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GROUP I

DIRECTORATE OF STUDIES

THE INSTITUTE OF
COST AND WORKS ACCOUNTANTS OF INDIA

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GROUP - I

Paper-7 : APPLIED DIRECT TAXATION

INTERMEDIATE EXAMINATION

(REVISED SYLLABUS - 2008)

GROUP - I

Paper-7 : APPLIED DIRECT TAXATION

Q. 1. What are the exceptions to the rule that the Income of the previous year shall be assessed in the subsequent assessment year?

Answer 1.

1. **Shipping Business of Non–Resident [Section 172] :**
   (a) Assessee should be a **non-resident.**
   (b) He should either be the **owner** of the ship or has **chartered** the ship.
   (c) The ship carries passengers, goods, livestock, mail or goods shipped at a port in India.
   (d) The non-resident assesee may or may not have an agent in India.
   (e) **7.5%** of amount of such carriage including demurrage and handling charges shall be **deemed as income** of the assessee. **[u/s 44B]**
   (f) The **Master of the Ship should file the return and pay tax** on such income before departure or must make necessary arrangements for payment of such tax **within 30 days** of departure of the ship.
   (g) If the above conditions are fulfilled, the Collector or Customs shall grant the port clearance.
   (h) This assessment is **mandatory.** The Assessing Officer may call for such accounts as to determine the tax liability.

2. **Persons leaving India [Section 174] :**
   (a) The assessee leaves India either during the current previous year or immediately thereafter.
   (b) He does not have any intention to return to India immediately.
   (c) His total income from the date of commencement of previous year upto the date of departure shall be assessed as income of the same previous year.
   (d) This assessment is **mandatory.**

3. **AOP or BOI or Artificial Juridical Person formed for a particular event or purpose [Sec. 174A] :**
   (a) AOP or BOI established or incorporated for a particular event or purpose.
   (b) It is likely to be dissolved in the assessment year in which it was established or incorporated or immediately after such assessment year.
   (c) The total income of the period from the expiry of the previous year for that assessment year upto the date of dissolution shall be chargeable to tax in that assessment year.

4. **Persons likely to transfer property to avoid tax [Section 175] :**
   (a) The assessee is likely to charge, sell or transfer or dispose of his asset.
   (b) The asset may be movable or immovable property.
   (c) The intention of transfer is to avoid payment of any tax liability under Income Tax Act.

(d) The total income from the commencement of previous year upto the date of proceedings u/s 175 is taxable in that year itself.

(e) This assessment is **mandatory.**

5. **Discontinued business [Section 176] :**

(a) Business or profession carried on by the assessee is discontinued during the previous year.

(b) The income from the first day of the previous year upto the date of discontinuation may be assessed in the previous year itself.

(c) The assessee discontinuing the business/profession shall give within 15 days of such discontinuance a notice about the discontinuance to the Assessing Officer.

(d) This assessment is **discretionary.**

Q. 2. (a) What does "Substantial Interest" mean under the Income Tax Act?

(b) Mr. Tamang born and brought up in the State of Sikkim had Net Profit of Rs. 2,25,000 from the business located in Sikkim and Interest of Rs. 55,000 on the Securities/Bonds issued by the Government of Rajasthan.

Answer 2. (a)

According to **Sec. 2 (32)** of the Income Tax Act, a person has "Substantial Interest" in the following cases–

For a	Person having "Substantial Interest"
Company	Person who is the beneficial owner of Shares, not being Shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits, carrying **not less than 20% of the voting power**.
Non-Corporate Entity	Person holding **not less than 40% of the share of the profits.**

Substantial Interest is attracted in the following situations :

(i) Taxability of deemed dividend u/s 2(22)(e).

(ii) Definition of Specified Employee u/s 17(2)(iii)

(iii) To determine relative u/s 40A(2) for the purpose of disallowance of excessive or unreasonable expenditure.

(iv) Clubbing of Salary Income of the spouse u/s 64(1)(ii).

[**Note :** Only for this Section, the interest of not only the assessee but also the relative of the assessee shall be considered.]

Answer 2. (b)

Income received by Sikkimese : In case of Individual, being a Sikkimese, any income which accrues or arises to him—

(a) from **any Source** in Sikkim (or)

(b) as **Dividend or Interest on Securities.**

Therefore the Net Profit of Rs. 2,25,000 from the business located in Sikkim and interest of Rs. 55,000 on Securities / Bonds issued by the Government of Rajasthan shall be exempt u/s 10(26AAA).

Q. 3. (a) The books of account maintained by a National Political Party registered with Election Commission for the year ending 31.3.2010, disclose the following receipts :

		Rs.
(i)	**Rent of Property let out to a Departmental Store at Chennai**	**3,00,000**
(ii)	**Interest on Deposits other than Banks**	**6,00,000**
(iii)	**Contributions from 200 persons (who have secreted their names) of Rs. 21,000 each**	**42,00,000**
(iv)	**Contribution at Rs. 11 each from 1,00,000 members in cash**	**11,00,000**
(v)	**Net Profit of cafeteria run in the premises at Delhi**	**1,00,000**

Compute the total Income of the political party for Asst. Year 2010-2011, with reasons for inclusion or otherwise.

(b) Examine the correctness of the statement that "there exists no difference in the treatment of income claimed uls 10 will those under Chapter VI-A of the Income Tax Act"?

Answer 3. (a)

Assessee: Registered Political Party   Previous Year: 2009-2010   Assessment Year: 2010-2011

Computation of Total Income

	Particulars		**Rs.**	
Income from House Property :				
	Rental Income from Property at Chennai		3,00,000	
Less:	Exempt u/s 13A		(3,00,000)	Nil
Profits and Gains of Business or Profession –				
	Net Profit from canteen Business			1,00,000
Income from Other Sources :				
	Interest on Deposits	6,00,000		
Less:	Exempt u/s 13A	(6,00,000)	Nil	
	Contributions from Secret Members	42,00,000		
	Contributions from Other Members	11,00,000		
	Total Contribution from Members	**53,00,000**		
Less:	Exempt u/s 13A - (Amount received from secret members is greater than Rs. 20,000 and is taxable. Hence, Rs. 11,00,000 only is exempt)	(11,00,000)	42,00,000	42,00,000
	Total Income			**43,00,000**

Answer 3. (b) The following is the difference between

Exemption u/s 10	**Deduction under Chapter VI-A**
Income exempt does not form part of the Total Income.	Income forms part of Total Income.
Expenditure in relation to income exempt not deductible.	Expenditure in relation to income deductible.
It will not enter the calculation of Total Income.	It is a deduction from Gross Total Income.
Income is normally exempt subject to certain conditions.	Deduction is normally allowed based on payment or fulfillment of conditions.

Q. 4. The question whether a particular income is "income from salary" or is "income from business" depends upon whether the contract is a contract of service or is a contract for service. Discuss.

Answer 4.

Particulars	Contract of Service	Contract for Service
1. **Meaning**	Employer-Employee relationship is vital. The Employee does the work for his master.	In this contract, a person offers his services to any person who is willing to pay the charges therefor.
2. **Control**	Control and supervision vests in the **Master** (employer). The servant (employee) is bound to follow the master's directions.	The day-to-day control is normally **absent** in the case of contract for service.
3. **Execution of work**	Employee works under the close supervision of his Employer who determines the manner of execution of work. **(Control over What should be done and How)**	The person executing the job is answerable only for the work to be carried out in accordance with the terms of contract. He has discretion to do the work in his own way. **(Control over what should be done and not How to do it)**
4. **Remu-neration**	An employee works for remuneration, which may be paid monthly or in lump sum or on any suitable basis as per agreement.	The person rendering the service is entitled to the fruits of his labour, and also liable for the losses.
5. **Chargeable to tax**	Income from Salaries.	Profits & Gains of Business/Profession.
Example	Deepika Padukone, an actress, is an employee of Universal Studios P Ltd. She gets a remuneration of Rs. 10 Lakhs p.m. She acts in several films but the producers pay the fees for those services directly to the studios. Here, employer-employee relationship exists between her and Universal Studios. Hence her remuneration will be assessed as Salary.	Farhan is an actor. He acts in several films at a time with remuneration ranging from Rs. 20 Lakhs to Rs. 3 crores. The producers of films pay him directly for his services. There is no employer-employee relationship between the producers and Hrithik Roshan.

Q. 5. Hero Limited under its ESOP scheme alloted 300 Equity Shares to its Finance Manager, Mr. Prabir Nandy, on 15th May, 2010, when he exercised her option. The Option was granted on 15th January, 2009 and shares vested with Mr. Nandy on 15th January, 2010. The company's shares are quoted in BSE where the Opening Price and Closing Price on the exercise data were Rs. 400 and Rs. 450 respectively. The Company recovered Rs. 80 per share from Mr. Nandy. Compute the taxable value of the perquisite. What is the cost of acquisition of such shares?

Answer 5.

U/s 17(2) Value of Perquisite for :

(a) Any Specified Security or Sweat Equity Shares allotted free of cost or at concessional rate to employees including former employees is taxable as perquisite in the hands of the employees **(w.e.f AY 2010-11).**

(b) **Taxable Value** = FMV on the **date of exercise** of the option **less** amount recovered from Employee.

(c) **Calculation of Value of Fringe Benefits :**

Particulars	Computation	Value
Opening Market Value on Date of Exercise	Given	Rs. 400
Closing Market Value on Date of Exercise	Given	Rs. 450
FMV on date of Exercise of option (assumed)	Average of above = (400+450) ÷ 2	Rs. 425
No. of shares on which option exercised		300 shares
FMV of the above shares	300 shares × Rs. 425	Rs. 1,27,500
Amount recovered from Mr. Nandy	300 shares × Rs. 80	Rs. 24,000
Value of Perquisite		**Rs. 1,03,500**

2. **Cost of Acquisition of above shares :**

(a) **U/s 49(2AB),** Cost of Acquisition of shares so allotted for the employee shall be **the value considered for valuing such shares for the purposes of perquisite.**

(b) Hence **Rs. 425** shall be considered as the Cost of Acquisition of such shares.

Q. 6. Aman, an Employee furnished the following particulars for previous year ending 31.3.2010

(a)	**Salary Income as computed**	**Rs. 2,52,000**
(b)	**Arrears of Salary received (not included in the above) relating to FY 2007-08**	**Rs. 15,000**
(c)	**Assessed Income for Financial Year 2007-08**	**Rs. 55,000**
(d)	**On 25.3.2010, amount deposited in Public Providend Fund**	**Rs. 50,000**

You are requested to compute relief u/s 89 in terms of Tax Payable.

Rates to tax for Assessment Year 2008-09 are — On First Rs. 1,00,000 — Nil, On next Rs. 50,000 — 20%, On the balance — 30%. Surcharge at 10% if Total Income exceeds Rs. 8,50,000.

Answer 6.

Name : Mr. Aman **Previous Year: 2009-2010** **Assessment Year: 2010-2011**

Table 1 : Computation of Relief u/s 89

Step	Particulars	Rs.
1	Total Income for the year (excluding Arrears of Salary) [2,52,000 – 50,000]	2,02,000
2	Arrears of Salary received relating to Prior Previous Years	15,000
3	Total Income for the year (including Arrears of Salary)	2,17,000
4	Tax on Total Income (Item No. 3) after Cess	5,870
5	Tax on Total Income (Item No. 1) after Cess	4,320
6	Difference between (4) and (5)	1,540
7	Total Tax computed as per Column 7 of Table 2 below	Nil
8	**Relief u/s 80 [(6)–(7)]**	**1,540**
9	**Net Tax Payable (rounded off)**	**4,330**

Table 1 : Computation of Relief u/s 89

Previous year	Total Income	Earlier years arrears	Total income including arrears	Tax on Income in Col. 4	Tax on Income in Col. 2	Difference between Col. (5) & Col. (6)
				(After Deduction Plus SC & Cess)		
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**	**(7)**
2008-09	55,000	15,000	70,000	Nil	Nil	Nil

Note : Computation of Tax Payable for AY 2010-2011, If Salary Income is –

	Particulars	Including Arrears (Rs.)	Excluding Arrears (Rs.)
	Gross Total Income	2,67,000	2,52,000
Less :	Deduction u/s 80C = Contribution to PPF	(50,000)	(50,000)
	Total Income	**2,17,000**	**2,02,000**
	Tax on Total Income	5,700	4,200
Add :	Education Cess at 2%	114	84
Add :	Secondary and Higher Education Cess at 1%	57	42
	Total Tax Payable (Rounded Off)	**5,870**	**4,330**

Q. 7. Mr. B is the owner of a commercial property let out at Rs. 20,000 p.m. The municipal tax on the property is Rs. 25,000 annually, 50% of which is payable by the tenant. This tax was actually paid on 15.4.2010 He had borrowed a sum of Rs. 8 Lakhs from his cousin, resident in USA (in dollars) for the construction of the property on which interest at 12.5% is payable. He has also received arrears of rent of Rs. 20,000 during the year, which was not charged to tax in the earlier years. What is the Property Income of X for AY 2010-11?

Answer 7.

Name : Mr. X **Previous Year: 2009-2010** **Assessment Year: 2010-2011**

Computation of Income from House Property

	Particulars		Rs.	Rs.
	Let Out : So, Annual Value u/s 23(1)(a)/(b) = Actual Rent = Rs. 20,000×12		2,40,000	
Less :	Municipal Taxes Paid during the FY 2009-10		Nil	
	Net Annual Value			**2,40,000**
Less :	**Deduction u/s 24**			
	— @ 30% of NAV —	Rs. 2,40,000 × 30%	72,000	
	— Interest on Housing Loan (Note) —	Rs. 8,00,000 × 12.5%	1,00,000	(1,72,000)
	Income from House Property before considering Arrears of Rent			**68,000**
	Arrears of Rent Received		20,000	
Less :	Deduction u/s 25B — 30% of Arrears received — Rs. 20,000 × 30%		(6,000)	14,000
	Net Income from House Property			**82,000**

Note : It is presumed that the tax has been deducted at source on the amount of interest payable outside India.

Q. 8. (a) Prosperous Ltd. purchased a machinery from Japan for USD 1,00,000 on 3.11.2009 by borrowing from Hopeful Bank Ltd. The Exchange Rate on the date of acquisition was Rs. 46. The assessee (U&I), took a forward exchange rate on 05.10.2009 when the rate specified in the contract was Rs. 48 per USD. Compute depreciation for the AY.s 2009-10 and 2010-11.

(b) How will you deal with the following issues in the computation of income from business for the Asst. Year 2010-11? A Company imported machinery on 15.9.2009 at a cost of Rs. 6 crores. The Custom Duty payable thereon was 20%. The Company claimed CENVAT Credit of Rs. 1 crore. The rate of depreciation on the machinery is 15%. Assuming that it was put to use on 15.10.2009, what is the depreciation allowable on the machinery?

Answer 8. (a)

Assessee : U & I Ltd

Computation of Depreciation

	Particulars		**Rs.**
	Cost of the Asset	(USD 1,00,000 × Rs. 46.00)	46,00,000
Less :	Depreciation @50% of 15% (Put to use < 180 days) for AY 2009-2010	(Rs. 46,00,000×15%×50%)	**(3,45,000)**
	WDV as on 01.04.2009		42,55,000
Add :	Exchange Rate Difference	(Rs. 2 × USD 1,00,000)	2,00,000
	WDV for claiming depreciation		44,55,000
Less :	Depreciation @ 15% for AY 2010-2011	(Rs. 44,55,000 × 15%)	**(6,68,250)**
	WDV as on 01.04.2010		**37,86,750**

Answer 8. (b)

1. Actual Cost = Purchase Cost + Customs Duty – CENVAT Credit = (6 + 20% on 6 – 1) = (7.20 – 1) = Rs. 6.20 crores
2. So, Depreciation allowable u/s 32 = (Rs. 6.20 crores × 15% × 50%) = **Rs. 0.465 Crores**. (Usage Period < 180 days)

Q. 9. (a) X & Co., a Sole Proprietary Concern, was converted into a Company on 31.08.2009. Before the converstion, the Sole Proprietary Concern had a block of Plant & Machinery (Rate of Depreciation 15%), whose WDV as on 01.04.2009 was Rs. 3,00,000. On 01.04.2009 itself, a new Plant of the same block was purchased for Rs. 1,20,000. After conversion, the Company has purchased the same type of Plant on 01.01.2010 for Rs. 1,60,000. Compute the depreciation that would be allocated between the Sole Proprietory Concern and the Successor Company.

(b) GP Ltd. was incorporated on 31.12.2008 for manufacture of Tyres and Tubes for Motor Vehicles. The manufacturing unit was set up on 30.04.2009. The Company commenced its manufacturing operations on 01.05.2009. The total cost of the Plant and Machinery installed in the unit is Rs. 100 Crores. The said Plant and Machinery included second hand Plant and Machinery bought for Rs. 10 Crores and new Plant and Machinery for scientific research relating to the business of the assessee acquired at a cost of Rs. 10 Crores. Compute the amount of depreciation allowable u/s 32 of the income tax act, 1961 in respect of the AY 2010-2011. Furnish explanations in support of your computation.

Answer 9. (a)

The principles relating to apportionment are :

Apportionable Depreciation = [(WDV as on 1.4.2009 + Additions in April 2009)] × 15%
= (Rs. 3,00,000 + Rs. 1,20,000) × 15% = **Rs. 63,000**

Apportionment of Depreciation and Allowable Depreciation :

Assessee	No. of days	Depreciation on Assets on the date of succession	Depreciation on assets acquired after succession	Total Depreciation for AY 2010-11
Sole Proprietary Concern	01.04.09 to 30.08.09 = **152 days**	Rs. 63,000 × 152/365 = Rs. 26,236	Nil	**Rs. 26,236**
Company	31.08.09 to 31.03.10 = **213 dyas**	Rs. 63,000 × 213/365 = Rs. 36,764	Rs. 1,60,000 ×15%×50% = Rs. 12,000 (period of use < 180 days).	36,764 + 12,000 = **Rs. 48,764**

Answer 9. (b)

Computation of Allowable Deduction

Particulars		Rs. (in crores)
Normal depreciation	[90 crores × 15%]	13.50
Additional depreciation (only for new plant and Machinery)	[80 crores × 20%]	16.00
Assets utilized for scientific research (not eligible for depreciation u/s 32)		Nil
Total admissible depreciation u/s 32		**29.50**
Deduction in respect of Scientific Research Expenditure u/s 35		**10.00**

Q. 10. X Ltd is a Company engaged in the business of growing, manufacturing and selling tea. For the accounting year ended 31st March, 2010, its composite business profits, before adjustment u/s 33AB of the Income-tax Act, were Rs. 80 Lakhs. In the year, it deposited Rs. 25 Lakhs with NABARD. Following are some additional information :

(a) The Company has a business loss of Rs. 15 Lakhs brought forward from the previous year.

(b) The Company withdrew in February 2011 Rs. 30 Lakhs from the deposit account to buy a non-depreciable asset for Rs. 18 Lakhs and could not use the balance before the end of the accounting year. The withdrawal and the purchase were under a scheme approved by the Tea Board.

Indicate the tax consequences of the above transaction and the total income for the relevant years.

Answer 10.

Assessee : X Ltd. **Previous Year: 2009-2010** **Assessment Year: 2010-2011**

Computation of Profits & Gains of Business of Profession

	Particulars	Rs.	Rs.
	Composite Business Profits		80,00,000
Less :	Deduction u/s 33AB – Least of the following :		
	(a) 40% of Current Year Business Profits (40% × Rs. 80,00,000)	32,00,000	
	(b) Amount deposited in NABARD	25,00,000	(25,00,000)
	Profit and Gains of Business or Profession		**55,00,000**

Assessee is engaged in the business of growing and manufacturing tea and hence income shall be apportioned as per Rule 8 as follows :

Particulars	Rs.	Rs.
Profits and Gains from Business or Profession – 40% of Rs. 55,00,000	22,00,000	
Less : Brought Forward Business losses to the extent set off u/s 72 (Note)	(15,00,000)	7,00,000
Income from Other Sources		
Agricultural Income (60% of Profits from Tea Business) – 60% of Rs. 55,00,000	33,00,000	
Less : Exempt u/s 10(1)	(33,00,000)	Nil
Total Income		**7,00,000**

(b) **Taxability of Unutilised amount**

Previous Year : 2010-11 **Assessment Year : 2011-12**

1. If the amount withdrawn during any previous year is not utilised within the previous year or utilised for any purpose other than those specified in the scheme, then it shall be treated as income and charged to tax in that previous year.
2. Unutilised amount of Rs. 12 Lakhs [Rs. 30 Lakhs (amount withdrawn) - Rs. 18 Lakhs (purchase of eligible asset)] shall be treated as Business Income in the AY 2011-12.

Q. 11. (a) X Ltd. incurs an expenditure of Rs. 200 crores for acquiring the right to operate telecommunication services for Bihar and Jharkhand circles. The payment of Rs. 200 crores was made in September 2008 and the licence to operate the services was valid for 8 years. In December 2009, the Company transfers part of the licence, in respect of Bihar, to Excel Ltd. for a sum of Rs. 30 crores and continues to operate the licence in respect of Jharkhand. What is the amount allowable as deduction u/s 35ABB to X Ltd. in respect of the licence fee, for Assessment Year 2010-2011?

(b) Dream Ltd. is an existing Indian Company, which sets up a new Project Unit. It incurs the following expenditure in connection with the new unit :

	Rs.
Preparation of Project Report	**14,00,000**
Market Survey Expenses	**15,00,000**
Legal and other charges for issue of additional capital required for the new unit	**11,00,000**
Total	**40,00,000**

The following further data is given :

Cost of Project	**3,00,00,000**
Capital Employed in the new project	**4,00,00,000**

What deduction is admissible to the Company u/s 35D for Assessment Year 2010-2011?

Answer 11. (a)

Assessee : X Lid. **Previous Year : 2009-2010** **Assessment Year : 2010-2011**

1. U/s 35ABB, where part of the Telecom Licence is transferred and Net Consideration received on such transfer is **less** than the expenditure remaining unallowed, the amount of deduction shall be computed as —

   Amount of deduction = (Unallowed Amount – Net Consideration) ÷ Remaining period of license

2. **Computation of Allowable deduction u/s 35ABB** in the hands of Telecom Ltd.

(a) Unallowed Amount as on 01.04.2009	= Total Expenditure *Less* : Deduction for Financial Year 2008-2009 = Rs. 200 crores *less* : (Rs. 200 crores ÷ License Period of 8 years) = Rs. 200 crores (–) Rs. 25 crores = **Rs. 175 crores**
(b) Net Consideration received	= Rs. 35 crores
(c) Remaining Period of License	= **7 Years** (including current previous year)
(d) Deduction u/s 35ABB	= (Rs. 175 crores – 35 crores) ÷ 7 = **Rs. 20 crores**

Answer 11. (b)

Assessee : Dream Ltd. **PY : 2009-2010** **Asst. Year : 2010-2011** **Status : Indian Company**

Particulars	Rs. in lakhs
Acutal Eligible Preliminary Expenses – Project Report (14,00,000) + Market Survey (15,00,000) + Legal Charges (11,00,000)	40,00,000
Maximum Allowable u/s 35D – Higher of 5% of the Cost of Project or 5% of Capital Employed **–** 5% of Rs. 3,00,00,000 (Rs. 15,00,000) or **–** 5% of Rs. 4,00,00,000 (Rs. 20,00,000)	20,00,000
Total Preliminary Expenses allowable u/s 35D **(Lower of the above)**	20,00,000
Preliminary Expenses **deductible** in **AY 2010-11** **5 equal Instalmens** in 5 Previous years from year of commencement of operations – Rs. 20,00,000/5 years	**4,00,000**

Note : The balance will be allowed in the next four assessment years.

Q. 12. (a) Write short notes on Capital Gains on Sale of Property at less than Government Value.

(b) A place of land owned by Mr. Adhikary located on Durgapur Expressway was acquired by NHAI in the Financial Year 2006-07, but the award ordered in F.Y. 2007-08 was paid in the FY. 2009-10. This land was purchased by him on 02.04.1978 for Rs. 8,000. The fair market value of the land as on 01.04.1981 was Rs. 6,000. Compensation paid was Rs. 5 lakhs.

Other piec of land located in Asansol purchased in April, 2006 for Rs. 27 lakhs was also sold by him on February, 2010 for Rs. 35 lakhs, but sale deed there of could not be executed by 31.3.2010. The value for the purpose of stamp duty applied by the Stamp Valuation Authority was Rs. 38 lakhs.

Compute the income chargeable to tax arising as a result of these transactions in the A.Y. 2010-11.

Answer 12. (a)

The following are the details analysis on chargeability of Capital Gains if a property is sold at a price which is lower than Govt. Value.

1. **Nature of Asset :** The assessee transfers **Land, or Building, or both.**
2. **Applicability :** Sale Consideration is **less** than the **value adopted or assessed or assessable by the State Government Authority** (referred to as ''Stamp Valuation Authority") for the purpose of payment of Stamp Duty.

   Note : The word **"Assessable"** means the price which the Stamp Valuation Authority **would have adopted** or assessed, if it were referred to such authority for the purpose of the payments of Stamp Duty **(W.e.f. 01.10.2009).**
3. **Consideration adopted for Capital Gains :** Value adopted by the Stamp Valuation Authority.
4. Under the following conditions, a reference is made to the valuation officer :
   (a) The assessee can claim that the value adopted or assessed by the Stamp Valuation Authority **exceeds** the Fair Market Value of the property as on the date of transfer.
   (b) Value adopted by the Stamp Valuation Authority is **not disputed** before any authority or Court.
   (c) Where the value determined by the Valuation Officer **exceeds** the value adopted by the Stamp Valuation Authority, the Capital Gain shall be considered as follows —

   Capital Gains = Value adopted by Stamp Valuation Authority **Less** Cost or Indexed Cost of Acquisition.

Answer 12. (b)

Assessee : Mr. Adhikari **Previous Year: 2009-2010** **Assessment Year: 2010-2011**

Computation of Long Term Capital Gains on sale of land **(Amount in Rs.)**

Particulars	Durgapur Expressway	Asansol
Nature of transfer	Compulsory Acquisition	Part performance of contract
Year of taxability	Year of receipt	Year of transfer of possession
Financial Year taxable	2009-10	2009-10
Indexation Benefit available with respect to year of —	Compulsory Acquisition (519)	Transfer (632)
Consideration for transfer	5,00,000	38,00,000
Value adopted for consideration	**Sale Value (Note 1)**	**Stamp Value (Note 2)**
Less : Expenses on transfer	(Nil)	(Nil)
Net Sale consideration	**5,00,000**	**38,00,000**
Less : Indexed Cost of Acquisition **(Notes 1 and 2)** [Cost of acquisition × CII of year of acquisition/100]	(41,520) (8,000×519/100)	(32,87,861) (27,00,000×632/519)
Long Term Capital Gains on sale of Land	**4,58,480**	**5,12,139**
Income under the head Capital Gains	**Rs. 9,70,619**	

Notes : 1. **Sale of land on Durgapur Expressway — Cost of Acquisition :** Where the asset is a acquired prior to 1.4.1981, cost of acquisition shall be Fair market value on 1.4.1981 or actual cost whichever is higher. Therefore, the actual cost of acquisition of land (i.e. Rs. 8,000) is taken for the purposes of computation of Indexed Cost of Acquisition.

2. **Sale of land at Asansol — Consideration for transfer : U/s 50C,** where the **sale consideration** received is **less than the value adopted by the Stamp Valuation authority**, the value so adopted by the Stamp Valuation authority shall be considered for the computation of income under the head **"Capital Gains'**. It is assumed in the given case that the possession of the property is handed over to the purchaser.

Q. 13. Amit discloses following particulars of his receipts during the previous year 2009-2010 :

(i)	**Salary income earned at Aligarh but received in Bangladesh**	**2,00,000**
(ii)	**Profits earned from a business in Kenya which is controlled in India, half of the profits being received in India.**	**3,00,000**
(iii)	**Income from property, situated in France and received there**	**1,75,000**
(iv)	**Income from agriculture in Sri Lanka and brought to India**	**70,000**
(v)	**Dividend-paid by an Indian company but received in London on 15 May 2009.**	**15,000**
(vi)	**Interest on USA Development Bonds and one half of which was received in India**	**30,000**
(vii)	**Past foreign untaxed income brought to India**	**4,00,000**
(viii)	**Gift of $2000 from Grandfather, reseding in UK, received in India**	**98,000**
(ix)	**Land sold in Delhi, consideration received in Canada, resulting into capital gain**	**5,20,000**
(x)	**Income from structure-designing constancy service, set up in Germany, controlled from India, profits being received outside India**	**1,90,000**
(xi)	**Loss from foreign business, controlled from India, sales being received in India**	**(-) 4,00,000**

Determine his taxable income for the previous year 2009-2010 if he is (i) resident and ordinarily resident, (ii) resident but not ordinarily resident, (iii) non-resident.

Answer 13.

Particulars of Income	Resident and ordinarily resident Rs	Resident but not ordinarily resident Rs	Non-resident Rs
(i) Salary earned at Aligarh but received at Bangladesh: Salary is deemed to accrue or arise at a place where services are rendered, place of receipt being immaterial [Sec. 9(1)(ii)]. Hence, it is taxable in all cases	2,00,000	2,00,000	2,00,000
(ii) Profits earned from a business in Kenya, controlled in India :			
(a) One half of profits are taxable on receipt basis	1,50,000	1,50,000	1,50,000
(b) Other half profits—from foreign business controlled in India (in case of resident and ordinarily resident, place of control is of no relevance)	1,50,000	1,50,000	—
(iii) Income from property in France and received there : Income accruing or arising outside India	1,75,000	—	—
(iv) Income from agriculture in Sri Lanka and brought to India: It is not income received in India as receipt means first receipt. Hence, it is not taxable in case of not ordinarily resident" and "non-resident". In case of "ordinarily resident", it is income accruing or arising outside India. Hence, it is taxable. It should be noted that it is not agricultural income/as it is not derived from land, situated in India, and hence not derived from under Sec. 10(1).	70,000	—	—

Particulars of Income	Resident and ordinarily resident Rs.	Resident but not ordinarily resident Rs.	Non-resident Rs.
(v) Dividend paid by an Indian company but received in London : Dividend paid by an Indian company is deemed to accrue or arise in India. However, any dividend paid, declared or distributed by a domestic company on or after 1st April 2005 is exempt from tax under Sec. 10(34). Therefore, such dividend is not taxable.	—	—	—
(vi) Interest on USA Development Bonds: (a) One half is taxable on receipt basis (b) Other half is taxable only in case of "ordinarily resident" as it is foreign income accruing or arising outside India	 15,000 15,000	 15,000 —	 15,000 —
(vii) Past untaxed foreign income brought to India. It is not income received in India. Furthermore, it is not the income of the previous year 2009-2010. Hence, it is not taxable in any case.	—	—	—
(viii) Gift from a relative is not taxable.	—	—	—
(ix) Capital gain is deemed to accrue or arise in India [Sec. 9(1)(i)]	5,20,000	5,20,000	5,20,000
(x) Income from consultancy profession, set up outside India, profits being received outside India: Taxable in case of "ordinarily resident", as income accruing arising outside India and received outside India [Sec. 5(1)(c)] In case of "not-ordinarily resident", as it is not income from profession set up in India, control and management applies to business and not to professions. Hence, it is not taxable [Sec. 5(1) (c) r. w. Proviso]	1,90,000	—	—
(xi) Loss from foreign business, controlled from India-: Income includes loss also. Profits are imbedded in sales. As sales were received in India, the place of control and management is not relevant. Business loss can be set off against business profits and thereafter against the income of any other head except income from salary and chance winnings (Sec. 70)	(-)4,00,000	(-)4,00,000	(-)4,00,000
Total income	**10,85,000**	**6,35,000**	**4,85,000**

Q. 14. M & Co. is a partnership firm. It satisfies all conditions of the Income-tax Act. It discloses the following particulars of income for the previous year 2009-2010.

Particulars	Rs.
(i) Interest received in Australia on monies sent to Z Inc., a company registered in Australia, which utilised the borrowings in its business in India. 80% Business of Z Inc. is controlled from India	**8,00,000**
(ii) Royalty received in Newzealand from a cooperative society for using patent rights of the firm in its usiness in India, 30% affairs of the society are controlled from India	**2,00,000**
(iii) Income from house property in Bhutan, remitted to the firm in India through State Bank of India as per instructions of the firm	**60,000**
(iv) Interest on Development Bonds of Sri Lanka Government remitted to the firm in India through Bank of Ceylon	**40,000**
(v) Profit on sale of goods to a new customer in Myanmar, cargo documents were sent through SBI	**70,000**
(vi) Profit on sale of goods FOB, to a customer in Singapore, cargo documents were directly dispatched to him	**2,00,000**
(vii) Long-term capital gain received on sale of Bonds and Debentures of Indian companies in Myanmar, Bonds and Debentures were purchased in convertible foreign exchange. Capital gain, if computed in foreign currency will be 60% less than what it is in Indian currency	**4,00,000**
(viii) Under-writing commission for guaranteeing the public issue of a Malaysian company to be paid and received there subject to the condition that 20% commission will be paid either within 6 months from the end of the financial year Or within 3 months from the end of the month in which the approval of the Company Law Board is obtained, whichever period expires later	**3,00,000**

Determine the total income of the firm in the following case :

(i) Mr. Ashis is the managing partner of the firm. He controls the affairs of the firm from Malaysia.

(ii) Mr. Ashis comes to India for 182 days during the previous year. He has appointed Mr. Bimal as his agent in Malaysia to take all decisions in his absence regarding affairs of firm. However, Mr. Bimal has been directed to keep Mr. Ashis fully informed while he is in India.

(iii) Mr. Ashis comes to India for 150 days. He has appointed Mr. Bimal as his attorney to manage the affairs of firm in his absence in consultation with him.

Answer 14.

(a) Determination of residential status of the firm during PY 2009-2010 :

Control and management of the firm is wholly situated outside India. The firm is non-resident in India. Physical presence of managing partner for 182 days in India during the previous year 2009-2010 is of no consequence. Situation (iii): Control and management is partly situated in India and partly outside India. The firm is "resident" in India during the previous year.

Computation of total income

Particulars	When firm is nonresident in India Rs.	When firm is resident in India Rs.
(i) Interest on loan-advances, made outside India, received outside India but loan was utilised for business in India, Accordingly, interest is deemed to accrue or arise in India	8,00,000	8,00,000
(ii) Royalty received in New Zealand from a cooperative society, for using patent rights of the firm in its business in India. Royalty is deemed to accrue or arise in India	2,00,000	2,00,000
(iii) Income from house property in Bhutan, received by SBI in Bhutan as the agent of firm	—	60,000
(iv) Interest on Development Bonds of Sri Lanka Government remitted to the firm in India— Bank of Ceylon being agent of its Government	40,000	40,000
(v) Profit on sale of goods to a customer in Myanmar, title deeds sent through SBI	—	70,000
(vi) Profits on sale of goods to a customer in Malaysia, cargo documents directly dispatched to the buyer—profit arises at seller's place	2,00,000	2,00,000
(vii) Capital gain on sale of bonds and debentures of Indian companies in Myanmar: It is deemed to accrue or arise in India	1,60,000	4,00,000
(viii) Under-writing commission 80% of Rs 3,00,000	—	1,80,000
Total Income	**14,00,000**	**19,50,000**

Q. 15. Mr. Khan is getting a salary of Rs. 5,400 pm since 1.1.08 and dearness allowance of Rs. 3,500 pm, 50% of which is a part of retirement benefits. He retires on 30th November 2009 after 30 years and 11 months of service. His pension is fixed at Rs. 3,800 pm. On 1st February 2010 he gets 3/4ths of the pension commuted at Rs. 1,59,000. Compute his gross salary for the previous year 2009-10 in the following cases :

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

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

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

Answer 15.

Previous Year 2009-10. Tenure of Service: 1.4.09 to 30.11.09 = 8 months

Post-retirement period: December 2009 to March 2010 = 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	
Gross Salary			

Case (ii) Gratuity received by an employee of a private company

		Rs.
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 x 7,150 x 30]	1,07,250	
(iii) Maximum Limit	3,50,000	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 x 2,12,000]	70,667	
Taxable Commuted Value of Pension		**88,333**
Full Value of Commuted Pension $\frac{\text{Amount received on commutation}}{\text{Percentage of pension commuted}} = \frac{1,59,000}{75\%} = 2,12,000$		

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 x 2,12,000]	1,06,000	
Taxable Commuted Value of Pension		**53,000**
Full Value of Commuted Pension $\frac{\text{Amount received on commutation}}{\text{Percentage of pension commuted}} = \frac{1,59,000}{75\%} = 2,12,000$		

Q. 16. Mr. Ratan retires on 16th October 2009 after 30 years and 8 months of service. Salary structure is given below :

FY 2009-10	**Salary Rs. 20,000 pm**	**D.A. Rs. 10,000 pm**
FY 2008-09	**Salary Rs. 15,000 pm**	**D.A. Rs. 7,500 pm**

40%of dearness allowance forms a part of superannuation benefits. Record of Earned Leave is given below :

Leave allowed for one year of completed service -20 days; Leave taken while in service-150 days;

Leave encashed during the year-60 days.

Determine the gross salary in the following cases :

(i) He retires from government service
(ii) He retires from the service of Delhi Municipal Corporation
(iii) He retires from the service of Life Insurance Corporation of India
(iv) He retires from private sector

Answer 16.

Particulars	**Case (i)**	**Case (ii)**	**Case (iii)**	**Case (iv)**
Salary for 6months & 16 days	1,30,667	98,000	98,000	98,000
Dearness Allowance	65,333	65,333	65,333	65,333
Taxable amount of Leave encashment	Exempted	1,70,800	1,70,800	1,70,800
Gross Income from Salary	**1,96,000**	**3,66,800**	**3,66,800**	**3,66,800**

Working Notes :

Average monthly salary for 10 months, prior to retirement:

Salary of 6 months 16 days: (1st April 2009 to 16th October 2009) @ Rs. 20,000 pm		= 1,30,667
Salary of 3 months 14 days: (14th December 2008 to 31st March 2009) @ Rs. 15,000 pm		= 52,000
Total Basic Salary		1,82,667
Add: Dearness allowance		
For 6 months 16 days: (1st April 2009 to 16th October 2009) @ Rs. 10,000 pm	= 65,333	
For 3 months 14 days: (14th December 2008 to 31st March 2009) @ Rs. 7,500 pm	= 26,000	
Total D.A.	91,333	
D.A. [40% of 91,333, forming part of retirement benefits]		36,533
Total salary of 10 months		**2,19,200**

Average Salary = 2,19,200/10 = 21,920.

Taxable amount of Leave Encashment :

Amount of encashment received:		
(30 x 20) – (150 +60) × (20,000 + 10,000)/ 30 =		3,90,000
Less: Exempted u/s 10(10AA) [Least of the followings]		
(i) Actual amount received	3,90,000	
(ii) 10 months salary(preceeding the month of retirement)	2,19,200	
(iii) Leave credit on the date of retirement [(30 × 20) – (150 + 60) × (21,920/ 30)]	2,84,960	
(iv) Maximum Limit	3,00,000	2,19,200
Taxable amount of Leave encashment		**1,70,800**

Q. 17. P Ltd. provides electricity to its employee, Mr. Avijit. Electricity consumption for the year as per meter reading comes to 2,250 units. Determine the value of the perquisite in the following cases:

1) Electricity meter is in the name of Mr. Avijit and the rate of electricity is Rs. 3 per unit

2) Electricity meter is in the name of P Ltd. the rate of electricity is Rs. 3 per unit.

3) P Ltd. is a power-generating company. Manufacturing cost is 90 paise per unit but supplied to public @ Rs. 2 per unit. However, it charges 30 paise per unit from employees.

Answer 17.

With reference to Rule 3(4)

1) Perquisite value of free electricity is Rs. 6,750 (2,250 × 3). As the electric meter is in the name of the employee, it is his obligation to pay the bill. However, as the bill has been paid by the employer, it is an obligation of employee, discharged by the employer. It is always taxable u/s 17(2)(iv).

2) Perquisite value of free electricity will be Rs. 6,750. It shall be assessed to tax, if the employee is a specified employee as per Sec.17(2)(iii)

3) Perquisite value of electricity supplied = 2,250 (0.90 – 0.30) = Rs. 1,350

Q. 18. Determine the value of education facility in the following cases :

1) Three children of Mr. R, an employee of S Ltd., are studying in a school, run by S Ltd. School fees is Rs. 3,500 pm and hostel fees is Rs. 4,000 pm. But the employer recovers only Rs. 1,100 pm and Rs. 1,500 pm respectively. However, a similar school or a hostel around the locality charges Rs. 2,500 pm and Rs. 1,800 pm respectively.

2) The employer has also reimbursed the school fees of Rs. 1,200 pm of his nephew, fully dependent on him after the death of his widow sister.

Answer 18.

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 :	
(Rs. 2,500 × 3 × 12) – (1,000 × 3 × 12) – (1,100 × 3 × 12)	14,400
(b) Hostel fees: (4,000 × 3 × 12) – (1,500 × 3 × 12)	90,000
2. School fee of nephew (1,200 × 12)	14,400
Total value of taxable perquisite	**1,18,800**

Q. 19. Mr. Kalidas is the owner of a house property. Its municipal valuation is Rs. 7,00,000. It has been let out for Rs. 9,00,000. The local taxes payable by the owner amount to Rs. 40,000 but as per agreement between the tenant and the landlord, the tenant has paid them direct to the municipality. The landlord, however, bears the following expenses on tenants amenities during the year 2009-2010.

	Rs.
Expenses of water connection	25,000
Water charges	5,000
Lift maintenance	10,000
Salary of gardener	36,000
Lighting of stairs	15,000
Maintenance of swimming pool	20,000
The landlord claims the following deductions :	
Repairs	20,000
Land revenue paid	3,000
Collection charges	8,000

Compute the taxable income from the house property for the assessment year 2001-11.

Answer 19.

Computation of income from house property for the assessment year 2010-2011.

		Rs.
	Gross annual value to be higher of the following :	
(a)	ALV : Municipal valuation : 7,00,000	
	Or	
(b)	Actual rent : 8,14,000 (see note below)	8,14,000
	Whichever is higher, is GAV	Nil
	Less : Local taxes payable	Nil
	Net annual value (NAV)	8,14,000
	Less : Statutory deduction : 30% of net annual value	2,44,200
	Taxable income	**5,69,800**

		Rs.	
Note : Composite rent			9,00,000
	Less : Value of the amenties provided by the assessee :	Rs.	
(i)	Water connection expenses : Not allowed being capital expenditure	—	
(ii)	Water charges	5,000	
(iii)	Lift maintenance	10,000	
(iv)	Salary of gardener	36,000	
(v)	Lighting of stairs	15,000	
(vi)	Maintenance of swimming pool	20,000	(-) 86,000
Actual rent			8,14,000

Q. 20. Puja has occupied three houses for his self-occupancy. Their particulars for the previous year 2009-2010 are given below :

Particulars	***House X Rs.***	***House Y Rs.***	***House Z Rs.***
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 loantaken for purchase of H.P.	**75,000**	**1,20,000**	**2,00,000**
Year of the loan	**1996-97**	**1999-2000**	**2004-05**

She has suffered loss in his business, amounting Rs 3,00,000 during the previous year.

Compute her total income, advising her which house should be specified for self-occupancy as a principle of tax planning :

Answer 20.

Computation of income from house property under different options :

(a) Assuming all the properties are self-occupied (SO)	House X	House Y	House Z
	(SO) Rs	(SO) Rs	(SO) Rs
Annual value	Nil	Nil	Nil
Less: Interest on loan	30,000	1,20,000	1,50,000
Loss from house property	30,000	1,20,000	1,50,000

(b) **Computation of Gross Annual Value :**

	House X	**House Y**	**House Z**
(i) Municipal Value	3,60,000	9,60,000	9,50,000
(ii) Fair Rent	5,40,000	8,00,000	10,00,000
(iii) Higher of MV & FR	5,40,000	9,60,000	10,00,00
(iv) Standard Rent	4,50,000	6,00,000	9,00,000
(v) Reasonable Expected Rent [Lower of (iii) & (iv)] = GAV	4,50,000	6,00,000	9,00,000

(c) Assuming all the properties as Deemed Let Out (DLO)

	House X (DLO) Rs	**House Y (DLO) Rs**	**House Z (DLO) Rs**
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

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

Particulars	**Option 1 House X Rs.**	**Option 2 House Y Rs.**	**Option 3 House Z Rs.**
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 (DLO)	3,67,000 (DLO)	(-) 1,50,000 (SO)
Income from house property:	5,81,000	5,49,000	3,06,000
Loss from business	(-) 4,00,000	(-) 4,00,000	(-) 3,06,000
Total income	1,81,000	1,49,000	Nil

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 Rs 94,000 (Rs. 4,00,000 – 3,06,000) for next 8 assessment years.

Q. 21. The Profit & Loss Account of Mr. Amal Sarkar for the previous year 2009-2010 is given below :

Particulars	*Rs.*	*Particulars*	*Rs.*
Cost of goods sold	16,00,000	Sales	34,70,000
Salaries wages	9,00,000	Rent of staff quarters	3,00,000
Rent of business premises, owned by the assessee	2,50,000	Sale price of machinery block on 31-03-2010	5,00,000
Repairs and renewals	1,40,000		
Income tax paid	60,000		
Excise duty paid	1,00,000		
Sales tax payable	2,00,000		
Legal expenses	3,00,000		
Municipal taxes payable for staff quarters	10,000		
Provision for bad debts	60,000		
Contingency reserve	1,00,000		
Employees contribution to recognised fund	50,000		
Net profit	5,00,000		
	42,70,000		42,70,000

Additional Information :

(i) Salaries include:

(a) Rs. 1,20,000 was paid outside India to an employee, "resident" in India but neither tax was deducted nor tax has been paid thereon,

(b) Rs. 90,000 was paid in India to an employee "resident" in India but neither tax deducted therefrom nor paid thereon.

(ii) Excise duty of Rs. 50,000 for the assessment year 2009-2010 was paid on 1 January 2010 but it was not included in the profit and loss a/c.

(iii) Sales tax amounting Rs. 1,30,000 was paid on 31 July 2010 and the balance was paid on 1 August 2010, the due date of furnishing return of income is 31 July 2010.

(iv) Repairs/renewals include remodelling and renovation costing Rs. 80,000.

(v) Legal expenses include:

(a) Lawyer fee of Rs. 50,000 paid by bearer cheque to K, nephew of the proprietor. The Assessing Officer disallowed a sum of Rs. 10,000, being found in excess of the desired qualifications;

(b) Gift of Rs. 1,20,000, made to wife, a tax-advisor, but disallowed by the A.O.

(vi) Employees contribution include:

(a) Rs. 30,000 credited to their account on due date under Provident Fund rules,

(b) Rs. 20,000 credited to their account in November 2010.

(vii) Commission receipts of Rs. 2,00,000 have not been credited to the profit and loss account as their recovery seems to be doubtful.

(viii) WDV of machinery on 01-04-2009 was Rs. 6,50,000.

(ix) WDV of business premises and staff quarters as on 01-04-2008: Rs. 10,00,000 and Rs. 30,00,000, respectively. Depreciation @ 10% on Business Premises and @ 5% on staff quarters.

Compute taxable profits for the previous year 2009-2010.

Answer 21.

Computation of Business Profits for the Assessment Year 2010-11

Particulars		Rs	Rs
Net profit as per profits and loss a/c			5,00,000
Add: Inadmissible Expenses:			
(i)	Rent of business premises owned by the assessee (Sec. 30)	2,50,000	
(ii)	Remodelling and renovation, being repairs of capital nature	60,000	
(iii)	Income tax paid [Sec. 40(a)(ii)]	60,000	
(iv)	Sales tax remaining unpaid up to due date of furnishing return of income	70,000	
(v)	Legal expense includes:		
	(a) Gift made to wife, Sec. 37(1)	1,00,000	
	(b) Fees paid to lawyer (being a relative) Sec. 40A(2)	10,000	
(vi)	Salaries paid outside India to a "resident" employee TDS [Sec. 40(a)(iii)]	1,20,000	
(vii)	Salaries paid in India to a resident employer without TDS	—	
(viii)	Municipal tax payable for staff quarters [Sec. 43B]	10,000	
(ix)	Provision for bad debts [Sec. 36]	60,000	
(x)	Contingency reserve [Sec. 37(1)]	1,00,000	
(xi)	Employees' contribution credited to their account after due date	20,000	
(xii)	Commission receipts which have accrued during the year but recovery seems doubtful seems doubtful	1,00,000	
(xiii)	Employees' contribution not credited to—profit and loss a/c	50,000	10,30,000
			15,30,000
Less: Inadmissible receipts/ admissible claims:			
(i)	Excise duty (Sec. 43B)	50,000	
(iii)	Sale price of machine, being capital receipts	5,00,000	
(iv)	Depreciation: (a) Staff quarters: 5% of 30,00,000	1,50,000	
	(b) Business Premises: 10% of 10,00,000	1,00,000	8,00,000
Taxable business profits			**7,30,000**

Note :

Sale of machinery block*:* Sale of machinery block results into short-term capital loss of Rs. 1,50,000 (Rs. 6,50,000 -Rs. 1,00,000) under Sec. 50.

No capital loss, whether short-term or long term, can be set- off against any income. It is to be carried forward for next 8 assessment years.

Q. 22. Mr. B invested Rs. 2,00,000 on the purchase of gold ornaments on 10.1.90. He holds the gold ornaments as investments. On 16.1.2008. he started a business in dealing in jewellery and converts his holding into his stockin-trade. The market value of the gold ornaments as on the date of conversion was Rs. 10,00,000 and therefore, B credited his capital account by Rs. 10,00,000 and debited stock account by Rs. 10,00,000. The gold ornaments are now reflected in the business of Mr. B. these gold ornaments were sold in the previous year 2009-10 for a sum of Rs. 15,00,000. Compute the capital gain and business income.

Answer 22.

(a) The conversion of capital asset into stock-in-trade is treated as a trsnsfer as per sec. 2(47).

Capital Asset was converted into stock-in-trade on 16.1.08 i.e. during the previous year 2007-08. Therefore, it will be treated as transfer of the previous year 2007-08. The taxability for capital gains shall arise only in the previous year in which the asse4t is sold i.e. previous year 2009-10.

Capital Gains for the Assessment year 2010-11

Consideration for Transfer (Market value as on the date of conversion)		10,00,000
Less :	Indexed Cost of Acquisition $2{,}00{,}000 \times \frac{551}{172}$	6,40,698
	Long term Capital Gains	**3,59,302**

Business Income for the A.Y. 2010-11

	Sale Price	15,00,000
Less :	Fair Market Value as on the date of conversion	10,00,000
		5,00,000

Q. 23. Vijay has three motor cars which are used by him exclusively for his personal purposes. The cost of the cars was Rs. 6,50,000, Rs. 8,00,000 and Rs. 10,00,000. The first car was transferred by him on 15.1.2010 to a firm in which he is a partner as his capital contribution. The market value of the car as on 15.1.2010 is Rs. 5,00,000, but it was recorded in the books of account of the firm at Rs. 6,00,000. Compute the capital gain if any, chargeable for the a.y. 2010-11.

Answer 23.

Since the car is a moveable property and was used by Mr. Ayan for his perosnal purposes only, it will be treated as a personal effect.

W.e.f. A.Y. 2008-09, "Personsal effect" means moveable property including wearing apparesl and furniture held for personal use by the assessee or any member of his family dependent on him but excludes :

(i) Jewellery (ii) Archeacological collections (iii) Drawings (iv) Paintings (v) Sculptures (vi) Any work or art.

Q. 24. What is the tax treatment of consequence for repurchase or buy back of shares or specified securities by a company?

Answer 24. As per the provisions in Sec. 46A :

(1) 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.**

(2) The Capital Gains taxable **in the previous year** in which the shares or securities **are purchased by the Company.**

(3) **Capital Gains** = Value of Consideration Received *Less* Cost of Acquisition or Indexed cost of acquisition.

(4) **No deemed dividend :** In case of buy back of shares, there is no question of deemed dividend u/s 2(22)(d).

Reference Legal Decisions :

Shares held as Stock-in-Trade	Incase Shares treated as Stock-in-Trade are exchanged for Shares of other Companies, then, Business Profit = Market Value of Shares exchanged *Less* Book Value of Original Shares. [**Orient Trading Co. Ltd. 224 ITR 371 (SC)]**
Reduction of Capital	When there is a reduction in the Face Value of the Shares and consequent payment by the Company to the Shareholders towards such reduction, the reduction of Share Capital is charged to Capital Gains Tax. [**Kartikeya *vs.* Sarabhai 228 ITR 163 (SC)]**

Q. 25. R, an individual resident in India bought 1,000 equity shares of Rs. 10 each of A Ltd. at Rs. 50 per share on 30.5.2009. He sold 700 equity shares at Rs. 35 per share on 30.9.2009 and the remaining 300 shares at Rs. 25 per share on 20.12.2009. A Ltd. declared a dividend of 50%, the record date being 10.8.2009. R sold on 01.02.2010 a house from which he derived a long term capital gain of Rs. 75,000. Compute the capital gain arising to Rs for the Assessment Year 2010-11.

Answer 25.

Assessee : Mr. R **Previous Year : 2009-2010** **Assessment Year : 2010-11**

Analysis as per Section 94(7) :

1. In the given case, shares were purchased on 30.05.2009 within 4 months prior to Record Date i.e. 10.08.2009.
2. Shares are sold on 30.09.2009 and on 20.12.2009. The first sale is within 3 months and the next one is after that period. Dividend has been received @ 50% on Face Value Rs. 10 per share on the entire 1,000 shares.
3. Loss arising out of transfer of the first 700 shares should ignored to the extent of such dividend.

Computation of Taxable Capital Gains

	Particulars			
	Date of Transfer		30.09.09	20.12.09
	No. of Shares		700	300
	Sale price/share		Rs. 35	Rs. 50
	Consideration for transfer	(Rs.)	24,500	7,500
Less :	Cost of Acquisition	(Rs.)	(35,000)	(15,000)
	Short Term Capital Loss	(Rs.)	**(10,500)**	**(7,500)**
Add :	Dividend (700 shares of Face Value Rs. 10 per share @50%) [Transferred within 3 Months from Record Date]	(Rs.)	3,500	Nil
	Short Term Capital Loss [after considering Section 94(7)] — (Note)	(Rs.)	**(7,000)**	**(7,500)**
	Total Short Term Capital Loss	(Rs.)	(14,500)	
	Long Term Capital Gains (Given)	(Rs.)	75,000	
	Taxable LTCG (after set off u/s 71)	(Rs.)	**60,000**	

Note : Since 300 shares are transferred on 20.12.09 which is 3 months after the reord date, dividend received need not be adjusted against Shrot Term Capital Loss.

Q. 26. P Ltd. owns an industrial undertaking manufacturing chemicals in Bangalore owns the following assets.

(a) Plant and machinery (wdv Rs. 5 lacs) sold for Rs. 15 lacs.

(b) Building (WDV Rs. 12 lacs) sold for Rs. 60 lacs.

(c) Furniture and fixtures (WDV Rs. 50,000) sold for Rs. 1,80,000

(d) Land cost of acquisition Rs. 5,00,000 during 1984-85 and sold for Rs. 30 lacs

The industrial undertaking was shifted as per policy of the Government from urban area to other area. The new assets acquired during the period 1.1.10 to 31.10.10 are as under :

Plant and machinery Rs. 20 lacs; Buildings Rs. 40 lacs.

Compute capital gain chargeable to tax for the assessment year 2010-11.

Answer 26.

Short-term Capital Gains on Depreciable assets

		Rs.
(i) Plant & Machinery (15,00,000 – 5,00,000)	10,00,000	
(ii) Buildings (60,00,000 – 12,00,000)	48,00,000	
(iii) Furniture & Fixtures (1,80,000 – 50,000)	1,30,000	59,30,000
Long-term Capital Gains on Industrial Land :		
Consideration for transfer	30,00,000	
Less : **Indexed Cost of Acquisition**		
$5{,}00{,}000 \times \frac{632}{125}$	25,28,000	4,72,000
Total Capital Gains		64,02,000
Less : **Exemption u/s 54G**		
Plant & Machinery	25,00,000	
Building	40,00,000	
	65,00,000	
but restricted to Rs. 62,72,000		
[= Rs. 64,02,000 —1,30,000, being STCG on furniture, not eligible for the purpose of claining exemption u/s 54G		62,72,000
Short term Capital Gains (on furniture)		1,30,000

Q. 27. Mrs Z is the owner of the business units A and B. A unit has been started with capital contribution from Mr Z and B unit has been started out of capital contribution from Mrs.Z. The particulars of their income for the previous year 2009-2010 are as follows :

Particulars	***Mrs Z***	***Mr Z***
(i) Income from A unit	**—**	**(–) 6,00,000**
(ii) Income from B unit	**4,00,000**	**—**
(iii) Income from house property		**2,50,000**

How would you assess them for the assessment year 2010-2011?

Answer 27.

(a) Mrs Z is assessable on the profits from B unit. She cannot set-off the loss from A unit against the profits of B unit. Thus, she would be assessed on Rs 4,00,000.

(b) The loss from A unit will be included in the total income of Mr Z in view of Sec. 64(1)(iv). "Income" includes "loss" also. Mr Z is entitled to set-off business loss of A's unit against income from house property. Thus, loss of Rs 3,50,000 would be carried forward but could be set-off only against business profits.

Q. 28. Mr. Maity, a resident individual, furnishes the following particulars of his income/expenditure for the previous year 2009-2010 :

		Rs.
(i)	**Gross salary**	**3,00,000**
(ii)	**Income from house property**	**1,70,000**
(iii)	**Share of profit from an AOP**	**25,000**
(iv)	**Long-term capital gain**	**50,000**

He has paid medical insurance on his life, his wife and his dependent children. Total premium paid under GIC approved policies is Rs 10,000 but a sum of Rs 1,000 was paid in cash due to a prolonged bank clearing strike. He has spent Rs 20,000 on the treatment of his brother, a dependant with disability. He has also deposited Rs 25,000 with a specified company u/s 2(h) of Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2003 for maintenance of his brother.

He has paid the following donations during the year:

Particulars of donations made during the year	**Rs.**
• **Donation to P.M.'s National Relief Fund**	**10,000**
• **Donation to Jamia Milia University**	**5,000**
• **Donation to National Cultural Fund, set up by Central Government**	**5,000**
• **Donation to Delhi Municipal Corporation for Family Planning**	**12,000**
• **Donation to Birla Temple (notified)**	
• **for repair and renovation of the temple**	**2,000**
• **for religious ceremonies, prasad, etc. for the benefit of devotees in general**	**5,000**
• **Donation to a temple managed by the Residents Welfare Association for its much needed repair and maintenance. The Association is a non-profit entity registered with the Registrar of Societies.**	**5,000**
• **Following donations to Pt. Pyare Lai Charitable Trust recognised by the Commissioner u/s 80G(5)(vi).**	
(i) Donation in form of equity shares of blue chip companies: The shares were sold by the Trust at their market value of Rs 75,000 and used wholly towards its charitable objectives. However, shares were trans-ferred at cost,	**25,000**
(ii) Donation paid in cash,	**5,000**
(iii) Donation made by cheque,	**7,000**
(iv) 50 blankets costing Rs 100 each.	**5,000**
• **Donation made to Indian Olympic Association 80G(2)(c) paid by a/c payee cheque,**	**7,500**

• **Donation for developing low cost homes for slum-dwellers, paid**	
(i) Delhi Development Authority, and	**3,000**
(ii) Delhi Slum-dwellers Rehabilitation Society duly registered with the Registrar,	**2,500**
• **The Rajiv Gandhi Foundation**	**6,000**
• **National Children's Fund**	**3,000**

Mr Maity borrowed a sum of Rs 2,00,000 in 2003 @ 9% interest from Harsh Vardhan Charitable Trust (registered under Sec. 80G) to complete his B.Tech. degree from Nalanda University. In March 2010, he repaid a sum of Rs 75,000 (including Rs 20,000 interest) to the said trust.

Compute his total income for the assessment year 2010-2011.

Answer 28.

Computation of Total Income of Mr. Maity for the Assessment Year 2010-2011

Particulars	Rs.	Rs.
1. Income from salary		3,00,000
2. Income from house property		1,70,000
3. Share of profits from an AOP : Exempt (Sec. 86)		Nil
4. Long-term capital gains		50,000
Gross total income		**5,20,000**
5. Deduction from gross total income :		
(i) Medical insurance premium (Sec. 80D)	9,000	
(ii) Expenditure on medical treatment and deposit for maintenance of a handicapped dependent relative (Sec. 80DD) :	50,000	
(iii) Repayment of interest on loan for higher studies (Sec. 80E) (No deduction is allowed for repayment of principal amount of educational loan w.e.f. A.Y. 2008-2009)	20,000	
	79,000	
(iv) Charitable donations Sec. 80G – [See Note below]	42,500	**1,21,500**
Total Income		**3,89,500**

Working Note :

	Rs.	Rs.
Goss Total Income		5,20,000
Less : Aggregate of :		
(i) Share of profit in AOP entitled to rebate u/s 86.	Nil	
(ii) Any amount qualifying for deduction from GTI exempt for deduction for donation u/s 80G itself.	79,000	
(iii) Long-term capital gain	50,000	
(iv) Any to a NRI from dividend and interest etc. on foreign currency investment referred to u/s 115A, 115AB, 115AC, 115ACA, 115AD.	Nil	
	1,29,000	1,29,000
Adjusted Gross Total Income		**3,91,000**

Computation of Deduction for Donations u/s 80G

		Rs.	Rs.
A.	Donations not subject to qualifying amount, eligible for deduction @ 100% of the amount donated :		
	(i) Donation to P.M.'s National Relief Fund	10,000	
	(ii) Donation to National Cultural Fund, set up by Central Government	5,000	15,000
B.	Donation not subject to qualifying amount, eligible for deduction @ 50% of the amount donated :		
	(i) The Rajiv Gandhi Foundation	6,000	
	(ii) National Children's Fund	3,000	
	Only 50% of the amount of donation available as deduction	9,000	4,500
C.	Donation subject to qualifying amount :		
	(i) Donation to Delhi Municipal Corporation for Family Planning	12,000	
	(ii) Donation made to Indian Olympic Association 80G (2)(C) (available only to a company assessee)	Nil	
	(iii) Donation to Jamia Milia University	5,000	
	(iv) Donation to Birla Temple (notified) for repair and renovation of the temple.	2,000	
	(v) Monetary donation to Pt. Pyare Lal Charitable Trust recognised by the Commissioner u/s 80G (5) (vi).	12,000	
	(vi) Donation to Delhi Development Authority	3,000	
	Aggregate of donations subject to qualifying amount	**34,000**	
	Qualifying amount :		
	Lower of the following :		
	(a) 10% of Adjusted Gross Total Income, i.e. 39,100, or		
	(b) Aggregate of donations, 34,000		
	Whichever is less, is qualifying amount = 34,000		
	100% of Rs 12,000 out of the QA of 34,000	12,000	
	50% of the balance of the QA i.e. 50% of (34,000-12,000)	11,000	23,000
	Total deduction for donations u/s 80G		**42,500**

1. Medical Insurance Premium paid in cash is not allowable as a deduction.
2. Donation to a notified temple is allowed only if it is towards its repairs or maintenance and not otherwise.
3. Only donations paid in monetary terms that is, either in cash or by cheque are eligible for deduction. Conversion of donations in kind into cash by the donee or mere possibility of their conversion is immaterial.

Q. 29. M, resident in India, furnishes the following particulars of his receipts and outgoings during the previous year 2009-2010.

		Rs.
Receipts :		
(i)	**Income from salary**	**2,00,000**
(ii)	**Income from house property**	**3,00,000**
(iii)	**Gross winning from crossword puzzle**	**3,50,000**
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 Congress party paid during November 2009 assembly elections**	

Compute his total income for the assessment year 2010-2011. Make necessary assumptions and clarify them. **20,000**

Answer 29.

Computation of total income for AY 2010-2011

Particulars		Rs.	Rs.
Income from salary			2,00,000
Income from house property			3,00,000
Gross winnings from crossword puzzle			3,50,000
Gross Total Income			**8,50,000**
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			
8,50,000 – (3,50,000 + 10,000 + 12,000 + 30,000 + 50,000 + 20,000)			
= Rs.3,78,000			
whichever is less, is QA 37,800= 100% of 37,800		37,800	1,59,800
Total Income			**6,90,200**

Previous year	Particulars	X	Y
2005-2006	Business profits or loss before depreciation	(–) 6,00,000	14,00,000
	Depreciation	4,00,000	2,00,000
2006-2007	Business profits or loss before depreciation	5,00,000	2,00,000
	Depreciation	4,00,000	1,00,000
2008-2009	Business profits or loss before depreciation	8,00,000	10,00,000
	Depreciation	4,00,000	2,00,000
2009-2010	Business profits or loss before depreciation	28,00,000	12,00,000
	Depreciation	4,00,000	6,00,000

Compute the amount of deduction for X u/s 80-IA and total income of C Ltd. for all four previous years.

Computation of deduction u/s 80-IA for undertaking X

Particulars	2005-2006	2006-2007	2007-2008	2009-2010
Profits or loss before depreciation	(-) 6,00,000	5,00,000	8,00,000	28,00,000
Less: Depreciation		(-) 4,00,000	(-) 4,00,000	(-) 4,00,000
	6,00,000	1,00,000	4,00,000	24,00,000
Set-off of carry forward business loss		(-) 1,00,000	(-) 4,00,000	(-) 1,00,000
Set-off of carry forward depreciation		xxx	xxx	(-) 4,00,000
Profits eligible for deduction u/s 80-IA	Nil	Nil	Nil	19,00,000
Amount of deduction @ 100% of profits	**Nil**	**Nil**	**Nil**	**19,00,000**

Computation of profits of undertaking Y and total income of C Ltd.

Particulars	2005-2006	2006-2007	2007-2009	2009-2010
Profits or loss before depreciation:	14,00,000	2,00,000	10,00,000	12,00,000
Less: Depreciation of Y	(-) 2,00,000	(-) 1,00,000	(-) 2,00,000	(-) 6,00,000
	12,00,000	1,00,000	8,00,000	6,00,000
Profits of X after depreciation	Nil	1,00,000	4,00,000	24,00,000
Set-off of business loss of X	(-) 6,00,000			
Set-off of unabsorbed depreciation of X	(-) 4,00,000			
Gross Total Income	**2,00,000**	**2,00,000**	**12,00,000**	**30,00,000**
Less: Deduction u/s 80-IA	Nil	Nil	Nil	19,00,000
Total income of C Ltd.	**2,00,000**	**2,00,000**	**12,00,000**	**11,00,000**

Note: 1. Even though the business loss and unabsorbed depreciation of X were set-off during the PY 2006-2007 itself in computation of total income of C Ltd., for the purpose of deduction u/s 80-IA, they will still be carried forward on notional basis and set-off only against the profits of business eligible u/s 80-IA.

Q. 30. Evergreen Construction (P) Ltd. has earned profits during the PY 2009-2010 from construction and sale of f lats under three housing projects, developed at Rajarhat, Kolkata, details of which are given below :

		(Rs in lakhs.)
(a)	Profits from construction and sale of flats, built up on a plot of 1.5 acres, built up area of the flat 1400 sq feet, located 30 km from Kolkata.	80.00
(b)	Profits from construction and sale of flats, built up on a plot of 1 acre, built up area 1050 sq feet, located within 25 km from Delhi.	60.00
(c)	Profits from construction and sale of flats, built on a plot of 0.90 acre, built up area 1000 sq feet, located 35 km from Kolkata.	40.00

The housing projects have been approved by the Kolkata Industrial Development Authority in the year 1 April 2006. Compute its total income for the previous year 2009-2010 relevant for the AY 2010-2011. Would your answer be different in the following cases:

(i) The housing projects were not approved.

(ii) The housing project is carried out in accordance with a scheme approved by West Bengal Government for redevelopment of buildings in slum areas.

(iii) The company was engaged only in the sale of flats and not developing and building the housing project.

Answer 30.

Computation of Total Income for the AY 2010-2011

Particulars	(Rs in lakh)	(Rs in lakh)
Profits from Project (a)		80.00
Profits from Project (b)		60.00
Profits from Project (c)		40.00
Less :		180.00
Deductions from profits and gains from certain industrial undertaking other than infrastructure undertaking (Sec. 80-IB):		
(i) Profits from Housing Project (a) are fully deductible as the size of flat not exceeding the prescribed area 1500 sq feet.	80.00	
(ii) Profits from Housing Project (b) not deductible as the area of the flat exceeds the prescribed area of 1000 sq feet.	x	
(iii) Profits from Housing Project (c) not deductible as the size of the Housing plot is less than 1 acre.	x	(–) 80.00
Total income		**100.00**

Q. 31. Mekon Ltd., an Indian company, starts an industrial undertaking on 1 April 2009. During the previous year, it earns profits of Rs 80 lakh before allowing any deduction for wages. Compute its total income for the previous year 2009-2010 taking into account the following employment schedules of workers :

Date of employment	Number of workers	Status of workers	Rate of wages (Rs.)
1-5-2009	90	Casual	300 p.m.
1-6-2009	20	Reuglar	4000 p.m.
1-7-2009	10	Regular	4000 p.m.

Answer 31.

Computation of total income for the AY 2010-2011

Particulars	**Rs.**	**Rs.**
Profits before allowing deduction for wages		80,00,000
Less: Wages paid to workers [Sec. 37(1)] :		
(i) 90 × Rs 3000 × 11	29,70,000	
(ii) 20 × Rs 4000 × 10	8,00,000	
(iii) 10 × Rs4000 × 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		(-) 1,20,000
[Sec. 80 JJAA] 30% (Rs .4000 x 10 x 10)		
Total Income		**37,50,000**

Q. 32. Z has set up a new undertaking at Durgapur during the year 2009-2010.
Compute taxable profits from the information given below :

	Particulars	***Rs. (in lakh)***
(i)	**Total turnover**	**50**
(ii)	**Export sales**	**48**
(iii)	**Export turnover**	**40**
(iv)	**Business profit**	**30**
(v)	**20 workers were employed during the year, and 18% plant and machinery are second-hand.**	
(vi)	**Imported raw material was not used.**	

Will your answer be different in the following cases :

(i) Number of workers employed during the year is 19.

(ii) Number of permanent workers are 15 and number of temporary workers are 5.

(iii) Export sales are Rs. 44.99 lakh.

(iv) Percentage of old plant and machinery is 20.5%

(v) 5% raw material was imported from Japan due to domestic shortage.

(vi) Rs 5 lakh convertible foreign exchange was received but kept outside India to import new mahcinery without the approval of RBI.

Answer 32.

Computation of total income :

	Rs (in lakh)
Business profits	30
Less : Deduction for export profits [Sec. 10BA] : $30 \times \frac{40}{50}$	24
Income	6

Comments :

(i) No deduction will be available as the number of workers is below 20

(ii) Deduction will be allowed. Number of workers should 20 whether permanent or temporary, regular or casuals.

(iii) No deduction will be allowed. Export sales are less than 90% of total turnover.

(iv) No deduction will be allowed. Percentage of old plant and machinery is more than 20% of the total investment in new plant and machinery.

(v) No deduction will be allowed as raw material has been imported.

Amount of deduction will be worked out as below :

	Rs (in lakh)
Business profits	30
Less : Deduction for export profits [Sec. 10BA] : $30 \times \frac{35}{50}$	21
Total income	**9**

Q. 33. A company is engaged in the development and sale of computer software applications. It has started a new undertaking for which approval as a 100% export-oriented undertaking has been obtained from the CBDT. It furnishes the following data and requests you to compute the deduction allowable to it under Sec. 10B is respect of assessment year 2010-2011.

Particulars	***Rs (in lakh)***
Total profit of the company for the previous year	**50**
Total turnover, i.e. Export sales and Domestic sales for the previous year	**500**
Consideration received in respect of export of software received in convertible foreign exchange within *6* months of the end of the previous year	**250**
Sale proceeds credited to a separate account in a bank outside India with the approval of RBI	**50**
Telecom and insurance charges attributable to export of software	**10**
Staff costs and travel expenses incurred in foreign exchange to provide technical assistance outside India to a client.	**40**

Answer 33.

Computation of income of a 100% export-oriented undertaking: AY 2010-2011.

Particulars	Rs. (in lakh)
Total profit	50
Less: Deduction under Sec. 10B: $\dfrac{\text{Export turnover} \times \text{Total profits}}{\text{Total turnover}} = 50 \times \dfrac{250}{500} =$	25
Taxable profits	25

Note :

Export turnover	**(Rs. in lakh)**
(i) Sale proceeds of software received in convertible foreign exchange within the prescribed perio	250
(ii) Sale proceed in convertible foreign exchange kept outside India with the approval of RBI	50
	300
Less : (i) Telecom and insurance attributable to export turnover	(-) 10
(ii) Expenses incurred in foreign exchange outside India to provide technical assistance to a client there	(-) 40
Export turnover	**250**

Q. 34. RP Bros., an HUF, furnishes the following particulars of its income and outgoing for the previous year 2009-2010.

Receipts :	**4,00,000**
(i) Short-term capital gain	**1,00,000**
(ii) Gross winning from lottery	**12,00,000**
(iii) Sale consideration of 3/4th of agriculture produce, derived from land located in India, the balance produce has been kept for family use.	**50,000**
(iv) Net sale proceeds of wild grass and fruits from trees of spontaneous growth	
Payments:	
(i) Repair of tube-well	**60,000**
WDV of tuble-well on 1-4-2009	**10,00,000**
(ii) Wages paid to agriculture labour	**6,00,000**
(iii) Manuring and spraying charges	**50,000**
(iv) Rent of the building, used for storing agriculture produce on site	**50,000**
(v) Petrol, repair, salary of driver and insurance of motor car.	**1,50,000**
WDV of motor car on 1-4-2009	**2,00,000**
50% use of the motor car is for personal purpose of the family	

(vi) LIP paid to insure members of the family	**20,000**
(vii) School fees paid for 3 children of the family @ Rs 15,000 per child	**45,000**
(viii) Purchase of infrastructure bonds, covered under Sec. 80C(2)(xix)	**90,000**
(ix) Deposit with LIC for maintenance of a dependant member with disability :	
Unabsorbed losses brought forward:	
AY: 1999-2000	**40,000**
AY: 2000-2001	**5,00,000**
AY: 2004-2005	**1,00,000**

Determine the total income of the HUF and its tax liability for the assessment year 2010-2011.

Answer 34.

Computation of Total Income: AY 2010-2011

Particulars	**Rs**	**Rs**
Computation of net agriculture income for the purpose of aggregation to determine the rate of tax applicable to non-agriculture income of the HUF. Such computation is done under the head business profession :		
Sale proceeds of agriculture produce		12,00,000
Add: Market value of produce kept for family use:		4,00,000
12,00,000 × (4/3) × (1/4)		16,00,000
Less: Permissible deductions:		
(i) Repair of tube-well	60,000	
(ii) Wages	6,00,000	
(iii) Rent	50,000	
(iv) Petrol, repair, salary of driver— 50%	75,000	
(v) Manuring and spraying	50,000	
(vi) Depreciation on tube-well @ 10% on WDV	1,00,000	
(vii) 50% depreciation on motor car: (15% of 2,00,000) x 50%	15,000	9,50,000
Less: Carried forward: Losses:		
(i) Loss 2000-2001-not allowed		
(ii) Loss from AY 2001-2002	1,00,000	
(iii) Loss from AY 2005-2006	45,000	1,45,000
Net Agriculture Income		**5,05,000**

(b) Computation of Total Income		
(i) Short-term capital gain		4,00,000
(ii) Income from other sources:		
(a) Winnings from lottery	1,00,000	
(b) Net sale proceeds of non-agriculture produce	50,000	1,50,000
Gross Total Income		**5,50,000**
Less: 1. Contributions paid for approved savings [Sec. 80C(2)]:		
(i) LIP on the life of members	20,000	
(ii) School fees for 3 children of the HUF [Sec. 80(4)(c)]	Nil	
(iv) Purchase of infrastructure bonds	90,000	
	1,10,000	
But deduction restricted upto a maximum of Rs.1,00,000		1,00,000
2. Deposit for maintenance (including medical treatment) of a dependant with disability (Sec. 80DD)		50,000
Total Non-Agricultural Income		**4,00,000**
Computation of Tax Liability		
(i) Income tax on winnings 30% on Rs. 1,00,000		30,000
(ii) Income tax on non-agriculture + agriculture income:		
3,00,000 + 5,05,000 at slab rates		
(Non-agricultural income = 3,00,000 = 5,50,000 – 1,00,000		
– 1,00,000 – 50,000)		
(a) Income tax on 8,05,000 as if it is the total income	1,45,500	
(b) Income tax on agriculture income + exemption limit as if		
it is the total income: 5,05,000 + 1,60,000 =	88,500	
Income tax on non-agriculture income: (a) – (b)	57,000	57,000
Tax on total income		87,000
Add:		
(i) Education cess @ 2%		1,740
(ii) SHEC @ 1%		870
Tax payable		**89,610**

Q. 35. B Ltd. grows sugarcane to manufacture sugar. The data for the financial year 2009-10 is as follows :

Cost of cultivation of sugarcane	**Rs.**	**6,00,000**
Market value of sugarcane when transferred to factory	**Rs.**	**10,00,000**
Other manufacturing cost	**Rs.**	**6,00,000**
Sales of sugar	**Rs.**	**25,00,000**
Salary of Managing Director who looks after all operations of the Company	**Rs.**	**3,00,000**

Answer 35.

(1) Business Income:

Sales of Sugar	Rs.	25,00,000
Less: Market value of sugarcane when transferred to factory	Rs.	10,00,000
Other manufacturing cost	Rs.	6,00,000
Salary of Managing Director	Rs.	3,00,000
	Rs.	**6,00,000**

(2) Agricultural Income:

Market value of sugarcane when transferred to factory	Rs.	10,00,000
Less: Cost of cultivation	Rs.	6,00,000
	Rs.	**4,00,000**

Q. 36. Mr. P, aged 66 years, has estates in Rubber, Tea and Coffee. He has also a nursery wherein he grows plants and sells. For the previous year ending 31.3.2010, 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 2010-2011 :

Manufacture of Rubber	**Rs. 10,00,000**
Manufacture of Coffee grown and cured	**Rs. 6,00,000**
Manufacture of Tea	**Rs. 12,00,000**
Sale of Plants from Nursery	**Rs. 2,00,000**

Answer 36.

Computation of Taxable Income

Rule	Nature of Business	Agl Inc.	Non-Agl. Inc.
7A	Sale of centrifuged latex or cenex manufactured from rubber	6,50,000	3,50,000
7B	Sale of grown and cured coffee by seller in India	4,50,000	1,50,000
8	Growing and Manufacturing Tea	7,20,000	4,80,000
	Sale of plants from nursery	2,00,000	—
	Total	**20,20,000**	**9,80,000**

Computation of Tax Liability :

		Rs.
(a)	Total Income (Agricultural Income + Non-agricultural Income)	30,00,000
(b)	Tax on (a) above	7,96,000
(c)	Total of (Agricultural Income + Basic Exemption Limit)	22,60,000
(d)	Tax on (c) above	5,74,000
(e)	Tax Payable (b) – (d)	2,22,000
	Add: Education Cess @ 2%	4,440
	Add: SHEC @ 1%	2,220
	Total Tax Liability	2,28,660

Q. 37. 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 Rs. 55 lakh). The following informations for the financial year 2009-10 are given :

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

	Rs.
Sale proceeds of goods (domestic sale)	25,00,000
Sale proceeds of goods (export sale)	7,00,000
Amount withdrawn from general reserve (reserve was created in 1996-97 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	18,56,500

For tax purposes the company wants to claim the following :

—Deduction under section 80-IB (30 per cent of Rs. 14,56,500).

—Depreciation under section 32 (Rs. 5,36,000)

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

	For tax purposes Rs.	For accounting purposes Rs.
Brought forward loss of 2001-02	14,80,000	4,00,000
Unsorbed depreciation	—	70,000

Compute the net income and tax liability of D Ltd. for the assessment year 2010-11 assuming that D Ltd. has a (deemed) long-term capital gain of Rs. 60,000 under proviso (i) to section 54D(2) which is not credited in profit and loss account.

Answer 37.

	Rs.
Net profit as per P&L A/c	18,56,500
Add :	
Excess depreciation [i.e., Rs. 6,16,000 + Rs. 2,70,000 — Rs. 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	26,44,000
Less : Amount withdrawn from reserve (i.e., Rs. 2,00,000+Rs. 1,50,000)	3,50,000
Business income	22,94,000
Less : Unabsorbed loss	14,80,000
Business Income	8,14,000
Long-term capital gain	60,000
Gross total income	8,74,000
Less : Deductions under section 80-IB [30% of Rs. 4,14,000]	1,24,200
Net Income (rounded off)	7,49,800
Tax liability (under normal provisions) [20% of Rs. 60,000 + 30% of Rs. 6,89,800, plus 3% of tax as cess]	2,25,508

Computation of Book profit	
Net Profit	18,56,500
Add :	
Depreciation (i.e. Rs. 6,16,000 + Rs. 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	21,16,500
Tax liability (15.45% of book profit)	3,26,999

D Ltd. will pay Rs. 3,26,999 as tax for the assessment year 2010-11 as per section 115JB. Tax credit is however, available in respect excess tax (i.e., Rs. 1,01,491) under section 115JB.

Q. 38. Write short notes on :

(a) What do you mean by annexure less return? What is the manner of filling the return of income?

(b) Is e-filling of return mandatory? State the assessee's for whom e-filling of returns is mandatory?

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

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

(e) Can a revised return be further revised?

Answer 38.

(a) The return of income and return of fringe benefits required to be furnished in Form No. ITR-1, ITR-2, ITR-3, ITR-4, ITR-5, ITR-6 or ITR-8 shall not be accompanied by a statement showing the computation of the tax payable on the basis of the return, or proof of the tax, if any, claimed to have been deducted or collected at source or the advance tax or tax on self-assessment, if any, claimed to have been paid or any document or copy of any account or Form or report of audit required to be attached with the return of income or the return of fringe benefits under any of the provisions of the Act.

Manner of filling the return: The return of income or return of fringe benefits referred to in sub-rule (1) may be furnished in any of the following manners, namely :

(i) Furnishing the return in a paper form;

(ii) Furnishing the return electronically under digital signature;

(iii) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V;

(iv) Furnishing a bar-coded return in paper form.

(b) It shall be mandatory for the following assessee's to file the return electronically :

(i) A firm required to furnish the return in Form ITR-5 and to whom provisions of Section. 44AB are applicable, or

(ii) A company required to furnish the return in Form ITR-6.

(c) 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.)]

(d) 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)].

(e) 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.)]

Q. 39. Write short notes on :

(i) What is a protective assessment under Income-tax law? What is the procedure followed for the recovery of tax in such cases?

(ii) Joseph engaged in profession filed his return of income for assessment year 2009-10 on 15th November, 2009. He disclosed an income of Rs. 4,00,000 in the return. In February, 2010 he discovered that he did not claim certain expenses and filed a revised return on 3rd February, 2010 showing an income of Rs.1,80,000 and claiming those expenses. Is the revised return filed by Joseph acceptable?

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

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

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

Answer 39.

(i) A protective assessment is made in a case where there are doubts relating to the true ownership of the income. If there is an uncertainty about the taxing of an income in the hands of Mr. A or Mr. B, then at the discretion of the Assessing Officer, the same may be added in the hands of one of them on protective basis. This is to ensure that on finality, the addition may not be denied on the ground of limitation of time. Once finality regarding the identity of the tax payer to be taxed is established, the extra assessment is cancelled. But the Department cannot recover the tax from both the assessees in respect of the same income. Penalty cannot be imposed on the strength of a protective assessment.

(ii) Joseph is engaged in profession. The due date for filing income tax return for assessment year 2009-10 as per section 139(1) of the Income-tax Act is 30th September, 2009 if his accounts are required to be audited under any law. The due date is 31st July,2009 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).

(iii) 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 2006-07, assessment cannot be made for the assessment year 2007-08. [CIT vs. Amaimugan Transports Pvt.Ltd.(1995) 215 ITR 553 (Mad.)]

(iv) 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.

(v) 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.

Q. 40. Anand and Aniket are equal members in AA & Associates. The profit and loss account of the AOP for the year ended 31st March 2010 is as follows :

Particulars	***Rs.***	***Particulars***	***Rs.***
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 Rs 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 Rs 30,000
Aniket	1,00,000	Interest on govt. securities	Contribution to PPF Rs 50,000

Compute the tax liability of the AOP and it members.

Answer 40.

Computation of total income of AOP: PY 2009-2010

Particulars	Rs.
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 Rs.	Aniket Rs.	Total Rs.
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 Rs.	Aniket Rs.
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 Rs 10 (See. 288B)	11,950	9,490
Note: Anand $\frac{1,79,220}{9,00,000} \times 8,40,000$ Aniket : $\frac{1,57,590}{8,30,000} \times 7,80,000$	15,050	12,290

Q. 41. A, B and C Ltd. are three members of an AOP, sharing profit and losses in the ratio 2:2:1. The AOP discloses its income for the PY 2009-2010 as below :

Particulars	*Rs.*
(i) Long-term capital gains	**4,00,000**
(ii) Business profits	**6,00,000**

Determine tax liability of AOP in the following cases:

(i) C Ltd. is an Indian company

(ii) C Ltd. is a foreign company

Answer 41.

Allocation of income of AOP among partners

Particulars of income	A Rs.	B Rs.	C Ltd Rs.
Long-term capital gains	1,60,000	1,60,000	80,000
Business profits	2,40,000	2,40,000	1,20,000
Share income of the members	4,00,000	4,00,000	2,00,000

Tax liability of AOP

Particulars	Case – I C Ltd. an Indian company Rs.	Case – II C. Ltd. as foreign company Rs.
Tax on the share of C Ltd.		
Case I : 1,20,000 × 33.99%	40,788	—
Case II: 1,20,000 × 42.23%	—	50,676
Tax on balance income at AOP :		
(i) Long-term capital gain	90,640	90,640
4,00,000 × 22.66%		
(ii) Business profits		
6,00,000 × 33.99%	2,03,940	2,03,940
Total tax payable	3,35,368	3,45,256
Total Tax (Rounded off a/c 288B)	3,35,370	3,45,260

Q. 42. Devdas Charitable Trust submits the particulars of its receipts and outgoing during the previous year 2009-2010.

as below :		***Rs.***
(i)	**Income from property held under trust for charitable purposes**	**20,00,000**
(ii)	**Voluntary contribution (out of which Rs. 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 2013**	**10,00,000**

Compute the total income of the trust for the previous years 2008-2009 and 2014-2015 if it spends Rs 5,00,000 during the previous year 2013-2014 and Rs 3,00,000 during the previous year 2014-2015 in setting up the old age home.

Answer 42.

(a) Computation of the taxable income of the trust for previous year 2009-2010/AY 2010-2011.

	Particulars		Rs.
(i)	Income from property held under charitable trust		20,00,000
(ii)	Income from voluntary contributions (Rs 15,00,000-Rs 5,00,000)		10,00,000
	Total		**30,00,000**
	Less: 15% set apart for future application		45,00.000
	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 2014-2015 /AY 2015-2016:		
	Amount set apart for old age home	10,00,000	
	Less:		
1.	Amount spent during 2013-2014	5,00,000	
2.	Amount spent during 2013-2014	3,00,000	
	Taxable income	**2,00,000**	

Q. 43. CD Charitable Trust furnishes the following particulars, for the year 2009-2010 :

(i)	**Sale price of capital assets**	**15,30,000**
(ii)	**Expenses incurred in connection with sale of the asset**	**30,000**
(iii)	**Cost of the asset sold (purchased in 2008-2009)**	**5,00,000**
(iv)	**Compute capital gain in the following cases:**	
	(a) Cost of the new asset to be acquired	**15,00,000**
	(b) Cost of the new asset to be acquired	**8,00,000**
	(c) Cost of the new asset to be acquired	**4,00,000**

Answer 43.

Computation of capital gain: PY 2009-2010/AY 2010-2011 :

Particulars	Case-I Rs.	Case-II Rs.	Case-III Rs.
Sale price Less:	15,30,000	15,30,000	15,30,000
(i) Selling expenses	(-) 30,000	(-) 30,000	(-) 30,000
(ii) Cost of the asset Short-term capital gain	(-) 5,00,000	(-) 5,00,000	(-) 5,00,000
	10,00,000	10,00,000	10,00,000
Less: Exemption in respect of capital gain	10,00,000	3,00,000	Nil
Taxable capital gain	Nil	7,00,000	10,00,000

Note : 1. Cost of new asset - cost of asset sold: 8,00,000 – 5,00,000 = 3,00,000
2. Cost of new asset - cost of asset sold: 4,00,000 - 5,00,000 = Nil

Q. 44. Compute the net wealth of Nivedita, a resident individual as on 31.3.2010 from the following particulars furnished —

(a) She has a house property at Delhi, valued at Rs. 20,00,000 which is occupied by a firm in which she is a partner for its business purposes. Another house at Mumbai, valued at Rs. 8,00,000 is being used for his own business.

(b) Vehicles for personal use - (i) Motor Car Rs. 10,00,000 (ii) Motor Van — Rs. 3,00,000 (iii) Jeep — Rs. 5,00,000.

(c) Cash on hand - Rs. 3,10,000

(d) Jewellery - Rs. 10,00,000

(e) Nivedita has gifted to a Trust a residential property situated at Kolkata purchased 5 years back for Rs.20,00,000 for the benefit of the smaller HUF consisting of herself and her spouse and let-out for 8 months. Schedule-Ill, Rule 3 value as on 31.3.2010 is Rs. 14 Lakhs.

(f) She had transferred an urban house plot in February 1999 in favour of her niece which was not revocable during her life time. This niece died on 14.3.2009. Nivedita could get the title to the plot retransferred to her name only on 15.4.2009 despite sincere and honest efforts. The market value of the house as on 31.3.2010 is Rs. 10,00,000.

(g) Nivedita is the holder of an impartible estate in which urban agricultural lands of the value of Rs. 4,30,000 as on 31.3.2010 are comprised.

Answer 44.

Assessee: Ms. Nivedita Valuation Date: 31.3.2010 Assessment Year: 2010-11

Computation of Net Wealth

Nature of Asset	**Amount Taxable**	**Reasons**
House Property at Delhi used for business by a firm in which he is a partner	NIL	Property used for business purpose is not an asset u/s 2(ea) (Refer Note)
House Property at Mumbai used for his own business	NIL	Property used for business purpose is not an asset u/s 2(ea)
Vehicles for Personal Use		
1. Motor-car 2. Motor-van 3. Jeep	10,00,000 3,00,000 5,00,000	Vehicles used for personal purposes are assets u/2(ea)
Cash on Hand	2,60,000	For an Individual, cash in excess of Rs. 50,000 shall be chargeable to Wealth Tax u/s 2(ea) (Rs. 3,10,000 -Rs. 50,000)
Jewellery	10,00,000	Jewellery other than those held as stock-in-trade are asset u/s 2(ea)
Property at Kolkata transferred to a Trust 20,00,000	NIL	Taxable u/s 4(1A). Value = Higher of Value as on Valuation Date Rs. 14 Lakhs or Cost of Acquisition Rs. 20 Lakhs
Less: Exemption u/s 5(vi)	20,00,000	

Urban House Plot transferred to Niece	10,00,000	Taxable u/s 4(5) as the title to the property stands vested in Nivedita's hands immediately on niece's demise
Urban Agricultural Land	4,30,000	Holder of an impartible estate is deemed to be the owner of all properties comprised therein u/s 4(6)
NET WEALTH	**44,90,000**	
Less : Basic Exemption	30,00,000	
Taxable Net Wealth	14,90,000	
Taxable Payable @ 1%	14,900	

Q. 45. (a) Mr. Kushal Sengupta owns a house at Jharkhand, which is let-out at Rs. 1,35,000 per annum. The annual value of the property as per municipal records also is Rs. 1,00,000. Municipal taxes are partly borne by the owner (Rs. 5,000) and partly by the tenant (Rs. 6,000). Repair expenses are borne by tenant (Rs. 10,000) the difference between the un-built area and specified area does not exceed 5%. The property was acquired on 10.5.1998 for Rs. 15,00,000.

Determine for purposes of Wealth Tax Act, the value of the property as on 31.3.2010 on the following situations —

(i) The house is built on a freehold land.

(ii) It is built on a leasehold land, the unexpired period of lease of the land is more than 50 years.

(iii) If the area of the plot on which the house is built is 800 sq. meters. FSI, permissible is 1.4 and FSI utilised is 1088 Sq. metres. (136 Sq. metres × 8 Storeys)

(iv) The tenant had made interest free deposit of Rs. 1,00,000 with the landlord.

Answer 45. (a)

Assessee: Mr. Kushal Sengupta Valuation Date: 31.3.2010 Assessment Year: 2010-11

Computation of Value of House Property

For Situations (i) & (ii):

Computation of Gross Maintainable Rent (Amount in Rs.)

Particulars	No Rental Deposit	Rental Deposit excess of 3 Mths
Actual Annual Rent	1,35,000	1,35,000
Add: Municipal Taxes borne by the tenant	6,000	6,000
l/9th of Actual Rent Receivable since repair expenses are borne by the tenant (Rs. 1,35,000/ 9)	15,000	15,000
Rental Deposits - 15% Interest on Rs. 1,00,000	Nil	15,000
GROSS MAINTAINABLE RENT	**1,56,000**	**1,71,000**
Less: Municipal Taxes Paid	11,000	11,000
Less: 15% of Gross Maintainable Rent	23,400	25,650
Net Maintainable Rent	**1,90,400**	**2,07,650**

Particulars	No Rental Deposit	Rental Deposit excess of 3 Mths
Case (a) Capitalization of Net Maintainable Rent		
-Freehold Land NMR × 12.5	**23,80,000**	**25,56,625**
Case (b) Capitalization of Net Maintainable Rent		
-Leasehold Land - Unexpired Lease 50 Years = NMR×10	**19,04,000**	**20,07,650**
Property Acquired after 31.3.1974 i.e. 10.5.1997	**15,00,000**	**15,00,000**
Therefore, Value of the Property (whether on Lease-hold Land or on Freehold Land)	**15,00,000**	**15,00,000**

For Situation (iii) : In case of excess unbuilt area :

Unbuilt Area = (Actual Area of the Land **less** Built up Area) = (800 sq. mt **less** 136 sq. mt). = 664 sq. mt.

Excess Unbuilt Area = (Unbuilt Area **less** Specified Area) = 664 sq. mt. **less** 70% of 800 sq. mt. = 664 Less 560 = 104 sq. mt

% of Excess Unbuilt Area = **Excess Unbuilt Area** × **100/Aggregate Area** = 104 × 100/800 = 13%

Therefore, Value of the Property = Substituted Net Maintainable Rent i.e. Rs. 15,00,000 + 30% of SNMR = Rs. 19,50,000.

Q. 45.(b) Satender is aged 35 years. His father settled a property in trust giving whole life interest therein to Satender. The income from the property for the years 2006-07 to 2009-10 was Rs. 70,000, Rs. 84,000, Rs. 90,000, Rs. 108,000, respectively. The expenses incurred each year were Rs. 2,000, Rs. 4,000, Rs. 5,000 and Rs.6,000 respectively. Calculate the value of life interest of Mr. Jogi in the property so settled on the valuation date 31.3.2010, with the help of the factor of 9.267.

Answer 45. (b)

Step	Procedure
1	Average Income for last three years = (Rs. 84,000 + Rs. 90,000 + Rs. 1,08,000)/ 3 = Rs. 94,000.
2	Average Expenses for the last three years = (Rs. 4,000 + Rs. 5,000 + Rs. 6,000) / 3 = Rs. 5,000.
3	Maximum Permissible Expenses = Average Expenses **or** 5% of Average Income, whichever is less = 5% of Rs. 70,000 = Rs. 3,500
4	Average Annual Income = Rs. 94,000 Less Rs. 3,500 = Rs. 90,500.
5	Life Interest = Average Annual Income × Life Interest Factor = Rs. 90,500 × 9.267= Rs. 8,38,664.