Thus, in respect of a return filed for assessment year 2010-11, assessment cannot be made for the assessment year 2011-12. [CIT vs. Amaimugan Transports Pvt.Ltd.(1995) 215 ITR 553 (Mad.)]

(vi) Can an Assessing Officer assess the income below the returned income or assess the loss higher than the returned loss?

Answer: The Assessing Officer cannot assess income under section 144 for an assessment below the returned income or cannot assess the loss higher than the returned loss.

(vii) Can incomplete, unsigned or unverified return lead to best judgement assessment?

Answer: Incomplete, unsigned or unverified return may lead to best judgement assessment. A best judgement assessment can be made when the return is filed woefully incomplete or not signed and verified. [Behari Lal Chatterji vs.CIT (1934) 2 ITR 377 (All.)

(viii) Can assessee follow different method of accounting for different businesses?

Answer: If an assessee is carrying on more than one business, he can follow cash system of accounting for one business and mercantile system (accrual system) of accounting for other business. Similarly, if he had more than one sources of income under the head income from other sources, he can follow accrual system for one source of income under the head income from other sources, he can follow accrual system for one and cash system for other sources of income.

<u>Question no. 15(b)</u>

Anand and Aniket are equal members in AA & Associates. The profit and loss account of the AOP for the year ending 31st March 2012 is as follows:

Particulars	₹	Particulars	₹
Selling and administrative		**Gross Profit**	**20,00,000**
Expenses	**8,00,000**	**Income from house property**	**3,60,000**
Interest to Anand @ 15%	**60,000**		
Remuneration:			

Anand	**1,50,000**	
Aniket	**1,50,000**	
Net profit:		
Anand	**6,00,000**	
Aniket	**6,00,000**	
	23,60,000	**23,60,000**

Other information:

1. **Selling and administrative expenses include ₹ 60,000 paid to a consultant in cash.**
2. **The other income/investment details of the members are given as below:**

Members	Income	Source of income	Investments
Anand	**90,000**	**Interest on fixed deposit from bank**	**Purchase of NSC VIII ₹ 30,000**
Aniket	**1,00,000**	**Interest on govt. securities**	**Contribution to PPF ₹ 50,000**

Compute the tax liability of the AOP and it members

Answer: Computation of Total ncome of AOP: Previous Year 2011-2012

Particulars	**₹**
Net profit	12,00,000
Add: Inadmissible payments.	
1. Fees paid to consultants in cash Sec. 40A (3)	60,000
2. Interest paid to members [Sec. 40(ba)]:	60,000
3. Remuneration paid to members Sec. 40(ba)	3,00,000
	16,20,000
Less: Income from house property	3,60,000
Business profits	12,60,000
Add: Income from house property	3,60,000
Total income	16,20,000
Tax liability of AOP on total income	
Tax on slabs rates	3,90,000
Add:	
Education cess 2%	7,800
SHEC @ 1%	3,900
Tax payable	**4,01,700**

Allocation of income amongst the members:

Particulars	Anand ₹	Aniket ₹	Total ₹
Interest	60,000	—	60,000
Remuneration	1,50,000	1,50,000	3,00,000
Share of divisible profit (12,60,000-60,000-3,00,000)	4,50,000	4,50,000	9,00,000
Share of profit	6,60,000	6,00,000	12,60,000
Share of income from house property	1,80,000	1,80,000	3,60,000
	8,40,000	**7,80,000**	**16,20,000**

Computation of Total Income of members:

Particulars	Anand ₹	Aniket ₹
Share income from AOP	8,40,000	7,80,000
Income from other sources:		
Interest on bank deposits	90,000	—
Interest on government securities	—	1,00,000
Gross Total Income	**9,30,000**	**8,80,000**
Less: Deduction under Sec. 80C	30,000	50,000
Total Income	**9,00,000**	**8,30,000**
Tax liability of members: Tax on slab rates	1,74,000	1,53,000
Add: Education Cess @ 2% on income tax	3,480	3,060
Add: SHEC @ 1%	1,740	1,530
	1,79,220	**1,57,590**
Less: Rebate on share of profit at the average: (See Note below)	**1,67,272**	**1,48,097**
Tax payable	11,948	9,493
Tax payable rounded off to the nearest multiple of ₹ 10 (See. 288B)	11,950	9,490
Note: Anand = ₹1,79,220 x 8,40,000/9,00,000	15,050	
Aniket = ₹1,57,590 x 7,80,000/8,30,000		12,290

Question no. 15(c)

Devdas Charitable Trust submits the particulars of its receipts and outgoing during the previous year 2011-2012.

as below :

		₹
(i)	**Income from property held under trust for charitable purposes**	**20,00,000**
(ii)	**Voluntary contribution (out of which ₹ 5,00,000 will form part of the corpus)**	**15,00,000**
(iii)	**Donations paid to blind charitable school**	**6,00,000**
(iv)	**Scholarship paid to poor students**	**4,00,000**
(v)	**Amount spent on holding free eye camps in urban slums**	**3,00,000**
(vi)	**Amount set apart for setting up an old age home by March 2014**	**10,00,000**

Compute the total income of the trust for the previous years 2010-2011 and 2015-2016 if it spends ₹ 5,00,000 during the previous year 2014-2015 and ₹ 3,00,000 during the previous year 2015-2016 in setting up the old age home.

Solution: (a) Computation of the Taxable Income of the trust for previous year 2011-2012/AY 2012-2013.

	Particulars		₹
(i)	Income from property held under charitable trust		20,00,000
(ii)	Income from voluntary contributions (₹ 15,00,000- ₹ 5,00,000)		10,00,000
	Total		30,00,000
	Less : 15% set apart for future application		4,50,000
	Balance		25,50,000
	Less: Income applied for charitable purposes:		
(i)	Donations to blind charitable school	6,00,000	
(ii)	Scholarship to poor students	4,00,000	
(iii)	Free eye camps in urban slums	3,00,000	

Total	13,00,000	
Amount set apart for old age home	10,00,000	23,00,000
Taxable Income		**2,50,000**

(b)Previous year 2015-2016 /AY 2016-2017:

Amount set apart for old age home	10,00,000
Less: 1. Amount spent during 2014-2015	3,00,000
2. Amount spent during 2015-2016	5,00,000
Taxable Income	**2,00,000**

Question no. 15(d)

Happy Home Cooperative Society Ltd. furnishes the following particulars of its income for the previous year ending on 31st March 2012:

(i)	**Interest on government securities**	**40,000**
(ii)	**Profits from banking business**	**3,50,000**
(iii)	**Income from purchase and sale of agricultural implement and seeds to its members**	**2,50,000**
(iv)	**Income from marketing of agricultural produce of its members**	**4,00,000**
(v)	**Profits and gains of business**	**2,20,000**
(vi)	**Income from cottage industry**	**3,50,000**
(vii)	**Interest and dividends (gross) from other cooperative societies**	**30,000**

Compute Total Income of the society and calculate the tax payable by it for the assessment year 2012-2013.

Solution: **Happy Home Cooperative Society Ltd.**

Computation of income of the for the previous year 2011-2012, Assessment Year 2012-2013

Particulars	₹	₹
1. Profits and gains of business or profession:		
a) Banking business	3,50,000	
b) Income from purchase and sale of agricultural implements and seeds to its members	2,50,000	
c) Income from marketing of agricultural produce of its members	4,00,000	
d) Profits and gains of business	2,20,000	
e) Income from cottage industry	3,50,000	15,70,000
2. Income from other sources:		
a) Interest on government securities	40,000	
b) Interest and dividends from other cooperatives	30,000	70,000
Gross Total Income		**16,40,000**
Less: Deduction allowable from gross total income under Sec. 8OP		
1. Banking business	3,50,000	
2. Income from purchase and sale of agricultural implement and seeds to its members	2,50,000	

3. Income from marketing of agricultural produce of its members	4,00,000	
4. Income from cottage industry	3,50,000	
5. Interest on government securities(not eligible for deduction)	Nil	
6. Interest and dividends from other cooperative societies	30,000	13,80,000
Total Income		**2,60,000**

Computation of Tax Liability:

Particulars	Rate	₹
On first ₹ 10,000	10%	1,000
On next ₹ 10,000	20%	2,000
On balance ₹ 2,40,000	30%	72,000
Income tax payable		75,000
Add: Education cess @ 2%		1,500
Add: SHEC @ 1%		750
Tax payable		**77,250**

Question no. 16(a)

The following details have been supplied by the Karta, of an HUF aged 62 years. You are required to compute its total income and tax liability for the assessment year 2012-2013.

Particulars	₹
(i) Profits from business (after charging ₹ 1,00,000 salary to Karta for managing the business).	15,00,000
(ii) Salary received by the member of a family.	60,000
(iii) Director's fee received by Karta from B Ltd where HUF holds 20% shares but he became director because of his qualifications,	40,000
(iv) Rental income from house property (after deduction of municipal taxes ₹ 2,000).	78,000
(v) Dividends (gross) from Indian companies	15,000
(vi) Long-term capital gain	80,000
(vii) Short-term capital gain	30,000
(viii) Donation to a school, which is an approved institution,	1,00,000
(ix) Deposits in Public Provident Fund	20,000
(x) NSC-VIII issues purchased	40,000

Solution: Computation of Total Income for the A.Y. 2012-13

Particulars	₹	₹
(i) Income from house property:		
Gross annual value (₹ 78,000 + ₹ 12,000)	90,000	
Less: Municipal taxes paid	12,000	
Annual value	78,000	
Less: Statutory deduction: 30% ×78,000	23,400	54,600
(ii) Profits and gains from business		15,00,000
(iii) Capital gains (a) long-term + (b) short-term		1,10,000
(iv) Income from other sources—gross dividends from Indian		Nil

companies: Exempt [Sec. 10(34)]		
Gross Total Income		**16,64,600**
Less:		
1. Contribution to approved savings (Sec. 80C)		
(i) Deposits in Public Provident Fund	20,000	
(ii) NSC-VIII Issue	40,000	
	60,000	
2. Donation to recognised school:		
(a) Actual donation: ₹ 1,00,000 or		
(b) 10% of adjusted total income = (Gross Total Income – Long Term Capital Gains – All deductions under Chapter VIA excluding Sec. 80G) of ₹ 15,24,600 (16,64,600 - 80,000 - 60000) whichever is less, is qualifying amount.		
Amount of deduction: : 50% of ₹ 1,00,000	50,000	1,10,000
Total Income		**15,54,600**

Computation of Tax Liability:

	Particulars of total income	Rate of income tax		₹
		₹	₹	
(a)	Long-term capital gain	80,000	20%	16,000
(b)	Balance of total income: ₹ 14,74,600			
	(i) First	2,50,000	Nil	—
	(ii) Between 2,50,000 – 5,00,000	2,50,000	10%	25,000
	(iii) Between 5,00,000 – 8,00,000	3,00,000	20%	60,000
	(iv) Between 8,00,000 – 14,74,600	6,74,600	30%	2,02,380
	Gross Tax			3,03,380
	Add: Education cess @ 2% on income tax			6,068
	SHEC @ 1% on income tax			3,034
	Tax payable			3,12,482
	Rounded off u/s 288B			3,12,480

Question no. 16(b)

Fashion Ltd., a well-diversified group, gives below its profit and loss account for the previous year 2011-2012:

Particulars	₹	Particulars	₹
Manufacturing expenses	9,00,000	Sale of manufactured goods	10,00,000
Salaries/wages	5,50,000	Sale of agriculture produce	15,00,000
Cultivation expenses	4,00,000	Receipt from generation/distribution of power	
	15,00,000		
Power generation/distribution expenses	4,00,000	Receipt from water supply/ irrigation projects	
Irrigation expenses	6,00,000	Receipt from I.U. set up in backward district	
Expenses of I.U., located in backward district	5,00,000	in July 2004	10,00,000
Expenses of I.U., located in free trade		Transfer from Reserve & Provision a/c,	
zone(Sec. 10A)	1,50,000	debited to profit and loss account in 2005-06	
	9,50,000		
Expenses of I.U. (Sec. 10B)	1,00,000	on account of free service under	
Expenses of I.U. (Sec. 10C)	50,000	warranty period	2,00,000
Provision for losses of subsidiary	4,00,000	Sale of goods of I.U. (Sec. 10B)	2,00,000
Sundry expenses	10,000	Sale of goods of I.U, located in free trade	

Provision for bad and doubtful debts	2,00,000	zone (Sec. 10A)	1,00,000
Provision for bills under discount	50,000	Sale of goods of I.U. located in Northern Eastern Region (NER) (Sec. 10C)	50,000
Provision for sales tax, wealth tax against demand notice	3,30,000	Income from UTI	5,00,000
Income tax provision against demand notice	3,00,000		
Dividend paid on preference shares	2,00,000	Long term capital gain on sale of equity shares, transaction chargeable to Securities Transaction Tax	35,00,000
Proposed dividend on equity shares	4,00,000		
Transfer to general reserve	1,00,000		
Dividend Equalisation reserve	2,00,000		
Penalties under direct tax laws	60,000		
Goodwill written off	50,000		
Depreciation	3,00,000		
Amortisation of patent rights	30,000		
Expenses on transfer of equity shares	20,000		
Net profit	42,00,000		
	1,05,00,000		**1,05,00,000**

The following additional information is provided as below:

1. Depreciation includes, a sum of ₹ 1,00,000 on account of revaluation of building and plant and machinery.
2. Past year losses, before depreciation, are given below:

	Loss (₹)	Depreciation (₹)
2007-2008	(-) 5,00,000	(-) 6,00,000
2008-2009	Nil	(-) 5,00,000
2009-2010	(-) 7,00,000	(-) 4,00,000
2010-2011	(-) 5,00,000	Nil

Compute book-profits for the previous year 2011-2012/AY 2012-2013 for MAT under Sec. 115 JB.

Solution: **Computation of Book Profit for the AY 2011-2012**

Particulars	₹	₹
Net profit as per profit and loss account		42,00,000
Add:		
(i) Cultivation expenses	4,00,000	
(ii) Expenses of I.U. located in Free Trade Zone (Sec. 10A)	1,50,000	
(iii) Expenses of I.U. under Sec. 10B	1,00,000	
(iv) Provision of loss of subsidiary	4,00,000	
(v) Provision for bad and doubtful debts— an unascertained liability	2,00,000	
(vi) Provision for bills under discount— an unascertained liability	50,000	
(vii) Provision for wealth-tax, sales- tax, against demand notice— an ascertained liability	—	
(viii) Income-tax provision— an ascertained liability to be added back	3,00,000	
(ix) Dividend paid on preference shares	2,00,000	
(x) Proposed dividend on equity shares	4,00,000	
(xi) Transfer to general reserve	1,00,000	
(xii) Dividend Equalisation reserve	2,00,000	
(xiii) Depreciation [Sec. 115JB(2)(g) w.e.f. AY 2011-2012]	3,00,000	28,00,000
Adjusted profits		70,00,000

Less:

(i)	Sales of agriculture produce [Sec. 10(1)]	10,00,000	
(ii)	Receipt from I.U. in Free Trade Zone [Sec. 10A]	2,00,000	
(iii)	Receipt from I.U. Sec. 10B	2,00,000	
(iv)	Depreciation, excluding depreciation on account of revaluation of assets	2,00,000	
(v)	Brought forward loss or depreciation, whichever is less.	9,00,000	
(vi)	Withdrawals from Reserve & Provision for free sale service, under warranty scheme	9,50,000	
(vii)	Long-term capital gain on transfer of equity shares {Sec. 10(38)] — see Note below	Nil	
(viii)	Receipts from UTI [Sec. 10(35)]	50,000	35,00,000
Book-profits			35,00,000

Note: 1. Calculation of brought forward losses or depreciation:

2007-2008	Loss	5,00,000
2008-2009	Loss/depreciation	Nil
2009-2010	Depreciation	4,00,000
2010-2011	Loss/depreciation	Nil

1. Transfer from provision for after sale service, free of cost, made during the year 2005-2006, debited to profit and loss a/c and now credited to profit and loss a/c and now credited to profit and loss a/c is an allowable deduction [Sec. 115-JB(2)].
2. Long-term capital gain from the transfer of equity shares in a company is exempt is chargeable to securities trans action tax (STT). However, for the purposes of computing book-profits, it is not to be deducted [Sec. 10(38)]. Accordingly, the expenditure incurred for the transfer of equity shares has not been added back in computing book profits.

Question no. 16(c)

Classic Exporters Ltd, runs a new industrial undertaking set up in 2006-2007 which satisfies the conditions of Sec. 80-IB. Given below is the profit and loss account for the previous year 2011-2012 :

Particulars	₹	Particulars	₹
Stock	4,00,000	Domestic sales	24,00,000
Purchases	23,00,000	Export sales	43,00,000
Salaries and wages	9,70,000	Export incentives Sec. 28(iiia)/(iiic)	50,000
Entertainment expenses	1,30,000	Profit of foreign branch	2,50,000
Freights and insurance attributable to exports	3,00,000	Brokerage/commission/interest/ rent, etc	50,000
Travelling expenses	2,20,000	Transfer from contingency reserve	10,00,000
Depreciation	1,50,000	Stock	3,50,000
Selling expenses	1,20,000		
Income tax paid	90,000		
Income-tax penalty	20,000		
Wealth tax paid	10,000		
Custom duty payable against demand notice	30,000		

Provision for unascertained liabilities	20,000	
Provision for ascertained liabilities	50,000	
Proposed dividend	3,00,000	
Loss of subsidiary company	50,000	
Net profit	32,40,000	
	84,00,000	**84,00,000**

You are further informed:

(i) Excise duty for 2010-2011, amounting ₹ 1,20,000 was paid on 15 December 2011.

(ii) Depreciation under Sec. 32 is ₹ 2,20,000.

(iii) During the year 2008-2009, contingency reserve, amounting ₹ 10,00,000, debited to profit and loss a/c, was added back to the extent of ₹ 4,00,000 in the computation of book-profits. The company has transferred the said reserve to the profit and loss a/c during the year.

(iv) Brought forward business loss/depreciation:

PY	Accounting purposes		Tax purposes	
	Loss	Depreciation	Loss	Depreciation
2007-2008	(-) 10,00,000	(-) 1,00,000	(-) 5,00,000	(-) 2,50,000
2008-2009	(-) 2,00,000	(-) 3,00,000	(-) 1,00,000	(-) 2,00,000

Compute the following: (a) Total income, (b) Book-profits and (c) Tax liability.

Solution: **Computation of Total Income for the Assessment Year 2012-2013**

Particulars	**₹**	**₹**
Net profit as per Profit & Loss A/c		32,40,000
Add : Expenses debited to P/L A/c – disallowed		
(i) Income tax	90,000	
(ii) Wealth tax	10,000	
(iii) Custom duty payable	30,000	
(iv) Provision for unascertained liability	20,000	
(v) Proposed dividend	3,00,000	
(vi) Loss of subsidiary company	50,000	
(vii) Income-tax penalty	20,000	5,20,000
		37,60,000
Less : Allowable Expenses and wrong credits in P/L A/c		
(i) Withdrawals from contingency reserve	10,00,000	
(ii) Excise duty	1,20,000	
(iii) Depreciation	70,000	
(iv) Brokerage, commission, interest and rent, etc.	50,000	12,40,000
Business profits		**25,20,000**
Add: Income from other sources: Brokerage/ commission, etc.		50,000
Aggregate Income		**25,70,000**
Less: (i) Brought forward losses (Sec. 72)	6,00,000	
(ii) Brought forward depreciation [Sec. 32(2)]	4,50,000	10,50,000
Gross Total Income		**15,20,000**
Less: Profit from industrial undertaking Sec. 80IB: 30% of ₹ 15,20,000 as included in GTI		4,56,000
Total Income		**10,64,000**

(b) Computation of Book Profits for the Assessment Year 2012-2013

Particulars	₹	₹
Net profits as per Profit & Loss A/c		32,40,000
Add : Expenses disallowed		
(i) Income tax	90,000	
(ii) Provision for unascertained liability	20,000	
(iii) Proposed dividend	3,00,000	
(iv) Loss of subsidiary	50,000	4,60,000
		37,00,000
Less : Allowable expenses and wrong credit in P/L A/c		
(i) Withdrawals from contingency reserve	4,00,000	
(ii) Brought forward business loss or depreciation whichever is less		
2007-2008 Depreciation	1,00,000	
2008-2009 Loss	2,00,000	7,00,000
Book-Profits		**30,00,000**

(c) Computation of tax liability for the Assessment Year 2012-2013

Particulars	₹
(a) Tax on Total Income (including Education Cess and SHEC) = 30.9% of 10,64,000	3,28,776
(b) Tax on Book Profits (including Education Cess and SHEC) = 19.055% on 30,00,000	5,71,650
Tax payable	**5,71,650**

Notes:

(i) No adjustment is required for depreciation debited to profit and loss a/c because it is not on account of revaluation of any asset.

(ii) MAT credit available ₹ (5,71,650 – 3,28,776) = ₹ 2,42,874

Question no. 17(a)

A firm made the following payments of advance tax during the Financial Year 2011-12:

	Figures in ₹ Lakhs
15.09.2011	9.30
15.12.2011	9.0
15.03.2012	14.5
	32.80

The income returned by the firm is ₹ 100 Lakhs under the head "Business" and ₹ 10 Lakhs by way of Long-term Capital Gains on sale of a property effected on 1.3.2012. What is the interest payable by the assessee u/s 234B and 234C of the Income Tax Act for Assessment Year 2012-2013? Assume that the return of income was filed on 31.07.2012 and tax was fully made upon self-assessment.

Solution:

Assessee: Firm **Previous Year : 2011-2012** **Assessment Year : 2012-2013**

(a) Interest u/s 234B = Nil [since more than 90% of Tax Payable has been paid before the end of the previous year]

(b) Interest u/s 234C

Due Date	Advance Tax payable	Advance Tax paid	Cumulative Advance tax paid before due date	Shortfall in payment of advance tax	Surplus	Months	Interest @ 1% pm
	₹	₹	₹	₹	₹		₹
15.09.2011	30% of 30,90,000 =9,27,000	9,30,000	9,30,000	Nil	3,000	3	
15.12.2011	60% of 30,90,000 =18,54,000	9,00,000	18,30,000	24,000	----	3	720
15.03.2012	100% of 32,96,000 = 32,96,000	14,50,000	32,80,000	16,000	----	1	160
Total							880

Note: Tax on LTCG has been considered only for the 3rd instalment as such gain had arisen only on 1.3.2011.

Computation of Actual Tax Payable by the Firm:

Particulars	₹	₹
Profits and Gains of Business or Profession		1,00,00,000
Capital Gains — Long Term Capital Gain		10,00,000
Total Income		1,10,00,000
Tax on Total Income including Surcharge and Cess		
On Long Term Gain of ₹ 10 lakhs @ 20%+ EC @ 2%+ SHEC @ 1%	2,06,000	
On Business Income @ of ₹ 100 lakhs @ 30%+ EC @ 2%+ SHEC @ 1%	30,90,000	
Net Tax Payable	**32,96,000**	

Note : Tax on Business income alone considered for computation of 1st and 2nd instalment.

Question No. 17(b):

A firm made the following payments of advance tax during the previous year 2011-12 :

	₹ in lakh
September 15, 2011	7.00
December 15, 2011	7.75
March 15, 2012	11.80
	26.75

The return of income is filed on 31.7.2012 showing —

Bonus income	₹ 80 lakh
Long term capital gain taxable @ 20% (as on 1.12.2011)	₹ 20 lakh

Short term capital loss arised on 10th November, ₹9 lacs.

Compute interest payable u/s 234C.

Solution: **Computation of tax liability for the A.Y. 2012-13.**

₹ in lakh

Particulars	Business Income	Long term capital gain
Income	80.00	20.00
Less: Set-off of short term capital loss	----	(9.00)
Net Income	**80.00**	**11.00**
Tax rate	30%	20%
Tax liability before surcharge	24.00	2.20
Add: Education Cess & SHEC	0.72	0.067
Tax liability including cess	24.72	2.267

Total Tax Liability = (24.72 + 2.267) lakhs = ₹ 26.987 lakhs.

Computation of interest payable u/s 234C

Due Date	Advance Tax payable	Advance Tax paid	Cumulative Advance tax paid before due date	Shortfall in payment of advance tax	Surplus	Months	Interest @ 1% pm
	₹	₹	₹	₹	₹		₹
15.09.2011	30% of 24,72,000 = 7,41,600	7,00,000	7,00,000	41,600	Nil	3	1,248
15.12.2011	60% of 24,72,000 (+) 60% of 2,26,700 = 16,19,220	7,75,000	14,75,000	2,55,400	Nil	3	7,662
15.03.2012	100% of 26,98,700 = 26,98,700	11,80,000	26,75,000	23,700	Nil	1	237
Total							9,147

Question No. 17(c):

During the previous year 2011-12, Mrs. X (aged 46 years) pays the following instalments of advance tax:

	₹
On September 15, 2011	6,000
On December 15, 2011	22,000
On March 15, 2012	16,000
On March 16, 2012	18,000

Mrs.X files return of ₹ 7,01,000. Assessment is also completed on the basis of income returned by Mrs. X after making addition of ₹ 25,000 (date of assessment order : January 20, 2013). Mrs. X is entitled to tax credit of ₹ 12,510 on account of tax deducted at source. Compute interest under sections 234B and 234C.

Solution:

Interest liability under section 234B

	₹
Income (7,01,000 + 25,000) =	7,26,000
Tax on ₹ 7,26,000	76,200
Less : Tax deducted at source	12,510
Assessed tax	63,690
90% of assessed tax	57,321

Advance tax paid during 2011-12 (i.e., ₹ 6,000 + 14,000 + 16,000 + 18,000) = ₹ 54,000.

Since advance tax during the previous year 2011-12 is less than 90% of assessed tax, Mrs. X is liable to pay interest under section 234B, i.e., on the shortfall of ₹ 9,690 (being ₹ 63,690 – 54,000) for 10 months (₹ 9,690 × 1/100 × 10) which comes to ₹ 969.

Interest liability under section 234C

Tax on ₹ 7,01,000 = ₹ 71,200

Due Date	Advance Tax payable	Advance Tax paid	Cumulative Advance tax paid before due date	Shortfall in payment of advance tax	Surplus	Months	Interest @ 1% pm
	₹	₹	₹	₹	₹	₹	₹
15.09.2011	30% of 71,200 = 21,360	6,000	6,000	15,360	Nil	3	461
15.12.2011	60% of 71,200 =42,720	22,000	28,000	14,720	Nil	3	442
15.03.2012	100% of 71,200 = 71,200	34,000	62,000	9,200	Nil	1	92
Total							995

Question No.18 (a)

Compute the Advance Tax payable by R from the following estimated income submitted for the previous year 2011-12.

		₹
(1)	Income from Salary	3,64,000
(2)	Rent from house property (per annum)	1,80,000
(3)	Interest on Government securities	5,000
(4)	Interest on bank deposits	3,000
(5)	Receipt from horse race (net)	14,000
(6)	Agricultural Income	90,000
(7)	Contribution towards PPF	10,000

Tax deducted at source by the employer on salary is ₹ 9,680.

Solution:

Computation of Estimated Total Income for the Previous Year 2011-12

	₹	₹
Income from Salary :		
Gross salary	3,64,000	
Less : Deduction	Nil	3,64,000
Income from House Property :		
Rent received	1,80,000	
Less : (Statutory deduction u/s 24(a) @ 30%)	54,000	1,26,000
Income from Other Sources :		
Interest on Government securities	5,000	
Interest on Bank Deposit	3,000	
Horse Races (Gross)	20,000	28,000
Estimated Gross Total Income		**5,18,000**
Less : Deduction under section 80C		10,000
Total Income		**5,08,000**

Estimated Tax :	
Step-1 : Aggregate of Agricultural income + Non-Agricultural income (90,000 + 5,08,000) = 5,98,000	
Tax on : Income from Horse Race of ₹ 20,000 @ 30%	6,000
Balance income of ₹ 5,78,000	47,600
	53,600
Step-2 : Aggregate of Basic exemption limit of agricultural income (1,80,000 + 90,000) = 2,70,000	
Tax on ₹ 2,70,000	9,000
Step-3 : Tax on non-agricultural income	
Tax under step-1 - Tax under step-2 (53,600 – 9,000) = 44,900	
Estimated tax payable	**44,900**

Add : Education cess @ 2%		898
Add : SHEC @ 1%		449
		46,247
Less : Estimated TDS		
on salary	9,680	
on horse races	6,000	15,680
Advance tax payable (rounded off)		**30,567**
First installment payable by 15.9.2011 (30%)		9,170
Second installment payable by 15.12.2011 (30%)		9,170
Third installment payable by 15.3.2012 (balance 40%)		12,227

Working notes :

Computation of gross winnings from horse races :	₹
Net Amount	14,000
Grossing up	20,000
Tax deducted at source (Gross amount ₹ 20,000 – Amount received ₹ 14,000)	6,000

Question No.18 (b)

X Ltd. estimates its income for the previous year 2010-11 at ₹ 1,20,000. Besides this income, it has also earned long-term capital gain of ₹ 80,000 on transfer of gold on 1.12.2011. Compute the advance tax payable by the company in various instalments.

Solution:

	₹
Tax on ₹ 1,20,000 @ 30%	36,000
LTCG of ₹ 80,000 @ 20%	16,000
	52,000
Add : Education cess @ 2%	1,040
SHEC @ 1%	520
	53,560

Amount payable on 1st and 2nd instalment. For the first two instalments tax on LTCG will not be taken into account as this accrued on 1.12.2011 *i.e.* after the due date of the first 2 instalments.

₹

Tax including Education Cess and SHEC payable without Long-term Capital Gain (₹ 36,000 + 720 +360) =₹37,080

Advance Tax Payable

Due Date	Tax Liability as on due date	Amount of Instalment Payable (₹)
15.6.2011	15% of 37,080 = 5,562	₹ 5,562
15.9.2011	45% of 37,080 = 16,680	= 16,680 – 5,560 = 11,118
15.12.2011	75% of 53,560 = 40,170	= 40,170 – 5,562 – 11,118 = 23,490
15.3.2012	100% of 53,560 = 53,560	= 53,560 – 5,562 – 11,118 – 23,490 = 13,390

Question No.18(c):

Find out the amount of advance tax payable by ABC Ltd. on specified dates for the previous year 2011-12 :

Business income	₹ 1,75,000
Long term capital gain on 31-7-2011	₹ 3,50,000
Bank interest	₹ 10,000
TDS on business income	₹ 19,995

Solution :

Computation of Total Income of ABC Ltd. for the previous Year 2010-11

Particulars	Amount ₹
Profits and gains of business or profession	1,75,000
Capital gains: Long term capital gains	3,50,000
Income from other sources: Bank Interest	10,000
Total Income	**5,35,000**

Computation of tax liability of ABC Ltd. for the previous year 2011-12

Particulars	Long term capital gain ₹	Other income ₹
Income	3,50,000	1,85,000
Tax rate	20%	30%
Tax on above	70,000	55,500
Add : Education cess & SHEC	2,100	1,665
Tax and cess payable	72,100	57,165
Less : TDS	—	19,995
Advance tax payable	72,100	37,170

Advance tax to be paid on specified dates

	Advance tax on LTCG		Advance tax on income other than LTCG		
Date	Workings	Amount (a) ₹	Workings	Amount (b) ₹	Total (a+b) ₹
15.06.2011	As LTCG occurred on 31.7.11	Nil	15% of ₹ 37,170	5,576	5,576
15.09.2011	45% of ₹ 72,100	32,445	30% of ₹ 37,170	11,151	43,596
15.12.2011	30% of ₹ 72,100	21,630	30% of ₹ 37,170	11,151	32,781
15.03.2012	25% of ₹ 72,100	18,025	25% of ₹ 37,170	9,292	27,317
Total		**72,100**		**37,170**	**1,09,270**

Question No. 19(a)

R a resident Indian, has derived the following income for the previous year relevant to the assessment year 2012-2013.

	Particulars	₹
(1)	Income from profession	4,00,000
(2)	Share income from a partnership in country X (tax paid in country Y for this income in equivalent Indian rupees ₹ 25,000)	2,00,000
(3)	Commission income from a concern in country Y (tax paid in country Y at 20%) converted in Indian rupee.	40,000
(4)	Interest from schedule banks.	20,000

R wishes to know whether he is eligible to any double taxation relief, if so, its quantum. India does not have any Double Taxation Avoidance Agreement with countries X and Y.

Solution: (a) Computation of Total Income

	Particulars	₹	₹
(a)	Income from business:		
	(i) Income from profession	4,00,000	
	(ii) Share income in partnership firm in country X	2,00,000	6,00,000
(b)	Income from other sources:		
	(i) Interest from schedule bank	20,000	
	(ii) Commission earned in country Y, assumed from other sources	40,000	60,000
Total Income			**6,60,000**
(b)	Computation of tax liability :		
	Tax on total income of ₹ 6,60,000		64,000
	Add : Education cess @ 2%		1,280
	Add : SHEC @		640
			65,920
	Less : Double taxation relief : (2,00,000 + 40,000) = 2,40,000 × 9.99%		23,976
Tax payable			41,944
Tax payable to be rounded off to the nearest multiple of ₹ 10 (Sec. 288B)			41,940

Note: (i) Average rate of tax in the foreign country 20%.

(ii) Average rate of tax in India: [₹65,920 x100/6,60,000] =9.99%

Whichever is less, is applicable

Question No. 19(b)

SIPRA Constructions Ltd. is engaged in the construction of residential flats. For the valuation date 31.3.2012, furnishes the following data and requests you to compute the taxable wealth:

(a) Land in urban area (construction is not permitted as per Municipal laws in force) ₹ 50 lakhs
(b) Motor-cars (in the use of company) ₹10lakhs
(c) Jewellery (Investment) ₹10 lakhs
(d) Cash balance (As per books) ₹ 3 lakhs
(e) Bank Balance (As per books) ₹ 6 lakhs
(f) Guest House (Situated in rural area) ₹ 8 lakhs
(g) Residential flat occupied by Managing Director (Annual remuneration of whom is ₹8 Lakhs excluding perquisites) ₹ 10 lakhs
(h) Residential house let-out for 100 days in the financial year ₹ 5 lakhs
(i) Loan obtained for:

- Purchase of Motor Car ₹ 3 lakhs
- Purchase of Jewellery ₹ 2 lakhs

Solution:

Assessee: SIPRA Constructions Ltd. Valuation Date: 31.3.2012 Assessment Year: 2012-13

Nature of Asset	Amount taxable (₹ Lakhs)	Reasons
Land in Urban Area	NIL	Land in which construction is not permitted as per municipal laws is not an asset u/s 2(ea)
Motor-cars	10	Motor-car other than those used in the business of hire or held as stock-in-trade is an asset u/s 2(ea)
Jewellery	10	Not held as stock-in-trade - asset u/s 2(ea)
Cash Balance	NIL	Cash as per books - not an asset u/s 2(ea)
Bank Balance	NIL	Not an asset u/s 2(ea)
Guest House	8	Asset u/s 2(ea)
Residential Flat Occupied by MD	10	Asset u/s 2(ea)-since Gross Annual Salary of Managing Director is greater than ₹ 5 Lakhs
Let-out Residential House Property	5	Asset u/s 2(ea) – since not let-out for a period exceeding 300 days
TOTAL ASSETS	**43**	
Less: Debt incurred in relation to Assets		
1. Purchase of Motor-car	(3)	
2. Purchase of Jewellery	(2)	
NET WEALTH	**38**	
Less: Basic Exemption	30	
Taxable Net Wealth	8	
Tax Payable @ 1%	8,000	

Question No.19 (c)

Abhishek, a person of Indian origin was working in Austria since 1991. He returned to India for permanent settlement in May 2011 when he remitted money into India. For the valuation date 31.3.2012, the following particulars were furnished. You are required to compute the taxable wealth. The reason for inclusion or exclusion should be stated –

- Building owned and let-out for 270 days for residence. Net maintainable rent (₹1,00,000) and the Market Value (Excess of Unbuilt Area over Specified Area is 20% of the Aggregate Area) ₹ 30 lakhs
- Jewellery **:** (a) Purchased in April 2011 out of money remitted to India from Austria ₹ 12,00,000

  (b) Purchased in May 2011 out of sale proceeds of motor-car brought from abroad and sold for ₹ 40 lakhs.

- Value of interest in urban land held by a firm in which he is a partner ₹10 lakhs
- Bonds held in companies ₹10 lakhs
- Motor car used for own business ₹ 25 lakhs
- Vacant house plot of 480 sq. mts. (purchased in December 2003) market value of ₹ 20,00,000
- Cash in hand ₹ 45,000
- Urban land purchased in the year 2008 out of withdrawals of NRE Account ₹ 15,00,000

Solution :

Assessee : Abhishek Valuation Date : 31.3.2012 Assessment Year : 2012-13

Computation of Net Wealth

Nature of the Asset	₹	₹	Reasons
Value of the House		**18,50,000**	Asset u/s 2(ea). Working Note 1
Jewellery: Purchased in April 2011	12,00,000		Asset u/s 2(ea).
Less: Exempt u/s 5(v) Jewellery	(12,00,000)	**Nil**	Purchased out of money brought into India
Jewellery: Purchased in May 2011	40,00,000		Asset u/s 2(ea).
Less: Exempt u/s 5(v)	(40,00,000)	**Nil**	Purchased out of sale proceeds of assets brought into India
Interest in Urban Land held by firm		**10,00,000**	Deemed Asset u/s 4(1)(b)
Bonds held in companies	—	**Nil**	Not an asset u/s 2(ea)
Motor car		**25,00,000**	Asset u/s 2(ea). Not held as stock-in-trade
Vacant House Plot (480 sq. mts.)	20,00,000		Asset u/s 2 (ea)
Less: Exempt u/s 5(vi)	(20,00,000)	**Nil**	House/part of house/plot less than 500 sq.mts.
Cash in hand		**Nil**	Since not exceeding ₹50,000
Urban Land Purchased	15,00,000		Purchased out of money
Less: Exempt u/s 5(v)	(15,00,000)	**Nil**	brought into India
NET WEALTH		**53,50,000**	
Less : Basic Exemption		**30,00,000**	
Net Taxable Wealth		**23,50,000**	
Tax Payable @ 1%		**23,500**	

(1) Working Notes: Valuation of Building:

Net Maintainable Rent(NMR)	= ₹1,00,000
Capitalized Value of NMR=NMR×12.5 (Owner of the land) = ₹ 1,00,000 × 12.5	= ₹12,50,000
Add : Premium for excess of unbuilt area (20%) over specified area = 40% of CNMR	= ₹ 5,00,000
VALUE OF THE HOUSE	**₹18,50,000**

Question No. 19(d)

From the following dated furnished by Mr. Soumitra, determine the value of house property built on leasehold land as at the valuation date 31.3.2012:

Particulars	₹
Annual Value as per Municipal valuation	1,40,000
Rent received from tenant (Property vacant for 3 months during the year)	1,08,000
Municipal tax paid by tenant	10,000
Repairs on property borne by tenant	8,000
Refundable deposit collected from tenant as security deposit which does not carry any interest	50,000

The difference between unbuilt area and specified area over aggregate area is 10.5%.

Solution:

Assessee: Mr. Soumitra Valuation Date: 31.3.2011 Assessment Year: 2012-13

Computation of Value of House Property

Step I: Computation of Gross Maintainable Rent(GMR)

Particulars	₹	₹
Actual Annual Rent- ₹ 1,08,000 x 12 Months/9 Months		1,44,000
Add: Municipal tax paid by the Tenant10,000		
I/9th of Actual Rent Receivable as repair expenses are borne by the tenant - ₹ 1,44,000/9	16,000	
Interest on Refundable Security Deposit- ₹ 50,000 x 15% x 9/12	6,000	32,000
GROSS MAINTAINABLE RENT (GMR)	**1,76,000**	

Step II: Computation of Net Maintainable Rent (NMR)

Particulars	₹	₹
Gross Maintainable Rent (GMR)		1,76,000
Less: Municipal Taxes levied by the local authority	10,000	
15% of Gross Maintainable Rent - ₹1,76,000 x 15%	26,400	(36,400)
NET MAINTAINABLE RENT (NMR)		**1,39,600**

Step III: Capitalisation of the Net Maintainable Rent (CNMR) (Assumed that unexpired lease period is more than 50 Years)

NMR × Multiple Factor for an Unexpired Lease Period - ₹ 1,39,600 × 10 = ₹ 13,96,000

Step IV: Addition of Premium to SNMR in case of excess inbuilt area:

Particulars	₹
Add: Capitalisation of the Net Maintainable Asset	13,96,000
Premium for excess of 10.5% unbuilt area over specified area-30% of CNMR	4,18,800
Value of House Property as per Wealth Tax Act	**18,14,800**

Question No.19 (e)

Property Company Ltd. has let-out a premise with effect from 1.10.2011 on monthly rent of ₹ 1.5 lakh. The lease is valid for 10 years and the tenant has made a deposit equivalent to 3 months rent. The tenant has undertaken to pay the municipal taxes of the premises amounting to ₹ 2 lakhs. What will be the value of the property under Schedule III of the Wealth Tax Act for assessment to wealth tax?

Solution :

Assessee: Property Company Ltd. Valuation Date: 31.3.2012 Assessment Year : 2012-13

Computation of Value of Let-out Property

Actual Annual Rent Receivable - ₹ 1,50,000 × 12 Months	18,00,000
Add: Municipal Taxes borne by the Tenant	2,00,000
GROSS MAINTAINABLE RENT	20,00,000
Less: Municipal Taxes levied by the Municipal Authority	2,00,000
Less: 15% of Gross Maintainable Rent (₹ 20,00,000 × 15%)	3,00,000
NET MAINTAINABLE RENT	15,00,000

Value of the Property = Capitalized Value of NMR

NMR × 8 (unexpired period of lease is less than 50 years) = ₹ 15,00,000×8 = ₹ **1,20,00,000**

Question No.19(f)

Net wealth of firm consisting of three partners Bidyut, Kingshuk and Deepak in 2:2:1 and a capital contribution of ₹ 17 Lakhs, ₹13 Lakhs, and ₹12 Lakhs respectively is as under -

(a)	Value of assets located outside India	₹ 30,00,000
(b)	Value of assets located in India	₹ 80,00,000
(c)	Debts incurred in relation to assets in India	₹ 40,00,000

Determine the value of interest of the partners in the firm under the Wealth Tax Act, 1957.

Solution :

Assesses: Bidyut, Kingshuk & Deepak Valuation Date: 31.3.2012
Assessment Year: 2012-13

Computation of net wealth of the Firm

Particulars	**₹**	**₹**
Value of Assets located in India	80,00,000	
Less: Liability in relation to assets in India	40,00,000	40,00,000
Value of Assets located outside India		30,00,000
Net Wealth of the Firm		**70,00,000**

Solution :

Computation of Interest of the Partner in the net wealth of the Firm (Amount in ₹)

Particulars	**Bidyut**	**Kingshuk**	**Deepak**
To the extent of Capital Contribution	17,00,000	13,00,000	12,00,000
Balance (Net Wealth-Capital Contribution) in Profit sharing ratio since dissolution ratio is not given	11,20,000	11,20,000	5,60,000
Interest of the Partner in the Net Wealth of the Firm	**28,20,000**	**24,20,000**	**17,60,000**

Computation of the Interest of the Partner in the net wealth of the Firm on the basis of location of assets:
(Interest of the Partner in the Firm **apportioned** in the ratio of **4:3)**

Particulars	**Balu**	**Kausik**	**Deepu**
Assets Located Inside India	16,11,429	13,82,857	10,05,714
Assets Located Outside India	12,08,571	10,37,143	7,54,286
Interest of the Partner in the Net Wealth of the Firm	28,20,000	24,20,000	17,60,000

Question No.20 (a)

A company has started a new industrial undertaking in an old building purchased by it for ₹30,00,000 and has installed both new and second hand machinery from time to time to cope with the increase in production. The details of the machinery installed (old and new) are furnished below. It wants to know whether it is eligible to any deduction u/s 80IB, if so, for how many years?

Machinery	**2006-2007**	**2007-2008**	**2008-2009**	**2009-2010**	**2010-2011**
		Additions	**Additions**	**Additions**	**Additions**
New	**2,50,000**	**2,50,000**	**2,00,000**	**2,50,000**	**1,00,000**
Second hand	**1,50,000**	**Nil**	**Nil**	**Nil**	**1,50,000**

Answer: For claiming deduction u/s 80IB, one of the conditions is that second hand machinery used should not exceed 20% of total value of machinery and plant used in the business [Explanation 2 to Sec.80IB(2)(iii)].

Financial Years	**New Machinery (Rs)**	**Old Machinery (₹)**	**Total value (₹)**	**% of old in Total (₹)**
2006-07	2,50,000	1,50,000	4,00,000	1,50,000/4,00,000 x 100 = 37.5%
2007-08	5,00,000	1,50,000	6,50,000	1,50,000/6,50,000 x 100 =23.1%
2008-09	7,00,000	1,50,000	8,50,000	1,50,000 / 8,50,000 x 100 = 17.6%
2009-10	9,50,000	1,50,000	11,00,000	1,50,000/11,00,000 x 100 = 13.6%
2010-11	10,50,000	3,00,000	13,50,000	3,00,000/13,50,000 x 100 = 22.2%

From the above analysis, it is revealed that cost of second hand machinery used in business has exceeded the limit of 20% in the financial years 2006-07,2007-08 and 2010-11. Hence, deductions shall be allowed only for the previous years 2008-09 and 2009-10.

Question No.20 (b)

Entertainment Arts of Mumbai engaged in distribution of cinematography films. It started construction of multiplex theatre and convention hall in Navi Mumbai in May 2002 and completed in January 2005. The profits for the year ended 31.3.2012 of all activities are:

(i) Distribution of cinematography films ₹10 lakhs

(ii) Convention theatre ₹12 lakhs

(iii) Multiplex theatre ₹5 lakhs

Compute taxable income for the assessment year 2012-13 with reasons.

Answer:

Assessee: Entertainment Arts **Previous Year : 2011-2012** **Assessment Year: 2012-2013**

Computation of Total Income

Particulars	**Amount (₹)**	**Amount (₹)**
Profits and gains from business or profession	10,00,000	
Convention centre at Navi Mumbai	12,00,000	
Multiplex theatre at Navi Mumbai	5,00,000	27,00,000
Gross Total Income		27,00,000
Less: Deduction under chapter VI-A		
80-IB(7B) – Convention Centre – 50% of ₹12,00,000		6,00,000
Total Income		**21,00,000**

Note: Though the multiplex was constructed between 1.4.2002 to 31.3.2005, deduction u/s 80-IB will not be available to a Multiplex Theatre located at a place within the municipal jurisdiction of Metros (whether known as a Municipality, Municipal Corporation, Notified Area Committee or a Cantonment Board or by any other name), i.e. Kolkata, Chennai, Delhi or Mumbai.

It may be noted that there is no space/ area restriction for a Convention Centre.

Question No.20(c)

Define "Manufacture" in the context of Sec. 80-IB.

Answer: With retrospective effect from Assessment Year 2009-10, "Manufacture" means change in non-living physical object/article/thing :-

- Resulting in a 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
- Bringing into existence a new and distinct object or article or thing, with different chemical composition or integral structure.

According to Sec.80-IB, the Assessee company must be engaged in the business of manufacture or production of any article or thing [Hotel & Allied Trade Pvt. Ltd 245 ITR 538, Indian Hotels Co. Ltd and others 245 ITR 538 (SC)]

Question No. 20(d)

In Uttaranchal, an undertaking commenced business of manufacturing an article(other than those specified in Schedule III) and had undergone substantial expansion during the specified period. The commercial production had started on 15th April, 2003 and during the current previous year 2011-12, made a profit of ₹5 lakhs. Discuss exemption available, if any.

Answer: The assessee is eligible to claim an exemption u/s 80-IC, based on the location of its establishment. In the given case, the undertaking is located in Uttaranchal and the commencement is on or after 7th January, 2003 (specified date) and between 1st April,2012 (last date). Deduction is available @ 100% for the first 5 years and for the next 5 years @ 30% for companies and @25% for othe₹

Since this undertaking is presently in 9th year of its operations, it would be eligible to claim 30% (assuming this undertaking to be a company) on the profits earned u/s 80-IC.

Computation:

Profit as per profit & loss account	₹5,00,000
Less: Deduction u/s 80-IC @ 30% of ₹5,00,000	₹1,50,000
Total Income	**₹3,50,000**

Question No. 20(e)

Happy Times Entertainment Ltd. is also engaged in the business of hotel, one of which is located in a specified district having a World Heritage Site. Discuss taxability of profits.

Answer: U/s 80-ID, a undertaking engaged in the business of hotels located in specified district having a world heritage site (w.e.f. assessment year 2009-10), would be eligible for deduction @100% of profits for the first 5 years, provided, the date of commencement is on or after 1st April, 2008 but upto 31st March,2013.

Hotel means a hotel of two-star, three-star or four-star category as classified by the Central Government. Specified area means the National Capital Territory of Delhi and the districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad.

Question No. 20(f)

Discuss the provisions relating to deduction u/s 80-IE, for undertakings located in North-Eastern States.

Answer: U/s 80-IE, any undertaking which commences its operation during the period beginning on 1st April, 2007 and ending before 1st April,2017 in any of the North-Eastern States to:

(i) Manufacture or produce any eligible article or thing;

(ii) Undertake substantial expansion to manufacture or produce any eligible article or thing;

(iii) Carry on any eligible business.

Deduction is available @ 100% of the profits and gains derived from the business from 10 consecutive assessment years commencing from the previous years of manufacture, production or substantial expansion.

Question No.20 (g)

A foreign enterprise enters into a contract for the fabrication and supply of components for machinery with X & Co., a firm in India. X & Co. in turn subcontracts the work to Y & Co (a Partnership firm) and pays it ₹23 lakhs during the previous year 2011-12. Discuss the liability for tax deduction at source.

Answer: U/s 194C, payments to contractors (including sub-contractors) for contracts shall be subject to TDS @ 1% if the payee is a resident individual/HUF and 2% in case of other resident payees.

Since the payment is made to a firm, ₹23 lakhs shall be subject to TDS @ 2% i.e. ₹46,000

Therefore, X & Co. should deduct ₹46,000 from the amount payable to Y & Co and pay the balance of ₹22,54,000. Further, the foreign enterprise is also liable to deduct TDS on its payment to main contractor @ 2%.

Question No. 20(h)

X Ltd. has taken a 5,000 sq.ft. flat on rent from B Ltd to set up its Branch office. The rent payable to B Ltd for the flat is ₹ 90,000 per month plus applicable service tax. X Ltd. wishes to know whether tax is required to be deducted at source u/s 194-I, from gross amount of rent including service tax. Advice.

Answer:

Service tax paid by tenant is not in the nature of "income' for the landlord. Hence, TDS u/s 194-I would be required to be made on the amount of rent paid/payable without including service tax. [Circular No.4/2008 dated 28.4.2008]

Since the amount of rent payable exceeds ₹ 1,80,000, TDS is to be deducted @ 10% during the previous year 2011-12 is as follows:

= ₹ 90,000 x 12 months x 10% = ₹ 1,08,000.