

PAPER – 4 : TAXATION

QUESTIONS

Residential Status and Scope of total income

1. Determine the taxability of the following incomes in the hands of Mr. Ganesh, if he is a resident and ordinarily resident, resident but not ordinarily resident, and non-resident for the A.Y. 2011-12.

Particulars	Amount (Rs.)
Income from a business in Bangalore (70% is received in India)	35,000
Dividend from German company received in Germany	7,000
Income earned from a business in Germany which is controlled from Pune (Rs.25,000 is received in India)	60,000
Interest on debentures in an Indian company received in France.	8,000
Fees for technical services rendered in India but received in France	12,000
Income from property situated in Germany received there (Computed)	13,000
Past foreign untaxed income brought to India during the previous year	4,000
Income from agricultural land in Nepal received there and then brought to India	14,000
Income from profession in Germany which was set up in India, received there but spent in India	25,000
Cash gift received on the occasion of his wedding in India	1,00,000

Salaries

2. Mr. Viren, who retired from the services of Hotel Star Ltd., on 31.12.2010 after being in service for 8 years, received the following amounts from his employer for the year ending on 31.3.2011:

Salary @ Rs.15,000 p.m. comprising of basic salary of Rs.8,000, dearness allowance of Rs.4,000 (which forms part of salary for retirement benefits) and city compensatory allowance of Rs.3,000. This has been his revised salary structure from 1.1.2010.

Pension @ 25% of basic salary and dearness allowance from 1.1.2011.

Leave encashment received Rs.1,12,000 for 280 days of leave accumulated during 8 years @ 35 days leave in each year. He has not availed any earned leave during his tenure of 8 years and utilized only his annual casual leave.

Gratuity of Rs.80,000.

Compute the income of Mr. Viren chargeable under the head "Salaries" for the A.Y. 2011-12, assuming that he is not covered under the Payment of Gratuity Act, 1972.

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

Income from house property

3. Mr. Ramesh owns one residential house in Bangalore. The house is having two units of identical size. The first unit of the house is self-occupied by Mr. Ramesh and the other unit is rented for Rs.12,000 p.m. The rented unit was vacant for 3 months during the year. The particulars of the house for the previous year 2010-11 are as under:

Standard rent	Rs. 2,20,000 p.a.
Municipal valuation	Rs. 3,00,000 p.a.
Fair rent	Rs. 2,70,000 p. a
Municipal taxes paid by Mr. Ramesh during the year	12% of municipal valuation
Electricity and water charges	Rs. 1,000 p.m.
Interest on borrowed capital	Rs. 27,000 p.a.
Insurance charges	Rs. 5,000 p.a.
Repairs	Rs. 10,000 p.a.

Compute income from house property of Mr. Ramesh for the A.Y. 2011-12.

Profits and gains of business or profession

4. (a) The following is the profit and loss account of Mr. Akash for the year ended 31.3.2011:

	Rs.		Rs.
To Repairs to building	1,95,000	By Gross profit	9,01,500
To Salaries	76,500	By Income-tax refund	6,750
To Amount paid for scientific research to a Research Association approved under section 35	1,50,000	By Interest from company deposits	9,600
To Interest	1,65,000	By Dividend	5,400
To Traveling expenses	1,95,000		
To Net Profit	1,41,750		
	<u>9,23,250</u>		<u>9,23,250</u>

The following additional information is furnished:

- (1) Repairs to building includes Rs.1,42,500 towards cost of constructing an additional room for their own business premises.
- (2) Interest payments include interest of Rs.18,000 payable outside India to a resident Indian on which tax has not been deducted and penalty of Rs.36,000 for contravention of Central Sales Tax Act.

Compute the income chargeable under the head 'Profits and gains of business or profession' of Mr. Akash for the year ended 31.3.2011 ignoring depreciation.

PAPER – 4 : TAXATION

- (b) Discuss the applicability of presumptive taxation provisions under the Income-tax Act, 1961 in the following cases –
- (i) Mr. A, a resident individual, owning 10 goods carriages, opts for the presumptive taxation scheme for the P.Y.2010-11. He owns 5 heavy vehicles for 12 months, 3 medium goods carriages for 10 months and 20 days and 2 light goods carriages for 5 months and 10 days. Compute his business income for the A.Y.2011-12.
 - (ii) Mr.B, a resident individual, running a retail trade business, has a turnover of Rs.58 lakh during the P.Y.2010-11. Is he eligible to opt for presumptive taxation scheme and if so, under which section? Would your answer be different if his turnover for the year was Rs.62 lakh instead of Rs.58 lakh?

Capital Gains and Income from other sources

5. (a) Mr. Hari, received the following without consideration during the P.Y.2010-11 from his friend Mr. Rajesh, -
- (i) Cash gift of Rs.51,000 on Diwali.
 - (ii) An expensive wrist watch, the value of which was Rs.55,000, on his birthday.
 - (iii) A plot of land at Bangalore on New Year, the stamp value of which is Rs.10 lakh on that date. Mr.Rajesh had purchased the land in August, 2006 for Rs.3 lakh.

On 2nd January, 2011, Mr. Hari took possession of property (building) booked by him two years back at Rs.15 lakh. The stamp duty value of the property as on 2nd January, 2011 is Rs.22 lakh.

On 27th March, 2011, he sold the plot of land at Bangalore for Rs.15 lakh.

Compute the income of Mr. Hari chargeable under the head "Income from other sources" and "Capital Gains" for A.Y.2011-12.

- (b) Ms. Harini sold a residential house property at Coimbatore for Rs.20,00,000 on 2.8.2010.

The house property was acquired by her for Rs.2,00,000 on 17.2.1997.

She paid brokerage @ 2% at the time of sale of the house property. She invested Rs.9 lakhs in purchase of a residential house in July, 2011 and deposited Rs.3 lakhs in notified bonds of National Highways Authority of India on 15th January, 2011.

Compute her taxable capital gain for the A.Y.2011-12.

Cost inflation index for F.Y.1996-97 is 305 and F.Y.2010-11 is 711

Set-off and carry forward of losses

6. From the following particulars, compute the total income of Mr. Raj for the A.Y. 2011-12 and the losses, if any, to be carried forward to A.Y.2012-13 –

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

Particulars	Amount in Rs.
(1) Salaries	2,75,000
(2) Loss from textile business	3,50,000
(3) Profit from retail trade	1,95,000
(4) Long-term capital loss on sale of listed equity shares (STT paid)	25,000
(5) Long-term capital gains on sale on land	40,000
(6) Short-term capital loss on sale of listed equity shares (STT paid)	50,000
(7) Loss from speculative business	15,000
(8) Loss from house property	75,000

Deductions from Gross Total Income

7. The gross total income of Mr. Harish, aged 55 years, for the A.Y. 2011-12 is Rs. 10,00,000. He has made the following investments/payments during the F.Y. 2010-11 -

Particulars	Rs.
(1) Contribution to public provident fund	40,000
(2) Payment of tuition fees to Amity School, East Delhi, for education of his son studying in Class VII	48,000
(3) Repayment of housing loan taken from Axis Bank	30,000
(4) Contribution to approved pension fund of LIC	10,000
(5) Subscription to long-term infrastructure bonds of IFCI	30,000
(6) Payment of medical insurance premium	
For self and spouse	22,000
For parents not dependent on him	35,000
(7) Contribution to Central Government Health Scheme (CGHS)	3,000

Compute Mr. Harish's total income for the A.Y. 2011-12.

Computation of total income and tax liability of an individual

8. Mr. Dheeraj, a marketing manager working in Delta Ltd., Calcutta, receives the following emoluments during the previous year 2010-11:

Particulars	Rs.
Basic salary	1,90,000
Dearness allowance (not forming part of salary for retirement benefits)	1,20,000
Bonus	20,000
Medical allowance	6,000

PAPER – 4 : TAXATION

Special allowance	22,000
Education allowance (including allowance for hostel expenditure) for two sons who are Class XI students at Bangalore	21,000

The following particulars are also given -

- (i) His employer has provided rent free house to him in Calcutta.
- (ii) Electricity bills paid by Delta Ltd. for him during the previous year are of Rs.14,000.
- (iii) On 1.1.2011, Delta Ltd. has given him a CD player for domestic use and a laptop for office and personal use. Ownership of both the assets have not been transferred. The cost of CD player is Rs.20,000 and that of laptop is Rs.70,000.
- (iv) He invested during the previous year in public provident fund is Rs.40,000.
- (v) He has paid tuition fees of Rs.60,000 for the year 2010-11 for education of his two sons.
- (vi) He has deposited Rs.25,000 in Five Year Time Deposit Scheme in Post Office on 11.2.2011.
- (vii) His agricultural income during the year is Rs.62,000.
- (viii) He has received a cash gift of Rs.51,000 from his friend on 1.1.2011.

Compute the total income and tax liability of Mr. Dheeraj for the A.Y. 2011-12.

Provisions concerning tax deducted at source / Profits and gains of business or profession

9. XYZ Ltd. made the following payments during the P.Y.2010-11. Discuss whether disallowance under section 40(a)(ia) is attracted for not deducting tax at source or not depositing such tax within the prescribed time, as the case may be, in respect of each of the following payments –
- (i) Rs.28,000 paid to Mr. Arjun, a resident, towards fees for technical services and Rs.25,000 towards fees for professional services in January, 2011. No tax has been deducted at source. No other payment has been made to Mr. Arjun during the year.
 - (ii) Rental payment of Rs.12,000 per month to Mr. Raghav, a resident. No tax has been deducted at source.
 - (iii) Rs.80,000 paid to Mr.Akash in April 2010, a resident contractor, for contract work. Tax deducted at source under section 194C was deposited only on 14th May, 2011.
 - (iv) Rs.35,000 paid to Mr. Ranjit, a resident, towards fees for professional services in March, 2011. Tax deducted at source under section 194J was deposited on 2nd November, 2011.

Provisions for filing return of income

10. (a) List any five transactions for which quoting of permanent account number is mandatory.

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

- (b) Who are the authorized signatories to the return of income in the following cases?
- (i) Limited Liability Partnership;
 - (ii) Hindu Undivided Family, where the Karta is absent from India; and
 - (iii) Political party referred to in section 139(4B).

Manpower recruitment and supply agency's services

11. Parsvnath Consultants is engaged in providing manpower recruitment and supply agency's services. For the financial year 2010-11, following information is available:-

Particulars	Amount (Rs.)
Amount received for pre-recruitment screening of the prospective candidates	8,00,000
Amount received for verification of the credentials of the candidates	5,00,000
Amount received for supply of contractual employees to big business houses	9,00,000
Amount received for manpower recruitment services provided to Bindu Transporters-a goods transport agency	1,00,000

On the basis of the above information, compute the service tax payable by Parsvnath Consultants under the category of 'manpower recruitment and supply agency's services' for the financial year 2010-11.

Note: Parsvnath Consultants enjoys a good reputation among its clients. Resultantly, its aggregate value of taxable services amounted to Rs. 23 lakh in the financial year 2009-10. Further, the amount of service tax has been charged separately.

Cargo handling services

12. Shankar Cargo Ltd. is engaged in providing 'cargo handling services'. In June, 2011, it received an amount of Rs. 1,00,00,000 for the services rendered. Calculate the value of taxable service under 'cargo handling services' providing brief reasons where required with suitable assumptions based on the following break-up of the total receipts for the month of June, 2011:

Receipts	Rs. (in lakh)
Services in relation to export cargo and handling of passenger baggage	50
Storage and cleaning of empty containers of shipping lines	10
Packing and transport of cargo	5
Handling of agricultural produce	5
Mere transportation of cargo	5
Other receipts for providing cargo handling services	25

Note: The above receipts are exclusive of service tax

PAPER – 4 : TAXATION

Practising Chartered Accountant's services

13. Rajul is a qualified Chartered Accountant. He acquired the certificate of practice from the ICAI in November, 2010. For the quarter ended on March, 2011, his receipts are as follows:-

Particulars	Amount (Rs.)
Certification of documents under Export and Import Policy of Government of India	2,00,000
Preparation of the financial statement of ABC Ltd.	5,00,000
Representation of the client before ITAT	50,000
Receipts for tax consultancy provided in the month of December, 2010	10,000

Using the above information, calculate the value of taxable services for the quarter ended on March, 2011.

Consulting Engineer's services

14. Mr. Ramesh, a consulting engineer provides the following particulars in respect of various services rendered by him during the quarter ending December 2010:

S. No.	Particulars	Rs.
(i)	Professional advice to one of his friend	5,000
(ii)	Consultancy services in computer hardware engineering	15,000
(iii)	Technical assistance in computer software engineering	25,000
(iv)	Advice in relation to metallurgical engineering	10,000
(v)	Professional advice to his friend free of charge	

Rs. 5,000 has been paid by him as cess payable under section 3 of the Research and Development Cess Act, 1986 in respect of the above-mentioned services. Compute the service tax payable by Mr. Ramesh for the quarter ending December, 2010. Service tax has been charged separately by Mr. Ramesh and is not included in any of the receipts mentioned above. Mr. Ramesh is not entitled to the benefit of small service provider available under *Notification No. 6/2005 ST dated 01.03.2005*.

Will your answer be different if the above services are rendered by AB Ltd., a consulting engineering company?

Optional Composition Scheme for payment of service tax in case of distributor or selling agents of lotteries

15. Discuss, in detail, the Optional Composition Scheme for payment of service tax in case of distributor or selling agents of lotteries.

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

Filing of returns and computation of service tax payable

16. (a) SM Ltd. filed its service tax returns for the half years ending on March 2010 and September 2010 on 25.05.2010 and 15.12.2010. The two half yearly returns show a service tax liability of Rs. 2,00,000 and 1,00,000 respectively. Is any late fee/fine payable on SM Ltd.? If yes, what is the quantum of such fee in both the cases?

Will your answer be different if SM Ltd. files a nil return for the half year ending on September 2010?

- (b) Mr. Raj is engaged in providing legal consultancy services. The said services were brought under the service tax net with effect from September 1, 2009. Compute the service tax payable for the financial year 2009-10 from the following particulars:-

Particulars	Amount (Rs.)
Amount received for the services rendered in the first quarter of the financial year 2009-10	15,00,000
Amount received for the services rendered for the services rendered in last two quarters of the financial year 2009-10	16,00,000
Advance received for the services to be rendered in the month of April, 2010.	12,00,000

Computation of VAT

17. The particulars regarding sale, purchase etc. of Mahavir Corporations for the first quarter of the year 2011 -12 are as under:

Particulars	Rs.
Purchases of raw material within the State (tax rate 12.5%)	60,00,000
Purchases of raw material within the State (VAT paid @ 4%, however, invoice does not show the amount of tax separately)	10,00,000
High seas purchases (import duty paid @ 10%)	25,00,000
Taxable sale within the State (tax rate 4%)	1,00,00,000
Exempted sale within the State (raw material worth Rs. 20,00,000 is used for producing such goods, VAT paid on such inputs @ 12.5%)	10,00,000
Sale in the course of Inter-State trade or commerce (tax rate 2%)	10,00,000

Compute the amount of Value Added Tax (VAT) payable by M/s Mahavir Corporations for the relevant quarter. There is no opening and closing stock of goods. How can he utilize the balance of input tax credit available, if any?

Consumption variant of VAT and registration under VAT

18. (a) Consumption variant is convenient from the point of administrative expediency. Is the proposition true? If yes, briefly explain any other benefits that consumption variant might accrue.

PAPER – 4 : TAXATION

(b) Distinguish between compulsory registration and voluntary registration.

Input tax credit

19. State with reasons, in each of the following case, whether the purchases are eligible for input tax credit:-

- (a) Shyam & Co. purchased goods from Forever Enterprises. Forever Enterprises is an unregistered dealer.
- (b) Gauri purchased some capital goods. The final product manufactured by Gauri using these capital goods is exported.
- (c) Shiva purchased goods worth Rs. 10,000 for his personal use.

Addition method of computation of VAT

20. Briefly discuss the addition method of computation of VAT.

SUGGESTED ANSWERS/HINTS

1. Computation of total income of Mr. Ganesh for A.Y.2011-12

Particulars	Resident and ordinarily resident	Resident but not ordinarily resident	Non-resident
Income from a business in Bangalore (70% is received in India) [Income accruing in India]	35,000	35,000	35,000
Dividend from German company received in Germany [Income accruing and arising outside India]	7,000	-	-
Income earned from a business in Germany which is controlled from Pune (Rs.25,000 is received in India) [See Note below]	60,000	60,000	25,000
Interest on debentures in an Indian company received in France [Income accruing in India]	8,000	8,000	8,000
Fees for technical services rendered in India but received in France [Income accruing in India]	12,000	12,000	12,000
Income from property situated in Germany received there [Income accruing and arising outside India]	13,000	-	-
Past foreign untaxed income brought to India during the previous year not taxable [Not income of the current year]	-	-	-
Income from agricultural land in Nepal received there and then brought to India [Income accruing and arising outside India]	14,000	-	-

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

Income from profession in Germany which was set up in India, received there but spent in India [See Note below]	25,000	25,000	-
Cash gift of Rs.1,00,000 is not taxable under section 56(2)(vii) since it was received on the occasion of his wedding	-	-	-
	1,74,000	1,40,000	80,000

Note – Resident and ordinarily resident is taxed on his global income. Resident but not ordinarily resident is taxed in respect of his Indian income and foreign income which is from a business controlled in India or profession set up in India. Non-resident is taxed only in respect of his Indian income (i.e., income which accrues or arises in India or which is deemed to accrue or arise in India and income which is received or deemed to be received in India).

2. Computation of salary income of Mr. Viren for A.Y. 2011-12

Particulars	Amount (Rs.)	Amount (Rs.)
Gross salary received during 1.4.2010 to 31.12.2010 @ Rs.15,000 p.m. (Rs.15,000 x 9)		1,35,000
Pension for 3 months @ 25% of Rs.12,000 p.m.		9,000
Leave Salary	1,12,000	
Less: Exempt under section 10(10AA) (Note1)	<u>96,000</u>	16,000
Gratuity	80,000	
Less: Exempt under section 10(10)(iii) (Note2)	<u>48,000</u>	32,000
		<u>1,92,000</u>

Notes:

1. Leave encashment is exempt to the extent of least of the following :

Particulars	Amount (Rs.)
(i) Amount specified by the Government	3,00,000
(ii) Cash equivalent of leave calculated at 30 days credit for each year of service (30 x 8 x Rs.12,000/30)	96,000
(iii) 10 months average salary (10 x Rs.12,000)	1,20,000
(iv) Actual amount received	1,12,000

Therefore, Rs.96,000 is exempt under section 10(10AA).

PAPER – 4 : TAXATION

2. Gratuity is exempt to the extent of least of the following :

	Particulars	Amount (Rs.)
(i)	Notified limit (w.e.f. 24.5.2010)	10,00,000
(ii)	Half month's salary for 8 years of service (8 x Rs.12,000/2)	48,000
(iii)	Actual gratuity received	80,000

Therefore, Rs.48,000 is exempt under section 10(10)(iii).

3. **Computation of income from house property of Mr. Ramesh for A.Y. 2011-12**

(A) Income from let-out portion (50% of total area)

Annual letting Value	Rs.	Rs.
Municipal valuation (Rs.3,00,000 x ½)	1,50,000	
Fair rent (Rs.2,70,000 x ½)	1,35,000	
Standard rent (Rs.2,20,000 x ½)	1,10,000	

Annual letting value is higher of municipal valuation and fair rent, but restricted to standard rent

Actual Rent

Rent receivable for the whole year (Rs.12,000 x 12)	1,44,000	
Actual rent received owing to vacancy (Rs.1,44,000 – Rs.36,000)	1,08,000	

Since, owing to vacancy the actual rent received is lower than the annual letting value, the actual rent received is the Gross Annual value

Gross Annual Value (GAV)	1,08,000	
Less: Municipal taxes (12% of Rs.1,50,000)	18,000	
Net Annual Value (NAV)	90,000	

Less : Deductions under section 24

(i) 30% of NAV	27,000	
(ii) Interest on borrowed capital (Rs.27,000/2)	13,500	40,500
Taxable income from let out portion		49,500

(B) Income from self-occupied portion (50% of total area)

Annual value	Nil	
Less : Deduction under section 24		
Interest on borrowed capital (Rs.27,000/2)	13,500	(13,500)
Income from house property		36,000

Note - No deduction will be allowed separately for electricity and water charges, insurance charges and repairs.

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

4. (a) Profits and gains of business or profession of Mr. Akash for the year ended 31.3.2011

Particulars	Rs.	Rs.
Net profit as per profit and loss account		1,41,750
Add: Expenses not allowable		
(i) Cost of constructing an additional room is a capital expenditure, hence disallowed	1,42,500	
(ii) Interest payable outside India to a resident, as tax has not been deducted at source [Section 40(a)]	18,000	
(iii) Penalty for contravention of CST Act [Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1)]	36,000	
(iv) Contribution for scientific research (to be treated separately)	1,50,000	3,46,500
		<hr/> 4,88,250
Less: Income not forming part of business income		
Interest from company deposits [chargeable under the head "Income from other sources"]	9,600	
Dividend [exempt under section 10(34), assuming that it is received from a domestic company]	5,400	
Income-tax refund [not an income]	6,750	21,750
		<hr/> 4,66,500
Less: Contribution for scientific research to an approved Research Association qualifies for a weighted deduction of 175% under section 35 (1,50,000 × 175%)		2,62,500
Profit and gains of business or profession		<hr/> 2,04,000 <hr/>

- (b) (i)** Section 44AE provides for estimating business income of an owner of goods carriages from the plying, hiring or leasing of such goods carriages. The scheme applies to persons owning not more than 10 goods carriages at any time during the previous year.

The profits and gains from each heavy goods vehicle will be deemed to be Rs.5,000 for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher. In case of a goods vehicle, other than a heavy goods vehicle, the profits and gains from each such vehicle shall be Rs.4,500 for every month or part of the month during which such goods vehicle is owned by the assessee in the previous

PAPER – 4 : TAXATION

year or an amount claimed to have been actually earned from such vehicle, whichever is higher.

Therefore, the business income of Mr.A under section 44AE would be computed as follows –

Particulars	Rs.
5 heavy goods vehicles for 12 months (5 × 12 × 5,000)	3,00,000
3 medium goods vehicles for 10 months and 20 days (3 × 11 × 4,500)	1,48,500
2 light goods vehicles for 5 months and 10 days (2 × 6 × 4,500)	54,000
	<u>5,02,500</u>

- (ii) The presumptive taxation scheme, so far restricted to civil construction and retail trade, would now cover all small businesses with total turnover/gross receipts of up to Rs.60 lakh. Section 44AD has been substituted w.e.f. A.Y.2011-12, to include within its scope all such businesses (except the business of plying, hiring and leasing goods carriages covered under section 44AE). Consequently, section 44AF dealing with presumptive taxation for retail trade would not be applicable w.e.f. A.Y.2011-12 since retail trade would also fall within the scope of section 44AD. Resident individuals, HUFs and partnership firms (but not LLPs) would be covered under this scheme. Such assessee opting for the presumptive scheme are not required to maintain books of account under section 44AA or get them audited under section 44AB.

Since Mr.B is a resident individual and his turnover during the P.Y.2010-11 is less than Rs.60 lakh, he is eligible to opt for presumptive taxation scheme under section 44AD.

The presumptive rate of tax would be 8% of total turnover or gross receipts. Therefore, if Mr.B opts for presumptive taxation scheme under section 44AD, his business income would be Rs.4,64,000 (i.e., 8% of Rs.58 lakh).

If the turnover of Mr. B from retail trade is Rs.62 lakh instead of Rs.58 lakh, he would not be eligible to opt for the presumptive taxation scheme under section 44AD, since the business would not fall within the meaning of "eligible business" as defined in Explanation (b) to section 44AD on account of the turnover exceeding Rs.60 lakh in the relevant previous year. Therefore, he has to maintain books of account under section 44AA and get them audited under section 44AB and compute his income as per the other provisions of the Income-tax Act, 1961.

5. (a) Computation of "Income from other sources" of Mr. Hari for the A.Y.2011-12

Particulars	Rs.
(1) Cash gift is taxable under section 56(2)(vii), since it exceeds Rs.50,000	51,000

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

(2) The value of property received without consideration would be taxable under section 56(2)(vii). However, wrist watch is not included in the definition of property under section 56(2)(vii). Therefore, receipt of wrist watch without consideration would not attract the provisions of section 56(2)(vii).	-
(3) Stamp value of plot of land at Bangalore, received without consideration, is taxable under section 56(2)(vii)	10,00,000
(5) Appreciation in the value of immovable property between the time of its booking and its actual registration is outside the scope of section 56(2)(vii).	-
Income from other sources	<u>10,51,000</u>

Computation of "Capital Gains" of Mr.Hari for the A.Y.2011-12

Sale Consideration	15,00,000
Less: Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(vii) as per section 49(4)]	10,00,000

Short-term capital gains **5,00,000**

Note – The resultant capital gains will be short-term capital gains since for calculating the period of holding, the period of holding of previous owner is not to be considered.

(b) Computation of taxable capital gain of Ms. Harini for A.Y.2011-12

Particulars	Rs.	Rs.
Sale price of residential house property	20,00,000	
Less : Brokerage @ 2%	<u>40,000</u>	
Net sale consideration		19,60,000
Less : Indexed cost of acquisition		
2,00,000 x 711 / 305		<u>4,66,230</u>
		<u>14,93,770</u>
Less: Deduction under section 54 for purchase of new residential house in July, 2011	9,00,000	
Deduction under section 54EC for investment in notified bonds of NHAI in January, 2011 (within 6 months of transfer)	3,00,000	<u>12,00,000</u>
Taxable long term capital gain		<u>2,93,770</u>

PAPER – 4 : TAXATION

6. Computation of total income of Mr. Raj for the A.Y.2011-12

Particulars	Rs.	Rs.
Salaries	2,75,000	
Less: Set-off of loss from house property as per section 71	(75,000)	2,00,000
	<hr/>	
Profit from retail trade	1,95,000	
Less: Set-off of loss from textile business as per section 70 to the extent of Rs.1,95,000	(1,95,000)	Nil
	<hr/>	
Long term capital gains on sale of land	40,000	
Less: Short-term capital loss on sale of listed equity shares as per section 74(1) set-off to the extent of long-term capital gains	40,000	Nil
	<hr/>	
Total Income		<u>2,00,000</u>

Losses to be carried forward to A.Y.2012-13

Loss from textile business (Rs.3,50,000 – Rs.1,95,000)	1,55,000
Loss from speculative business	15,000
Short-term capital loss (Rs.50,000 – Rs.40,000)	10,000

Notes :

(1) Loss from an exempt source cannot be set-off against profit from a taxable source. Long-term capital gains on sale of listed equity shares on which securities transaction tax is paid is exempt under section 10(38). Therefore, long-term capital loss on sale of listed equity shares is a loss from an exempt source, and therefore it cannot be set-off against long-term capital gains on sale of land.

Short-term capital loss on sale of listed equity shares on which securities transaction tax is paid is not a loss from an exempt source but a loss from a taxable source, since short-term capital gains from sale of such shares is taxable@15% under section 111A. Therefore, such short-term capital loss can be set-off against long-term capital gains on sale of land.

It may be noted that short-term capital loss can be set-off only against income under the head "Capital gains" and not against any other income. Therefore, the remaining short-term capital loss of Rs.10,000 cannot be set-off against salary income. The same has to be carried forward for set-off against capital gains, if any, in the next year.

(2) Loss from speculative business cannot be set-off against profits from ordinary business as per section 73(1). It has to be set-off only against profits from any other speculative business. Since there is no such profit in the current year, such

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

loss can be carried forward to the next year for set-off against profits from any other speculation business in that year as per section 73(2).

- (3) Business loss cannot be set-off against salary income as per section 71(2A). Therefore, the balance loss of Rs.1,55,000 from textile business cannot be set-off against salary income.

7. Computation of deduction under Chapter VI-A for the A.Y.2011-12

Particulars	Rs.
Deduction under section 80C	
(1) Contribution to public provident fund	40,000
(2) Payment of tuition fees to Amity School, East Delhi, for education of his son studying in Class VII	48,000
(3) Repayment of housing loan taken from Axis Bank	30,000
	<u>1,18,000</u>
Deduction under section 80CCC	
(4) Contribution to approved pension fund of LIC	10,000
	<u>1,28,000</u>

As per section 80CCE, the aggregate deduction under section 80C, 80CCC and 80CCD has to be restricted to Rs.1 lakh

Deduction under section 80CCF

- (5) Subscription to long-term infrastructure bonds of IFCI, Rs.30,000, but restricted to Rs.20,000, being the maximum deduction allowable under section 80CCF

Deduction under section 80D [See Working Note below] 35,000

Deduction allowable under Chapter VIA for the A.Y.2011-12 1,55,000

The total income of Harish is, therefore, Rs.8,45,000 (Rs.10,00,000 – Rs.1,55,000).

Working Note - Deduction allowable under section 80D

Particulars	Rs.
(i) Medical insurance premium paid for self and spouse	22,000
(ii) Contribution to CGHS	3,000
	<u>25,000</u>

The deduction in respect of (i) and (ii) above cannot exceed Rs.15,000 15,000

PAPER – 4 : TAXATION

(iii) Medclaim premium paid for parents, who are senior citizens, qualifies for deduction even if they are not dependent on Mr. Harish (Rs.35,000 but restricted to Rs.20,000, being the maximum allowable in the case of senior citizens)	20,000
	35,000

8. Computation of total income of Mr. Dheeraj for the A.Y. 2011-12

Particulars	Rs.
Income from salary [See Note 1]	4,21,303
Income from other sources [See Note 2]	51,000
Gross Total Income	4,72,303
Less: Deduction under section 80C [See Note 3]	1,00,000
Total income	3,72,303
 Total income (rounded off)	3,72,300

Computation of tax liability of Mr. Dheeraj for the A.Y.2011-12

Step 1	Rs.
Add: Agricultural income and non-agricultural income (Rs.62,000 + Rs.3,72,300)	
Tax on Rs. 4,34,300	27,430
 Step 2	
Add: Basic exemption limit to agricultural income (Rs.1,60,000 + Rs.62,000)	
Tax on Rs.2,22,000	6,200
 Step 3	
Tax on non-agricultural income (Tax under step 1 – Tax under step 2) (Rs.27,430 – Rs.6,200)	21,230
Add: Education cess@2% and secondary and higher education cess @ 1%	637
Total tax liability	21,867
 Total tax liability (rounded off)	21,870

Notes:

1. Computation of income under the head “Salaries”	Rs.	Rs.
Basic pay		1,90,000
Dearness Allowance		1,20,000

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

Bonus	20,000
Special Allowance	22,000
Taxable education allowance [Working Note (i)]	11,400
Medical Allowance	6,000
	<u>3,69,400</u>
Add : Taxable perquisites	
1. Rent free accommodation [Working Note (ii)]	37,410
2. Electricity Bill paid by employer	14,000
3. Use of CD Player given by employer [Working Note (iii)]	493
	<u>51,903</u>
Taxable salary	<u>4,21,303</u>

Working Notes:

(i) Education allowance exempt under section 10(14)

Education allowance of Rs.100 per month per child for a maximum of 2 children plus hostel allowance of Rs.300 per month per child for a maximum of 2 children is exempt, i.e. $(100 \times 2 \times 12) + (300 \times 2 \times 12) = 2400 + 7200 = \text{Rs.}9,600$

Therefore, taxable education allowance would be $\text{Rs.}21,000 - \text{Rs.}9,600 = \text{Rs.}11,400$.

(ii) Valuation of rent-free house

	Rs.
Basic salary	1,90,000
DA (not to be considered as it is not forming part of salary)	Nil
Bonus	20,000
Special allowance	22,000
Taxable education allowance	11,400
Medical allowance	6,000
Salary for the purpose of valuation of rent-free house	<u>2,49,400</u>
Value of rent-free house = 15% of Rs.2,49,400	37,410

(iii) Valuation of perquisite of CD Player given for use by the employee

Taxable value of this perquisite is 10% p.a. of cost of the CD player w.e.f. 1.1.2011 (i.e. for 90 days)

$10\% \text{ of Rs.}20,000 = 2,000 \times 90/365 = \text{Rs.}493$

Provision of laptop by the employer is a tax-free perquisite.

PAPER – 4 : TAXATION

2. Taxability of gift received from a friend

Any sum of money received by an individual or a HUF without consideration would be chargeable to tax under section 56(2)(vii), if the aggregate value of such receipts during the year exceeds Rs.50,000. In this case, since he has received Rs.51,000 from his friend, the same would be chargeable to tax under section 56(2)(vii).

3. Particulars of investments/payments deductible under section 80C Rs.

Investment in public provident fund	40,000
Investment in 5 year Time Deposit in Post Office	25,000
Tuition fees of children	60,000
	<hr/>
	1,25,000

However, the total deduction under section 80C cannot exceed Rs.1,00,000. This restriction is contained in section 80CCE.

Therefore, the permissible deduction under section 80C = 1,00,000

9. The scheme of disallowance under section 40(a)(ia) has been amended by the Finance Act, 2010, with effect from A.Y.2010-11, to extend the time limit for depositing tax deducted during the entire year up to the due date of filing return of income to ensure compliance with the statutory requirement to avoid disallowance of expenditure under section 40(a)(ia).

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

- (i) The limit of Rs.30,000 under section 194J is applicable separately for fees for professional services, fees for technical services, royalty and non-compete fees referred to in section 28(va). It implies that if the payment to a person towards each of the above is less than Rs.30,000, no tax is required to be deducted at source, even though the aggregate payment or credit exceeds Rs.30,000.

Therefore, if XYZ Ltd. makes a payment of Rs.28,000 to Mr.Arjun towards fees for technical services and another payment of Rs.25,000 to him towards fees for professional services during the P.Y.2010-11, TDS under section 194J would not get attracted, since the limit of Rs.30,000 is applicable for fees for professional services and fees for technical services, separately. Therefore, disallowance under section 40(a)(ia) for non-deduction of tax at source is not attracted in this case.

- (ii) The threshold limit for deduction of tax at source under section 194-I for rental payments has been increased from Rs.1,20,000 to Rs.1,80,000 with effect from 1st July, 2010. Therefore, since the rental payment to Mr. Raghav is less than

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

Rs.1,80,000 in the P.Y.2010-11, there is no requirement to deduct tax at source under section 194-I. Therefore, disallowance under section 40(a)(ia) for non-deduction of tax at source is not attracted in this case.

- (iii) In this case, since the tax deducted under section 194C during the P.Y.2010-11 has been paid before the due date of filing of return i.e., before 30th September, 2011, disallowance under section 40(a)(ia) is not attracted.
- (iv) Since tax deducted under section 194J during the P.Y.2010-11 has been paid after the due date of filing of return i.e., after 30th September, 2011, the payment of Rs.35,000 towards fees for professional services would be disallowed under section 40(a)(ia) while computing income under the head "Profits and gains of business or profession" for A.Y.2011-12.

10. (a) Transactions for which quoting of PAN is mandatory

- (i) Sale or purchase of any immovable property valued at Rs.5 lakh or more;
- (ii) Sale or purchase of motor vehicle or other vehicle (other than two wheeled motor vehicle) which requires registration under section 2(28) of the Motor Vehicle Act, 1988;
- (iii) A time deposit exceeding Rs.50,000 with a banking company;
- (iv) A deposit exceeding Rs.50,000 in any account with Post Office Savings Bank;
- (v) A contract for sale or purchase of securities exceeding value of Rs.1 lakh;

Note – For detailed list, refer to Chapter 10 of the Study Material. Any 5 of the transactions listed therein can be given in the answer.

- (b) (i) **Limited Liability Partnership** – Designated partner. Where there is no designated partner or for any unavoidable reason, such designated partner is not able to sign and verify the return, any partner of the LLP can sign the return of income.
- (ii) **Hindu Undivided Family, where the Karta is absent from India** – any other adult member of the family;
- (iii) **Political party referred to in section 139(4B)** – the chief executive officer of such party (whether he is known as secretary or by any other designation).

11. Computation of service tax payable by Parsvnath Consultants under the category of 'manpower recruitment and supply agency's services for the financial year 2010-11:-

Particulars	Amount (Rs.)
Pre-recruitment screening of the prospective candidates	8,00,000
Verification of the credentials of the candidates	5,00,000
Supply of contractual employees to big business houses	<u>9,00,000</u>

PAPER – 4 : TAXATION

Value of taxable services	<u>22,00,000</u>
Service tax @ 10% = Rs. 22,00,000 × 10%	2,20,000
Add: Education cess payable @ 2% = Rs. 2,20,000 × 2%	4,400
Add: Secondary and education cess payable @ 1% = Rs. 2,20,000 × 1%	<u>2,200</u>
Amount of service tax payable	<u>2,26,600</u>

Note:

1. *Notification No. 1/2009 ST dated 05.01.2009* has exempted the services provided by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise provided to a goods transport agency for transportation of goods by road in the said goods carriage from the whole of the service tax. Therefore, Rs. 1,00,000 would not be included in the value of the taxable services.
2. Exemption from service tax under *Notification No. 6/2005-ST dated 01.03.2005* is not available to Parsvnath Consultants for the financial year 2010-11 because the aggregate value of taxable services exceeds Rs. 10 lakh in the preceding financial year 2009-10.

12. Calculation of the value of taxable service under 'cargo handling services' of Shankar Cargo Ltd. for June, 2011:-

<i>Particulars</i>	<i>Rs.</i>
Total receipts for services rendered	1,00,00,000
<i>Less : Exemptions:-</i>	
1. Receipts in relation to export cargo & handling baggage of passenger (Note-1)	50,00,000
2. Charges received for storage, washing etc. of empty containers of shipping lines (Note-4)	10,00,000
3. Charges received in relation to handling of agricultural produce (Note-3)	5,00,000
4. Charges received for mere transportation of cargo (Note-5)	<u>5,00,000</u>
Value of taxable services under cargo handling services	<u>30,00,000</u>

Notes:

1. The definition of 'cargo handling service' under section 65(23) specifically excludes handling of export cargo or passenger baggage. Hence, they do not form part of taxable services.
2. Charges received for packing together with transportation of cargo, Rs.5,00,000 are taxable as per section 65(23).

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

3. *Notification No. 10/2002 ST dated 01.08.2002* exempts the taxable service provided to any person by a cargo handling agency in relation to agricultural produce or goods intended to be stored in a cold storage from payment of service tax.
4. *Circular No. B.11/1/2002-TRU dated 1/8/2002* clarifies that activity of storing/washing/repairing and handling empty containers for the shipping lines does not come within the purview of "cargo handling services".
5. The definition of 'cargo handling service' under section 65(23) specifically excludes mere transportation of goods. Hence, they do not form part of taxable services.

13. Calculation of the value of taxable services for the quarter ended on March, 2011:-

Particulars	Amount (Rs.)	Amount (Rs.)
Certification of documents under Export and Import Policy of Government of India	$= 2,00,000 \times \frac{100}{110.30}$	1,81,324
Preparation of the financial statement of ABC Ltd.	$= 5,00,000 \times \frac{100}{110.30}$	4,53,309
Representation of the client before ITAT (Note-1)		Nil
Receipts for tax consultancy provided in the month of December, 2010	$= 10,000 \times \frac{100}{110.30}$	9,066
Value of taxable services		6,43,699

Note:

1. As per **Notification No. 25/2006 ST dated 13.07.2006**, the taxable services provided by a practising Chartered Accountant in his professional capacity, to a client, relating to representing the client before any statutory authority in the course of proceedings initiated under any law for the time being in force, by way of issue of notice, is exempt from the whole of service tax leviable thereon.
2. Since the receipts are not exclusive of service tax value of taxable service will be calculated by making back calculations.

14. Computation of service tax payable:-

Particulars	Rs.
Professional advice to one of his friend	5,000
Consultancy services in computer hardware engineering	15,000
Technical assistance in computer software engineering	25,000
Advice in relation to metallurgical engineering	<u>10,000</u>
Total	55,000

PAPER – 4 : TAXATION

Less: Cess payable under section 3 of the Research and Development Cess Act, 1986	<u>5,000</u>
Value of taxable services	50,000
Service tax @10%	5,000
Add: Education cess @ 2%	100
Add: Secondary and higher education cess @ 1%	<u>50</u>
Service tax payable	<u>5,150</u>

Notes:

1. Advice to friend is taxable as service rendered to any person is taxable.
2. Consultancy and technical assistance in relation to both computer hardware and software engineering are taxable
3. Advice in relation to any branch of engineering is taxable
4. Services rendered free of charge are not liable to service tax
5. Cess payable under section 3 of the Research and Development Cess Act, 1986 is exempt under **Notification No.18/2002 ST dated 16.12.2002.**

Answer will not be different as consulting engineer *inter alia* means any body corporate as well.

15. A special mode of payment of service tax has been provided to a distributor or selling agent of lotteries by inserting sub-rule (7C) in rule 6 of the Service Tax Rules, 1994.

The distributor or selling agents rendering the taxable service of promotion, marketing or organising/assisting in organising lottery can discharge their service tax liability in the following rates instead of paying service tax @10%:-

S. No.	If the lottery / lottery scheme is one where	Rate of service tax
1.	Guaranteed prize payout > 80%	Rs. 6000/- on every Rs. 10 Lakh (or part of Rs. 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw
2.	Guaranteed prize payout < 80%	Rs. 9000/- on every Rs. 10 Lakh (or part of Rs. 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw

Points to be noted

1. **Aggregate face value of lottery tickets in case of online lottery**

In case of online lottery, the aggregate face value of lottery tickets will be the aggregate value of tickets sold.

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

2. Time period for exercising the option

The distributor or selling agent will have to exercise such option within a period of one month of the beginning of each financial year. The option once exercised cannot be withdrawn during the remaining part of the financial year.

3. Time period for exercising option for financial year 2010-11

For the financial year 2010-11, the distributor or selling agent will have to exercise such option by:-

(a) 07.11.2010

or

(b) in case of a new service provider, within one month of providing the service.

Once exercised, the option cannot be withdrawn during the remaining part of that financial year.

5. Meaning of certain expressions

The expressions "distributor or selling agent", "draw", "online lottery" and "organising state" will have the same meaning as is assigned to them under Lottery (Regulation) Rules, 2010.

- 16. (a)** The due date for filing the return for the half year ended March 2010 is 25.04.2010. However, SM Ltd. has filed the return on 25.05.2010. Thus, there is a delay beyond 15 days, but not later than 30 days. For furnishing a delayed return beyond 15 days but not later than 30 days from the date prescribed for submission of return, the prescribed late fee is Rs.1,000. Hence, SM Ltd. will have to pay Rs. 1,000 as late fee.

The due date for filing the return for the half year ended September 2010 is 25.10.2010. However, the return is filed on 15.12.2010. Thus, there is a total delay of 51 days from the date prescribed for submission of return. If the delay is beyond 30 days from the date prescribed for submission of the return, the prescribed late fees is equivalent to an amount of Rs.1,000 plus Rs.100 for every day from the 31st day till the date of furnishing the said return subject to a maximum limit of Rs. 2,000 prescribed by section 70(1).

Hence, an amount of Rs.1,000 plus Rs.100 for 21 days or Rs.2,000 whichever is lower will be payable by SM Ltd. Therefore, SM Ltd. will have to pay a late fee of Rs. 2,000.

In case of nil return, late fee may be waived if Central Excise Officer is satisfied that there was sufficient reason for not filing the return.

- (b) Computation of the service tax payable by Mr. Raj:-**

Particulars	Amount (Rs.)
Amount received for the services rendered in the first quarter of the financial year 2009-10 (as the service tax was not levied on the said service during the said period)	Nil

PAPER – 4 : TAXATION

Amount received for the services rendered for the services rendered in last two quarters of the financial year 2009-10	16,00,000
Advance received for the services to be rendered in the month of April, 2010.	<u>12,00,000</u>
Total	28,00,000
Less: Exemption under <i>Notification No. 6/2005 ST dated 01.03.2005</i>	<u>10,00,000</u>
Value of taxable service	<u>18,00,000</u>
Service tax @10%	1,80,000
Add: Education cess @ 2%	3,600
Add: Secondary and higher education cess @ 1%	<u>1,800</u>
Service tax payable	<u>1,85,400</u>

Note: Since the services provided by Mr. Raj have become taxable in financial year 2009-10, aggregate value of taxable services in financial year 2008-09 is Nil. Hence, Exemption under *Notification No. 6/2005 ST dated 01.03.2005* is available to Mr. Raj in the financial year 2009-10.

17. Computation of VAT payable for the quarter ending 30th June, 2011:-

Particulars	Rs.	Rs.
Output tax payable = Rs. 1,00,00,000 × 4%		4,00,000
Less: Input tax credit		
On raw material purchased @ 12.5% (Rs. 60,00,000 × 12.5%)	7,50,000	
Less: Inputs used in the manufacture of exempted goods sold (Rs. 20,00,000 × 12.5%) [Note – 1]	<u>2,50,000</u>	5,00,000
Net VAT payable		(1,00,000)
CST payable on inter state sale adjusted (Rs.10,00,000 × 2%)		20,000
Balance of input tax credit carried forward to next quarter (Rs. 20,000-Rs. 1,00,000)		80,000

Note:

1. If the goods manufactured from raw material are exempt from tax, no input tax credit is available on such raw material.
2. Import duty paid on high seas purchases is not eligible for input tax credit.
3. Purchases of raw material within the State on which VAT has been paid @ 4% are not eligible for input tax credit because invoice for the said purchases does not show the amount of tax separately.

- 18. (a) Yes, the given proposition is true.** The consumption variant is convenient from the point of administrative expediency as it simplifies tax administration by obviating the need to distinguish between purchases of intermediate and capital goods on the

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

one hand and consumption goods on the other hand.

Besides, it does not affect decisions regarding investment because the tax on capital goods is also set-off against the VAT liability. Hence, the system is tax neutral in respect of techniques of production (labour or capital-intensive).

In practice, therefore, most countries use the consumption variant.

(b) Difference between compulsory registration and voluntary registration:-

Compulsory registration

If an assessee fails to obtain registration under the VAT Act, he may be registered compulsorily by the Commissioner. The Commissioner may assess the tax due from such person on the basis of evidence available with him. In this event the assessee shall have to forthwith pay such amount of tax. Further, failure to get registered shall result in attracting default penalty and forfeiture of eligibility to set off all input tax credit related to the period prior to the compulsory registration.

Voluntary registration

A dealer otherwise not eligible for registration may also obtain registration if the Commissioner is satisfied that the business of the applicant requires registration. The Commissioner may also impose any terms or conditions that he thinks fit.

19. (a) Purchases made by Shyam & Co. from Forever Enterprises are not eligible for input tax credit as Forever Enterprises is not a registered dealer.
- (b) Gauri can claim the input tax credit in respect of the purchase of the capital goods as purchases of goods to be used as capital goods for manufacturing/packing goods to be sold in the course of export out of the territory of India are eligible for claiming input tax credit.
- (c) The purchase of goods made by Shiva is not eligible for input tax credit as such goods would be used for personal use.

20. Addition method of computation of VAT

Addition method is the most common and popular method for computing the tax liability under 'VAT' system. Under this method, tax is imposed at each stage of sales on the entire sale value and the tax paid at the earlier stage is allowed as set-off. In other words, out of tax so calculated, tax paid at the earlier stage i.e., at the stage of purchases is set-off, and at every stage the differential tax is being paid. The most important aspect of this method is that at each stage, tax is to be charged separately in the invoice. This method is very popular in western countries. In India also, under the State level VAT law as introduced in several States and under the Central Excise Law this method is followed. This method is also called the 'Tax Credit Method' or 'Voucher Method'.

PAPER – 4 : TAXATION

SIGNIFICANT CIRCULARS / NOTIFICATIONS ISSUED BETWEEN 1.5.2010 AND 31.10.2010

Students may note that the Study Material for IPCC Group I Paper 4: Taxation A.Y. 2011-12 has been updated with the law as amended by the Finance Act, 2010 and notifications and circulars issued upto 30.04.2010. This study material is relevant for the students of IPCC appearing for May 2011 examination. The following are the amendments which have been made between 1.05.2010 and 31.10.2010. It may carefully be noted that for the students appearing in May 2011 examination, the amendments made by Notifications, Circulars etc. up to 31.10.2010 are relevant.

I. INCOME TAX

CIRCULARS

1. Circular No. 4/2010 dated 18.5.2010

Clarification regarding definition of new infrastructure facility for the purpose of section 80-IA(4)

The CBDT has, vide this Circular, clarified that widening of an existing road by constructing additional lanes as a part of a highway project by an undertaking would be regarded as a new infrastructure facility for the purpose of section 80-IA(4)(i). However, simply relaying of an existing road would not be classifiable as a new infrastructure facility for this purpose.

2. Circular No. 6/2010 dated 20.9.2010

Regional Rural Banks not eligible for deduction under section 80P

The CBDT has, through this circular, reiterated that Regional Rural Banks are not eligible for deduction under section 80P of the Income-tax Act, 1961 from the assessment year 2007-08 onwards. It has also been clarified that the Circular No. 319 dated 11-1-1982 deeming any Regional Rural Bank to be cooperative society stands withdrawn for application with effect from A.Y.2007-08.

This is consequent to the amendment in section 80P by the Finance Act, 2006, providing specifically that w.e.f. 1-4-2007, the provisions of section 80P will not apply to any co-operative bank other than a Primary Agricultural Credit Society or a Primary Cooperative Agricultural and Rural Development Bank. The same has been further clarified by this circular.

3. Circular No. 7/2010 dated 27.10.2010

Clarification regarding period of validity of approvals issued under section 10(23C)(iv), (v), (vi) or (via) and section 80G(5)

For the removal of doubts about the period of validity of various approvals granted by the Chief Commissioners of Income-tax or Directors General of Income-tax under sub-clauses (iv), (v), (vi) and (via) of section 10(23C) and by the Commissioners of Income-

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

tax or Directors of Income-tax under section 80G(5) of the Income-tax Act, 1961, the CBDT has, through, this circular clarified the following:-

- (1) For the purposes of sub-clauses (iv) and (v) of section 10(23C), any notification issued by the Central Government under the said sub-clauses, on or after 13-7-2006 will be valid until withdrawn and there will be no requirement on the part of the assessee to seek renewal of the same after three years.
- (2) For the purposes of sub-clauses (vi) and (via) of section 10(23C), any approval issued on or after 1-12-2006 under the said sub-clauses would be a one time approval and would be valid till it is withdrawn.
- (3) For the purposes of section 80G(5), existing approvals expiring on or after 1st October, 2009 shall be deemed to have been extended in perpetuity unless specifically withdrawn. Further, any approval under section 80G(5) on or after 1-10-2009 would be a one time approval which would be valid till it is withdrawn.

NOTIFICATIONS

1. Notification Nos. 48/2010 dated 9.7.2010 & 77/2010 dated 11.10.2010

Notification of long-term infrastructure bonds by the Central Government, subscription to which would qualify for deduction under section 80CCF

Section 80CCF provides that an assessee, being an individual or a Hindu Undivided Family, shall get a deduction of up to rupees twenty thousand in computing his total income if he subscribes to long-term infrastructure bonds as may be notified by the Central Government for this purpose.

Consequently, the Central Government has, vide these notifications, specified the long-term infrastructure bonds, subscription to which would qualify for deduction under section 80CCF. Accordingly, subscription to long-term infrastructure bonds of Industrial Finance Corporation of India, Life Insurance Corporation of India, Infrastructure Development Finance Company Limited and a non-banking Finance Company classified as an Infrastructure Finance Company by the Reserve Bank of India would qualify for deduction under section 80CCF. Further, subscription to long-term infrastructure bonds of India Infrastructure Finance Company Ltd. would also qualify for deduction under section 80CCF.

2. Notification No. 59/2010 dated 21.07.2010

Cost Inflation Index of financial year 2010-11 notified

The CBDT has notified the cost inflation index for the financial year 2010-11 as 711.

S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100
2.	1982-83	109
3.	1983-84	116
4.	1984-85	125

PAPER – 4 : TAXATION

5.	1985-86	133
6.	1986-87	140
7.	1987-88	150
8.	1988-89	161
9.	1989-90	172
10.	1990-91	182
11.	1991-92	199
12.	1992-93	223
13.	1993-94	244
14.	1994-95	259
15.	1995-96	281
16.	1996-97	305
17.	1997-98	331
18.	1998-99	351
19.	1999-2000	389
20.	2000-01	406
21.	2001-02	426
22.	2002-03	447
23.	2003-04	463
24.	2004-05	480
25.	2005-06	497
26.	2006-07	519
27.	2007-08	551
28.	2008-09	582
29.	2009-10	632
30.	2010-11	711

3. Notification No. 69/2010 dated 26.08.2010

Notification of interest rate on RPF as 8.5% w.e.f. 1.9.2010, the interest in excess of which would be taxable as salary.

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

Accordingly, the Central Government has notified, w.e.f. 1st September, 2010, in exercise of the powers conferred by Rule 6, 8.5% as the rate of interest on Employer's annual contributions in a recognised provident fund. This implies that w.e.f. 1st September 2010 interest credited on the balance to the credit of the employee in excess

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

of 8.5 percent shall be deemed to have been received by the employee in the previous year and shall be included in the total income of the employee. Prior to this date, the interest credited in excess of 9.5% was deemed to be the income of the employee.

Example : If interest @ 9.5% is credited in the provident fund account of the employee as on 31st March, 2011 for the year 2010-11, then, according to the above notification, the amount of interest credited upto 31.08.2010 (i.e. 9.5%) is exempt from tax and w.e.f 01.09.2010 the interest credited @1% (i.e. 9.5% - 8.5%) is deemed to be the income of the employee for A.Y.2011-12.

4. Notification No. 80/2010 dated 19.10.2010

Notification of annuity plan for deduction under section 80C

Deduction under section 80C is available in respect of any sum paid or deposited to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation or any other insurer as the Central Government may, by notification in the Official Gazette specify in this behalf.

Accordingly, the Central Government, has, through this notification specified the Tata AIG Easy Retire Annuity plan of the Tata AIG Life Insurance Company Limited as the annuity plan of the ICICI Prudential Life Insurance Company Limited for the purposes deduction under section 80C.

5. Notification No.41/2010 dated 31.05.2010

Substitution of Rules 30, 31 and 31A in the Income-tax Rules, 1962.

Rule 30 – Time and mode of payment to Government account of TDS or tax paid under section 192(1A)

- (a) All sums deducted in accordance with Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government on the same day where the tax is paid without production of an income-tax challan and on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A) , where tax is paid accompanied by an income-tax challan.
- (b) All sums deducted in accordance with Chapter XVII-B by deductors other than a Government office shall be paid to the credit of the Central Government on or before 30th April, where the income or amount is credited or paid in the month of March. In any other case, the tax deducted should be paid on or before seven days from the end of the month in which the deduction is made or income-tax is due under section 192(1A).
- (c) In special cases, the Assessing Officer may, with the prior approval of the Joint Commissioner, permit quarterly payment of the tax deducted under section 192/194A/194D/194H on or before 7th of the month following the quarter, in respect of first three quarters in the financial year and 30th April in respect of the quarter ending on 31st March. The dates for quarterly payment would, therefore, be 7th July, 7th October, 7th January and 30th April, for the quarters ended 30th June, 30th September, 31st December and 31st March, respectively.

PAPER – 4 : TAXATION

Rule 31 – Certificate of TDS to be furnished under section 203

- (a) The certificate of deduction of tax at source to be furnished under section 203 shall be in Form No.16 in respect of tax deducted or paid under section 192 and in any other case, Form No.16A.
- (b) Form No.16 shall be issued to the employee annually by 31st May of the financial year immediately following the financial year in which the income was paid and tax deducted. Form No.16A shall be issued quarterly within 15 days from the due date for furnishing the statement of TDS under Rule 31A.

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

- (a) Every person responsible for deduction of tax under Chapter XVII-B shall deliver, or cause to be delivered, the following quarterly statements to the DGIT (Systems) or any person authorized by him, in accordance with section 200(3):
 - (1) Statement of TDS under section 192 in Form No.24Q;
 - (2) Statement of TDS under sections 193 to 196D in Form No.26Q in respect of all deductees other than a deductee being a non-resident not being a company or a foreign company or resident but not ordinarily resident in which case the relevant form would be Form No.27Q.
- (b) The time limit for furnishing such quarterly statements shall be 15th of the month following each quarter in respect of the first three quarters and 15th May for the last quarter ending on 31st March. The due dates would therefore be 15th July, 15th October, 15th January and 15th May for the quarters ending 30th June, 30th September, 31st December and 31st March, respectively.

6. Ceiling for gratuity exemption raised to Rs.10 lakhs

Section 10(10)(ii) exempts any gratuity received under the Payment of Gratuity Act, 1972, to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4 of that Act. The limit specified under sub-section (3) of section 4 has been increased from Rs.3,50,000 to Rs.10,00,000 by the Payment of Gratuity (Amendment) Act, 2010 dated 17th May, 2010.

Thereafter, the Central Government has enhanced the notified limit under section 10(10)(iii) from Rs.3,50,000 to Rs.10,00,000 in relation to employees who retire or become incapacitated prior to such retirement or die on or after 24th May, 2010 or whose employment is terminated on or after the said date. In effect, the ceiling for gratuity exemption under section 10(10)(iii), which is relevant for employees not covered under the Payment of Gratuity Act, 1972, has also been increased to Rs.10 lakh vide Central Government Notification No.43/2010 dated 11th June, 2010.

II. SERVICE TAX

NOTIFICATIONS

1. Service tax paid on service provided by airports authority to an exporter for export of goods eligible for refund

Service tax paid on certain taxable services that are used in relation to or for export of goods are eligible for refund under *Notification No. 17/09 ST dated 07.07.2009*. The said

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION: MAY, 2011

Notification covers port service within its ambit but does not include 'airport service'. Such anomaly has been corrected by amending the said Notification so as to include 'airport service' in the list of eligible services under the said refund scheme.

[Notification No. 37/2010 ST dated 28.06.2010]

2. Optional Composition Scheme for Distributor or Selling Agents of Lotteries

An optional mode of payment of service tax has been provided to a distributor or selling agent of lotteries by inserting sub-rule (7C) in rule 6 of the Service Tax Rules, 1994. The distributor or selling agents rendering the taxable service of promotion, marketing or organising/assisting in organising lottery can discharge their service tax liability in the following manner instead of paying service tax @10%:

Where the guaranteed lottery prize payout is > 80%	Rs. 6000/- on every Rs 10 Lakh (or part of Rs 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.
Where the guaranteed lottery prize payout is < 80%	Rs. 9000/- on every Rs 10 Lakh (or part of Rs 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.

In case of online lottery, the aggregate face value of lottery tickets will be the aggregate value of tickets sold. The distributor or selling agent will have to exercise such option within a period of one month of the beginning of each financial year. The option once exercised cannot be withdrawn during the remaining part of the financial year.

For the financial year 2010-11, the distributor or selling agent will have to exercise such option by 07.11.2010. The new service provider can exercise such option within one month of providing the service. Once exercised, the option cannot be withdrawn during the remaining part of that financial year.

The expressions "distributor or selling agent", "draw", "online lottery" and "organising state" will have the same meaning as is assigned to them under Lottery (Regulation) Rules, 2010.

[Notification No. 49/2010 ST dated 08.10.2010]

CIRCULARS

1. Donations and grants-in-aid received by a Charitable Foundation imparting free livelihood training to the youth not liable to service tax

It has been clarified that donations and grants-in-aid received from different sources by a Charitable Foundation imparting free livelihood training to the poor and marginalized youth, will not be treated as 'consideration' received for such training and thus not subjected to service tax under 'commercial training or coaching service as donation or grant-in-aid is not specifically meant for a person receiving such training or to the specific activity, but is in general meant for the charitable cause championed by the registered Foundation. There is no relationship other than universal humanitarian interest between the provider of donation/grant and the trainee. In such a situation, service tax is not leviable, since the donation or grant-in-aid is not linked to specific trainee or training.

[Circular No.127/09/2010 ST dated 10.08.2010]