PAPER 4: TAXATION

SECTION A: INCOME TAX

PART I: STATUTORY UPDATE

The Income-tax law, as amended by the Finance Act, 2017, including significant notifications/circulars issued upto 31st October, 2017 is applicable for May, 2018 examination. The relevant assessment year for May, 2018 examination is A.Y.2018-19. The significant notifications/circulars issued upto 31.10.2017, relevant for May, 2018 examination but not covered in the July 2017 edition of the Study Material, are given hereunder.

CHAPTER 2: RESIDENCE AND SCOPE OF TOTAL INCOME

Clarification regarding liability to income-tax in India of a non-resident seafarer receiving remuneration in NRE (Non-Resident External) account maintained with an Indian Bank [Circular No.13/2017, dated 11.04.2017 and Circular No.17/2017, dated 26.04.2017]

Income by way of salary, received by non-resident seafarers, for services rendered outside India on-board foreign ships, is being subjected to tax in India for the reason that the salary has been received by the seafarer into the NRE bank account maintained in India by the seafarer. On receiving representations in this regard, the CBDT has examined the matter. It noted that section 5(2)(a) of the Income-tax Act, 1961 provides that only such income of a non-resident shall be subjected to tax in India that is either received or is deemed to be received in India.

Accordingly, the CBDT has, vide this circular, clarified that that salary accrued to a non-resident seafarer for services rendered outside India on a foreign going ship (with Indian flag or foreign flag) shall not be included in the total income merely because the said salary has been credited in the NRE account maintained with an Indian bank by the seafarer.

CHAPTER 4: HEADS OF INCOME
UNIT IV: CAPITAL GAINS

Long-term specified asset notified for the purpose of claiming exemption under section 54EC [Notification No. 47/2017, dated 08.06.2017 and Notification No. 79/2017, dated 08.08.2017]

Section 54EC provides exemption from chargeability of capital gain from the transfer of a long-term capital asset where the assessee has invested the whole or any part of the capital gain in a long-term specified asset. As per clause (ba) of *Explanation* to section 54EC "long term specified asset" means any bond redeemable after three years and issued on or after 01.04.07 by the National Highways Authority of India (NHAI) or by the Rural Electrification Corporation Limited (RECL) or any other bond notified by the Central Government in this behalf.

Accordingly, the Central Government has, vide these notifications, notified any bond redeemable after three years and issued by the **Power Finance Corporation Limited** on or

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after 15.06.17 or by the **Indian Railway Finance Corporation Limited** on or after 08.08.17 as 'long-term specified asset'.

CHAPTER 4: HEADS OF INCOME
UNIT V: INCOME FROM OTHER SOURCES

Clarification regarding trade advance not to be treated as deemed dividend under section 2(22)(e) – [Circular No. 19/2017, dated 12.06.2017]

Section 2(22)(e) provides that "dividend" includes any payment by a company in which public are not substantially interested, of any sum by way of **advance or loan** to a shareholder who is the beneficial owner of shares holding not less than 10% of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits.

The CBDT observed that some Courts in the recent past have held that trade advances in the nature of commercial transactions would not fall within the ambit of the provisions of section 2(22)(e) and such views have attained finality.

In view of the above, the CBDT has, vide this circular, clarified that it is a settled position that trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(22)(e) and therefore, the same would not to be treated as deemed dividend.

CHAPTER 9: ADVANCE TAX AND TAX DEDUCTION AT SOURCE

Deduction of tax at source on interest income accrued to minor child, where both the parents have deceased [Notification No. 05/2017, dated 29.05.2017]

Under Rule 31A(5) of the Income-tax Rules, 1962, the Director General of Income-tax (Systems) is authorized to specify the procedures, formats and standards for the purposes of furnishing and verification of, *inter alia*, the statements and shall be responsible for the day-to-day administration in relation to furnishing and verification of the statements in the manner so specified.

The Principal Director General of Income-tax (Systems) has, in exercise of the powers delegated by the CBDT under Rule 31A(5), specified that in case of minors where both the parents have deceased, TDS on the interest income accrued to the minor is required to be deducted and reported against PAN of the minor child unless a declaration is filed under Rule 37BA(2) that credit for tax deducted has to be given to another person.

Deduction of tax at source on interest on deposits made under Capital Gains Accounts Scheme, 1988 where depositor has deceased - Notification No. 08/2017, dated 13.09.2017

The Principal Director General of Income-tax (Systems) has, in exercise of the powers delegated by the CBDT under Rule 31A(5), vide this notification, specified that in case of deposits under the Capital Gains Accounts Scheme, 1988 where the depositor has deceased:

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(i) TDS on the interest income accrued for and upto the period of death of the depositor is required to be deducted and reported against PAN of the depositor, and

(ii) TDS on the interest income accrued for the period after death of the depositor is required to be deducted and reported against PAN of the legal heir,

unless a declaration is filed under Rule 37BA(2) that credit for tax deducted has to be given to another person.

No requirement to deduct tax at source under section 194-I on remittance of Passenger Service Fees (PSF) by an Airline to an Airport Operator [Circular No. 21/2017, dated 12.06.2017]

Section 194-I requires deduction of tax at source at specified percentage on any income payable to a resident by way of rent. *Explanation* to this section defines the term "rent" as any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any (a) land; or (b) building; or (c) land appurtenant to a building; or (d) machinery; (e) plant; (f) equipment (g) furniture; or (h) fitting, whether or not any or all of them are owned by the payee.

The primary requirement of any payment to qualify as rent is that the payment must be for the use of land and building and mere incidental/minor/insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 194-I.

Accordingly, the CBDT has, *vide* this circular, clarified that the provisions of section 194-I shall **not** be applicable on payment of PSF by an airline to Airport Operator.

Clarification regarding TDS on Goods and Services Tax (GST) component comprised in payments made to residents [Circular No. 23/2017 dated 19.07.2017]

The CBDT had, vide Circular No. 1/2014 dated 13.01.2014, clarified that wherever in terms of the agreement or contract between the payer and the payee, the service tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid or payable without including such service tax component.

In order to harmonize the same treatment with the new system for taxation of services under the GST regime w.e.f. 01.07.2017, the CBDT has, vide this circular, clarified that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid or payable without including such 'GST on services' component.

GST shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax.

Further, for the purposes of this Circular, any reference to "service tax" in an existing agreement or contract which was entered into prior to 01.07.2017 shall be treated as "GST on services" with respect to the period from 01.07.2017 onward till the expiry of such agreement or contract.

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CHAPTER 10: PROVISIONS FOR FILING RETURN OF INCOME

Scope of qualifications for e-Return Intermediary extended to include Company Secretaries, Cost Accountants and Tax Return Preparer [Notification No 66/2016, dated 09.08.2016]

Section 139(1B) provides for an alternative method to furnish return of income. Vide Notification No 210/2007, dated 27.07.2007, an Electronic Furnishing of Return of Income Scheme, 2007 was notified for the said purpose. The scheme, *inter alia* provides that an eligible person may, at his option, furnish his return of income which he is required to furnish under various provisions of the Act, to an e-Return Intermediary who shall digitize the data of such return and transmit the same electronically to a server designated for this purpose by the e-Return Administrator, on or before the due date.

Para 5 of the said Notification lays down the qualifications of an e-Return Intermediary. A firm of Chartered Accountants or Advocates, which has been allotted a Permanent Account Number, as well as a Chartered Accountant or an Advocate who has been allotted a Permanent Account Number, *inter alia,* qualified to be an e-Return intermediary.

Vide this Notification, a firm of Company Secretaries or Cost Accountants, if the firm has been allotted PAN as well as a Company Secretary or a Cost Accountant or Tax Return Preparer, who has been allotted a Permanent Account Number, would also qualify to be an e-Return intermediary.

Persons who are not required to quote Aadhar Number or Enrolment ID in application form for allotment of PAN and in return of income [Notification No. 37/2017 dated 11.05.2017]

Section 139AA requires every person who is eligible to obtain Aadhar Number to mandatorily quote Aadhar Number or Enrolment ID of Aadhar application form, on or after 1st July, 2017 in the application form for allotment of PAN and in the return of income. However, this provision shall not applicable to such person or class or classes of persons or any State or part of any State as may be notified by the Central Government.

Accordingly, the Central Government has, vide this notification effective from 01.07.2017, notified that the provisions of section 139AA relating to quoting of Aadhar Number would not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

(i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;

(ii) a non-resident as per Income-tax Act, 1961;

(iii) of the age of 80 years or more at any time during the previous year;

(iv) not a citizen of India.

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PART II: QUESTIONS AND ANSWERS

QUESTIONS

1. Mr. Kavin, a non-resident, entered into the following transactions during the financial year 2017-18:

   (a) Received ₹ 20 lakhs from a non-resident for use of patent for a business in India.

   (b) Received foreign currency equivalent to ₹ 15 lakhs from a non-resident Indian for use of know-how for a business in Sri Lanka and this amount was received in Korea.

   (c) Received ₹ 7 lakhs from RR Ltd., an Indian company as fees for providing technical services in India.

   (d) Received ₹ 5 lakhs from R & Co., Mumbai, resident in India, for conducting the feasibility study for a new project in Nepal and the payment was made in Nepal.

   (e) Received ₹ 8 lakhs towards interest on moneys borrowed by a non-resident for the purpose of business within India. Amount was received in Korea.

   Examine briefly whether the above receipts are chargeable to tax in India.

2. Examine with reasons whether the following receipts are taxable or not under the provisions of Income-tax Act, 1961.

   (a) Mr. Akash received a sum of ₹ 3,00,000 as compensation from "Sahayata Foundation" towards the loss of property on account of Flood Disaster at Chennai.

   (b) Rent of ₹ 60,000 received for letting out agricultural land for a movie shooting.

   (c) Dividend of ₹ 17 lakhs received by Mr. Yatin during P.Y. 2017-18 from A Ltd., a domestic company.

   (d) Agricultural income of ₹ 1,30,000 of Mr. Sunil from a land situated in Canada.

3. Mr. Kashyap retired from the services of M/s ABC Ltd. on 31.01.2018, after completing service of 30 years and one month. He had joined the company on 1.1.1988 at the age of 30 years and received the following on his retirement:

   (i) Gratuity ₹ 5,50,000. He was covered under the Payment of Gratuity Act, 1972.

   (ii) Leave encashment of ₹ 3,30,000 for 330 days leave balance in his account. He was credited 30 days leave for each completed year of service.

   (iii) As per the scheme of the company, he was offered a car on 31.01.2018 which was purchased on 01.03.2015 by the company for ₹ 5,00,000. Company has recovered ₹ 2,00,000 from him for the car. Company depreciates the vehicles at the rate of 15% on Straight Line Method.

   (iv) An amount of ₹ 3,00,000 as commutation of pension for 2/3 of his pension commutation.

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(v) Company presented him a gift voucher worth ₹ 8,000 on his retirement.

Following are the other particulars:

(i) He has drawn a basic salary of ₹ 20,000 and dearness allowance @50% of basic salary for the period from 01.04.2017 to 31.01.2018. Dearness allowance does not form part of pay for retirement benefits.

(ii) Received pension of ₹ 7,000 per month for the period 01.02.2018 to 31.03.2018 after commutation of pension.

Compute his income taxable under the head "Salaries" for Assessment Year 2018-19.

4. In August 2016, Mr. Kailash, a first-time home buyer, borrowed a sum of ₹ 35 lakhs from the National Housing Bank for construction of a residential house for ₹ 48 lakhs. The loan was sanctioned on 12.5.2016. The loan amount was disbursed directly to the flat promoter by the bank. The construction was completed in May, 2018 and repayments towards principal and interest commenced immediately after disbursement of loan.

In the light of the above facts, examine:

(i) Whether Mr. Kailash can claim deduction under section 24 in respect of interest for the A.Y. 2018-19?

(ii) Whether deduction under Section 80C and 80EE can be claimed by him for the A.Y. 2018-19?

5. Mr. Abhay has furnished the following particulars relating to payments made and expenditure incurred towards scientific research for the year ended 31.3.2018:

Sl. No.	Particulars	₹ (in lakhs)
(i)	Payments made to an approved Agro Research Association	25
(ii)	Payment made to RR University, an approved University	15
(iii)	Payment made to XY College	17
(iv)	Payment made to IIT, Madras (under an approved programme for scientific research)	10
(v)	Machinery purchased for in-house scientific research	20
(vi)	Salaries to research staff engaged in in-house scientific research	14

Compute the deduction available under section 35 of the Income-tax Act, 1961 for A.Y. 2018-19, while determining his income under the head "Profits and gains of business or profession".

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6. Mr. Arjun bought a vacant land for ₹ 80 lakhs in March 2005. Registration and other expenses were 10% of the cost of land. He constructed a residential building on the said land for ₹ 100 lakhs during the financial year 2006-07.

He entered into an agreement for sale of the above said residential house with Mr. Jerry (not a relative) on 9th April 2017 and received ₹ 20 lakhs as advance in cash on that date. The stamp duty value on that date was ₹ 740 lakhs. The actual sale consideration was, however, fixed at ₹ 700 lakhs.

The sale deed was executed and registered on 10-6-2017 for the agreed consideration. However, the State stamp valuation authority had revised the values, hence, the value of property for stamp duty purposes was ₹ 770 lakhs on the date registration. Mr. Arjun paid 1% as brokerage on sale consideration received.

Subsequent to sale, Mr. Arjun made following investments:

(i) Acquired a residential house at Mumbai for ₹ 110 lakhs.

(ii) Acquired a residential house at London for ₹ 150 lakhs.

(iii) Subscribed to NHAI bond: ₹ 45 lakhs on 29-8-2017 and ₹ 50 lakhs on 12-10-2017.

Compute the income chargeable under the head "Capital Gains" for A.Y. 2018-19. The choice of exemption must be in the manner most beneficial to the assessee.

Cost Inflation Index:	F.Y. 2004-05	113
	F.Y. 2006-07	122
	F.Y. 2017-18	272

7. From the following transactions relating to Mrs. Sonu, determine the amount chargeable to tax in her hands for the A.Y. 2018-19. Your answer should be supported by reasons:

(i) Received cash gifts on the occasion of her marriage on 19-11-2017 of ₹ 2,10,000. It includes gift of ₹ 55,000 received from non-relatives.

(ii) On 1-1-2018, being her birthday, she received a gift of ₹ 45,000 by means of cheque from her father's maternal uncle.

(iii) On 12-2-2018, she acquired a vacant site from her friend for ₹ 1,12,000. The State stamp valuation authority fixed the value of site at ₹ 1,92,000 for stamp duty purpose.

(iv) She bought 50 equity shares of a private company from another friend for ₹ 75,000. The fair market value of such shares on the date of purchase was ₹ 1,33,000.

8. Compute the income to be included in the hands of Mr. Sharma for the Assessment year 2018-19 with reasons from the following information:

A proprietary business was started by Mrs. Sharma in the year 2015. As on 1.4.2016 her capital in business was ₹ 5,00,000. Her husband gifted ₹ 3,00,000 on 2.4.2016, which Mrs. Sharma

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invested in her business on the same date. Mrs. Sharma earned profits from her proprietory business for the financial year 2016-17, ₹ 2,00,000 and financial year 2017-18 ₹ 4,20,000.

9. The following are the details relating to Mr. Gupta, a resident Indian, relating to the year ended 31.3.2018:

Particulars	₹
Income from salaries	2,20,000
Long-term capital loss from sale of listed shares in recognized stock exchange (STT paid at the time of sale and acquisition of shares)	1,50,000
Loss from cloth business	2,40,000
Income from speculation business	30,000
Loss from specified business covered by section 35AD	45,000
Long-term capital gains from sale of urban land	2,50,000
Loss from house property	2,50,000
Loss from card games	40,000
Income from betting (Gross)	35,000
Life Insurance Premium paid (Sum assured ₹ 5,00,000)	25,000

Compute his total income for A.Y. 2018-19 and show the items eligible for carry forward.

10. For the A.Y. 2018-19, the Gross Total Income of Mr. Raja, a resident in India, was ₹ 8,00,000 which includes long-term capital gain of ₹ 2,50,000 and Short-term capital gain of ₹ 50,000. The Gross Total Income also includes interest income of ₹ 15,000 from savings bank deposits with banks. Mr. Raja has invested in PPF ₹ 1,40,000 and also paid a medical insurance premium ₹ 35,000 for self. Mr. Raja also contributed ₹ 50,000 to Public Charitable Trust eligible for deduction under section 80G by way of an account payee cheque. Compute the total income and tax thereon of Mr. Raja, who is 65 years old as on 31.3.2018.

11. Mr. Yusuf Khan, a resident individual aged 55, furnishes the following information pertaining to the year ended 31.3.2018:

(i) He is a working partner in ABC & Co. He has received the following amounts from the firm:

Interest on capital at 15% : ₹ 3,00,000

Salary as working partner (at 1% of firm's sales) (allowed fully to the firm): ₹ 90,000

(ii) He is engaged in a business of manufacturing. The Profit and Loss account pertaining to this proprietary business (summarised form) is as under:

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Particulars	₹	Particulars	₹
To Salaries	1,20,000	By Gross profit	12,50,000
To Bonus	48,000	By Interest on Bank FD	45,000
To Car expenses	50,000	(Net of TDS)	
To Machinery repairs	2,34,000	By Agricultural income	60,000
To Advance tax	70,000	By Pension from LIC	
To Depreciation on:		Jeevan Dhara	24,000
- Car	3,00,000		
- Machinery	1,25,000		
To Net profit	4,32,000		
	13,79,000		**13,79,000**

Details of assets:

Particulars	₹
Opening WDV of assets are as under:	
Car	3,00,000
Machinery (Used during the year for 179 days)	6,50,000
Additions to machinery:	
Purchased on 23.9.2017 by cash in single payment	2,00,000
Purchased on 12.11.2017 by account payee cheque	3,00,000
Second hand machinery purchased on 12.4.2017 by bearer cheque in single payment	1,25,000

(All assets added during the year were put to use immediately after purchase)

One-fifth of the car expenses are towards estimated personal use of the assessee.

Salary includes ₹ 15,000 paid by way of a single cash payment to manager.

(iii) In February, 2016, he had sold a house at Chennai. Arrears of rent relating to this house amounting to ₹ 75,000 was received in March, 2018.

(iv) Details of his Savings and Investments are as under:

Particulars	₹
Life insurance premium for policy in the name of his major son employed in a multinational company, at a salary of ₹ 10 lakhs p.a. (Sum assured ₹ 2,00,000) (Policy taken on 1.07.2013)	30,000
Contribution to PPF	70,000

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Medical Insurance premium for his father aged 79, who is not dependent on him	32,000

You are required to compute the total income of Mr. Yusuf Khan for the assessment year 2018-19.

12. Mr. Sachal, a resident individual aged 54, furnishes his income & other details for the P.Y. 2017-18:

(i) Income of ₹ 8,10,000 from wholesale cloth business, whose accounts are audited u/s 44AB.

(ii) Income from other sources ₹ 2,70,000.

(iii) Tax deducted at source ₹ 25,000.

(iv) Advance tax paid ₹ 1,03,000 during the P.Y. 2017-18.

Return of income filed on 11-12-2018. Calculate the interest payable under section 234B of the Income-tax Act, 1961. Assume that the return of income would be processed on the same day of filing of return. What are the consequences for delay in furnishing return of income under the Income-tax Act, 1961? Examine, making the required computations in this case.

13. Ms. Geetha submits her return of income on 29-09-2018 for A.Y 2018-19 consisting of income under the head "Salaries", "Income from house property" and bank interest. On 01-02-2019, she realized that she had not claimed deduction under section 80D in respect of medical insurance premium of ₹ 15,000 paid for her mother. She wants to revise her return of income. Can she do so? Examine.

Would your answer be different if she discovered this omission on 02-04-2019?

SUGGESTED ANSWERS

1. Taxability of certain receipts in the hands of Mr. Kavin, a non-resident, for A.Y. 2018-19

	Taxability	Reason
(a)	**Taxable**	Amount of ₹ 20 lakhs received from a non-resident is deemed to accrue or arise in India by virtue of section 9(1)(vi)(c), since the patent was used for a business in India. Therefore, the amount is chargeable to tax in India.
(b)	**Not Taxable**	Foreign currency equivalent to ₹ 15 lakhs received in Korea from a non-resident for use of know-how for a business in Sri Lanka is not deemed to accrue or arise in India as per section 9(1)(vi)(c), since it is in respect of a business carried on outside India. Also, the amount was received outside India. Therefore, the same is not chargeable to tax in India.

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(c)	**Taxable**	Amount of ₹ 7 lakhs received from RR Ltd., an Indian Company, is deemed to accrue or arise in India by virtue of section 9(1)(vii)(b), since it is for providing technical services in India. Therefore, the same is chargeable to tax in India.
(d)	**Not Taxable**	Amount of ₹ 5 lakhs received in Nepal from R & Co., a resident, for conducting feasibility study for the new project in Nepal is not deemed to accrue or arise in India as per section 9(1)(vii)(b), since such study was done for a project outside India. The amount was also received outside India. Therefore, the same is not chargeable to tax in India.
(e)	**Taxable**	Amount of ₹ 8 lakhs received in Korea towards interest on moneys borrowed by a non-resident for the purpose of business within India is deemed to accrue or arise in India by virtue of section 9(v)(c), since money borrowed was used for the purpose of business in India. Therefore, the same is chargeable to tax in India.

2. Taxability of receipts under the provisions of Income-tax Act, 1961

	Taxable/ Not taxable	**Reason**
(a)	Taxable	As per section 10(10BC), any amount received or receivable by an individual as compensation, on account of any disaster, from the Central Government, State Government or a local authority is exempt from tax, to the extent the individual has not been allowed deduction under any other provision of Income-tax Act, 1961 on account of any loss or damage caused by such disaster. However, in this case, since Mr., Akash has received a compensation of ₹ 3,00,000 from Sahayata Foundation, and not from the Central Government or State Government or local authority, no exemption will be available under section 10(10BC) and the same is chargeable to tax.
(b)	Taxable	Agricultural income is exempt from income-tax as per section 10(1). Agriculture income means, *inter alia*, any rent or revenue derived from land which is situated in India and is used for agricultural purposes. In this case, rent is being derived from letting out of agricultural land for a movie shoot, which is not an agricultural purpose. In effect, the land is not being put to use for agricultural purposes. Therefore, ₹ 60,000, being rent received from letting out agricultural land for movie shooting, is not exempt under section 10(1) and the same is chargeable to tax.

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(c)	Partly taxable	Dividend received from a domestic company is subject to dividend distribution tax in the hands of domestic company under section 115-O. Dividend income received from an Indian company, which is subject to dividend distribution tax, is exempt under section 10(34). However, dividend in excess of ₹ 10 lakhs received, *inter alia,* by an individual is chargeable to tax under section 115BBDA and not exempt under section 10(34). Therefore, in this case, dividend received upto ₹ 10 lakh is exempt in the hands of Mr. Yatin under section 10(34). ₹ 7 lakh, being dividend in excess of ₹ 10 lakh, is taxable in his hands @10% as per section 115BBDA.
(d)	Taxable	Agricultural income from a land situated in any foreign country is not exempt under section 10(1) and hence, is chargeable to tax. Therefore, in this case, agricultural income of ₹ 1,30,000 of Mr. Sunil from land situated in Canada is taxable.

3. Computation of income chargeable under the head "Salaries" of Mr. Kashyap for A.Y. 2018-19

Particulars	₹
Basic Salary = ₹ 20,000 x 10	2,00,000
Dearness Allowance = 50% of basic salary	1,00,000
Gift Voucher **(See Note - 1)**	8,000
Transfer of car **(See Note - 2)**	1,20,000
Gratuity **(See Note - 3)**	30,769
Leave encashment **(See Note - 4)**	1,30,000
Uncommuted pension (₹ 7000 x 2)	14,000
Commuted pension **(See Note - 5)**	1,50,000
Taxable Salary /Gross Total Income	**7,52,769**

Notes:

(1) As per Rule 3(7)(iv), the value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding ₹ 5,000 in aggregate during the previous year is exempt. In this case, the amount was received on his retirement and the sum exceeds the limit of ₹ 5,000.

Therefore, the entire amount of ₹ 8,000 is liable to tax as perquisite.

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Note - *An alternate view is possible that only the sum in excess of ₹ 5,000 is taxable in view of the language of Circular No.15/2001 dated 12.12.2001. Gifts upto ₹ 5,000 in the aggregate per annum would be exempt, beyond which it would be taxed as a perquisite. As per this view, the value of perquisite would be ₹ 3,000 and gross total income would be ₹ 7,47,769.*

(2) **Perquisite value of transfer of car:** As per Rule 3(7)(viii), the value of benefit to the employee arising from the transfer of an asset, being a motor car, by the employer is the actual cost of the motor car to the employer as reduced by 20% on a written down value basis for each completed year during which such motor car was put to use by the employer. Therefore, the value of perquisite on transfer of motor car, in this case, would be:

Particulars	₹
Purchase price (1.3.2015)	5,00,000
Less: Depreciation @ 20%	1,00,000
WDV on 29.2.2016	4,00,000
Less: Depreciation @ 20%	80,000
WDV on 28.2.2017	3,20,000
Less: Amount recovered	2,00,000
Value of perquisite	**1,20,000**

Under Rule 3(7)(viii), while calculating the perquisite value of benefit to the employee arising from the transfer of any movable asset, the normal wear and tear is to be calculated in respect of each completed year during which the asset was put to use by the employer. In the given case, the third year of use of car is completed on 28.2.2018 whereas the car was sold to the employee on 31.1.2018. Accordingly, wear and tear has to be calculated @20% on reducing balance method for only two years.

The rate of 15% as well as the straight line method adopted by the company for depreciation of vehicle is not relevant for calculation of perquisite value of car in the hands of Mr. Kashyap.

(3) **Taxable gratuity**

Particulars	₹
Gratuity received	5,50,000
Less: Exempt under section 10(10) - Least of the following:	
(i) Notified limit = ₹ 10,00,000	
(ii) Actual gratuity received = ₹ 5,50,000	

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(iii) 15/26 x last drawn salary x no. of completed years or part in excess of 6 months	
15/26 x 30,000 x 30 = ₹ 5,19,231	5,19,231
Taxable Gratuity	**30,769**

Note *– As per the Payment of Gratuity Act, 1972, dearness allowance is included in the meaning of salary. Since, in this case, Mr. Kashyap is covered under the Payment of Gratuity Act, 1972, dearness allowance has to be included within the meaning of salary for computation of exemption under section 10(10).*

(4) **Taxable leave encashment**

Particulars		₹
Leave Salary received		3,30,000
Less: Exempt under section 10(10AA) - Least of the following:		
(i) Notified limit	₹ 3,00,000	
(ii) Actual leave salary received	₹ 3,30,000	
(iii) 10 months x ₹ 20,000	₹ 2,00,000	
(iv) Cash equivalent of leave to his credit	₹ 2,20,000	
$\left(\frac{330}{30}\times 20,000\right)$		2,00,000
Taxable Leave encashment		**1,30,000**

Note - *Salary, for the purpose of exemption under section 10(10AA), would include dearness allowance only if it forms part of pay for retirement benefits. Therefore, in this case, since dearness allowance does not form part of pay for retirement benefits, only basic salary has to be considered for computing exemption under section 10(10AA).*

(5) **Commuted Pension**

Since Mr. Kashyap is a non-government employee in receipt of gratuity, exemption under section 10(10A) would be available to the extent of 1/3rd of the amount of the commuted pension which he would have received had he commuted the whole of the pension.

Particulars	₹
Amount received	3,00,000
Less: Exemption under section 10(10A) = $\frac{1}{3}\times\left[3,00,000\times\frac{3}{2}\right]$	1,50,000
Taxable amount	**1,50,000**

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4. (i) As per section 24(b), interest payable on loans borrowed for the purpose of acquisition, construction, repairs, renewal or reconstruction of house property can be claimed as deduction. Interest payable on borrowed capital for the period prior to the previous year in which the property has been acquired or constructed, can be claimed as deduction over a period of 5 years in equal annual installments commencing from the year of acquisition or completion of construction.

It is stated that the construction is completed only in May, 2018. Hence, deduction under section 24 in respect of interest on housing loan cannot be claimed in the assessment year 2018-19.

(ii) Deduction under section 80C cannot be claimed

Clause (xviii) of section 80C is attracted where there is any payment for the purpose of purchase or construction of a residential house property, the income from which is chargeable to tax under the head 'Income from house property'. Such payment covers repayment of any amount borrowed from the National Housing Bank.

However, deduction is *prima facie* eligible only if the income from such property is chargeable to tax under the head "Income from House Property". During the assessment year 2018-19, there is no such income chargeable under this head. Hence, deduction under section 80C cannot be claimed for A.Y. 2018-19.

Deduction under section 80EE can be claimed

As per section 80EE, interest payable on loan taken for the purpose of acquisition of a residential house from any financial institution qualifies for deduction, subject to a maximum of ₹ 50,000, provided following conditions are satisfied –

(i) Such loan is sanctioned during the P.Y. 2016-17

(ii) The value of the house does not exceed ₹ 50 lakhs

(iii) The amount of loan sanctioned does not exceed ₹ 35 lakhs and

(iv) the assessee does not own any residential house on the date of sanction of loan

Section 80EE does not pose any restriction regarding the chargeability of the income from such property under the head "Income from House Property. Therefore, in this case, since Mr. Kailash satisfies all the conditions stipulated under section 80EE, interest on such loan would qualify for deduction under section 80EE, subject to a maximum of ₹ 50,000.

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5. Computation of deduction allowable under section 35

Particulars	Amount (₹ in lakhs)	Section	% of weighted deduction	Amount of deduction (₹ in lakhs)
Payment for scientific research				
Approved Agro Research Association	25	35(1)(ii)	150%	37.5
RR University, an approved University	15	35(1)(ii)	150%	22.5
XY College **[See Note 1]**	17	-	NIL	NIL
IIT Madras (under an approved programme for scientific research)	10	35(2AA)	150%	15
In-house research [See Note 2]				
Capital expenditure – Purchase of Machinery	20	35(1)(iv) r. w. 35(2)	100%	20
Revenue expenditure - Salaries to research staff engaged in in-house scientific research	14	35(1)(i)	100%	14
Deduction allowable under section 35				**109**

Notes:-

1. **Payment to XY College:** Since the question clearly mentions that only Agro Research Association and RR University (mentioned in item (i) and (ii), respectively) are approved research institutions, it is logical to conclude that XY College mentioned in item (iii) is not an approved research institution. Therefore, payment to XY College would not qualify for deduction under section 35.
2. **Deduction for in-house research and development:** Only company assessees are entitled to weighted deduction @150% under section 35(2AB) in respect of expenditure on scientific research on in-house research and development facility. However, in this case, the assessee is an individual. Therefore, he would be entitled to deduction@100% of the revenue expenditure incurred under section 35(1)(i) and 100% of the capital expenditure incurred under section 35(1)(iv) read with section 35(2), assuming that such expenditure is laid out or expended on scientific research related to his business.

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6. Computation of income chargeable under the head "Capital Gains" for A.Y.2018-19

Particulars	₹ (in lakhs)	₹ (in lakhs)
Capital Gains on sale of residential building		
Actual sale consideration ₹ 700 lakhs		
Value adopted by Stamp Valuation Authority ₹ 770 lakhs		
Gross Sale consideration		770.00
[In case the actual sale consideration declared by the assessee is less than the value adopted by the Stamp Valuation Authority for the purpose of charging stamp duty, then, the value adopted by the Stamp Valuation Authority shall be taken to be the full value of consideration as per section 50C.		
In a case where the date of agreement is different from the date of registration, stamp duty value on the date of agreement can be considered provided the whole or part of the consideration is paid by way of account payee cheque/bank draft or by way of ECS through bank account on or before the date of agreement. In this case, since advance of ₹ 20 lakh is paid by cash, stamp duty value of ₹ 740 lakhs on the date of agreement cannot be adopted as the full value of consideration. Stamp duty value on the date of registration would be the full value of consideration]		
Less: Brokerage@1% of sale consideration (1% of ₹ 700 lakhs)		7.00
Net Sale consideration		763.00
Less: Indexed cost of acquisition		
- Cost of vacant land, ₹ 80 lakhs, *plus* registration and other expenses i.e., ₹ 8 lakhs, being 10% of cost of land [₹ 88 lakhs × 272/113]	211.82	
- Construction cost of residential building (₹ 100 lakhs x 272/122)	222.95	
		434.77
Long-term capital gains before exemption		**328.23**
Less: **Exemption under section 54**		110.00
The capital gain arising on transfer of a long-term residential property shall not be chargeable to tax to the extent such capital gain is invested in the purchase of one residential house property in India one year before or two years after the date of transfer of original asset.		
Therefore, in the present case, the exemption would be available only in respect of the residential house acquired at Mumbai and not in respect of the residential house in London		

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***Less:* Exemption under section 54EC** Amount deposited in capital gains bonds of NHAI within six months from the date of transfer (i.e., on or before 09.12.2017) would qualify for exemption, to the maximum extent of ₹ 50 lakhs. Therefore, in the present case, exemption can be availed only to the extent of ₹ 50 lakh out of ₹ 95 lakhs, even if the both the investments are made on or before 09.12.2017 (i.e., within six months from the date of transfer).		50.00
Long term capital gains chargeable to tax		**168.23**

Note: Since the residential house property was held by Mr. Arjun for more than 24 months immediately preceding the date of its transfer, the resultant gain is a long-term capital gain.

7. Computation of amount chargeable to tax in hands of Mrs. Sonu for A.Y. 2018-19

	Particulars	₹
(i)	Cash gift of ₹ 2,10,000 received on the occasion of her marriage is not taxable, since gifts received by an individual on the occasion of marriage is excluded from tax under section 56(2)(x), even if the same are from non-relatives.	Nil
(ii)	Even though father's maternal uncle does not fall within the definition of "relative" under section 56(2)(x), gift of ₹ 45,000 received from him by cheque is not chargeable to tax since the aggregate sum of money received by Mrs. Sonu without consideration from non-relatives (other than on the occasion of marriage) during the previous year 2017-18 does not exceed ₹ 50,000.	Nil
(iii)	Purchase of vacant site for inadequate consideration on 12.2.2018 would attract the provisions of section 56(2)(x). Where any immovable property is received for a consideration which is less than the stamp duty value of the property by an amount exceeding ₹ 50,000, the difference between the stamp duty value and consideration is chargeable to tax in the hands of Individual. Therefore, in the given case ₹ 80,000 (₹ 1,92,000 - ₹ 1,12,000) is taxable in the hands of Mrs. Sonu.	80,000
(iv)	Since shares are included in the definition of "property" and difference between the purchase value and fair market value of shares is ₹ 58,000 (₹ 1,33,000 - ₹ 75,000) i.e. it exceeds ₹ 50,000, the difference would be taxable under section 56(2)(x).	58,000
Amount chargeable to tax		**1,38,000**

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8. Section 64(1)(iv) provides for the clubbing of income in the hands of the individual, if the income earned is from the assets transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart. In this case, Mrs. Sharma received a gift of ₹ 3,00,000 from her husband which she invested in her business. In a case where gift from spouse has been invested in business, as per *Explanation 3* to section 64(1), the income or loss from such business for any previous year has to be apportioned between the spouses on the basis of the ratio of their capital employed as on 1st April of the relevant previous year. Accordingly, the income to be included in the hands of Mr. Sharma for A.Y.2018-19 has to be computed as under:

Particulars	Mrs. Sharma's Capital Contribution	Capital Contribution Out of gift from husband	Total
	₹	₹	₹
Capital as on 1.4.2016	5,00,000	--	5,00,000
Investment on 02.04.2016 out of gift received from her husband		3,00,000	3,00,000
	5,00,000	3,00,000	8,00,000
Profit for F.Y. 2016-17 to be apportioned on the basis of capital employed on the first day of the P.Y. i.e., on 1.4.2016	2,00,000		2,00,000
Capital employed as on 1.4.2017	**7,00,000**	**3,00,000**	**10,00,000**
Profit for F.Y. 2017-18 to be apportioned on the basis of capital employed as on 1.4.2017 (i.e., 7:3)	2,94,000	1,26,000	4,20,000

Therefore, the income to be included in the hands of Mr. Sharma for A.Y.2018-19 is ₹ 1,26,000.

9. Computation of total income of Mr. Gupta for the A.Y.2018-19

Particulars	₹	₹
Salaries		
Income from salaries	2,20,000	
Less: Loss from house property **[See Note (i)]**	2,00,000	20,000

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Profits and gains of business or profession		
Income from speculation business	30,000	
Less: Loss from cloth business set off **[See Note (iv)]**	30,000	Nil
Capital gains		
Long-term capital gains from sale of urban land	2,50,000	
Less: Loss from cloth business set off **[See Note (iv)]**	2,10,000	40,000
Income from other sources		
Income from betting		35,000
Gross Total Income		**95,000**
Less: Deduction under section 80C (life insurance premium paid) **[See Note (vi)]**		20,000
Total income		**75,000**

Losses to be carried forward:

	Particulars	₹
(1)	Loss from house property (**₹ 2,50,000 - ₹ 2,00,000)**	50,000
(2)	Loss from cloth business **(₹ 2,40,000 - ₹ 30,000 - ₹ 2,10,000)**	Nil
(3)	Loss from specified business covered by section 35AD	45,000

Notes:

(i) As per section 71(3A), loss from house property can be set-off against income under any other head to the extent of ₹ 2,00,000 only. As per section 71B, balance loss not set-off can be carried forward to the next year for set-off against income from house property of that year.

(ii) Long-term capital gains from sale of listed shares in a recognized stock exchange on which STT is paid at the time of acquisition and sale is exempt under section 10(38). Loss from an exempt source cannot be set off against profits from a taxable source. Therefore, long-term capital loss on sale of listed shares on which STT is paid cannot be set-off against long-term capital gains from sale of urban land. Such loss cannot also be carried forward for set-off in the subsequent years.

(iii) Loss from specified business covered by section 35AD can be set-off only against profits and gains of any other specified business. Therefore, such loss cannot be set off against any other income. The unabsorbed loss has to be carried forward for set-off against profits and gains of any specified business in the following year(s).

(iv) Since inter-source set-off of losses is permissible as per section 70(1), loss from cloth business to the extent of ₹ 30,000 can be set-off against income from speculation business. The remaining business loss cannot be set off against salary income due

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to restriction contained in section 71(2A). However, the remaining business loss of ₹ 2,10,000 (₹ 2,40,000 – ₹ 30,000) can be set-off against long-term capital gains of ₹ 2,50,000 from sale of urban land. Consequently, the taxable long-term capital gains would be ₹ 40,000.

(v) Loss from card games can neither be set off against any other income, nor can it be carried forward.

(vi) For providing deduction under Chapter VI-A, gross total income has to be reduced by the amount of long-term capital gains and casual income. Therefore, the deduction under section 80C in respect of life insurance premium paid has to be restricted to ₹ 20,000 [i.e., Gross Total Income of ₹ 1,05,000 – ₹ 40,000 (LTCG) – ₹ 45,000 (Casual income)].

(vii) Income from betting is chargeable to tax at a flat rate of 30% under section 115BB and no expenditure or allowance can be allowed as deduction from such income, nor can any loss be set-off against such income.

10. Computation of total income and tax payable by Mr. Raja for the A.Y. 2018-19

Particulars	₹	₹
Gross total income including long term capital gain		8,00,000
Less: Long term capital gain		2,50,000
		5,50,000
Less: **Deductions under Chapter VI-A:**		
Under section 80C in respect of PPF deposit	1,40,000	
Under section 80D (it is assumed that premium of ₹ 35,000 is paid by otherwise than by cash. The deduction would be restricted to ₹ 30,000, since Mr. Raja is a resident senior citizen)	30,000	
Under section 80G (See Notes 1 & 2 below)	18,500	
Under section 80TTA (See Note 3 below)	10,000	1,98,500
Total income (excluding long term capital gains)		**3,51,500**
Total income (including long term capital gains)		**6,01,500**
Tax on total income (including long-term capital gains of ₹ 2,50,000)		
LTCG ₹ 2,50,000 x 20%		50,000
Balance total income ₹ 3,51,500: Tax @5% on ₹ 51,500 (₹ 3,51,500 – ₹ 3,00,000, being the basic exemption limit for senior citizen)		2,575
		52,575

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Add: Education cess @2% and Secondary and higher education cess @1%		1,577
Total tax liability		**54,152**
Total tax liability (rounded off)		**54,150**

Notes:

1. Computation of deduction under section 80G:

Particulars	₹
Gross total income (excluding long term capital gains)	5,50,000
Less: Deduction under section 80C, 80D & 80TTA	1,80,000
	3,70,000
10% of the above	37,000
Contribution made to Public Charitable Trust	50,000
Lower of the two eligible for deduction under section 80G	37,000
Deduction under section 80G – 50% of ₹ 37,000	**18,500**

2. Deduction under section 80G is allowed only if amount is paid by any mode other than cash, in case of amount exceeding ₹ 2,000. Therefore, the contribution made to public charitable trust is eligible for deduction since it is made by way of an account payee cheque.

3. Deduction of upto ₹ 10,000 under section 80TTA is allowed, *inter alia,* to an individual assessee if gross total income includes interest income from deposits in a saving account with bank. Since Gross Total Income of Mr. Raja includes interest income of ₹ 15,000 on savings bank deposit, he is eligible for deduction of ₹ 10,000 under section 80TTA.

11. Computation of total income of Mr. Yusuf Khan for the A.Y. 2018-19

Particulars		₹	₹
Income from house property			
Arrears of rent received in respect of the Chennai house taxable under section 25A **[Note 1]**		75,000	
Less: Deduction @ 30%		22,500	52,500
Profits and gains of business or profession			
(a) Own business [Note 3]			6,37,000
(b) Income from partnership firm [Note 2]			
Interest on capital		2,40,000	

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[As per section 28(v), chargeable in the hands of the partner only to the extent allowable as deduction in the firm's hand i.e. @12%]			
Salary of working partner (Since the same has been fully allowed as deduction in the hands of the firm)		90,000	3,30,000
Income from other sources			
(a) LIC Jeevan Dhara pension		24,000	
(b) Interest from bank FD (gross)		50,000	74,000
Gross Total Income			**10,93,500**
Less: **Deductions under Chapter VIA**			
Section 80C			
Life insurance premium for policy in the name of major son qualifies for deduction even though he is not dependent on the assessee. However, the same has to be restricted to 10% of sum assured i.e. 10% of ₹ 2,00,000.	20,000		
Contribution to PPF	70,000	90,000	
Section 80D			
Mediclaim premium for father, a senior citizen	32,000		
(qualifies for deduction, even though the father is not dependent on the assessee, subject to a maximum of ₹ 30,000)		30,000	1,20,000
Total Income			**9,73,500**

Notes:

(1) As per section 25A, any arrears of rent received will be chargeable to tax, after deducting a sum equal to 30% of such arrears, as income from house property in the year of receipt, whether or not the assessee is the owner of the house property.

(2) The income by way of interest on capital and salary of Mr. Yusuf Khan from the firm, ABC & Co., in which he is a working partner, to the extent allowed as deduction in the hands of the firm under section 40(b), has to be included in the business income of the partner as per section 28(v). Accordingly, ₹ 3,30,000 [i.e., ₹ 90,000 (salary) + ₹ 2,40,000 (interest@12%)] should be included in his business income.

(3) Computation of income from own business

Particulars	₹	₹
Net profit as per profit and loss account		4,32,000

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Less:	Items credited to profit and loss account not treated as business income		
	Interest on bank FD (Net of TDS)	45,000	
	Agricultural income	60,000	
	Pension from LIC Jeevan Dhara	24,000	1,29,000
			3,03,000
Add:	Items debited to profit and loss account to be disallowed/considered separately		
	Advance tax	70,000	
	Depreciation:		
	- Car	3,00,000	
	- Machinery	1,25,000	
	Car expenses disallowed for personal use (₹ 50,000 x 1/5)	10,000	
	Salary to manager disallowed under section 40A(3) since it is paid in cash and the same exceeds ₹ 10,000	15,000	5,20,000
			8,23,000
Less:	Depreciation (See Working Note below)		1,86,000
Income from business			**6,37,000**

Working Note:

Computation of depreciation allowable under the income-tax Act, 1961

Particulars		₹	₹
On Car:			
Depreciation @15% on 3,00,000		45,000	
Less: 1/5th for personal use		9,000	
Depreciation on Car allowable as deduction			**36,000**
On Machinery:			
Opening WDV	6,50,000		
Additions during the year (used for more than 180 days)			
- New Machinery purchased on 23.9.17	2,00,000		
- Second hand machinery purchased on 12.4.17	1,25,000		
Additions during the year (used for less than 180 days)	3,00,000		

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Normal Depreciation		
Depreciation @15% on ₹ 6,50,000	97,500	
[As per second proviso to section 43(1), the expenditure for acquisition of asset, in respect of which payment to a person in a day exceeds ₹10,000 has to be ignored for computing actual cost, if such payment is made otherwise than by way of A/c payee cheque/ bank draft or ECS. Accordingly, depreciation on second hand machinery purchased on 12.4.2017 and on new machinery purchased on 23.9.2017 is not allowable since the payment is made otherwise than by A/c payee cheque/A/c payee draft/ ECS to a person in a day]		
Depreciation @ 7.5% on ₹ 3,00,000	22,500	
Total normal depreciation on machinery (A)	**1,20,000**	
Where an asset acquired during the year is put to use for less than 180 days, 50% of the rate of depreciation is allowable. This restriction does not apply to assets acquired in an earlier year.		
Additional depreciation (B)		
New machinery		
Used for less than 180 days = 10% of ₹ 3,00,000	30,000	
Total permissible depreciation on machinery (A) + (B)		**1,50,000**
Depreciation allowable under section 32		**1,86,000**

12. Computation of interest payable under section 234B by Mr. Sachal

Particulars	₹
Tax on total income of ₹ 10,80,000 [Business income of ₹ 8,10,000 + Income from other sources of ₹ 2,70,000]	1,36,500
Add: Education cess and SHEC@3%	4,095
Tax on total income	**1,40,595**
Less: Tax deducted at source	25,000
Assessed Tax	**1,15,595**
90% of assessed tax	1,04,036
Advance tax paid	1,03,000
Interest under section 234B is leviable since advance tax of ₹ 1,03,000 paid is less than ₹ 1,04,036, being 90% of assessed tax	
Number of months from 1st April, 2018 to 11th December, 2018, being the date of processing of return	9

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Interest under section 234B@1% per month or part of a month for 9 months on ₹ 12,500 [i.e., difference between assessed tax of ₹ 1,15,595 and advance tax of ₹ 1,03,000 paid, being ₹ 12,595 which is rounded off to ₹ 12,500 under Rule 119A of Income-tax Rules, 1962]	1,125

Consequences for delay in filing return of income on or before the due date

Interest under section 234A and fee under section 234F would be attracted for filing return of income beyond the due date specified under section 139(1).

Interest under section 234A

Since Mr. Sachal's accounts are audited under section 44AB, the due date for filing of return for A.Y. 2018-19, in his case, is 30.09.2018. Mr. Sachal has filed his return on 11.12.2018 i.e., interest under section 234A will be payable for 3 months (from 1.10.2018 to 11.12.2018) @ 1% per month or part of month on the amount of tax payable on the total income, as reduced by TDS and advance tax paid i.e., ₹ 12,595 rounded off to ₹ 12,500 under Rule 119A of Income-tax Rules, 1962

Interest u/s 234A = ₹ 12,500 x 1% x 3 = ₹ 375

Fee for late filing of return under section 234F

Since Mr. Sachal has furnished his return of income after the due date but before 31.12.2018 and his total income exceeds ₹ 5 lakhs, a fee of ₹ 5,000 will be payable by him.

13. Since Ms. Geetha has income only under the heads "Salaries", "Income from house property" and "Income from other sources", she does not fall under the category of a person whose accounts are required to be audited under the Income-tax Act, 1961. Therefore, the due date of filing return for A.Y.2018-19 under section 139(1), in her case, is 31st July, 2018. Since Ms. Geetha had submitted her return only on 29.9.2018, the said return is a belated return under section 139(4).

As per section 139(5), a return furnished under section 139(1) or a belated return u/s 139(4) can be revised, if she discovers any omission or wrong statement therein. Thus, a belated return under section 139(4) can also be revised. Therefore, Ms. Geetha can revise the return of income filed by her under section 139(4) in February 2019, to claim deduction under section 80D, since the time limit for filing a revised return is upto the end of the relevant assessment year, which is 31.03.2019.

However, she cannot revise return had she discovered this omission only on 02-04-2019, since it is beyond 31.03.2019, being the end of A.Y. 2018-19.

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SECTION B : INDIRECT TAXES

QUESTIONS

(1) All questions should be answered on the basis of the position of GST law as amended up to 31.10.2017.

(2) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

1. Raman Ltd., a registered supplier in Mumbai (Maharashtra), has supplied goods to Sahil Traders and Jaggi Motors Ltd. located in Ahmedabad (Gujarat) and Pune (Maharashtra) respectively. Raman Ltd. has furnished the following details for the current month:

S. No.	Particulars	Sahil Traders (₹)	Jaggi Motors Ltd. (₹)
(i)	Price of the goods (excluding GST)	20,000	15,000
(ii)	Packing charges	600	
(iii)	Commission	400	
(iv)	Weighment charges		1,000
(v)	Discount for prompt payment (recorded in the invoice)		500

Items given in points (ii) to (v) have not been considered while arriving at price of the goods given in point (i) above.

Compute the GST liability [CGST & SGST or IGST, as the case may be] of Raman Ltd. for the given month. Assume the rates of taxes to be as under:

Particulars	Rate of tax
Central tax (CGST)	9%
State Tax (SGST)	9%
Integrated tax (IGST)	18%

Make suitable assumptions, wherever necessary.

Note: The supply made to Sahil Traders is an inter-State supply.

2. (i) Tirupati Traders, a registered supplier of goods, pays GST [CGST & SGST or IGST, as the case may be] under regular scheme. It has furnished the following particulars for a tax period:-

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Particulars	₹
Value of intra-State supply of goods	12,000
Value of intra-State purchase of goods	10,000

Note:

(i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.

(ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.

(iii) All the conditions necessary for availing the input tax credit have been fulfilled.

Compute the net GST payable by Tirupati Traders during the given tax period assuming that there is no opening balance of input tax credit (ITC). Make suitable assumptions wherever required.

(ii) Govind, a registered supplier, is engaged in providing services in the neighbouring States from his registered office located in Mumbai. He has furnished the following details in respect of the inward and outward supplies made during a tax period:-

Particulars	(₹)
Inter-State supply of services	1,80,000
Receipt of goods and services within the State	1,00,000

Assume the rates of taxes to be as under:-

Particulars	Rate
CGST	9%
SGST	9%
IGST	18%

Note:

(i) Both inward and outward supplies are exclusive of taxes, wherever applicable.

(ii) All the conditions necessary for availing the input tax credit have been fulfilled.

Compute the net GST payable by Govind during the given tax period. Make suitable assumptions if required.

3. Shipra Traders is a registered supplier of goods in Assam. It purchased goods valued at ₹ 10,000 from Kartik Suppliers located within the same State. Kartik Suppliers charged CGST & SGST separately in its invoice. Subsequently, Shipra Traders sold goods valuing ₹ 9,500 to Rabina Manufacturers located in Assam. 20% of the inputs purchased are still lying in stock and there was no opening stock of goods. Rate of CGST and SGST on supply and purchase of goods is 9% each. Calculate the net GST payable by Shipra Traders and input tax credit (ITC) to be carried forward, if any.

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4. Granites Textiles Ltd. purchased a needle detecting machine on 8th July, 2017 from Makhija Engineering Works Ltd. for ₹ 10,00,000 (excluding GST) paying GST @ 18% on the same. It availed the ITC of the GST paid on the machine and started using it for manufacture of goods. The machine was sold on 22nd October, 2018 for ₹ 7,50,000 (excluding GST), as second hand machine to LT. Pvt. Ltd. The GST rate on supply of machine is 18%.

   State the action which Granites Textiles Ltd. is required to take, if any, in accordance with the statutory GST provisions on the sale of the second-hand machine.

5. Royal Sweet Co., Delhi, a registered supplier, has furnished the details of the following few transactions which took place in November, 20XX:

S. No.	Date	Particulars	Date of invoice	Amount (₹)
(i)	11.11.20XX	Payment made to an advocate in Delhi	07.07.20XX	1,25,000
(ii)	20.11.20XX	Paid sitting fee to Director from Haryana for meeting held in Delhi on 15.10.20XX [Inter-State supply]	15.10.20XX	75,000

   Assume the rates of taxes to be as under:-

Particulars	Rate
CGST	9%
SGST	9%
IGST	18%

   You are required to compute GST [CGST & SGST/IGST, as the case may be] payable for the month of November, 20XX along with time of supply of the aforementioned activities.

6. Sahab Sales, an air-conditioner dealer in Janakpuri, Delhi, needs 4 air-conditioners for his newly constructed house in Safdarjung Enclave. Therefore, he transfers 4 air-conditioners [on which ITC has already been availed by it] from its stock, for the said purpose. Examine whether the said activity amounts to supply under section 7 of the CGST Act, 2017.

   Further, a Janakpuri resident, Aakash, approached Sahab Sales. He sold an air-conditioner to Sahab Sales for ₹ 5,000. Aakash had bought the said air-conditioner six months before, for his residence. Does sale of the air conditioner by Aakash to Sahab Sales amount to supply under section 7 of the CGST Act, 2017?

7. Pure Oils, Delhi has started the supply of machine oils and high speed diesel in the month of April, 20XX. The following details have been furnished by it for the said month:-

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Sl. No.	Particulars	₹*
(i)	Supply of machine oils in Delhi	2,00,000
(ii)	Supply of high speed diesel in Delhi	4,00,000
(iii)	Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi	1,75,000
(iv)	Supply made by Pure Oils from its branch located in Punjab	1,80,000

*excluding GST

Determine whether Pure Oils is liable for registration. Will your answer change, if Pure Oils supplies machine oils amounting to ₹ 2,50,000 from its branch located in Himachal Pradesh in addition to the above-mentioned supplies?

8. Royal Fashions, a registered supplier of designer outfits in Delhi, decides to exhibit its products in a Fashion Show being organised at Hotel Park Royal, Delhi on 4th January, 20XX. For the occasion, it gets the makeover of its models done by Aura Beauty Services Ltd., Ashok Vihar, for which a consideration is ₹ 5,00,000 (excluding GST) has been charged. Aura Beauty Services Ltd. issued a duly signed tax invoice on 10th February, 20XX showing the lumpsum amount of ₹ 5,90,000 inclusive of CGST and SGST @ 9% each. Royal Fashions made the payment the very next day. Answer the following questions:

   (i) Examine whether the tax invoice has been issued within the time limit prescribed under law?

   (ii) Tax consultant of Royal Fashions objected to the invoice raised suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd. However, Aura Beauty Services Ltd. contended that there is no mandatory requirement of showing tax component separately in the invoice. You are required to examine the validity of the objection raised by tax consultant of Royal Fashions?

SUGGESTED ANSWERS/HINTS

1. Computation of GST liability

S. No.	Particulars	Sahil Traders (₹)	Jaggi Motors Ltd. (₹)
(i)	Price of goods	20,000	15,000
(ii)	*Add:* Packing charges (Note-1)	600	
(iii)	*Add*: Commission (Note-1)	400	
(iv)	*Add:* Weighment charges (Note-1)	-	1,000

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(v)	*Less:* Discount for prompt payment (Note-2)	-	500
	Value of taxable supply	21,000	15,500
	IGST payable @ 18% (Note-3)	**3,780**	
	CGST payable @ 9% (Note-4)		**1,395**
	SGST payable @ 9% (Note-4)		**1,395**

Notes:

1. Incidental expenses, including commission and packing, charged by supplier to recipient of supply is includible in the value of supply. Weighment charges are also incidental expenses, hence includible in the value of supply [Section 15 of the CGST Act, 2017].
2. Since discount is known at the time of supply, it is deductible from the value in terms of section 15 of the CGST Act, 2017.
3. Since supply made to Sahil Traders is an inter-State supply, IGST is payable in terms of section 5 of the IGST Act, 2017.
4. Since supply made to Jaggi Motors Ltd. is an intra-State supply, CGST & SGST is payable on the same.

2. (i) Computation of net GST payable

Particulars	CGST (₹)	SGST (₹)
GST payable on intra-State supply of goods [Being an intra-State supply, CGST and SGST is payable on the same]	1,080 (₹12,000 × 9%)	1,080 (₹12,000 × 9%)
Less: Input tax credit (ITC) on intra-State purchase of goods [CGST and SGST paid on the intra-State purchases of goods]	900 (₹10,000 × 9%)	900 (₹10,000 × 9%)
Net GST payable	180	180

(ii) Computation of net GST payable by Govind

Particulars	₹
IGST @ 18% payable on inter-State supply of services [Being an inter-State supply, IGST is payable on the same in terms of section 5 of the IGST Act, 2017]	32,400 [1,80,000 × 18%]
Less: ITC of CGST @ 9% paid on intra-State receipt of goods and services	9,000

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[Cross utilisation of CGST towards IGST]	[1,00,000 × 9%]
Less: ITC of SGST @ 9% paid on intra-State receipt of goods and services [Cross utilisation of SGST towards IGST]	9,000 [1,00,000 × 9%]
Net GST payable in cash	**14,400**

Note:

1. CGST shall first be utilised towards payment of CGST and the amount remaining, if any, be utilised towards the payment of IGST [Section 49 of the CGST Act, 2017].
2. SGST shall first be utilised towards payment of SGST and the amount remaining, if any, may be utilised towards the payment of IGST [Section 49 of the CGST Act, 2017].

3. Computation of net GST payable by Shipra Traders

Particulars	**CGST @ 9% (₹)**	**SGST @ 9% (₹)**
GST payable on intra-State supply of goods [Being an intra-State supply, CGST and CGST is payable on the same]	855 [9,500 × 9%]	855 [9,500 × 9%]
Less: ITC on intra-State purchase of goods [ITC of CGST and SGST paid on intra-State purchase is available in full, even if some inputs are lying in stock]	900 [10,000 × 9%]	900 [10,000 × 9%]
Net GST payable	**Nil**	**Nil**
Input tax credit carried forward in Electronic Credit Ledger	**45**	**45**

4. Section 18 of the CGST Act, 2017 read with the CGST Rules, 2017 provides that if capital goods or plant and machinery on which input tax credit has been taken are supplied outward by the registered person, he must pay an amount that is the higher of the following:

(a) input tax credit taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods (i.e., input tax credit pertaining to remaining useful life of the capital goods), or

(b) tax on transaction value.

Accordingly, the amount payable on supply of needle detecting machine shall be computed as follows:

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Particulars	₹	₹
Input tax credit taken on the machine (₹ 10,00,000 × 18%)		1,80,000
Less: Input tax credit to be reversed @ 5% per quarter for the period of use of machine		
(i) For the year 2017-18 = (₹ 1,80,000 × 5%) × 3 quarters	27,000	
(ii) For the year 2018-19 = (₹ 1,80,000 × 5%) × 3 quarters	27,000	54,000
Amount required to be paid **(A)**		1,26,000
Duty leviable on transaction value (₹ 7,50,000 × 18%) **(B)**		1,35,000
Amount payable towards disposal of machine is higher of **(A)** and **(B)**		1,35,000

5. Computation of GST payable for the month of November, 20XX

S. No.	Particulars	Time of supply of services	CGST (₹)	SGST (₹)	IGST (₹)	Interest (₹)
(i)	Services from an advocate in Delhi	06.09.20XX [Note-1 & 3]	11,250	11,250	-	244 [Note-4]
(ii)	Director's Sitting fee	20.11.20XX [Note-2 & 3]	-	-	13,500	

Notes:-

1. Services supplied by an individual advocate to any business entity located in the taxable territory is a notified service on which tax is payable on reverse charge basis by the recipient of services.
2. Services supplied by a director of a company to the said company is a notified service on which tax is payable on reverse charge basis by the recipient of services.
3. As per section 13 of the CGST Act, 2017, the time of supply of services in case of reverse charge is earliest of the following:-
   (a) Date of payment as entered in the books of account of the recipient or the date on which the payment is debited to his bank account, whichever is earlier, or
   (b) Date immediately following 60 days since the date of issue of invoice.

   Provisions of time of supply as provided under section 13 of the CGST Act are also applicable for inter-State supply vide section 20 of the IGST Act.

   In view of the aforesaid provisions, the time of supply and due date for payment of tax in the given cases would be determined as under:

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(i) Time of supply of the services is the date immediately following 60 days since the date of issue of invoice, i.e. 06.09.20XX. The due date for payment of tax is 20.10.20XX with return of September, 20XX.

(ii) Time of supply of service is 20.11.20XX and due date for payment of tax is 20.12.20XX with return of December, 20XX.

4. The due date for payment of tax in case (i) is 20.10.20XX with return of September, 20XX. However, the payment of tax is actually made on 11.11.20XX. Thus, payment of tax is delayed by 22 days.

In case of delayed payment of tax, interest @ 18% per annum is payable for the period for which the tax remains unpaid starting from the day succeeding the day on which such tax was due to be paid [Section 50 of the CGST Act, 2017 read with *Notification No. 13/2017 CT dated 28.06.2017*]. In view of the same, in the given case, interest payable would be as follows:

Amount of interest payable = ₹ 22,500 × 18% × 22/365 = ₹ 244 (rounded off)

6. Section 7 of the CGST Act, 2017 stipulates that in order to qualify as supply:

(a) Supply should be of goods and/or services.

(b) Supply should be made for a consideration.

(c) Supply should be made in the course or furtherance of business.

Further, Schedule I of the CGST Act, 2017 illustrates the activities to be treated as supply even if made without consideration. One such activity is permanent transfer or disposal of business assets where input tax credit has been availed on such assets, i.e. said activity is to be treated as supply even if made without consideration. In view of said provisions, permanent transfer of air conditioners by Sahab Sales from its stock for personal use at its residence, though without consideration, would amount to supply.

However, sale of air-conditioner by Aakash to Sahab Sales will not qualify as supply under section 7 of the CGST Act, 2017 as although it is made for a consideration, but its not in the course or furtherance of business.

7. As per section 22 of the CGST Act, 2017, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds ₹ 20 lakh.

However, if such taxable supplies are made from any of the specified special category States, namely, States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ₹ 10 lakh.

As per section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of:

(i) all taxable supplies,

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(ii) all exempt supplies,

(iii) exports of goods and/or services and

(iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

Section 9 of the CGST Act, 2017 provides that CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. As per section 2(47) of the CGST Act, 2017, exempt supply includes non-taxable supply. Thus, supply of high speed diesel in Delhi, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.

In the backdrop of the above-mentioned discussion, the aggregate turnover for the month of April, 20XX is computed as under:

S. No.	Particulars	Amount (in ₹)
(i)	Supply of machine oils in Delhi	2,00,000
(ii)	*Add:* Supply of high speed diesel in Delhi	4,00,000
(iii)	*Add:* Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi	1,75,000
(iv)	*Add:* Supply made by Pure Oils from its branch located in Punjab	1,80,000
	Aggregate Turnover	9,55,000

Since the aggregate turnover does not exceed ₹ 20 lakh, Pure Oils is not liable to be registered.

If Pure Oils made supply of machine oils amounting to ₹ 2,50,000 from its branch in Himachal Pradesh in addition to the above supply, then threshold limit of registration will be reduced to ₹ 10 lakh as Himachal Pradesh is one of the specified Special Category States.

Aggregate Turnover in that case would be ₹ 9,55,000 + ₹ 2,50,000 = ₹ 12,05,000. So, if Pure Oils supplies machine oils amounting to ₹ 2,50,000 from its branch in Himachal Pradesh, then it is liable to be registered.

8. (i) As per section 31 of the CGST Act, 2017 read with the CGST Rules, 2017, in case of taxable supply of services, invoices should be issued before or after the provision of service, but within a period of 30 days [45 days in case of insurer/ banking company or financial institutions including NBFCs] from the date of supply of service.

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In view of said provisions, in the present case, the tax invoice should have been issued in the prescribed time limit of 30 days from the date of supply of service i.e. upto 03.02.20XX. However, the invoice has been issued on 10.02.20XX.

In such a case, the time of supply as per section 13 of the CGST Act, 2017 would be 04.01.20XX i.e. earliest of the following:

(a) Date of provision of service (04.01.20XX)

(b) Date of receipt of payment (11.02.20XX)

(ii) Section 31 of the CGST Act, 2017 read with the CGST Rules, 2017, *inter alia,* provides that tax invoice shall contain the following particulars-

(a) Total value of supply of goods or services or both;

(b) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);

(c) Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);

The objection raised by the tax consultant of Royal Fashions suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd., is valid in law. In the present case, the tax amount has not been shown separately in the invoice.

Note: GST law is in its nascent stage and has been subject to frequent changes. Although many clarifications have been issued in the last six months by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the above questions depending upon the view taken.

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