PAPER – 4: TAXATION

SECTION A: INCOME TAX

PART – I: STATUTORY UPDATE

Significant Notifications/Circulars issued and other Legislative Amendments made in Income-tax between 1st May, 2016 and 30th April, 2017

The income-tax law, as amended by the Finance Act, 2016, including significant notifications/circulars issued and other legislative amendments made up to 30th April, 2017 are applicable for November, 2017 examination. The relevant assessment year for November, 2017 examination is A.Y.2017-18. The September 2016 edition of the Study Material is based on the provisions of income-tax law as amended by the Finance Act, 2016 and significant notifications/circulars issued upto 30th April, 2016. The significant notifications/circulars issued and other legislative amendments made between 1st May, 2016 and 30th April 2017, which are also relevant for November, 2017 examination, are given hereunder:

I. NOTIFICATIONS

1. Method for determining the amount of expenditure in relation to income which does not form part of the total income under Rule 8D [Notification No 43/2016, dated 02-06-2016]

As per section 14A(1), for the purposes of computing the total income under Chapter IV of the Income-tax Act, 1961, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income, which does not form part of total income under the Income-tax Act, 1961.

Section 14A(2) provides that the Assessing Officer shall determine the amount of expenditure incurred in relation to such income which does not form part of the total income under Income-tax Act, 1961 in accordance with such method as may be prescribed, if the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of such expenditure.

Rule 8D prescribes the method for determining the amount of expenditure in relation to income not includible in total income. Since there have been considerable number of disputes on the application of the formula prescribed therein, the Finance Minister had, in para 167 of his Budget Speech [Union Budget 2016-17] proposed to amend Rule 8D to restrict the disallowance to 1% of the average monthly value of investments yielding exempt income, but not exceeding the actual expenditure claimed.

Accordingly, vide this notification, the Central Government has substituted sub-rule (2) and omitted sub-rule (3) of the said Rule 8D. New sub-rule (2) provides that the

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expenditure in relation to income which does not form part of the total income shall be the aggregate of following amounts:

(i) the amount of expenditure directly relating to income which does not form part of total income; and

(ii) an amount equal to 1% of the annual average of the monthly averages of the opening and closing balances of the value of investment, income which does not or shall not form part of total income:

However, the amount referred to in clause (i) and clause (ii) shall not exceed the total expenditure claimed by the assessee.

2. Exemption from TDS on specified payments made to banks etc. [Notification No. 47/2016, dated 17-06-2016]

Section 197A(1F) provides that no deduction of tax shall be made from such specified payment to such institution, association or body or class of institutions, associations or bodies as may be notified by the Central Government.

Accordingly, the Central Government has notified that no deduction of tax under Chapter XVII of the Income-tax Act, 1961 shall be made on specified payments, in case such payments are made by a person to a bank listed in the Second Schedule to the Reserve Bank of India Act, 1934, excluding a foreign bank, or to any payment systems company authorised by the Reserve Bank of India under section 4(2) of the Payment and Settlement Systems Act, 2007. The specified payments are:

(i) bank guarantee commission;

(ii) cash management service charges;

(iii) depository charges on maintenance of DEMAT accounts;

(iv) charges for warehousing services for commodities;

(v) underwriting service charges;

(vi) clearing charges (MICR charges) including interchange fee or any other similar charges, by whatever name called, charged at the time of settlement or for clearing activities under the Payment and Settlement Systems Act, 2007;

(vii) credit card or debit card commission for transaction between merchant establishment and acquirer bank.

3. Relaxation from deduction of tax at higher rate under section 206AA [Notification No 53/2016, dated 24-06-2016]

Under section 206AA, any person who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVIIB shall furnish his Permanent Account Number (PAN) to the person responsible for deducting such tax, failing which tax shall be deducted at –

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(1) the rate mentioned in the relevant provisions of the Act or

(2) the rate or rates in force or

(3) the rate of 20%

whichever is higher.

The provisions of section 206AA also apply to non-residents, on account of which they have to obtain and furnish PAN. Otherwise, higher rate of tax deduction is attracted even if tax on such income is payable at a lower rate on account of applicability of special provisions of the Act or the relevant double taxation avoidance agreement.

The benefit of non-applicability of the provisions of section 206AA was so far only in respect of payment of interest on long-term bonds by an Indian company or a business trust as referred to in section 194LC to non-corporate non-residents or foreign companies.

For the purpose of reducing the compliance burden, sub-section (7) of section 206AA has been substituted with effect from 1st June, 2016 to provide for non-applicability of the requirements contained in section 206AA to a non-corporate non-resident or a foreign company, in respect of any other payment, other than interest on long-term bonds as referred to in section 194LC, subject to such conditions as may be prescribed.

Accordingly, the CBDT has, vide this notification, inserted Rule 37BC to provide that the provisions of section 206AA shall not apply to a non-corporate non-resident, or to a foreign company not having PAN in respect of payments in the nature of interest, royalty, fees for technical services and payments on transfer of any capital asset on furnishing the following details and documents to the deductor:

- Name, e-mail id, contact number;
- address in the country or specified territory outside India of which the deductee is a resident;
- a certificate of his resident in any country or specified territory outside India from the Government of that country or specified territory, if the law of that country or specified territory provides for issuance of such certificate;
- Tax Identification Number of the deductee in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the deductee is identified by the Government of that country or specified territory of which he claims to be a resident.

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4. Backward districts of states of Telangana, West Bengal, Bihar and Andhra Pradesh notified for the purposes of eligibility for higher additional depreciation under section 32(1)(iia) and investment allowance under section 32AD [Notification No. 61/2016, dated 20-07-2016 and Notification No. 85/2016, dated 28-09-2016]

Under section 32, depreciation on assets used for the purposes of business and profession is allowable as deduction while computing income under the head "Profits and gains of business or profession".

Section 32(1)(iia) provides for additional depreciation @ 20% for new machinery or plant (other than ships and aircraft), acquired and installed, by an assessee engaged in the business of manufacture or production of any article or thing or in the business of generation or generation and distribution of power.

In order to promote economic activities in the backward areas of the states of Andhra Pradesh, Telangana, West Bengal and Bihar, the Finance Act, 2015 had inserted a proviso to section 32(1)(iia) to provide an increased rate of additional depreciation @ 35% to an assessee who sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after 01.04.2015 in any backward area notified by the Central Government in this behalf, in such states, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period from 01.04.2015 to 31.3.2020 in the said backward area.

Further, section 32AD was inserted by the Finance Act, 2015 to provide incentive in the form of an additional investment allowance @ 15% of the cost of the new plant and machinery acquired and installed by an assessee who sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after 01.04.2015 in any backward area notified by the Central Government in this behalf, in such states, and acquires and installs any new asset for the purposes of the said undertaking or enterprise during the period from 1.4.2015 to 31.3.2020 in the said backward area.

Both for the purpose of claim of investment allowance under section 32AD and higher additional depreciation under section 32(1)(iia), the Central Government has, vide this notification, notified the following districts of the states of Telangana, West Bengal, Bihar and Andhra Pradesh as backward areas:

S.No.	Telangana	West Bengal	Bihar	Andhra Pradesh
1.	Adilabad	South 24 Parganas	Arwal	Anantapur
2.	Nizamabad	Bankura	Banka	Chittoor
3.	Karimnagar	Birbhum	Begusarai	Cuddapah
4.	Warangal	Dakshin Dinajpur	Bhagalpur	Kurnool
5.	Medak	Uttar Dinajpur	Buxar	Srikakulam
6.	Mahbubnagar	Jalpaiguri	Gopalganj	Vishakhapatnam

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7.	Rangareddy	Malda	Khagaria	Vizianagaram
8.	Nalgoda	East Medinipur	Kishanganj	
9.	Khammam	West Medinipur	Madhepura	
10.		Murshidabad	Munger	
11.		Purulia	West Champaran	
12.			East Champaran	
13.			Saharsa	
14.			Saran	
15.			Sheikhpura	
16.			Sitamarhi	
17.			Siwan.	

Note *– The above list has been given so that the students are aware that backward areas have been notified in each of the four States for the purpose availing deduction under section 32AD and higher additional depreciation under section 32(1)(iia). Students are not expected to rote learn or memorize the names of the backward areas in each State.*

5. 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.

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6. Rescinding of initially notified Income Computation Disclosure Standards (ICDSs) [Notification No S.O. 3078(E) dated 29.9.2016] and Notification of new ICDSs to be applicable from A.Y.2017-18 [Notification No. S.O. 3079(E) dated 29-09-2016]

Section 145 of the Income-tax Act, 1961 provides for the method of accounting. Section 145(1) requires income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" to be computed in accordance with either the cash or mercantile system of accounting regularly employed by the assessee, subject to the provisions of section 145(2). Under section 145(2), the Central Government is empowered to notify in the Official Gazette from time to time, **income computation and disclosure standards (ICDSs)** to be followed by any class of assessees or in respect of any class of income.

Accordingly, the Central Government had, vide Notification No.S.O.892(E) dated 31.3.2015, in exercise of the powers conferred by section 145(2), notified ten income computation and disclosure standards (ICDSs) to be followed by all assessees, following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head "Profit and gains of business or profession" or "Income from other sources". This notification was to come into force with effect from 1st April, 2015, to be applicable from A.Y. 2016-17.

However, the Central Government has, vide Notification No.S.O.3078(E) dated 29.9.2016, rescinded Notification No.S.O.892(E) dated 31.3.2015. Simultaneously, vide Notification No.S.O.3079(E) dated 29.9.2016, the Central Government has notified ten new ICDSs to be applicable from A.Y.2017-18.

The newly notified ICDSs have to be followed by all assessees (other than an individual or a Hindu undivided family who is not required to get his accounts of the previous year audited in accordance with the provisions of section 44AB) following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head "Profits and gains of business or profession" or "Income from other sources", from A.Y.2017-18.

Note *– Students are advised to refer to the Annexure to the October 2016 Edition of the Practice Manual of IIPCC Paper 4: Taxation Part I: Income-tax which explains the significant changes in the ICDSs notified on 29.9.2016 vis-à-vis ICDSs initially notified on 31.3.2015 (since rescinded). The Annexure also contains the text of the new ICDSs notified on 29.9.2016.*

7. Expenditure for obtaining right to use spectrum for telecommunication services [New Rule 6A] [Notification No. 89/2016, dated 04-10-2016]

The Finance Act, 2016 has inserted new section 35ABA to provide for tax treatment of spectrum fee. Section 35ABA provides that where any capital expenditure has been incurred for acquisition of any right to use spectrum for telecommunication services either before the commencement of the business or thereafter, at any time during the previous year and for which payment has actually been made to obtain a right to use spectrum,

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appropriate fraction of the amount of such expenditure (1/total number of relevant previous years) would be allowed as deduction for the relevant previous years during which the spectrum, for which the fee is paid, shall be in force.

As per clause (iii) of *Explanation* to section 35ABA, the phrase "payment has actually been made" means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee or payable in such manner as may be prescribed.

Accordingly, the CBDT has, vide this Notification, inserted new Rule 6A which substantiates the meaning of the phrase 'payment has actually been made':

(a) **In a case where upfront payment of spectrum fee has been made:** Where an assessee has opted and been allowed by the Department of Telecommunications, Government of India to make full upfront payment of spectrum fee, the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee;

(b) **In a case where deferred payment is made:** Where an assessee has opted and been allowed by the Department of Telecommunications, Government of India to make deferred payment, the amount which would have been payable by the assessee had he opted for full upfront payment of spectrum fee irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee.

However, in case of deferred payment referred to in (b) above, where there is failure by the assessee to comply with any of the conditions specified by the scheme of the Department of Telecommunications, Government of India and Department of Telecommunications terminates the allotment or assignment of spectrum, the Assessing Officer shall, in exercise of power vested in him under section 35ABA(3), re-compute the total income of the assessee for the previous year in which the deduction has been claimed and granted to him by deeming that,-

(i) the total amount of spectrum fee paid up to the date of termination is the amount of "payment actually been made";

(ii) the spectrum was in force up to the date of its termination for the purpose of computing "relevant previous year".

8. **Quoting of PAN is mandatory in respect of transaction of cash deposit in the banks/post offices of specified valueduring the period of demonetization (i.e., 09.11.2016 to 30.12.2016) [Notification No. 104/2016, dated 15-11-2016, Notification No. 2/2017, dated 6-1-2017and Notification No. 27/2017, dated 5-4-2017]**

Section 139A(5)(c) mandates every person to quote permanent account number (PAN) in all documents pertaining to the prescribed transactions entered into by him, in the interests of the revenue.

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Accordingly, Rule 114B specifies the transactions in respect of which quoting of PAN is mandatory in all pertinent documents.

The CBDT has, vide this notification, amended Rule 114B to include a transaction in respect of cash deposit with bank/post office as follows:

Nature of transaction	Value of transaction
Deposit with, - (i) a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act) (ii) Post Office.	Cash deposits, - (i) exceeding ₹ 50,000 during any one day; or (ii) aggregating to more than ₹ 2,50,000 during the period 09th November, 2016 to 30th December, 2016.

Fourth proviso has been inserted in Rule 114B to provide that a person who has an account (other than a time deposit and a Basic Saving Bank Deposit Account) maintained with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act) and **has not quoted his permanent account number or furnished Form No. 60**, as the case may be, at the time of opening of such account or subsequently, he shall furnish his permanent account number or Form No. 60, as the case may be, to a manager or officer of banking company or co-operative bank, as the case may be **on or before the 30th June, 2017.**

9. Reduction in the existing rate of deemed profit under section 44AD in respect of amounts/receipts through banking channel/digital means [Press Release, dated 19-12-2016][1]

Under the existing provisions of section 44AD of the Income-tax Act, 1961, in case of certain assessees (i.e. an individual, HUF or a partnership firm other than LLP) carrying on any business (other than transportation, agency, brokerage and commission) and having a turnover of ₹ 2 crore or less, the profit is deemed to be 8% of the total turnover.

In order to achieve the Government's mission of moving towards a less cash economy and to incentivise small traders/businesses to proactively accept payments by digital means, with effect from A.Y. 2017-18 the existing rate of deemed profit of 8% under section 44AD of the Act **has been reduced to 6% in respect of the amount of total turnover or gross receipts received through banking channel/digital means i.e., by**

[1]*The Finance Act, 2017 has, with effect from A.Y. 2017-18, inserted a proviso to section 44AD(1) to provide for a presumptive rate of 6% (instead of 8%) in respect of the amount of total turnover or gross receipts received by an A/c payee cheque/bank draft or use of ECS through a bank account.*

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an A/c payee cheque/bank draft or use of ECS through a bank A/c during the previous year or before the due specified in section 139(1) in respect of that previous year.

However, the existing rate of deemed profit of 8% referred to in section 44AD, shall continue to apply in respect of total turnover or gross receipts received in cash.

II. CIRCULARS

1. Eligibility for grant of additional depreciation under section 32(1)(iia) in the case of an assessee engaged in printing or printing and publishing [Circular No. 15/2016, dated 19-05-2016]

An assessee, engaged in the business of manufacture or production of an article or thing, is eligible to claim additional depreciation under section 32(1)(iia) in addition to the normal depreciation under section 32(1).

The CBDT has, vide this Circular, clarified that the business of printing or printing and publishing amounts to manufacture or production of an article or thing and is, therefore, eligible for additional depreciation under section 32(1)(iia).

2. Admissibility of claim of deduction of bad debts under section 36(1)(vii) read with section 36(2) [Circular No. 12/2016, dated 30-05-2016]

The CBDT has clarified, vide this Circular, that claim for any debt or part thereof in any previous year, shall be admissible under section 36(1)(vii), if it is written off as irrecoverable in the books of accounts of the assessee for that previous year and it fulfills the conditions stipulated in section 36(2). There is no requirement in law that the assessee has to establish that the debt has, in fact, become irrecoverable.

3. Clarification regarding attaining prescribed age of 60 years/80 years on 31st March itself, in case of senior/very senior citizens whose date of birth falls on 1st April [Circular No. 28/2016, dated 27-07-2016]

An individual who is resident in India and of the age of 60 years or more (senior citizen) and 80 years or more (very senior citizen) is eligible for a higher basic exemption limit of ₹ 3,00,000 and ₹ 5,00,000, respectively.

The CBDT has, vide this Circular, clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday. In particular, the question of attainment of age of eligibility for being considered a senior/very senior citizen would be decided on the basis of above criteria.

Therefore, a resident individual whose 60th birthday falls on 1st April, 2017, would be treated as having attained the age of 60 years in the P.Y.2016-17, and would be eligible for higher basic exemption limit of ₹ 3 lakh in computing his tax liability for A.Y.2017-18. Likewise, a resident individual whose 80th birthday falls on 1st April, 2017, would be

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treated as having attained the age of 80 years in the P.Y.2016-17, and would be eligible for higher basic exemption limit of ₹ 5 lakh in computing his tax liability for A.Y.2017-18.

4. Clarification on applicability of TDS provisions of section 194-I on lumpsum lease premium paid for acquisition of long term lease [Circular No.35/2016, dated 13-10-2016]

Under section 194-I, tax is required to be deducted at source at the prescribed rates from payment of any income by way of rent. For the purposes of this section, "rent" has been defined as any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or machinery or plant or equipment or furniture or fittings.

The issue of whether or not TDS under section 194-I is applicable on 'lump sum lease premium' or 'one-time upfront lease charges" paid by an assessee for acquiring long-term leasehold rights for land or any other property has been examined by the CBDT.

Accordingly, the CBDT has, vide this Circular, clarified that lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property are not payments in the nature of rent within the meaning of section 194-I. Therefore, such payments are not liable for TDS under section 194-I.

5. Clarification on taxability of the compensation received by the land owners for the land acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act) [Circular No. 36/2016, dated 25-10-2016]

Under the existing provisions of the Income-tax Act, 1961, an agricultural land which is not situated in specified urban area, is not regarded as a capital asset. Hence, capital gains arising from the transfer (including compulsory acquisition) of such agricultural land is not taxable. The Finance (No.2) Act, 2004 has inserted section 10(37) from 1-4-2005 to provide specific exemption to the capital gains arising to an Individual or a HUF from compulsory acquisition of an agricultural land situated in specified urban limit, subject to fulfilment of certain conditions. Therefore, compensation received from compulsory acquisition of an agricultural land is not taxable under the Act (subject to fulfilment of certain conditions for specified urban land).

The RFCTLARR Act which came into effect from 1st January, 2014, in section 96, *inter alia* provides that income-tax shall not be levied on any award or agreement made (except those made under section 46) under the RFCTLARR Act. Therefore, compensation received for compulsory acquisition of land under the RFCTLARR Act (except those made under section 46 of RFCTLARR Act), is exempted from the levy of income-tax.

As no distinction has been made between compensation received for compulsory acquisition of agricultural land and non-agricultural land in the matter of providing

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exemption from income-tax under the RFCTLARR Act, the exemption provided under section 96 of the RFCTLARR Act is wider in scope than the tax-exemption provided under the existing provisions of Income-tax Act, 1961. This has created uncertainty in the matter of taxability of compensation received on compulsory acquisition of land, especially those relating to acquisition of non-agricultural land.

The matter has been examined by the CBDT and it has been clarified that compensation received in respect of award or agreement which has been exempted from levy of income-tax vide section 96 of the RFCTLARR Act shall also not be taxable under the provisions of Income-tax Act, 1961 even if there is no specific provision for exemption of such compensation in the Income-tax Act, 1961.

6. Admissibility of deduction under Chapter VI-A on the profits enhanced due to disallowance of expenditure related to business activity [Circular No.37/2016, Dated 02-11-2016]

Chapter VI-A of the Income-tax Act, 1961, provides for deductions in respect of certain incomes. In computing the profits and gains of a business activity, the Assessing Officer may make certain disallowances, such as disallowances pertaining to sections 32, 40(a)(ia), 40A(3), 43B etc., of the Act. At times disallowance out of specific expenditure claimed may also be made. The effect of such disallowances is an increase in the profits.

The issue is whether such higher profits would also result in claim for a higher profit-linked deduction under Chapter VI-A.

The CBDT has, vide this circular, clarified that the disallowances made under sections 32, 40(a)(ia), 40A(3), 43B, etc. and other specific disallowances, related to the business activity against which the Chapter VI-A deduction has been claimed, result in enhancement of the profits of the eligible business, and that deduction under Chapter VI-A is admissible on the profits so enhanced by the disallowance.

7. Admissibility of expenditure incurred by a Firm on Keyman Insurance Policy in the case of a Partner [Circular No. 38/2016, dated 22-11-2016]

The issue is whether expenditure incurred by a firm on Keyman Insurance Policy premium in the case of a partner is allowable as business expenditure.

The CBDT has, vide this circular, clarified that in case of a firm, premium paid by the firm on the Keyman Insurance Policy of a partner, to safeguard the firm against a disruption of the business, is an admissible expenditure under section 37 of the Act.

8. Transport, Power and Interest subsidies received by an Industrial Undertaking - Eligibility for deduction under sections 80-IB, 80-IC etc., [Circular No. 39/2016, dated 29-11-2016]

The issue is whether revenue receipts such as transport, power and interest subsidies received by an Industrial Undertaking/eligible business are part of profits and gains of

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business derived from its business activities within the meaning of sections 80-IB/80-IC of the Income-tax Act, 1961 and, thus, eligible for claim of corresponding deduction under Chapter VI-A of the Act. Such receipts are often treated as 'Income from other sources' by the Assessing Officers.

The CBDT has, vide this circular, clarified that revenue subsidies received from the Government towards reimbursement of cost of production/manufacture or for sale of the manufactured goods are part of profits and gains of business derived from the Industrial Undertaking /eligible business, and are thus, admissible for applicable deduction under Chapter VI-A of the Act.

9. Clarification regarding liability to income-tax in India for 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]

The CBDT 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 the 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.

10. Lease rent from letting out buildings/developed space along with other amenities in an Industrial Park /SEZ - to be treated as business income [Circular No. 16/2017, dated 25-04-2017]

The issue is whether income arising from letting out of premises/developed space along with other amenities in an Industrial Park/SEZ is to be charged under head 'Profits and Gains of Business' or under the head 'Income from House Property'. Assessees claim the letting out as business activity, the income arising from which to be charged to tax under the head 'Profits and Gains of Business', whereas the Assessing Officers hold it to be chargeable under the head 'Income from House Property'.

The CBDT has, vide this circular, clarified that in the case of an undertaking which develops, develops and operates or maintains and operates an industrial park/SEZ notified in accordance with the scheme framed and notified by the Government, the income from letting out of premises/developed space along with other facilities in an industrial park/SEZ is to be charged to tax under the head 'Profits and Gains of Business'.

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III. Amendments made by the Taxation Laws (Amendment) Act, 2016

(1) Splitting up or reconstruction of an erstwhile public sector company into separate companies as a result of transfer of its shares by the Central Government deemed to be a demerger [Section 2(19AA)]

Effective from: A.Y.2017-18

(i) The existing provisions of the Income-tax Act, 1961 provide for tax neutrality in matters relating to transfer of capital asset, carry forward of loss, claim of certain deductions, etc., in case of demerger of entities.

(ii) Upto A.Y.2016-17, the definition of the term "demerger" as per section 2(19AA) of the Income-tax Act, 1961, did not include within its scope, the splitting up or the reconstruction of a company, which ceased to be a public sector company as a result of transfer of its shares by the Government, into separate companies, even if such splitting up or reconstruction has been made to give effect to the conditions attached to the said transfer of shares by the Government.

(iii) With a view to facilitate the splitting up or the reconstruction of erstwhile public sector companies and to give effect to the conditions attached to the transfer of shares by the Government, *Explanation 5* has been inserted in section 2(19AA) with effect from A.Y.2017-18 to provide that the reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if such reconstruction or splitting up has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as may be notified by the Central Government in the Official Gazette.

(iv) Consequently, as per section 47, transfer of a capital asset in the scheme of demerger would not be regarded as a transfer, and hence capital gains tax liability would not be attracted. Further, the accumulated loss and unabsorbed depreciation of the demerged public sector company can be carried forward for set-off in the hands of the resulting company as per the provisions of section 72A(4). Also, the profit-linked tax deductions under section 80-IA to 80-IE, which was available to the erstwhile demerged public sector company, would be available to the resulting company for the unexpired period. An Indian company incurring expenditure wholly and exclusively for the purposes of demerger of the undertaking would be entitled to deduction under section 35DD of an amount equal to one-fifth of such expenditure for each of the five successive previous years beginning with the year of demerger.

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(2) Relaxation of minimum period of employment of an employee for the purpose of deduction under section 80JJAA, in case of assessees engaged in apparel business [Section 80JJAA]

Effective from: A.Y.2017-18

(i) Upto A.Y.2016-17, deduction under section 80JJAA in respect of employment of new workmen was available to assessees deriving profits and gains from manufacture of goods in a factory. In order to extend this employment generation incentive to all sectors, section 80JJAA has been substituted by the Finance Act, 2016 with effect from A.Y.2017-18.

(ii) Under new section 80JJAA, deduction is available in respect of employment of new employees, where the gross total income of an assessee **to whom section 44AB applies**, includes any profits and gains derived from business.

(iii) In case of such assessees, deduction of an amount equal to 30% of additional employee cost incurred in the course of such business in the previous year, would be allowed for three assessment years including the assessment year relevant to the previous year in which such employment is provided, subject to the fulfillment of certain specified conditions. One of the conditions is that the employee should be employed for a period of not less than 240 during the previous year.

(iv) Considering the seasonal nature of the business of manufacturing of apparel, the minimum period of employment of an employee who is employed in this business has been reduced from 240 days to 150 days during the previous year. Therefore, in the case of an assessee engaged in the business of manufacturing of apparel, deduction under section 80JJAA would be allowable in respect of additional employee cost incurred in respect of employees employed for a period of atleast 150 days during the previous year.

IV. Amendments made by the Taxation Laws (Second Amendment) Act, 2016

Consequent to demonetisation of high value currency, declaring specified bank notes as not legal tender, the Taxation Laws (Second Amendment) Bill, 2016 was introduced in Lok Sabha on November 28, 2016. This Bill was passed by the Lok Sabha on November, 29, 2016. It seeks to amend the Income-tax Act, 1961 and Finance Act, 2016. The Taxation Laws (Second Amendment) Bill, 2016 received the assent of the President on December 15, 2016.

The following significant amendment has been made in the Income-tax Act, 1961 and the Finance Act, 2016:

Levy of higher tax under section 115BBE on unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D

Upto A.Y.2016-17, section 115BBE provided for levy of tax @30%, plus surcharge, if applicable, plus cess@3% on unexplained money, investment, expenditure, etc. deemed as

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income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

This section has been amended with effect from A.Y.2017-18 to provide for levy of tax@60% plus surcharge@25% of tax on income referred to in sections 68, 69 and 69A to 69D and reflected in the return of income furnished under section 139 or determined by the Assessing Officer.

Thus, the effective rate of tax (including surcharge@25% of tax and cess@3% of tax and surcharge) is 77.25%.

The existing restrictions regarding non-allowability of basic exemption or allowance or expenditure against such income and non-permissibility of set-off of losses against such income would continue.

PART – II: QUESTIONS AND ANSWERS

QUESTIONS

Residential Status and Scope of total income

1. Mr. Aakash earns the following income during the previous year 2016-17. Compute his total income for A.Y. 2017-18 if he is (i) resident and ordinarily resident; (ii) resident but not ordinarily resident; (iii) non-resident.

Sr. No.	Particulars	(₹)
1.	Interest on Canada Development Bonds (only 50% of interest received in India)	40,000
2.	Dividend from Malaysian company received in Malaysia	20,000
3.	Short term capital gain on sale of shares of an Indian company received in India	90,000
4.	Interest on savings bank deposit in UCO Bank, Delhi	12,000
5.	Income from Profession in Malaysia (set up in India), out of which ₹ 10,000 is received in India	15,000
6.	Agricultural income from a land situated in Gujarat	45,000
7.	Rent received in London in respect of house property at London	60,000

Income which do not form part of total income

2. Examine with brief reasons whether the following statements are true or false with reference to the provisions of the Income-tax Act, 1961:

   (a) Mr. Rahim received a sum of ₹ 18 lakh on 31.3.2017 from Life Insurance Corporation of India in respect of a policy, the sum assured of which was ₹ 13 lakh,

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taken on 1.07.2007 and for which a one time premium of ₹ 10 lakh was paid. The sum of ₹ 18 lakhs received by Mr. Rahim is fully exempt under section 10(10D)(c).

(b) Pension of ₹ 2,20,000 received by Mr. Sinha, a 'Param Vir Chakra' awardee, who was formerly in the service of the Central Government, is exempt.

(c) Compensation on account of disaster received from a local authority by an individual or his/her legal heir is taxable.

(d) Mr. Q, a shareholder of a closely held company, holding 15% shares, received advances from that company which is to be deemed as dividend from an Indian Company, hence exempted under section 10(34).

Income from Salaries

3. Mr. Narender, employed as Marketing Manager in Gama Ltd., furnishes you the following information for the year ended 31.03.2017:

(i)	Basic salary upto 31.10.2016	₹ 50,000 p.m.
	Basic salary from 01.11.2016	₹ 60,000 p.m.

Note: Salary is due and paid on the last day of every month.

(ii) Dearness allowance @ 40% of basic salary (not forming part of salary for retirement benefits).

(iii) Bonus equal to one month salary. Paid in October 2016 on basic salary plus dearness allowance applicable for that month.

(iv) Contribution of employee to recognized provident fund account of the employee@16% of basic salary. Employer contributed an equivalent amount.

(v) Profession tax paid ₹ 3,000 of which ₹ 2,000 was paid by the employer.

(vi) Facility of laptop and computer was provided to Narender for both official and personal use. Cost of laptop ₹ 45,000 and computer ₹ 35,000 were acquired by the company on 01.12.2016.

(vii) Motor car owned by the employer (cubic capacity of engine exceeds 1.60 litres) provided to the employee from 01.11.2016 meant for both official and personal use. Repair and running expenses of ₹ 45,000 from 01.11.2016 to 31.03.2017, were fully met by the employer. The motor car was self-driven by the employee.

(viii) Leave travel concession given to employee, his wife and three children (one daughter aged 6 and twin sons aged 4). Cost of air tickets (economy class) reimbursed by the employer ₹20,000 for adults and ₹30,000 for three children. Narender is eligible for availing exemption this year to the extent it is permissible in law.

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Mr. Narender made the following payments:

(i) Medical insurance premium paid in cash ₹ 4,000

(ii) Medical insurance premium paid by account payee crossed cheque ₹ 25,700

Compute the total income chargeable to tax in the hands of Mr. Narender and tax thereon for the assessment year 2017-18.

Income from house property

4. Surbhi has two houses, both of which are self-occupied. You are required to compute Surbhi's income from house property for the Assessment Year 2017-18 and suggest which house should be opted by Surbhi to be assessed as self-occupied so that her tax liability is minimum.

The particulars of these are given below:

	(Value in ₹)	
Particulars	**House - I**	**House - II**
Municipal Valuation per annum	1,30,000	1,15,000
Fair Rent per annum	1,10,000	1,70,000
Standard rent per annum	1,00,000	1,65,000
Date of completion	31-03-1999	31-03-2001
Municipal taxes payable during the year (paid for House II only)	12%	8%
Interest on money borrowed for repair of property during current year	-	55,000

Profits and gains of business or profession

5. Mr. Prakash engaged in retail trade, reports a turnover of ₹ 1,77,50,000 for the financial year 2016-17. His income from the said business as per books of account is computed at ₹ 10,20,000. Retail trade is the only source of income for Mr. Prakash.

(i) Is Mr. Prakash eligible to opt for presumptive taxation scheme for the assessment year 2017-18?

(ii) If so, determine his income from retail trade as per the applicable presumptive provision.

(iii) In case Mr. Prakash does not opt for presumptive taxation of income from retail trade, what are his obligations under the Income-tax Act, 1961?

(iv) What is the due date for filing his return of income under both the options?

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Capital Gains

6. Mr. Mittal, aged 55 years, is the owner of a residential house which was purchased in September, 1993 for ₹ 5,00,000. He sold the said house on 25th September, 2016 for ₹ 34,00,000. Valuation as per stamp valuation authority of the said residential house was ₹ 43,00,000. He invested ₹ 5,00,000 in NHAI Bonds on 12th January, 2017. He purchased a residential house on 15th July, 2017 for ₹ 10,00,000. He gives other particulars as follows:

Interest on Bank Fixed Deposit	₹ 32,000
Investment in public provident fund	₹ 50,000

You are requested to calculate the taxable income for the assessment year 2017-18 and the tax liability, if any.

Cost inflation index for F.Y. 1993-94 and 2016-17 are 244 and 1125, respectively.

Income from other sources

7. Mr. Krishna, a dealer in shares, received the following without consideration during the P.Y.2016-17 from his friend Mr. Raju, -

(1) Cash gift of ₹ 70,000 on his anniversary, 15th April, 2016.

(2) Bullion, the fair market value of which was ₹ 51,000, on his birthday, 19th June, 2016.

(3) A plot of land at Ghaziabad on 1st July, 2016, the stamp value of which is ₹ 5 lakh on that date. Mr. Raju had purchased the land in April, 2008.

Mr. Krishna purchased from his friend Mr. Pankaj, who is also a dealer in shares, 1000 shares of ABC Ltd. @ ₹ 450 each on 25th June, 2016, the fair market value of which was ₹ 650 each on that date. Mr. Krishna sold these shares in the course of his business on 30th June, 2016.

Further, on 21st November, 2016, Mr. Krishna took possession of property (building) booked by him two years back at ₹ 20 lakh. The stamp duty value of the property as on 21st November, 2016 was ₹ 30 lakh and on the date of booking was ₹ 23 lakh. He had paid ₹ 1 lakh by account payee cheque as down payment on the date of booking.

On 11thMarch, 2017, he sold the plot of land at Ghaziabad for ₹ 7 lakh.

Compute the income of Mr. Krishna chargeable under the head "Income from other sources" and "Capital Gains" for A.Y.2017-18.

Income of Other Persons included in assessee's Total Income

8. Mr. Kabir gifted a sum of ₹ 9 lakhs to his brother's minor son on 20-5-2016. On 25-5-2016, his brother gifted debentures worth ₹10 lakhs to Mrs. Kabir. Son of Mr. Kabir's brother invested the amount in fixed deposit with Bank of India @ 9% p.a.

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interest and Mrs. Kabir received interest of ₹ 81,000 on debentures received by her. Discuss the tax implications under the provisions of the Income-tax Act, 1961.

Set off and Carry Forward of Losses

9. Compute the gross total income of Mr. Virat and show the items eligible for carry forward from the following information furnished for the year ended 31-03-2017:

Particulars	Amount (₹)
Income from salary	2,50,000
Loss from house property	1,50,000
Income from trading business	45,000
Income from speculative business X	5,000
Loss from speculative business Y	25,000
Loss from specified business covered under section 35AD	20,000
Long-term capital gain from sale of urban land	2,00,000
Long-term capital loss on sale of shares (STT not paid)	75,000
Long-term capital loss on sale of listed shares in recognized stock exchange (STT paid)	82,000

Other brought forward losses:

(i) Losses from owning and maintaining of race horses pertaining to A.Y. 2016-17 ₹ 2,000.

(ii) Brought forward loss from trading business ₹ 5,000 relating to A.Y.2013-14.

Deductions from Gross Total Income

10. Mr. Shiva aged 65 years, has gross total income of ₹ 7,75,000 comprising of income from salary and house property. He has made the following payments and investments:

(i) Premium paid to insure the life of her major daughter (policy taken on 1.4.2014)

(Assured value ₹ 1,80,000)– ₹ 20,000.

(ii) Medical Insurance premium paid by cheque for self – ₹ 12,000; Spouse – ₹ 14,000.

(iii) Donation to a public charitable institution registered under 80G ₹ 1,50,000 by way of cheque.

(iv) LIC Pension Fund – ₹ 60,000.

(v) Donation to National Children's Fund - ₹ 25,000 by way of cheque

(vi) Donation to Jawaharlal Nehru Memorial Fund - ₹ 25,000 by way of cheque

(vii) Donation to approved institution for promotion of family planning - ₹ 40,000 by way of cheque

Compute the total income of Mr. Shiva for A.Y. 2017-18.

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Computation of Total Income of an individual

11. Mr. Rajiv, a resident individual, engaged in a wholesale business of health products. He is also a partner in XYZ & Co., a partnership firm. The following details are made available for the year ended 31.3.2017:

Sl. No.	Particulars	₹	₹
(i)	Interest on capital received from XYZ & Co., at 15%		1,50,000
(ii)	Interest from bank on fixed deposit (Net of TDS ₹ 1,500)		13,500
(iii)	Income-tax refund received relating to assessment year 2014-15 including interest of ₹ 2,300		34,500
(iv)	Net profit from wholesale business		5,60,000
	Amounts debited include the following:		
	Depreciation as per books	34,000	
	Motor car expenses	40,000	
	Municipal taxes for the shop	7,000	
	(For two half years; payment for one half year made on 12.7.2017 and for the other on 31.12.2017)		
	Salary to manager by way of a single cash payment	21,000	
(v)	The WDV of the assets (as on 1.4.2016) used in above wholesale business is as under:		
	Computers	1,20,000	
	Motor car (20% used for personal use)	3,20,000	
(vi)	LIP paid for independent son	60,000	
	PPF of his wife	70,000	

You are required to compute the total income of the Mr. Rajiv for the assessment year 2017-18 and the closing WDV of each block of assets.

Provisions concerning Advance Tax and Tax Deducted at source

12. Examine the applicability of TDS provisions and amount of tax, if any, to be deducted in the following cases:

(a) Payment of fee for technical services of ₹ 22,000 and royalty of ₹ 25,000 to Mr. Ram, who is having PAN.

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(b) Payment of ₹ 2,00,000 made to Mr. X for purchase of diaries made according to specifications of M/s ABC Ltd. However, no material was supplied for such diaries to Mr. X by M/s ABC Ltd.

(c) Rent paid for plant and machinery ₹ 1,50,000 by a partnership firm having sales turnover of ₹ 25,00,000 and net loss of ₹ 15,000.

Provisions for filing of Return of Income

13. Who are the persons authorized to verify return of income in the case of following persons:

(i) Local authority

(ii) Firm, having no managing partner

(iii) Non-resident Company

(iv) Political party

SUGGESTED ANSWERS/HINTS

1. Computation of total income of Mr. Aakash for the A.Y. 2017-18

S. No.	Particulars	Resident & ordinarily resident (₹)	Resident but not ordinarily resident (₹)	Non-Resident (₹)
1.	Interest on Canada Development Bond **(See Note 1)**	40,000	20,000	20,000
2.	Dividend from Malaysian Company received in Malaysia **(See Note 2)**	20,000	-	-
3.	Short term capital gain on sale of shares of an Indian company received in India	90,000	90,000	90,000
4.	Interest on savings bank deposit in UCO Bank, Delhi	12,000	12,000	12,000
5.	Income from profession in Malaysia (set up in India) out of which ₹ 10,000 is received in India **(See Note 1)**	15,000	15,000	10,000
6.	Agricultural income from a land in Gujarat **(See Note 3)**	-	-	-
7.	Income from house property at London **(See Note 4)**	42,000		
	Gross Total income	**2,19,000**	**1,37,000**	**1,32,000**

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	Less: Deduction under Chapter VI-A			
	Section 80TTA **(See Note 5)**	10,000	10,000	10,000
	Total Income	**2,09,000**	**1,27,000**	**1,22,000**

Notes:

(1) As per section 5(1), global income is taxable in case of a resident. However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax in India:

(i) Income received or deemed to be received in India; and

(ii) Income accruing or arising or deemed to accrue or arise in India.

Further, the income which accrues or arise outside India would be chargeable to tax in case of resident but not ordinarily resident in India, only if such income is derived from a profession set up in India.

Accordingly, the entire interest from Canada Development Bonds and income from profession in Malaysia would be chargeable to tax in the hands of Mr. Aakash, if he is a resident in India.

If he is resident but not ordinarily resident then also entire income from profession in Malaysia would be chargeable to tax in his hands, since the profession was set up in India. Interest on Canada Development Bonds would be taxable only to the extent received in India.

However, if he is non-resident then only that part of interest income and income from profession which is received in India would be taxable in his hands.

(2) Dividend received in Malaysia from a Malaysian based company would be taxable in the hands of Mr. Aakash, only if he is resident and ordinarily resident in India. If he is a resident but not ordinarily resident or a non-resident, the same would not be taxable in his hands in India since it has neither accrued or arisen in India nor is it received in India.

(3) Agricultural income from a land situated in India is exempt under section 10(1) in the case of both non-residents and residents.

(4) Likewise, rental income from property in London would also be taxable only if he is resident in India. It has been assumed that the rental income is the gross annual value of the property. Therefore, deduction @30% under section 24, has been provided and the net income so computed is taken into account for determining the gross total income of a resident and ordinarily resident.

	₹
Rent received (assumed as gross annual value)	60,000
Less: Deduction under section 24 (30% of ₹ 60,000)	18,000
Income from house property	42,000

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(5) In case of an individual, interest upto ₹ 10,000 from savings account with, *inter alia*, a bank is allowable as deduction under section 80TTA, irrespective of the residential status.

2. (a) False: As per section 10(10D)(c), any sum received under an insurance policy issued on or after 1.4.2003 but on or before 31.03.2012, in respect of which the premium payable for any year during the term of the policy exceeds 20% of actual capital sum assured, shall not be exempt from tax. Since one-time premium of ₹ 10 lakh paid by him is in excess of 20% of the sum assured (i.e. it exceeds ₹ 2.6 lakh, being 20% of ₹ 13 lakh), the amount of ₹18 lakh received from LIC is not exempt in the hands of Mr. Rahim. Further, tax is deductible @1% under section 194DA on such sum paid to Rahim, since the same is not exempt under section 10(10D) and the amount exceeds ₹ 1 lakh.

(b) True: As per section 10(18), pension received by Mr. Sinha, a former Central Government employee who is a 'Param Vir Chakra' awardee, is exempt.

(c) False: As per section 10(10BC), any amount received or receivable as compensation by an individual or his/her legal heir on account of any disaster from the Central Government, State Government or a local authority is exempt from tax. However, the exemption is not available to the extent such individual or legal heir has already been allowed a deduction under this Act on account of such loss or damage caused by such disaster.

(d) False: As per section 10(34), only income by way of dividend referred to in section 115-O shall be exempt in the hands of shareholders. Dividend distribution tax under section 115-O is not leviable on deemed dividend under section 2(22)(e) and hence, such deemed dividend is not exempt under section 10(34), in the hands of Mr. Q.

3. Computation of Total Income and tax liability of Mr. Narender for A.Y. 2017 18

Particulars	₹
Basic salary [(₹ 50,000 × 7) + (₹ 60,000 × 5)]	6,50,000
Dearness Allowance (40% of basic salary)	2,60,000
Bonus (₹ 50,000 + 40% of ₹ 50,000) (**See Note 1**)	70,000
Employers contribution to recognised provident fund in excess of 12% of salary = 4% of ₹ 6,50,000	26,000
Professional tax paid by employer (**See Note 5**)	2,000
Perquisite of Motor Car (₹ 2,400 for 5 months) (**See Note 3**)	12,000
Gross Salary	**10,20,000**
Less: Deduction under section 16	
Professional tax (**See Note 5**)	3,000

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Taxable salary/ Gross Total Income		**10,17,000**
***Less:* Deduction under Chapter VI-A**		
Deduction under section 80C (own contribution to recognised provident fund)	1,04,000	
Deduction under section 80D in respect of medical insurance premium paid by cheque amounting to ₹ 25,700 but restricted to ₹ 25,000 **(See Note-6)**	25,000	1,29,000
Total Income		**8,88,000**
Tax on total income [₹ 25,000 + (₹ 8,88,000 - ₹ 5,00,000) x 20%]		1,02,600
Add: Education cess @ 2%		2,052
Add: Secondary and higher education cess @ 1%		1,026
Total tax liability		**1,05,678**
Tax Liability (rounded off)		**1,05,680**

Notes:

1. Since bonus was paid in the month of October, the basic salary of ₹ 50,000 for the month of October is considered for its calculation.
2. As per Rule 3(7)(vii), facility of use of laptop and computer is an exempt perquisite, whether used for official or personal purpose or both.
3. As per the provisions of Rule 3(2), in case a motor car (engine cubic capacity exceeding 1.60 litres) owned by the employer is provided to the employee without chauffeur for personal as well as office use, the value of perquisite shall be ₹ 2,400 per month. The car was provided to the employee from 01.11.2016, therefore the perquisite value has been calculated for 5 months.
4. Mr. Narender can avail exemption under section 10(5) on the entire amount of ₹ 50,000 reimbursed by the employer towards Leave Travel Concession since the same was availed for himself, his wife and three children and the journey was undertaken by economy class airfare. The restriction imposed for two children is not applicable in case of multiple births which take place after the first child.

   It is assumed that the Leave Travel Concession was availed for journey within India.
5. As per section 17(2)(iv), a "perquisite" includes any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee. Therefore, professional tax of ₹ 2,000 paid by the employer is taxable as a perquisite in the hands of Mr. Narender. As per section 16(iii), a deduction from the salary is allowable on account of tax on employment i.e. professional tax paid during the year.

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Therefore, in the present case, the professional tax paid by the employer on behalf of the employee ₹ 2,000 is first included in the salary and deduction of the entire professional tax of ₹ 3,000 is provided from salary.

6. Medical insurance premium paid in cash of ₹ 4,000 is not allowable as deduction under section 80D. Further, deduction for medical insurance premium paid through cheque is restricted to ₹ 25,000, which is the maximum deduction allowable.

4. In this case, Surbhi has more than one house property for self-occupation. As per section 23(4), Surbhi can avail the benefit of self-occupation (i.e., benefit of "Nil" Annual Value) only in respect of one of the house properties, at her option. The other house property would be treated as "deemed let-out" property, in respect of which the Expected rent would be the gross annual value. Surbhi should, therefore, consider the most beneficial option while deciding which house property should be treated by her as self-occupied.

OPTION 1 [House I – Self-occupied and House II – Deemed to be let out]

If House I is opted to be self-occupied, Surbhi's income from house property for A.Y.2017-18 would be –

Particulars	Amount in ₹
House I (Self-occupied) [Annual value is Nil]	Nil
House II (Deemed to be let-out) **[See Working Note below]**	54,060
Income from house property	**54,060**

OPTION 2 [House I – Deemed to be let out and House II – Self-occupied]

If House II is opted to be self-occupied, Surbhi's income from house property for A.Y.2017-18 would be –

Particulars	Amount in ₹
House I (Deemed to be let-out) **[See Working Note below]**	70,000
House II (Self-occupied) [Annual value is Nil, but interest deduction would be available, subject to a maximum of ₹ 30,000. In case of money borrowed for **repair of self-occupied property**, the interest deduction would be restricted to ₹ 30,000, irrespective of the date of borrowal].	(30,000)
Income from house property	**40,000**

Since Option 2 is more beneficial, Surbhi should opt to treat House - II as Self-occupied and House I as Deemed to be let out, in which case, her income from house property would be ₹ 40,000 for the A.Y. 2017-18.

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Working Note:

Computation of income from House I and House II assuming that both are deemed to be let out

Particulars	Amount in Rupees	
	House I	House II
Gross Annual Value (GAV)		
Expected rent is the GAV of house property		
Expected rent= Higher of Municipal Value and Fair Rent but restricted to Standard Rent	1,00,000	1,65,000
Less: Municipal taxes (paid by the owner during the previous year)	Nil	9,200
Net Annual Value (NAV)	**1,00,000**	**1,55,800**
Less: **Deductions under section 24**		
(a) 30% of NAV	30,000	46,740
(b) Interest on borrowed capital (allowed in full in case of deemed let out property)	-	55,000
Income from deemed to be let-out house property	**70,000**	**54,060**

5. **(i)** Yes. Since his total turnover for the F.Y.2016-17 is below ₹ 200 lakhs, he is eligible to opt for presumptive taxation scheme under section 44AD in respect of his retail trade business.

(ii) His income from retail trade, applying the presumptive tax provisions under section 44AD, would be ₹ 14,20,000, being 8% of ₹ 1,77,50,000.

[If it is assumed that Mr. Prakash has received whole of the amount of turnover by account payee cheque or account payee bank draft or use of electronic clearing system though a bank account, his income from retail trade, applying the presumptive taxation provisions, would be ₹ 10,65,000, being 6% of ₹ 1,77,50,000].

(iii) Section 44AB makes it obligatory for every person carrying on business to get his accounts of any previous year audited if his total sales, turnover or gross receipts exceed ₹ 1 crore. However, if an eligible person opts for presumptive taxation scheme as per section 44AD(1), he shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed ₹ 2 crore. The CBDT, has vide its Press Release dated 20th June, 2016, clarified that the higher threshold for non-audit of accounts has been given only to assessees opting for presumptive taxation scheme under section 44AD.

In this case, if Mr. Prakash does not opt for the presumptive taxation scheme under section 44AD, he has to get his books of accounts audited and furnish a report of

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such audit under section 44AB, since his turnover exceeds ₹ 1 crore during the P.Y.2016-17.

(iv) In case he opts for the presumptive taxation scheme under section 44AD, the due date would be 31st July, 2017.

In case he does not opt for the presumptive taxation scheme, he is required to get his books of account audited, in which case the due date for filing of return would be 30th September, 2017.

6. Computation of total income of Mr. Mittal for the A.Y.2017-18

Particulars	₹	₹
Capital Gains:		
Sale price of the residential house	34,00,000	
Valuation as per Stamp Valuation authority	43,00,000	
(Value to be taken is the higher of actual sale price or valuation adopted for stamp duty purpose as per section 50C)		
Therefore, Consideration for the purpose of Capital Gains	43,00,000	
Less: Indexed Cost of Acquisition		
₹ 5,00,000 x 1125/244	23,05,328	
	19,94,672	
Less: Exemption under section 54 ₹ 10,00,000		
Exemption under section 54EC ₹ 5,00,000	15,00,000	
Long-term capital gains		4,94,672
Income from other sources:		
Interest on bank fixed deposits		32,000
Gross Total Income		**5,26,672**
Less: Deduction under Chapter VI-A		
Section 80C – Deposit in PPF (restricted to ₹ 32,000) **[See Note (ii)]**		32,000
Total Income		**4,94,672**

Computation of Tax liability of Mr. Mittal for A.Y. 2017-18

Particulars	₹
Tax on ₹ 2,44,672 @ 20% [i.e. long term capital gain less basic exemption limit (₹ 4,94,672- ₹ 2,50,000)] **[See Note (i)]**	48,934

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Less: Rebate u/s 87A	5,000
	43,934
Add: Education Cess@2% & SHEC @ 1%	1,318
Tax Payable	**45,252**
Tax Payable (Rounded off)	**45,250**

Notes:

(i) The basic exemption limit of ₹ 2,50,000 can be adjusted against long term capital gains.

(ii) Deduction under section 80C should be restricted to gross total income excluding long term capital gain.

7. Computation of "Income from other sources" of Mr. Krishna for theA.Y.2017-18

	Particulars	₹
(1)	Cash gift is taxable under section 56(2)(vii), since it exceeds ₹ 50,000	70,000
(2)	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds ₹ 50,000	51,000
(3)	Stamp value of plot of land at Ghaziabad, received without consideration, is taxable under section 56(2)(vii)	5,00,000
(4)	Difference of ₹ 2 lakh in the value of shares of ABC Ltd. purchased from Mr. Pankaj, a dealer in shares, is not taxable as it represents the stock-in-trade of Mr. Krishna. Since Mr. Krishna is a dealer in shares and it has been mentioned that the shares were subsequently sold in the course of his business, such shares represent the stock-in-trade of Mr. Krishna.	-
(5)	Difference between the stamp duty value of ₹ 23 lakh on the date of booking and the actual consideration of ₹ 20 lakh paid is taxable under section 56(2)(vii) **[See Note (i)].**	3,00,000
Income from Other Sources		**9,21,000**

Computation of "Capital Gains" of Mr. Krishna for the A.Y.2017-18

Particulars	₹
Sale Consideration	7,00,000
Less: Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(vii) as per section 49(4)] **[See Note (ii)]**	5,00,000
Short-term capital gains	**2,00,000**

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Notes:

(i) As per the first and second proviso to section 56(2)(vii)(b), the stamp duty value may be taken as on the date of agreement instead of the date of registration, if the date of the agreement fixing the amount of consideration for the transfer of the immovable property and the date of registration are not the same, provided at least a part of the consideration has been paid by any mode other than cash on or before the date of agreement.

Since Mr. Krishna had paid ₹ 1 lakh by account payee cheque, the difference between the stamp duty value on the date of agreement and the consideration would be chargeable to tax under the head "Income from other sources".

(ii) The resultant capital gains on sale of plot of land at Ghaziabad will be short-term capital gains, since for calculating the period of holding in a case covered under section 49(4), the period of holding of previous owner is not to be considered.

8. In the given case, Mr. Kabir gifted a sum of ₹ 9 lakhs to his brother's minor son on 20.5.2016 and simultaneously, his brother gifted debentures worth ₹ 10 lakhs to Mr. Kabir's wife on 25.5.2016. Mr. Kabir's brother's minor son invested the gifted amount of ₹ 9 lakhs in fixed deposit with Bank of India.

These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted[2].

As per section 64(1A), all income of a minor child is includible in the hands of the parent, whose total income, before including minor's income is higher. Accordingly, the interest income arising to Mr. Kabir's brother's son from fixed deposits would be included in the total income of Mr. Kabir's brother, assuming that Mr. Kabir's brother's total income is higher than his wife's total income, before including minor's income. Mr. Kabir's brother can claim exemption of ₹ 1,500 under section 10(32).

Interest on debentures arising in the hands of Mrs. Kabir would be taxable in the hands of Mr. Kabir as per section 64(1)(iv).

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[2] It was so held by the Apex Court in *CIT vs. Keshavji Morarji (1967) 66 ITR 142.*

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This is because both Mr. Kabir and his brother are the indirect transferors of the income to their spouse and minor son, respectively, with an intention to reduce their burden of taxation.

In the hands of Mr. Kabir, interest received by his spouse on debentures of ₹ 9 lakhs alone would be included and not the entire interest income on the debentures of ₹ 10 lakhs, since the cross transfer is only to the extent of ₹ 9 lakhs.

Hence, only proportional interest (i.e., 9/10th of interest on debentures received) ₹ 72,900 would be includible in the hands of Mr. Kabir.

The provisions of section 56(2)(vii) are not attracted in respect of sum of money transferred or value of debentures transferred, since in both the cases, the transfer is from a relative.

9. Computation of total income of Mr. Virat for the A.Y.2017-18

Particulars	₹	₹
Salaries		
Income from Salary	2,50,000	
Less: Loss from house property set-off against salary income as per section 71(1)	1,50,000	1,00,000
Profits and gains of business or profession		
Income from trading business	45,000	
Less: Brought forward loss from trading business of A.Y. 2013-14 can be set off against current year income from trading business as per section 72(1), since the eight year time limit as specified under section 72(3), within which set-off is permitted, has not expired.	5,000	40,000
Income from speculative business X	5,000	
Less: Loss from speculative business Y set-off as per section 73(1)	25,000	
[Loss from speculative business Y to be carried forward to A.Y.2018-19 as per section 73(2)]	20,000	
Loss from specified business covered under section 35AD to be carried forward for set-off against income from specified business as per section 73A.	20,000	
Capital Gains		
Long term capital gain on sale of urban land	2,00,000	
Less: Long term capital loss on sale of shares (STT not paid) set-off as per section 74(1)]	75,000	1,25,000
Long-term capital loss of ₹ 82,000 on sale of listed shares on		

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which STT is paid cannot be set-off against long-term capital gain on sale of urban land since loss from an exempt source cannot be set-off against profit from a taxable source.		
Total Income		**2,65,000**

Losses eligible for carried forward to A.Y.2018-19

Particulars	₹
Loss from speculative business Y Loss from speculative business can be set-off only against profits from any other speculation business. As per section 73(2), balance loss not set-off can be carried forward to the next year for set-off against speculative business income of that year. Such loss can be carried forward for a maximum of four assessment years i.e., upto A.Y.2021-22, in this case, as specified under section 73(4).	20,000
Loss from specified business Loss from specified business under section 35AD can be set-off only against profits of any other specified business. If loss cannot be so set-off, the same has to be carried forward to the subsequent year for set off against income from specified business, if any, in that year. As per section 73A(2), such loss can be carried forward indefinitely for set-off against profits of any specified business .	20,000
Loss from the activity of owning and maintaining race horses Losses from the activity of owning and maintaining race horses (current year or brought forward) can be set-off only against income from the activity of owning and maintaining race horses. If it cannot be so set-off, it has to be carried forward to the next year for set-off against income from the activity of owning and maintaining race horses, if any, in that year. It can be carried forward for a maximum of four assessment years, i.e., upto A.Y.2020-21, in this case as specified under section 74A(3).	2,000

10. Computation of Total Income of Mr. Shiva for A.Y. 2017-18

Particulars	₹	₹
Gross Total Income		**7,75,000**
***Less:* Deduction under section 80C**		
Life insurance premium paid for insurance of major daughter (Maximum 10% of the assured value ₹ 1,80,000, as the policy is taken after 31.3.2012)	18,000	
Deduction under section 80CCC		
LIC pension fund	60,000	

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Deduction under section 80D		
Medical Insurance premium in respect of self and spouse (Since Mr. Shiva is a senior citizen, he is eligible for deduction of actual premium paid subject to a maximum of ₹ 30,000)	26,000	
Deduction under section 80G (See Working Note below)	91,050	1,95,050
Total income		**5,79,950**

Working Note:

Computation of deduction under section 80G

	Particulars of donation	Amount donated (₹)	% of deduction	Deduction u/s 80G (₹)
(i)	National Children's Fund	25,000	100%	25,000
(ii)	Jawaharlal Nehru Memorial Fund	25,000	50%	12,500
(iii)	Approved institution for promotion of family planning	40,000	100%, subject to qualifying limit	40,000
(iv)	Public Charitable Institution	1,50,000	50% subject to qualifying limit **(See Note below)**	13,550
				91,050

Note - Adjusted total income = Gross Total Income – Amount of deductions under section 80C to 80U except section 80G i.e., ₹ 6,71,000 (₹ 7,75,000 – ₹ 18,000 – ₹ 60,000 – ₹ 26,000), in this case.

₹ 67,100, being 10% of adjusted total income is the qualifying limit, in this case.

Firstly, donation of ₹ 40,000 to approved institution for family planning qualifying for 100% deduction subject to qualifying limit, has to be adjusted against this amount. Thereafter, donation to public charitable trust qualifying for 50% deduction, subject to qualifying limit is adjusted. Hence, the contribution of ₹ 1,50,000 to public charitable trust is restricted to ₹ 27,100 (being, ₹ 67,100 - ₹ 40,000), 50% of which would be allowed as deduction under section 80G. Therefore, the deduction under section 80G in respect of donation to public charitable trust would be ₹ 13,550, which is 50% of ₹ 27,100.

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11. Computation of total income of Mr. Rajiv for the A.Y.2017-18

Particulars	₹	₹
Profits and gains of business or profession		
Income from wholesale business		
Net profit as per books		5,60,000
Add: Depreciation as per books	34,000	
Disallowance of municipal taxes paid for the second half-year under section 43B, since the same was paid after the due date of filing of return (₹ 7,000/2)	3,500	
Disallowance under section 40A(3) in respect of salary paid in cash since the same exceeds ₹ 20,000	21,000	
20% of car expenses for personal use	8,000	66,500
		6,26,500
Less: Depreciation allowable **(Note 1)**		1,10,400
		5,16,100
Income from firm		
Interest on capital from partnership firm **(Note 2)**		1,20,000
		6,36,100
Income from other sources		
Interest on bank fixed deposit (Gross)	15,000	
Interest on income-tax refund	2,300	17,300
Gross total income		**6,53,400**
Less: Deduction under Chapter VIA **(Note 3)**		1,30,000
Total Income		**5,23,400**

Notes:

(1) **Depreciation allowable under the Income-tax Rules, 1962**

		Opening WDV	Rate		Depre-ciation	Closing WDV
Block 1	Computers	1,20,000	60%		72,000	48,000
Block 2	Motor Car	3,20,000	15%	48,000		
	Less: 20% disallowance for personal use			9,600	38,400	2,81,600
					1,10,400	

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(2) Only to the extent the interest is allowed as deduction in the hands of the firm, the same is includible as business income in the hands of the partner. Maximum interest allowable as deduction in the hands of the firm is 12% p.a. It is assumed that the partnership deed provides for the same and hence is allowable to this extent in the hands of the firm. Therefore, interest @12% p.a. amounting to ₹ 1,20,000 would be treated as the business income of Mr. Rajiv.

(3) **Deduction under Chapter VI-A**

Particulars	₹	₹
Under section 80C		
LIP for independent son	60,000	
PPF paid in wife's name	70,000	
	1,30,000	
Since the maximum deduction under section 80C and 80CCE is ₹ 1,50,000, the entire sum of ₹ 1,30,000 would be allowed as deduction		1,30,000
Total deduction		**1,30,000**

12. (a) As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 30,000 during the financial year. In the given case, since, the individual payments for fee of technical services i.e. ₹ 22,000 and royalty ₹ 25,000 is less than ₹ 30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during the year to Mr. Ram.

(b) According to section 194C, the definition of "work" does not include the manufacturing or supply of product according to the specification by customer in case the material is purchased from a person other than the customer.

Therefore, there is no liability to deduct tax at source in respect of payment of ₹ 2,00,000to Mr. X, since the contract is a contract for 'sale'.

(c) As per section 194-I, tax is to be deducted @ 2% on payment of rent for plant and machinery, only if the payment exceeds ₹ 1,80,000 during the financial year. Since rent of ₹ 1,50,000 paid by a partnership firm does not exceed ₹ 1,80,000, tax is not deductible.

13. Return of income to be verified by whom

	Person	Return of income to be verified by
(i)	Local authority	The principal officer
(ii)	Firm, having no managing partner	Any partner of the firm, not being a minor
(iii)	Non-resident Company	A person who holds a valid power of attorney from such company to do so
(iv)	Political party	Chief executive officer of such party

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Section B: Indirect Taxes

QUESTIONS

Computation of excise duty

1. **"**Apni Rasoi" is a leading manufacturer of pressure cookers. Legal Metrology Act, 2009 requires declaration of retail sale price on the package of pressure cookers and pressure cookers are also notified under section 4A of Central Excise Act, 1944 [Retail Sale Price (RSP) based valuation] with notified rate of abatement of 25%.

   Calculate excise duty payable on 50 pieces cleared during April, 2017 using the following information furnished by Apni Rasoi assuming the rate of excise duty as 12.5%.

No. of pieces sold	Particulars
10	RSPs printed on the package of pressure cooker are ₹ 4,500 and ₹ 3,800.
20	RSP printed on the package of 15 pieces sold in Delhi is ₹ 3,000 per piece RSP printed on the package of 5 pieces sold in Haryana is ₹ 2,800 per piece
20	RSP printed on the date of removal of package from factory is ₹ 3500 per unit. However, after removal from factory RSP is increased to ₹ 4,100 per piece

   Would the provisions of section 4A of Central Excise Act, 1944 apply had the goods not been notified by Central Government and manufacturer voluntarily affixed RSP on the products?

Computation of customs duty

2. Shiv Importers imports a carton of goods from China on 10.01.2017 containing 10,000 pieces valued at ₹ 2,00,000 (assessable value in terms of section 14 of the Customs Act, 1962). On the said product, customs duty @ 10% and excise duty @ 12.5% *ad valorem* is leviable.

   Similar products in India are assessable under section 4A of Central Excise Act 1944, after allowing an abatement of 30%. MRP printed on package at the time of import is ₹ 50 per piece. Special CVD under section 3(5) of the Customs Tariff Act, 1975 is also applicable on such goods. Determine the total customs duties payable on the imported goods.

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Applicability of central sales tax

3. Briefly explain whether central sales tax will be applicable:

   (i) when goods are sent by dealer outside the State to his other place of business.

   (ii) if at the time of stock transfer outside the State, dealer has an order for such sale in hand.

Computation of VAT liability

4. Mr. Kedar of Kolkata purchased goods from Mr. Badri of Kolkata amounting to ₹ 8,55,000 including VAT @ 12.50% in the month of January, 2017. He incurred ₹ 1,00,000 as manufacturing & other expenses and added profit @ 25% on cost.

   Mr. Kedar sold 80% of the goods to Mr. Vishal of Kolkata and charged VAT @ 12.50% on 02.02.2017. Remaining 20% of the goods were transferred to his branch in Manipur on 05.02.2017.

   Compute the net VAT payable and input tax credit, if any, for the month of February, 2017 by assuming input output ratio to be 1:1.

Basic concepts of service tax

5. Shambhu & Co. is a consultancy firm based in New Delhi. It has two branch offices at Mumbai and Singapore. Services are provided by Mumbai branch to Head Office at New Delhi and by Head Office at New Delhi to Singapore branch. Explain which of the activities will constitute 'service' under service tax law?

Point of taxation

6. Vasudev Ltd. provided business support services to Kailash on 10th March, 2017 for ₹ 50,000. The invoice for the same was issued on 20th March, 2017. Vasudev Ltd. received the payment against the said invoice on 15th March, 2017 vide cheque dated 12th March, 2017. The entry for the receipt of payment was made in the books of accounts on 15th March, 2017 itself. However, the amount was credited in the bank A/c on 25th March, 2017.

   Determine the point of taxation in the given case.

Payment of service tax at special rates

7. Compute the service tax liability of Mr. Govind, an air travel agent, for the quarter ended March 31, 2017 using the following details:

Particulars	₹
Basic air fare collected for domestic booking of tickets	40,00,000
Basic air fare collected for international booking of tickets	60,00,000
Commission received from the airlines on the sale of domestic and international tickets	5,00,000

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In the above case, would the service tax liability of Mr. Govind be reduced if he opts for the special provision for payment of service tax as provided under rule 6 of the Service Tax Rules, 1994 instead of paying service tax at normal rates?

Notes:

1. Mr. Govind is not eligible for the small service providers' exemption under *Notification No. 33/2012 ST dated 20.06.2012*.
2. Service tax and cesses have been charged separately.

Computation of service tax liability

8. Compute the service tax including SBC and KKC payable on the services provided in each of the following independent cases:

Services	₹
Sale of space for advertisement in a leading newspaper	2,15,000
Services related to preparation of advertisement	60,000
Sale of space for advertisements on internet websites	40,000
Sale of time for advertisement to be broadcast on TV Channel	1,50,000
Advertising in business directories	30,000
Advertising on film screen in theatres	1,00,000

Note: All the amounts stated above are exclusive of service tax and cesses. Ignore exemption available to small service providers.

Exemptions under service tax

9. Shri Balaji Hospital has received the following amounts in the month of April, 2017 in lieu of various services rendered by it in the same month. You are required to determine its service tax liability for April, 2017 from the details furnished below:

S. No.	Particulars	₹ (in lakh)
(i)	Services provided by cord blood bank unit of the nursing home by way of preservation of stem cells	24
(ii)	Hair transplant services	100
(iii)	Naturopathy treatments. Such treatment is a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010	80
(iv)	Plastic surgery to restore anatomy of a child affected due to an accident.	30

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(v)	Pranic healing treatments. Such treatment is not a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010	120
(vi)	Mortuary services	10

Shri Balaji Hospital does not have its own ambulances so it avails ambulance services from Safety Unit, an ambulance service provider, to transport critically ill patients from various locations to the Hospital. Examine whether Safety Unit would be charging any service tax from Shri Balaji Hospital on the services provided by them.

Note: All the amounts given above are exclusive of service tax and cesses. Further, Shri Balaji Hospital is not eligible for the small service provider's exemption under *Notification No. 33/2012-ST dated 20.06.2012.* Point of taxation for the services rendered by Shri Balaji Hospital in the month of April, 2017 fall in the month of April itself.

Service Tax Procedures

10. Mr. A, a Delhi resident, submits a cab request to Safe and Swift Cabs for travelling from Delhi to Noida. Safe and Swift Cabs is a mobile application owned and managed by Safe and Swift Technologies Ltd. located in India. The application facilitates a potential customer to connect with persons providing cab service under the brand name of Safe and Swift Cabs. After Mr. A pays the cab charges using his debit card, he gets details of the driver, Mr. X and the cab's registration number.

    With reference to the Service Tax Rules, 1994, discuss who is liable to pay service tax in this case. Will your answer be different, if Safe and Swift Technologies Ltd. is located in London and does not have a representative in India?

Interest on delayed payment of service tax

11. Compute the interest payable on delayed payment of service tax by service provider where service tax has not been collected from service receivers in following cases:

Name of the service provider	LMN Ltd.	Hari
Service tax liability	₹ 1,00,000	₹ 2,00,000
Delay in payment of service tax	10 days	20 days

Aggregate value of taxable services rendered in preceding financial year by LMN Ltd. was ₹ 35,00,000 and by Hari was ₹ 70,00,000.

CENVAT credit

12. Ram Pvt. Ltd. manufactures rubber slippers. Compute the CENVAT credit available with Ram Pvt. Ltd. in respect of the following goods/services procured by it:

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S. No.	Particulars	Excise duty paid (₹)	Service tax paid (including SBC & KKC) (₹)
(i)	Machine for manufacture of rubber soles	10,00,000	
(ii)	Rubber sheets for manufacture of slippers	5,00,000	
(iii)	Adhesives	50,000	
(iv)	Club Membership fee of employees		1,00,000
(v)	Expenses incurred on advertising the slippers on television		6,00,000

Note: Ram Pvt. Ltd. is not entitled to SSI exemption under *Notification No. 8/2003 CE dated 01.03.2003.*

SUGGESTED ANSWERS/HINTS

1. Since Legal Metrology Act, 2009 requires declaration of retail sale price on the package of pressure cooker and pressure cookers are also notified under section 4A of Central Excise Act, 1944 (RSP based valuation provisions), excise duty will be payable on the basis of RSP less abatement.

Particulars	₹	₹
RSP of 10 pieces (10 × ₹4,500) (Note-1)	45,000	
Less: Abatement @ 25%	11,250	
Assessable value (A)		33,750
RSP of 15 pieces sold in Delhi (15 × ₹ 3,000) (Note-2)	45,000	
Less: Abatement @ 25%	11,250	
Assessable value (B)		33,750
RSP of 5 pieces sold in Haryana (5 × ₹ 2,800) (Note 2)	14,000	
Less: Abatement @ 25%	3,500	
Assessable value (C)		10,500
RSP of 20 pieces (20 × ₹ 4,100) (Note-3)	82,000	
Less: Abatement @ 25%	20,500	
Assessable value (D)		61,500
Total assessable value (A) +(B)+(C)+(D)		1,39,500
Excise duty @ 12.5% [12.5% of ₹ 1,39,500]		17,437.50
Total excise duty payable (rounded off)		**17,438**

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Notes:

1. Where more than one RSP is declared on the package of excisable goods, the maximum of such price will be deemed to be the RSP.
2. If different RSPs on different packages are declared for different areas, each such RSP is deemed to be the RSP.
3. If RSP on the package is increased after removal from factory, increased RSP would be deemed to be the RSP.

All goods on which RSP has been declared will not be covered under the provisions of section 4A. Only when the declaration of RSP on the goods is mandatory under the Legal Metrology Act, 2009 or under any other law and such goods have been notified by the Central Government for the purpose of section 4A, then the goods be valued under section 4A. Thus, provisions of section 4A of Central Excise Act, 1944 would not apply if the goods had not been notified by Central Government and manufacturer voluntarily affixed RSP on the products.

2. Computation of customs duty payable

Particulars		₹
Assessable value (A)	(A)	2,00,000.00
Basic customs duty @ 10% of (A)	(B)	20,000.00
CVD [Refer note below]	(C)	43,750.00
Education cesses of customs @ 3% on [(B) + (C)]	(D)	1,912.50
Value for computing special CVD [(A) + (B) + (C) + (D)]	(E)	2,65,662.50
Special CVD @ 4% on (E) (rounded off)	(F)	10,626.50
Total custom duty payable [(B) + (C) + (D) + (F)] [Rounded off]		**76,289**

Note: If imported goods are similar to goods covered under section 4A of the Central Excise Act, 1944, CVD is payable on basis of MRP printed on the package less abatement, as permissible. Therefore, CVD is computed as under:

Particulars	₹
Maximum retail price [10,000 pieces × ₹ 50]	5,00,000
Less: Abatement @ 30%	1,50,000
Assessable value for CVD	3,50,000
CVD @ 12.5% of ₹ 3,50,000	43,750

3. (i) When the goods are sent by dealer outside the State to his other place of business, such movement of goods is an inter-State stock transfer and is not liable to central sales tax. The burden to prove that the inter-State movement of goods is stock

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transfer, lies on the dealer and not on the Department. For this purpose, the dealer has to submit a declaration obtained from his other place of business in Form F.

(ii) If at the time of stock transfer outside the State, the dealer has an order for such sale in hand; movement of such goods shall be deemed to have been occasioned as a result of sale. Therefore, such inter-State sale of goods will be liable to central sales tax.

4. Computation of Net VAT payable and input tax credit

Particulars	₹
Output VAT	
Purchases of raw material [excluding VAT of ₹ 95,000 (₹ 8,55,000 × 12.5/112.5)]	7,60,000
Manufacturing and other expenses	1,00,000
Cost of production	8,60,000
Cost of goods sold [80% of ₹ 8,60,000]	6,88,000
Add: Profit @ 25% on the cost of goods sold	1,72,000
Sale price	8,60,000
Output VAT payable @ 12.5% **(A)**	1,07,500
Input VAT	
Input tax credit on raw materials used in manufacture of finished goods that are sold [₹ 95,000 x 80%]	76,000
Input tax credit on raw materials used in manufacture of finished goods that are stock transferred to Manipur [₹ 7,60,000 × 20% × (12.5 – 2) %] (In case of inter-State stock transfer of finished goods, input tax paid on inputs used in manufacture of such finished goods in excess of 2% is available as input tax credit.)	15,960
Total input tax credit (B)	**91,960**
Net VAT payable (A) – (B)	**15,540**

5. As per section 65B(44) of Finance Act, 1994, a service is an activity carried out by one person for another person in lieu of a consideration. Further, Explanation 3 to section 65B(44) provides inter alia that an establishment of a person located in taxable territory and another establishment of such person located in non-taxable territory are treated as establishments of distinct persons. Also, as per explanation 4 to the said section, a person carrying on a business through a branch in any territory is treated as having an establishment in that territory.

Therefore, services provided by Mumbai branch to Head Office at New Delhi will not be 'service' in terms of section 65B(44) since both the establishments namely, Branch office

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and Head office are located in the taxable territory and are thus, one and the same person. However, when services are provided by Head Office at New Delhi to Singapore branch (located in non-taxable territory), the two establishments are treated as establishments of distinct persons and thus, the services provided in this case will constitute 'service' under service tax law.

6. In the given case, since the invoice is issued within the prescribed period of 30 days from the date of completion of provision of service, the point of taxation, as per rule 3 of the Point of Taxation Rules, 2011 shall be the:

(a) date of invoice (i.e. 20.03.2017)

or

(b) date of receipt of payment (i.e. 15.03.2017) [Refer note below]

whichever is earlier, i.e. 15.03.2017.

Note: Date of payment is:

(1) date on which the payment is entered in the books of account (i.e. 15.03.2017)

or

(2) date on which the payment is credited to the bank account of the person liable to pay tax (i.e. 25.03.2017)

whichever is earlier, i.e. 15.03.2017 [Rule 2A of the Point of Taxation Rules, 2011].

7. As per rule 6 of the Service Tax (Determination of Value) Rules, 2006, only the commission received by the air travel agent from the airlines is included in the value of taxable service. The air fare collected by the air travel agent in respect of the service provided by him does not form part of the value of taxable service. Accordingly, the service tax liability of Mr. Govind would be computed as under:

Particulars	₹
Basic air fare collected for domestic booking of tickets	Nil
Basic air fare collected for international booking of tickets	Nil
Commission received from the airlines on the sale of domestic and international tickets	5,00,000
Value of taxable service	5,00,000
Service tax @ 14%	70,000
Add: Swachh Bharat Cess (SBC) @ 0.5% (₹ 5,00,000 x 0.5%)	2,500
Add: Krishi Kalyan Cess (KKC) @ 0.5% (₹ 5,00,000 x 0.5%)	2,500
Service tax payable (including SBC & KKC)	**75,000**

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However, if Mr. Govind opts for the special provision for payment of service tax as provided under rule 6 of the Service Tax Rules, 1994, service tax liability would be computed as under:

Particulars	₹
0.7% of the basic air fare collected for domestic booking of tickets [₹ 40,00,000 × 0.7%]	28,000
1.4% of the basic air fare collected for international booking of tickets [₹ 60,00,000 × 1.4%]	84,000
Service tax	1,12,000
Add: Swachh Bharat Cess (SBC) @ 0.5% (₹ 1,12,000 x $\frac{0.5}{14}$)	4,000
Add: Krishi Kalyan Cess (KKC) @ 0.5% (₹ 1,12,000 x $\frac{0.5}{14}$)	4,000
Service tax payable (including SBC & KKC)	**1,20,000**

Therefore, as can be seen from the above two computations of service tax, the service tax liability of Mr. Govind would not be reduced in the aforesaid option.

8. As per section 66D(g) of the Finance Act, 1994, selling of space for advertisements in print media is included in the negative list of services. In other words, advertisement in all media except print media is liable to service tax. Therefore, sale of space for advertisements on internet websites, sale of time for advertisement to be broadcast on TV Channel and advertising on film screen in theatres are liable to service tax.

Further, definition of print media specifically excludes business directories. Therefore, advertising in business directories attracts service tax.

Services related to preparation of advertisement are liable to service tax as they are not included in the negative list.

Computation of service tax payable

Services	Value of service ₹	Service tax @ 15% (including SBC & KKC) (₹)
Sale of space for advertisement in a leading newspaper	2,15,000	Nil
Services related to preparation of advertisement	60,000	9,000
Sale of space for advertisements on internet websites	40,000	6,000

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Sale of time for advertisement to be broadcast on TV Channel	1,50,000	22,500
Advertising in business directories	30,000	4,500
Advertising on film screen in theatres	1,00,000	15,000

9. Computation of service tax liability of Shri Balaji Hospital for the month of April, 2017

Particulars	**₹ (in lakh)**
Services provided by cord blood bank by way of preservation of stem cells [Note-2]	-
Hair transplant services [Note-1(a)]	1,00
Naturopathy treatments [Note-1(b)]	-
Plastic surgery to restore anatomy of a child affected due to an accident [Note-1(c)]	-
Pranic healing treatments [Note-1(d)]	1,20
Mortuary services [Note 3]	-
Value of taxable service	2,20
Service tax @ 14% [₹ 2,20,00,000 × 14%]	30.8
Add: SBC @ 0.5% (₹ 2,20,00,000 x 0.5%)	1.1
KKC @ 0.5% (₹ 2,20,00,000 x 0.5%)	1.1
Service tax liability (including SBC & KKC)	**33**

Notes:

(1) Health care services provided by, inter alia, a clinical establishment in any recognized system of medicines in India is exempt from service tax vide Mega Exemption *Notification No. 25/2012 ST dated 20.06.2012*.

(a) Hair transplant services are specifically excluded from the health care services, and thus are not eligible for exemption.

(b) Since naturopathy is a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010, it would be eligible for exemption.

(c) Health care service does not include *inter alia* cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma. Hence, plastic surgery to restore anatomy of a child affected due to an accident will be eligible for exemption.

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(d) Since pranic healing treatment is not a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010, it would not be eligible for exemption.

(2) Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are also exempt from service tax vide Mega Exemption *Notification No. 25/2012 ST dated 20.06.2012*.

(3) Mortuary services are covered under negative list of services under section 66D of the Finance Act, 1994. Hence, the same are not liable to service tax.

Services by way of transportation of the patient to and from a clinical establishment are specifically included in the definition of health care services. Thus, ambulance services to transport critically ill patients from various locations to Shri Balaji Hospital are eligible for exemption. Furthermore, ambulance services provided by an entity which is not a clinical establishment or an authorised medical practitioner or paramedics are also exempt from service tax vide a separate entry in the Mega Exemption *Notification No. 25/2012 ST dated 20.06.2012*. Therefore, ambulance services provided by Safety Unit will also be exempt from service tax. Thus, Safety Unit will not charge any service tax from Shri Balaji Hospital on the ambulance services rendered by them.

10. Aggregator means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator. In relation to service provided by a person involving an aggregator in any manner, the aggregator of the service is the person liable for paying service tax.

Since in the given case, Safe and Swift Technologies Ltd. fulfills all the conditions of being an aggregator, it will be liable to pay service tax under reverse charge.

However, where the aggregator neither has a physical presence nor does it have a representative for any purpose in the taxable territory, it will have to appoint a person in the taxable territory for the purpose of paying service tax and such person will be the person liable for paying service tax. Therefore, Safe and Swift Technologies Ltd. will have to appoint a person in India for the purpose of paying service tax if Safe and Swift Technologies Ltd. is located in London and does not have a representative in India.

11. Computation of interest on delayed payment of service tax

Name of the service provider	LMN Ltd.	Hari
Service tax liability	₹ 1,00,000	₹ 2,00,000
Delay in payment of service tax	10 days	20 days
Value of taxable services in previous financial year	₹ 35,00,000	₹ 70,00,000
Rate of interest	12% per annum	15% per annum

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Interest (rounded off)	[₹ 1,00,000 × (12/100) × (10/365)] =₹ 329 (rounded off)	[₹ 2,00,000 × (15/100) × (20/365)] =₹ 1,644 (rounded off)

Note: As per section 75 of Finance Act, 1994 read with *Notification No. 13/2016 ST dated 01.03.2016,* in case of collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due, the simple interest @ 24% p.a. is payable.

However, in all other cases, 15% simple interest p.a. is payable. Since in the above case, service tax has not been collected, so simple interest @ 15% p.a. is payable.

Further, the applicable rate gets reduced by 3% for service providers whose turnover of services does not exceed ₹ 60 lakh in the preceding financial year.

12. Computation of CENVAT credit available with Ram Pvt. Ltd.

Particulars	₹
Machine for manufacture of rubber soles [Note 1]	5,00,000
Rubber sheets for manufacture of slippers [Note 2]	5,00,000
Adhesives [Note 2]	50,000
Club membership fee of employees [Note 3]	Nil
Expenses incurred on advertising the slippers on television [Note 4]	5,60,000
Total CENVAT credit available	**16,10,000**

Notes:

1. Since Ram Pvt. Ltd. is not a SSI unit, CENVAT credit of only upto 50% of the excise duty paid is available in respect of the eligible capital goods, in the year of purchase [Rule 4 of CENVAT Credit Rules, 2004 (CCR)].
2. Raw material (rubber sheets) and consumables (adhesives) are eligible inputs.
3. Services used primarily for personal use or consumption of any employee are excluded from the definition of input service.
4. Advertising service is an eligible input service. Credit of SBC is not available since it is not CENVATable. Further, since Ram Pvt. Ltd. is a manufacturer, credit of KKC is also not available. So, credit of only service tax @ 14% is allowed.

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