

## PAPER – 4 : TAXATION

### PART – I : STATUTORY UPDATES

#### A : INCOME TAX

Significant Notifications & Circulars Issued between 1.05.2012 and 31.10.2012

#### NOTIFICATIONS

1. Notification No. 38/2012 dated 17.09.2012

**Notification of Cost Inflation Index for F.Y.2012-13**

Clause (v) of *Explanation* to section 48 defines "Cost Inflation Index", in relation to a previous year, to mean such Index as the Central Government may, by notification in the Official Gazette, specify in this behalf, having regard to 75% of average rise in the Consumer Price Index for urban non-manual employees.

Accordingly, the Central Government has, in exercise of the powers conferred by clause (v) of *Explanation* to section 48, specified the Cost Inflation Index for the financial year 2012-13 as 852.

S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100
2.	1982-83	109
3.	1983-84	116
4.	1984-85	125
5.	1985-86	133
6.	1986-87	140
7.	1987-88	150
8.	1988-89	161
9.	1989-90	172
10.	1990-91	182
11.	1991-92	199
12.	1992-93	223
13.	1993-94	244
14.	1994-95	259
15.	1995-96	281

16.	1996-97	305
17.	1997-98	331
18.	1998-99	351
19.	1999-2000	389
20.	2000-01	406
21.	2001-02	426
22.	2002-03	447
23.	2003-04	463
24.	2004-05	480
25.	2005-06	497
26.	2006-07	519
27.	2007-08	551
28.	2008-09	582
29.	2009-10	632
30.	2010-11	711
31.	2011-12	785
32.	2012-13	852

**2. Notification No. 40/2012 dated 20.09.2012**

**Investment in debt instruments issued by any infrastructure Finance Company registered with the Reserve Bank of India is an approved investment under section 11(5)**

Section 11(5) provides the permitted modes of investment by a charitable trust or institution for claiming exemption under section 11. Clause (xii) of section 11(5) specifies that investment can be made by any other mode as may be prescribed. Rule 17C of the Income-tax Rules, 1962 specifies such other modes of investment.

In exercise of the powers conferred by section 295 and section 11(5)(xii), the Central Government has, through this notification, inserted a new clause (viii) in Rule 17C of the Income-tax Rules, 1962 to provide that investment in debt instruments issued by any infrastructure finance company registered with the Reserve Bank of India is also a permitted mode of investment under section 11(5).

**CIRCULARS****1. Circular No. 5/2012 dated 1-8-2012****Inadmissibility of expenses incurred in providing freebees to medical practitioner by pharmaceutical and allied health sector industry**

Section 37(1) provides for deduction of any revenue expenditure (other than those falling under sections 30 to 36) from the business income if such expense is laid out or expended wholly or exclusively for the purpose of business or profession. However, the *Explanation* below section 37(1) denies claim of any such expenses, if the same has been incurred for a purpose which is either an offence or prohibited by law.

The Central Board of Direct Taxes, has clarified that considering the fact that the claim of any expense incurred in providing freebees to medical practitioner is in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, the expenditure so incurred shall be inadmissible under section 37(1) of the Income-tax Act, 1961, being an expense prohibited by the law. The disallowance shall be made in the hands of such pharmaceutical or allied health sector industry or other assessee which has provided aforesaid freebees and claimed it as a deductible expense in its accounts against income.

This circular has also clarified that a sum equivalent to value of freebees enjoyed by the aforesaid medical practitioner or professional associations is also taxable as business income or income from other sources, as the case may be, depending on the facts of each case.

**2. Circular No. 9/2012 dated 17.10.2012****Deduction of tax at source on payment of gas transportation charges by the purchaser of natural gas to the seller of gas**

In response to the representations received by CBDT, on the difficulties being faced in the matter of tax deduction at source on Gas Transportation Charges paid by the purchasers of Natural gas to the owners/sellers of gas, CBDT has, through this Circular, clarified that in case the Owner/Seller of the gas sells as well as transports the gas to the purchaser till the point of delivery, where the ownership of gas to the purchaser is simultaneously transferred, the manner of raising the sale bill (whether the transportation charges are embedded in the cost of gas or shown separately) does not alter the basic nature of such contract which remains essentially a 'contract for sale' and not a 'works contract' as envisaged in Section 194C. Therefore, in such circumstances, the provisions of Chapter XVIIIB are not applicable on the component of Gas Transportation Charges paid by the purchaser to the Owner/Seller of the gas. Further, the use of different modes of transportation of gas by Owner/Seller will not alter the position.

However, transportation charges paid to a third party transporter of gas, either by the Owner/Seller of the gas or purchaser of the gas or any other person, shall continue to be

governed by the appropriate provisions of the Act and tax shall be deductible at source on such payment to the third party at the applicable rates.

## **B : SERVICE TAX**

### **Significant Circulars issued between 1.7.2012 and 31.10.2012**

#### **1. No service tax on remittances from abroad**

CBEC has clarified that service tax is not leviable on the amount of foreign currency remitted to India from overseas as definition of 'service' under section 65B(44) specifically excludes transactions in money.

Further, service tax would also not be leviable on the fee or conversion fee chargeable for sending such money. It has also been clarified that Indian counterpart or financial institutions or entity who charges the foreign bank or any other entity for the services provided at the receiving end will also not be liable to service tax.

*[Circular No.163/14/2012 ST dated 10.07.2012]*

#### **2. Clarification on point of taxation and the applicable rate for continuous supply of services at the time of change in rates effective from 01.04.2012**

**Issue:** What is the point of taxation and the applicable rate for continuous supply of services at the time of change in rates effective from 01.04.2012?

**Clarification:** Till 31.03.2012, rule 6 of the Point of Taxation Rules, 2011 (POTR) determined point of taxation (POT) in case of continuous supply of services. Since, the rule started with a non-obstantate clause, "notwithstanding anything contained in rules 3, 4 ...", the POT for continuous supply of services provided on or before 31.03.2012 would not be affected by rule 4 of POTR. In other words, if the invoice had been issued or payment received for such services on or before 31.03.2012, the POT would be determined under rule 6, not being affected by the amendments made effective only from 1.4.2012.

However, with effect from 01.04.2012, rule 6 has been omitted and the POT for continuous supply of services is also being determined ordinarily under the main rule i.e., rule 3 subject to provisions of rule 4. Rule 4 determines the POT when there is a "change in effective rate of tax". *Change in effective rate of tax* includes a change in the portion of value on which tax is payable.

*[Circular No. 162/13/2012 ST dated 06.07.2012]*

#### **3. No service tax on vocational education course if offered by the Central/ State Government/Local Authority**

CBEC has clarified that service tax is not leviable on vocational education/training/ skill development courses (VEC) offered by the institution of the Government (Central Government or State Government) or a local authority as in terms of section 66D(a), only

specified services provided by the Government are liable to tax and VEC is excluded from the service tax.

However, if the VEC is offered by an institution, as an independent entity in the form of society or any other similar body, service tax treatment would be determined by either sub-clause (ii) or (iii) of clause (l) of section 66D of the Finance Act, 1994.

Sub-clause (ii) refers to "qualification recognized by any law" and sub-clause (iii) refers to "approved VEC". In the context of VEC, qualification implies a Certificate, Diploma, Degree or any other similar Certificate. The words "recognized by any law" will include such courses as are approved or recognized by any entity established under a central or state law including delegated legislation, for the purpose of granting recognition to any education course including a VEC.

*[Circular No.164/15/2012 ST dated 28.08.2012]*

## PART – II : QUESTIONS AND ANSWERS

### QUESTIONS

#### Residential Status and Scope of total income

1. Determine the taxability for the A.Y. 2013-14 of the following incomes in the hands of an individual whose residential status is -
  - (a) resident and ordinarily resident;
  - (b) resident but not ordinarily resident;
  - (c) non-resident.

	Particulars	Amount (₹)
1.	Salary received in Canada for rendering service in Bangalore	50,000
2.	Capital gain on sale of a house situated in Surat (sale consideration is received in Canada)	2,00,000
3.	Dividend from foreign company received in Canada	8,000
4.	Income earned from business in London which is controlled from Mumbai (₹ 1,00,000 is received in India)	4,00,000
5.	Profits from a business in Indore but managed entirely from Canada	1,25,000
6.	Rental Income (computed) from house property situated in Canada (rent is deposited in a bank at Canada and later on remitted to India)	1,20,000

7.	Interest received in London from the Government of India for project situated in London.	35,000
8.	Royalty from a non-resident company received in London in connection with business situated outside India.	5,00,000
9.	Past foreign untaxed income of 2011-12 earned and received there brought to India during the previous year	25,000
10.	Interest on savings bank deposit in Bank of India, Bhopal	10,000
11.	Share of income received in India from a partnership firm situated in Dubai	80,000
12.	Dividend from Dabur India Ltd., an Indian Company	19,000
13.	Agricultural income earned and received in Nepal from a land situated in Nepal.	1,50,000

#### Income which do not form part of total income

2. State, with reference to the provisions of the Income-tax Act, 1961, whether the following are chargeable to tax and if so, the amount liable to tax :
- Shivam received ₹ 45,000 as his share of income from a partnership firm.
  - Prasar Bharti (Broadcasting Corporation of India) has earned a net profit of ₹ 20 lacs during the financial year 2012-13.
  - Mr. Sameer received a sum of ₹ 10 lacs on 13.12.2012 from Life Insurance Corporation of India in respect of a policy, where the sum assured was ₹ 7.5 lacs, taken on 1.04.2004 and for which a one time premium of ₹ 5 lacs was paid.
  - Leave travel concession of ₹ 1,25,000 (being the total cost of tickets) received by Mr. Ravi, employee of A Ltd. for his holiday (with spouse & one child) to Goa by Air India (executive class). The flight fare for executive class is 2.5 times the fare for economy class.
  - Gratuity of ₹ 12 lacs received by Mr. B, a Government employee, on his retirement.
  - Income-tax of ₹ 25,000 paid by employer on non-monetary perquisites provided to employees.
  - Mr. Tata has derived an income of ₹ 1,00,000 derived from growing and manufacturing tea in India during the financial year 2012-13.

#### Income from Salaries

3. Mr. Jatin, employed as General Manager in Beta Ltd., furnishes you the following information for the year ended 31.03.2013:

Basic salary	₹ 25,000 per month
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Dearness allowance (forming part of salary for retirement benefits)	60% of basic salary
Transport allowance (for commuting between place of residence and office)	₹ 1,600 per month
Conveyance Allowance (reimbursement of actual expenditure incurred on conveyance in performance of duties of an office)	₹ 1,000 per month
Employer's contribution to recognized provident fund	15% of basic salary and dearness allowance
Interest credited to recognized provident fund @ 12%	24,000
Rent free unfurnished accommodation provided to Mr. Jatin in Delhi which is owned by company.	
Motor car running and maintenance charges fully paid by employer (The motor car is owned and driven by the employee. The engine cubic capacity is above 1.60 litres. The motor car is used for both official and personal purpose by the employee.)	₹ 50,000
Gift voucher given on the occasion of his birthday	₹ 4,500
Value of medical facility in a hospital maintained by the company	₹ 18,000
Reimbursement of salary of a domestic servant by the company which was engaged by Mr. Jatin at his residence	₹ 2,500 per month
Free education was provided to his three children in a school maintained and owned by the company. The cost of such education is computed at ₹ 800 per child per month.	
Housing loan of ₹ 10,00,000 given on 01.01.2013 at the interest rate of 8% p.a. (No repayment was made during the year). The rate of interest charged by State Bank of India as on 01.04.2012 in respect of housing loan is 10%.	

You are required to compute his taxable salary for the assessment year 2013-14.

#### Income from house property

4. Mr. Sharma, a resident individual, owns a house in London, UK. He receives rent @ £ 500 per month. He paid municipal taxes of £ 400 during the financial year 2012-13. He also owns a two storied house in Delhi, ground floor is used for his residence and first floor is let out at a monthly rent of ₹ 20,000. Standard rent for each floor is ₹ 22,000 per month and fair rent is ₹ 18,000 per month. Municipal taxes paid for the house amounts to ₹ 15,000. Mr. Sharma had constructed the house by taking a loan from a nationalised bank on 01.4.2008. He repaid the loan of ₹ 1,08,000 including interest of ₹ 48,000 during the previous year 2012-13. The value of one pound is to be taken as ₹ 100.

You are required to compute income from house property of Mr. Sharma for the assessment year 2013-14.

#### Profits and gains of business or profession

5. State with reasons the allowability or otherwise of the following items under the Income-tax Act, 1961 while computing income under the head "Profits and gains of business or profession" for the Assessment Year 2013-14:
- (i) Payment made in cash ₹ 30,000 to a transporter in a day for carriage of goods.
  - (ii) Expenses incurred in providing freebees to medical practitioner by Medical enterprises, a pharmaceutical organisation.
  - (iii) Municipal tax relating to office premises ₹ 20,000 not paid till 30.09.2013 by Mr. Arun having turnover of ₹ 108 lacs during financial year 2012-13.
  - (iv) Capital expenditure of ₹ 15,00,000 on scientific research incurred by ABC Ltd., engaged in manufacturing of tyres, which includes cost of land ₹ 5,00,000.
  - (v) Tax deducted at source on salary paid to employees in India not remitted till the 'due date' for filing the return prescribed in section 139.
  - (vi) An electric generator has been purchased for ₹ 50 lakhs by an assessee engaged in the business of generation of power, on 01.04.2012 and installed on the same day.

#### Capital Gains

6. Rahul converts his plot of land purchased in March, 2003 for ₹ 1,50,000 into stock-in-trade on 23<sup>rd</sup> October, 2011. The fair market value as on 23.10.2011 was ₹ 4,00,000. The stock-in-trade was sold for ₹ 5,00,000 in the month of September, 2012.

Examine the tax implications of such transaction.

Cost Inflation Index:

F.Y. 2002 – 2003	- 447
F.Y. 2011 – 2012	- 785
F.Y. 2012 – 2013	- 852

7. Harshit sold his house for a consideration of ₹ 200 lakhs on 1<sup>st</sup> January, 2013. However stamp valuation authorities registered it at ₹ 220 lakhs, being the sub registrar approved value. He paid 5% of sale value as commission. The house was purchased by Harshit on 1.4.1980 for ₹ 10 lakhs. He made some improvements by way of additional construction to the house, incurring expenditure of ₹ 2 lakhs in January 2005. The market value of the house on 1.4.1981 was ₹ 12 lakhs. He invested ₹ 30 lakhs in eligible bonds issued by Rural Electrification Corporation Ltd. (RECL) on 13.03.2013 and ₹ 20 lakhs in eligible bonds issued by National Highways Authority of India (NHAI) on



15.07.2013 (Assume that the NHAI Capital Gains bonds issue were open for subscription during the period from 2.4.2013 to 31.3.2014). Besides, he purchased a small dwelling house on 01.04.2012 for ₹ 20 lakhs.

Compute the capital gain chargeable to tax in the hands of Harshit for the assessment year 2013-14.

Cost Inflation Index:

F.Y. 1981 – 1982	- 100
F.Y. 2004 – 2005	- 480
F.Y. 2012 – 2013	- 852

#### Income from Other Sources

8. State whether the following are chargeable to tax under the head "Income from other sources" and if so, what is the amount liable to tax:
- Mr. Chirag received a cash gift of ₹ 75,000 from Jeevan Charitable Trust (registered under section 12AA) in January 2013 for meeting his medical expenses.
  - Rakesh & Sons (HUF) received ₹ 60,000 in cash from elder son of Rakesh. Rakesh is the Karta of the HUF.
  - Interest on enhanced compensation of ₹ 1,00,000 was received as per court decree in March, 2013 by Mr. Atul. Out of the said amount, a sum of ₹ 70,000 relates to preceding financial years.
  - Anil took a loan of ₹ 18,00,000 from Reliance Power Ltd. in which he is holding 15% of equity shares. On the date of granting the loan, the company had accumulated profit of ₹ 75,00,000.
  - Interest of ₹ 5,000 on bank FDRs received by minor son of Sneha (widow). These FDRs were made by the minor son out of his earnings from application of his painting skills.

#### Set-off and Carry Forward of Losses

9. Mr. Sanjay furnishes the following particulars of his income relating to the assessment year 2013-14:

Particulars	₹
Income from Salaries	2,40,000
Business loss (non-speculation)	1,00,000
Brought forward business loss relating to A.Y. 2010-11	40,000
Loss from specified business (covered by section 35AD)	60,000
Long-term capital gain on sale of land	2,00,000
Short-term capital loss on sale of shares	40,000

Loss from betting	40,000
Winnings from lottery	60,000

Compute the gross total income of Mr. Sanjay for the Assessment Year 2013-14 and the loss to be carried forward.

### Computation of Total Income and Tax liability of an individual

10. Compute the total income and tax liability of Dr. Naveen, a resident individual aged 38 years, from the following information:

#### Income and Expenditure Account for the year ending 31<sup>st</sup> March 2013

Expenditure	₹	Income	₹
To Staff salary	3,40,000	By Consultation fee	12,00,000
To Medicine consumed	6,72,000	By Cost of medicines recovered	4,80,000
To Clinic consumables	2,17,200	By Income-tax refund	13,200
To Administrative expenses	2,40,000	By Rent received	43,200
To Depreciation of clinic equipment	35,000	By Dividend from Indian companies	21,600
To Donation to Indian Institute of Science, Bangalore, for scientific research	80,000	By Winnings from lottery (Net of TDS)	28,000
To Net Profit	2,01,800		
	<b>17,86,000</b>		<b>17,86,000</b>

- (i) Income-tax refund of ₹ 13,200 includes interest of ₹ 1,200.
- (ii) Cost of lottery tickets amounting to ₹ 500 has not been debited to Income and Expenditure account.
- (iii) Depreciation on clinic equipment, calculated as per the Income-tax Rules, 1962, is ₹ 60,000.
- (iv) Rent received relates to residential house let out to a tenant. The municipal tax of ₹ 7,200, paid in December, 2012 in respect of the said house has been included in "administrative expenses".
- (v) He received salary of ₹ 6,000 per month from a nursing home.
- (vi) He sold a land in January 2013 for ₹ 50,00,000 which was inherited by him from his father in July, 2008. The site was acquired by his father in August, 2007 for ₹ 32,00,000.
- (vii) Life insurance premium of ₹ 45,000 paid for the insurance of life of his major son who is not dependent on him. The insurance policy was taken on 05.06.2012 and the "minimum sum assured" is ₹ 4,00,000

- (viii) He invested an amount of ₹ 75,000 in Public Provident Fund account during the year.
- (ix) He paid ₹ 1,800 in cash for his health check-up and ₹ 4,000 through cheque for health check-up for his father aged 62 years. He also paid premium of ₹ 17,000 by cheque for health insurance of his father.
- (Cost inflation index 2007-08 : 551; 2008-09 : 582 and 2012-13 : 852)

#### Provisions concerning tax deducted at source

11. Examine the applicability of the provisions for deduction of tax at source in the following cases for the assessment year 2013-14:
- (i) Haryana Government has made a payment of ₹ 1.90 lacs on 30.05.2012 to Mr. Shyam as enhanced compensation for compulsory acquisition of his urban land.  
Would your answer change if the said payment had been made on 08.07.2012 instead of 30.05.2012?
- (ii) Kingfisher Ltd., the employer, credited in its books of account on 31.03.2013, salary of ₹ 2,20,000 due to its employee Mr. Shivam for the month of March, 2013. Mr. Shivam has not furnished any information about his income/loss from any other head or proof of investments/payments qualifying for deduction under section 80C.
- (iii) Commission of ₹ 25,000 paid to a director by the company on 13.03.2013 for standing as a guarantor to bankers.
- (iv) Mr. Amit, a landlord, derived income of ₹ 50,000 per month as rent from letting a house property to XYZ Ltd. He also charged service tax @ 12.36% on rent.
- (v) Samarth, an individual whose total sales in business during the year ending 31.03.2012 was ₹ 95 lacs, paid ₹ 10 lacs by cheque on 18.03.2013 to a contractor (an individual) for construction of his business premises, in full and final settlement. No amount was credited earlier to the account of the contractor in the books of Samarth. The turnover of Samarth for the P.Y. 2012-13 is estimated at ₹ 98 lacs.

#### Provisions for filing of Return of Income

12. (i) Return of loss of Mr. X for the assessment year 2013-14 was filed in December, 2013, in which he has claimed carry forward of current year non-speculation business loss of ₹ 1,00,000 and unabsorbed depreciation of ₹ 50,000 (relating to the assessment year 2009-10). What are the tax consequences with regard to carry forward of current year non-speculation business loss and brought forward unabsorbed depreciation?
- (ii) Mr. Y filed return of loss of ₹ 5,00,000 representing loss from a business for the assessment year 2012-13 in July, 2012. He filed a revised return enhancing the business loss to ₹ 8,00,000 in April, 2013. Mr. Y is not subject to tax audit. What is

the quantum of loss which is eligible for carry forward and set off against business income of subsequent years?

- (iii) Mr. Joseph is resident and ordinarily resident in India. During the F.Y. 2012-13, he has a long-term capital gain of ₹ 80,000 from sale of a house property situated in London. He has no other income during the current year. Is Mr. Joseph required to file his return of income for the A.Y. 2013-14?

### Services provided by Post Office

13. Lakhanpur Post Office provided the following services to persons other than Government during the quarter ending 31.03.2013:-

<i>Services rendered</i>	<i>Amount (₹)</i>
Basic mail services	1,00,000
Transfer of money through money orders	5,00,000
Operation of saving accounts	1,50,000
Rural postal life insurance services	2,00,000
Distribution of mutual funds, bonds and passport applications	5,00,000
Issuance of postal orders	3,00,000
Collection of telephone and electricity bills	1,00,000
Pension payment services	50,000
Speed post services	5,00,000
Express parcel post services	2,00,000

Compute the service tax liability of Lakhanpur Post Office for the quarter ending 31.03.2013.

*Notes:*

- Point of taxation for all the aforesaid cases fall during the quarter ending 31.03.2013.*
- All the service charges stated above are exclusive of service tax.*
- Small Service Providers' exemption need not be taken into account while solving the aforesaid question.*

### Money changing services

14. (i) Siddhi Ltd. exported some goods to Samson Inc. of USA. It received US \$ 9,000 as consideration for the same and sold it @ ₹ 44 per US dollar. Compute the value of taxable service under rule 2B of the Service Tax (Determination of Value) Rules, 2006 in the following cases:-
- (a) RBI reference rate for US dollar at that time is ₹ 45 per US dollar.

- (b) RBI reference rate for US dollars is not available.
- (ii) What would be the value of taxable service if US \$ 9,000 are converted into UK £ 4,500. RBI reference rate at that time for US \$ is ₹ 46 per US dollar and for UK £ is ₹ 88 per UK Pound.

### Banking and financial services

15. Euro Bank Ltd. furnishes the following information relating to services provided and the gross amount received:

Particulars	Amount (₹)
Interest on overdraft	5,00,000
Interest on loans with a collateral security	6,00,000
Interest on corporate deposits	10,00,000
Administrative charges (over and above interest) on loans, advances and deposits	6,00,000
Sale of foreign exchange to general public	15,00,000*
Service charges relating to issuance of Certificates of Deposit (CDs)	20,00,000

Compute the value of taxable service and the service tax liability of Euro Bank Ltd. considering the rate of service tax at 12% assuming that it is not eligible for small service providers' exemption under *Notification No. 33/2012 – ST dated 20.06.2012*.

*\*It represents the value of taxable service computed as per rule 2B of the Service Tax Valuation Rules.*

### Point of taxation

16. Sambhav Industries Ltd. (SIL) is an Indian Company. It has received taxable services from a UK based company-George Ltd. on 01.01.2013. George Ltd. raised on SIL an invoice of £ 45,000 on 27.01.2013. SIL debited its books of accounts on 07.02.2013 and made the payment on 25.03.2013.

George Ltd. and SIL are associated enterprises. Determine the point of taxation using aforesaid details.

### Educational services

17. Industrial Training Institute (ITI), Manikpuri offered a short term course based on the Modular Employable Skills in the Information & Communication Technology Sector for the month of January, 2013. The said course is approved by the National Council of Vocational Training. ITI, Manikpuri is registered with the Directorate General of Employment and Training, Ministry of Labour and Employment. Revenue raised the demand for the service tax on the services provided by it.

Examine whether the demand raised by Revenue is correct in law.

**Inter-State stock transfer**

18. Sidharth Enterprises, a dealer in Gujarat, purchased the raw material worth ₹ 80,00,000 (excluding VAT) and manufactured finished goods worth ₹ 1,50,00,000 from such raw material in the month of February, 2013. It received an order for the said finished goods from Mumbai in March, 2013. Hence, it transferred these finished goods to its branch in Mumbai in the same month. Compute the amount of input tax credit, net VAT payable under the State VAT Law by Sidharth Enterprises for the month of March, 2013 and the balance input tax credit carried forward to next month, if any. Input VAT rate is 12.5% and output VAT rate is 4%.

**Composition scheme under VAT**

19. Arihant Traders, a registered dealer having stock of goods costing ₹ 1,50,000 purchased from outside the State, wishes to opt for the Composition Scheme. Advise the dealer whether it is possible?

State the other conditions to be satisfied by a dealer before opting for composition scheme.

**Computation of VAT liability and input tax credit**

20. Shiv Ltd. of West Bengal made a total purchases of input and capital goods of ₹ 55,00,000 during the month of January, 2013. The following further information is available:
- (i) Goods worth ₹ 9,00,000 were purchased from Orissa on which C.S.T. @ 2% was paid.
  - (ii) The purchases made in January, 2013 include goods purchased from unregistered dealers amounting to ₹ 21,50,000.
  - (iii) It purchased capital goods (not eligible for input credit) worth ₹ 9,50,000 and those eligible for input credit for ₹ 9,00,000.
  - (iv) Sales made in West Bengal during the month of January, 2013 is ₹ 10,00,000 on which VAT @ 12.5% is payable.

Assuming that all purchases given are exclusive of tax and VAT @ 4% is paid on them, calculate

- (i) the amount of input tax credit available for the month of January, 2013
- (ii) VAT payable for the month of January, 2013 and
- (iii) input tax credit carried forward.

**Note:** The input VAT credit on eligible capital goods is available in 36 equal monthly installments.

**Different rates under VAT**

21. What are the different rates under VAT system?

**VAT concepts and general principles**

22. State whether the following are true or false giving reasons to substantiate your answer:

- (i) Under VAT, the tax is payable on the first sale price.
- (ii) VAT would increase the working capital requirements and the interest burden.
- (iii) VAT brings about certainty to a great extent in the matter of interpretational issues.

**SUGGESTED ANSWERS/HINTS**

1. **Computation of total income for the A.Y. 2013-14**

	Particulars	Resident and ordinarily resident ₹	Resident but not ordinarily resident ₹	Non-resident ₹
1.	Salary received in Canada for rendering service in Bangalore (Note 2)	50,000	50,000	50,000
2.	Capital gain on sale of a house situated in Surat (sale consideration is received in Canada) (Note 3)	2,00,000	2,00,000	2,00,000
3.	Dividend from foreign company received in Canada (Note 4)	8,000	-	-
4.	Income earned from business in London which is controlled from Mumbai, out of which ₹ 1,00,000 is received in India (Note 5)	4,00,000	4,00,000	1,00,000
5.	Profits from a business in Indore but managed entirely from Canada (Note 1)	1,25,000	1,25,000	1,25,000
6.	Rent from property in Canada deposited in a Bank at Canada, later on remitted to India. (Note 1)	1,20,000	-	-
7.	Interest received in London from the Government of India for project situated in London. (Note 6)	35,000	35,000	35,000

8.	Royalty from a non-resident company received in London in connection with business situated outside India. (Note 7)	5,00,000	-	-
9.	Past foreign untaxed income brought to India during the previous year (Note 8)	-	-	-
10.	Interest on savings bank deposit in Bank of India	10,000	10,000	10,000
11.	Share of income received in India from a partnership firm situated in Dubai (Note 9)	80,000	80,000	80,000
12.	Dividend from Dabur India Limited, an Indian Company [it is exempt under section 10(34)]	-	-	-
13.	Agricultural income from a land situated in Nepal (Note 1)	1,50,000	-	-
	<b>Gross Total Income</b>	<b>16,78,000</b>	<b>9,00,000</b>	<b>6,00,000</b>
	<i>Less:</i> Deduction under section 80TTA (Note 10)	10,000	10,000	10,000
	<b>Total Income</b>	<b>16,68,000</b>	<b>8,90,000</b>	<b>5,90,000</b>

**Notes:**

1. In case of a resident, his global income is taxable as per section 5(1). In case of resident but not ordinarily resident except the income accruing or arising to him outside India, all other income is taxable under section 5(1). However, where such income is derived from a business controlled in or profession set up in India, then it must be included in his total income.

However, as per section 5(2), in case of a non-resident, only the following income are chargeable to tax :

- (i) Income received or deemed to be received in India; or
- (ii) Income accruing or arising or deemed to accrue or arise in India.

The income referred to in Sl. No. 5 is taxable in all cases since it accrues or arises in India.

The income referred to in Sl. No. 6 and 13 are taxable only in case of resident and ordinarily resident, since the income is neither received nor does it accrue or arise in India.

2. Since the salary is received for rendering service in India, income is deemed to accrue or arise in India and therefore, taxable in all cases.



3. Since any income arising on transfer of a capital asset situated in India is deemed to accrue or arise in India, capital gain on transfer of the house is taxable in all cases.
4. Dividend received from foreign company in Canada is taxable only in case of a resident, since it accrued and is received outside India. Exemption under section 10(34) would not be available in respect of dividend received from a foreign company.
5. Since the business in London is controlled from India, the whole income would be taxable in case of resident but not ordinarily resident. However, in case of non-resident, only ₹ 1,00,000, which is received in India, would be taxable.
6. Interest received from the Government of India is deemed to accrue in India.
7. Royalty received from non-resident company in London is taxable only in case of a resident, since it accrued and is received outside India.
8. ₹ 25,000 brought to India is not taxable in the previous year 2012-13 because it does not amount to "receipt" of income in the previous year 2012-13.
9. Since share of income is received in India, it would be taxable in all cases. Exemption under section 10(2A) would not be available in respect of share of income from a firm situated outside India.
10. In case of an individual, interest upto ₹ 10,000 from savings account with, *inter alia*, a bank is allowable as deduction under section 80TTA. Therefore, interest on saving bank deposit in Bank of India is exempt.

2.

S. No.	Taxable/ Not Taxable/ Partly Taxable	Amount liable to tax (₹)	Reason
(i)	Not Taxable	Nil	Share of a partner in the total income of the firm is exempt under section 10(2A) in the hands of a partner.
(ii)	Not Taxable	Nil	Any income of the Prasar Bharati (Broadcasting Corporation of India) established under section 3(1) of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 is exempt under section 10(23BBH).
(iii)	Taxable	10 lacs	As per section 10(10D)(c), any sum received under an insurance policy issued on or after 1.4.2003 but before 01.04.2012, 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 the one-time premium of ₹ 5 lacs paid by him is in excess of 20% of the sum assured (i.e. ₹ 1.5 lacs being 20% of ₹ 7.5 lacs), the whole amount of ₹ 10 lacs would be taxable.
(iv)	Partly taxable	75,000	Section 10(5), which provides exemption of leave travel concession, exempts only an amount not exceeding the air economy fare, if the journey is performed by air. Since, the amount reimbursed to Mr. Ravi is for travelling in executive class, only the fare of economy class, being ₹ 50,000, (₹ 1,25,000 / 2.5), would be exempt under section 10(5) and the balance would be taxable.
(v)	Not Taxable	-	Gratuity received by a Government employee, on his retirement is fully exempt under section 10(10).
(vi)	Not Taxable	-	Income-tax paid by employer on behalf of employee on non-monetary perquisites provided to employees is exempt in the hands of an employee under section 10(10CC).
(vii)	Partly taxable	40,000	As per Rule 8 of the Income-tax Rules, 1962, 40% of the income from growing and manufacturing of tea in India is taxable as business income under the head "Profits and gains from business or profession", and the balance 60%, being agricultural income, is exempt.

3. **Computation of taxable salary of Mr. Jatin for the A.Y.2013-14**

Particulars	₹	₹
Basic salary (₹ 25,000 x 12)		3,00,000
Dearness allowance @ 60% of basic salary		1,80,000
Transport allowance (₹ 1,600 x 12)	19,200	
Less : Exemption under section 10(14) (₹ 800 x 12)	<u>9,600</u>	9,600

Conveyance allowance (Note 1)	Nil
Employer's contribution to R.P.F. in excess of 12% of salary (i.e. 3% of ₹ 4,80,000)	14,400
Interest credited to recognised provident fund in excess of 9.5% [(₹ 24,000 x 2.5%)/12%]	5,000
Rent free accommodation (Note 2)	73,440
Motor car running & maintenance charges paid by employer (Note 3)	21,200
Gift voucher given on the occasion of birthday (Not taxable since its value is less than ₹ 5,000)	Nil
Medical facility [in the hospital maintained by the company is exempt]	Nil
Salary of domestic servant reimbursed by the company (₹ 2,500 x 12)	30,000
Value of free education provided to his three children (Note 4)	Nil
Valuation of perquisite of interest on loan [As per Rule 3(7)(i), 10% is taxable which is to be reduced by actual rate of interest charged i.e. (10% - 8% = 2%)(10 lacs x 2% x 3/12)]	5,000
<b>Taxable Salary</b>	<b>6,38,640</b>

**Notes:-**

- (1) Conveyance allowance is exempt since it is based on actual reimbursement for official purposes as per section 10(14).
- (2) As per Rule 3(1), where the accommodation is owned by the employer, the value of rent free accommodation provided to employee would be 15% of salary.

For the purpose of valuation of rent free house, salary includes:

- (i) Basic salary i.e., ₹ 3,00,000
- (ii) Dearness allowance i.e., ₹ 1,80,000
- (iii) Transport allowance (taxable portion) i.e., ₹ 9,600

Therefore, salary works out to

$$₹ 3,00,000 + ₹ 1,80,000 + ₹ 9,600 = ₹ 4,89,600$$

$$\text{Value of rent-free house} = 15\% \text{ of salary (i.e. ₹ 4,89,600)} = ₹ 73,440$$

- (3) As per Rule 3(2), if the motor car (whose engine cubic capacity is above 1.60 litres) is owned by the employee and is used by him for both official and personal purpose, then the value of perquisite for use of motor car would be -

Actual amount of expenditure incurred by the employer - ₹ 50,000	
Less: ₹ 2,400 x 12 months	<u>₹ 28,800</u>
	<u>₹ 21,200</u>

- (4) As per Rule 3(5), where the educational institution is owned by the employer and free education facilities are provided to the children of the employee, there would be no perquisite if the cost of such education or the value of such benefit per child does not exceed ₹ 1,000 p.m.

4. Computation of Income from House Property of Mr. Sharma for the A.Y. 2013-14

Particulars	₹	₹
<b>House property in UK (See Note below)</b>		
GAV- Rent received (₹500 p.m. x ₹ 100 per pound x 12 months)(Rent received is assumed as GAV)	6,00,000	
Less : Municipal taxes paid (₹400 x ₹ 100 per pound)	40,000	
<b>Net Annual Value (NAV)</b>	<b>5,60,000</b>	
Less : Deduction under section 24		
30% of NAV	1,68,000	3,92,000
<b>House property in Delhi ( Let-out portion - First Floor)</b>		
<b>Annual Letting Value (lower of standard rent and fair rent)</b>		
Standard Rent (₹ 22,000 x 12)	₹ 2,64,000	
Fair rent (₹ 18,000 x 12 )	<u>₹ 2,16,000</u>	2,16,000
<b>Actual rent received (₹ 20,000 × 12)</b>	2,40,000	
<b>Gross Annual Value (higher of ALV and actual rent)</b>	2,40,000	
Less : Municipal taxes paid (50% of ₹ 15,000)	7,500	
<b>Net Annual Value (NAV)</b>	<b>2,32,500</b>	
Less : Deduction under section 24		
30% of NAV	₹ 69,750	
Interest on housing loan (50% of ₹ 48,000)	<u>₹ 24,000</u>	93,750
		1,38,750

<b>Income from House property in Delhi (Self-occupied portion - Ground Floor)</b>		
Gross Annual Value	Nil	
Less: Municipal taxes	Nil	
<b>Net Annual Value (NAV)</b>	Nil	
Less : Deduction under section 24		
30% of NAV	Nil	
Interest on housing loan (50% of ₹ 48,000)	24,000	(-) 24,000
<b>Income from house property</b>		<b>5,06,750</b>

**Note-** Since Mr. Sharma is a resident individual, his global income is taxable as per section 5(1). Therefore, though the house is situated in London, rental income from the house would be taxable in India.

5. (i) The limit for attracting disallowance under section 40A(3) for payment otherwise than by way of account payee cheque or account payee bank draft is ₹ 35,000 in case of payment made for plying, hiring or leasing goods carriage. Therefore, in the present case, disallowance under section 40A(3) is not attracted in respect of payment of ₹ 30,000 made in cash to a transporter for carriage of goods.

- (ii) The *Explanation* below section 37(1) denies claim of any expenses, if the same has been incurred for a purpose which is either an offence or prohibited by law.

The Central Board of Direct Taxes has, through *Circular No. 5/2012 dated 1-8-2012*, has clarified that such expenditure are not allowable as per section 37(1) after considering the fact that the claim of any expense incurred in providing freebies to medical practitioner is in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. Therefore, the expenditure so incurred shall be inadmissible under section 37(1) of the Income-tax Act, 1961, being an expense prohibited by the law.

- (iii) As per section 43B, municipal tax is not deductible for A.Y. 2013-14 since it is not paid on or before 30.09.2013, being the due date of filing the return for A.Y. 2013-14.

- (iv) Weighted deduction @ 200% is available under section 35(2AB) in respect of expenditure incurred by a company on scientific research on in-house research and development facility as approved by the prescribed authority. However, cost of land is not eligible for deduction.

Deduction under section 35(2AB) = 200% of ₹ 10 lakhs = ₹ 20,00,000.

**Note:** It is presumed that the in-house research and development facility is approved by the prescribed authority and is hence, eligible for the weighted

deduction @200% under section 35(2AB). It may be noted that the benefit of weighted deduction under section 35(2AB) has been extended to expenditure incurred upto 31.03.2017 by the Finance Act, 2012. Prior to the amendment, the deduction was restricted to expenditure incurred upto 31.03.2012.

- (v) The salary expenditure is allowable while computing the income of the employer even though TDS has not been deposited within the due date under section 139(1). The disallowance under section 40(a)(ia) will not apply for non-deduction of tax at source from income chargeable under the head "Salaries".
- (vi) Depreciation under section 32 would be allowed on electric generator purchased @ 15%, which is the rate applicable for plant & machinery as per Income-tax Rules, 1962. Since it was put to use for more than 180 days in the year, full depreciation is allowable for A.Y. 2013.14.

Further, as per section 32(1)(ia), additional depreciation is allowable in the case of new plant or machinery acquired and installed after 31.03.2005 by an assessee engaged, *inter alia*, in generation of power, at the rate of 20% of the actual cost of such plant or machinery.

Therefore, allowable depreciation under section 32 would be –

Normal depreciation ( ₹ 50 lakhs x 15%)	₹ 7,50,000
Additional depreciation (₹ 50 lakhs x 20%)	<u>₹ 10,00,000</u>
	<u>₹ 17,50,000</u>

6. Conversion of a capital asset into stock-in-trade is a transfer within the meaning of section 2(47) in the previous year in which the asset is so converted. However, the capital gains will be charged to tax only in the year in which the stock-in-trade is sold.

The cost inflation index of the financial year in which the conversion took place should be considered for computing indexed cost of acquisition. Further, the fair market value on the date of conversion would be deemed to be the full value of consideration for transfer of the asset as per section 45(2). The sale price less the fair market value on the date of conversion would be treated as the business income of the year in which the stock-in-trade is sold.

Therefore, in this problem, both capital gains and business income would be charged to tax in the A.Y. 2013-14.

Particulars	₹
<b>Capital Gains</b>	
Full value of consideration (Fair market value on the date of conversion)	4,00,000
Less: Expenses on transfer	<u>Nil</u>
Net sale consideration	4,00,000

Less: Indexed cost of acquisition (₹ 1,50,000 × 785/447)	<u>2,63,423</u>
<b>Long-term capital gain</b>	<b><u>1,36,577</u></b>
<b>Profits &amp; Gains of Business or Profession</b>	
Sale price of stock-in-trade	5,00,000
Less: Fair market value on the date of conversion	<u>4,00,000</u>
	<b><u>1,00,000</u></b>

**Computation of taxable income of Mr. Rahul for A.Y.2013-14**

Particulars	₹
Profits and gains from business or profession	1,00,000
Long term capital gains	<u>1,36,577</u>
	<b><u>2,36,577</u></b>

7. **Computation of Capital Gains Chargeable to tax for A.Y. 2013-14**

Particulars	₹	₹
Sale consideration (i.e. Stamp Duty Value) (Note-1)		220,00,000
Less: Commission @ 5% of ₹ 200 lakhs		<u>10,00,000</u>
		210,00,000
Less: Indexed Cost of Acquisition (₹ 12,00,000 × 852/100)	102,24,000	
Indexed Cost of Improvement (₹ 2,00,000 × 852/480)	<u>3,55,000</u>	<u>105,79,000</u>
		104,21,000
Less: Exemption under section 54 (Note-2)	20,00,000	
Exemption under section 54EC (Note -3)	<u>30,00,000</u>	<u>50,00,000</u>
<b>Taxable Capital Gains</b>		<b><u>54,21,000</u></b>

**Notes -**

- As per the provisions of section 50C, in case the stamp duty value adopted by the stamp valuation authority is higher than the actual sale consideration, the stamp duty value shall be deemed as the full value of consideration.
- Exemption under section 54 is available if a new residential house is purchased within one year before or two years after the date of transfer. Since the cost of new residential house is less than the capital gain, capital gain to the extent of cost of new house is exempt under section 54.
- Exemption under section 54EC is available in respect of investment in specified bonds of RECL or NHAI if the investment is made within a period of six months after

the date of such transfer. Further, investments made in such bonds by an assessee during any financial year cannot exceed ₹ 50 lakhs.

In this case, although Harshit's investments do not exceed the prescribed limit, he is not eligible to claim deduction under section 54EC in respect of investment of ₹ 20 lakhs made in NHAI bonds, since it was made after six months from the date of transfer. Therefore, he is eligible to claim exemption of ₹ 30 lakhs under section 54EC out of total investment of ₹ 50 lakhs.

8.

S.No.	Taxable/Not Taxable	Amount liable to tax (₹)	Reason
(i)	Not Taxable	-	The provisions of section 56(2)(vii) would not apply to any sum of money or any property received from any trust or institution registered under section 12AA. Therefore, the cash gift of ₹ 75,000 received from Jeevan Charitable Trust, being a trust registered under section 12AA, for meeting medical expenses would not be chargeable to tax under section 56(2)(vii) in the hands of Mr. Chirag.
(ii)	Not taxable	-	Any sum of money received without consideration by a HUF from its relative is not taxable under section 56(2)(vii), even if the receipt exceeds ₹ 50,000. Since Rakesh's son is the member of the HUF, he is a relative of the HUF. Therefore, the cash received from him is not taxable in the hands of Rakesh & Sons (HUF).
(iii)	Taxable	50,000	As per section 56(2)(viii), interest on enhanced compensation is taxable in the year in which it is received. Deduction of 50% in respect of the said income is allowed under section 57(iv). Therefore, ₹ 50,000 (i.e., ₹ 1,00,000 – ₹ 50,000) is taxable in the hands of Mr. Atul in the F.Y.2012-13.
(iv)	Not Taxable	-	Since the loan is given by a company in which public are substantially interested, the provisions of section 2(22)(e) would not get attracted and therefore, the loan would not be taxable as deemed dividend in the hands of Anil.



(v)	Taxable	3,500 (₹ 5,000- ₹1,500)	Since interest of ₹ 5,000 on bank FDRs received by minor son of Sneha does not arise to him on account of his manual work or on account of an activity involving his skill, talent or specialized knowledge or experience, therefore, such interest should be included in income of Sneha under section 64(1A). However, exemption of ₹ 1,500 under section 10(32) would be available in respect of the interest so included in her hands.
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9. Computation of Gross Total Income of Mr. Sanjay for the A.Y. 2013-14

Particulars	₹	₹
<b>Salaries</b>		2,40,000
<b>Capital Gain</b>		
Long term capital gain on sale of land	2,00,000	
Less: Short term capital loss on sale of shares	<u>40,000</u>	
	1,60,000	
Less: Loss from business set off (See Note 1)	<u>1,00,000</u>	60,000
<b>Income from other sources</b>		
Winnings from lottery (See Note 2)		<u>60,000</u>
<b>Gross Total Income</b>		<u><b>3,60,000</b></u>

Losses to be carried forward to A.Y. 2014-15

Particulars	₹
Brought forward business loss relating to A.Y. 2010-11 (See Note 3)	40,000
Loss from specified business covered by section 35AD (See Note 4)	60,000

Notes:-

- (1) Business loss of ₹ 1,00,000 cannot be set off against salary income. However, it can be set-off against balance long-term capital gains of ₹ 1,60,000.
- (2) Winning from lottery is chargeable at a flat rate of 30% under section 115BB and no expenditure or allowance can be allowed as deduction from such income, nor can any loss be set-off against such income.
- (3) As per section 72, brought forward business loss can be set-off only against the business income of the current year. Since there is no business income during the

current year, the brought forward business loss of ₹ 40,000 has to be carried forward to A.Y. 2014-15.

- (4) Loss from specified business covered by section 35AD can be set-off only against profits and gains of any other specified business. Therefore, such loss cannot be set off against any other income. The unabsorbed loss has to be carried forward for set-off against profits and gains of any specified business in the following year.
- (5) Loss from betting can neither be set off against any other income, nor can it be carried forward.

10. **Computation of total income of Dr. Naveen for the A.Y. 2013-14**

	Particulars	₹	₹	₹
<b>I</b>	<b>Income from salaries</b>			
	Salary received @ ₹ 6,000 per month			72,000
<b>II</b>	<b>Income from profession</b>			
	Net profit as per Income and Expenditure account		2,01,800	
	<i>Less:</i> Items of income to be treated separately			
	(i) Income tax refund (including interest)	13,200		
	(ii) Dividend from Indian companies	21,600		
	(iii) Winning from lottery (net of TDS)	28,000		
	(iv) Rent received	<u>43,200</u>	<u>1,06,000</u>	
			95,800	
	<i>Add:</i> Expenditure debited but not allowable			
	(i) Depreciation on clinic equipment	35,000		
	(ii) Municipal tax paid relating to residential house included in administrative expenses	<u>7,200</u>	<u>42,200</u>	
			1,38,000	
	<i>Less:</i> Expenditure allowed but not debited			
	Depreciation on Clinic equipments under section 32	60,000		
	Additional deduction of 75% in respect of amount paid to Indian Institute of Science, Bangalore [since weighted deduction of 175% is available in respect of such payment under section 35(1)(ii)]	<u>60,000</u>	<u>1,20,000</u>	18,000

<b>III</b>	<b>Income from house property</b>			
	Gross Annual Value (GAV) (Note 1)		43,200	
	Less : Municipal taxes paid		<u>7,200</u>	
	<b>Net Annual Value (NAV)</b>		36,000	
	Less : Deduction under section 24 @ 30%		<u>10,800</u>	25,200
<b>III</b>	<b>Capital Gains (Long term capital gains)</b>			
	Sale consideration		50,00,000	
	Less: Indexed cost of acquisition (₹ 32,00,000 x 852/582)(Note 2)		<u>46,84,536</u>	3,15,464
<b>III</b>	<b>Income from other sources</b>			
	Interest on Income-tax refund		1,200	
	Dividend from Indian companies	21,600		
	Less: Exempt under section 10(34)	<u>21,600</u>	Nil	
	Winnings from lottery (Note 3)		<u>40,000</u>	<u>41,200</u>
	<b>Gross Total Income</b>			<b>4,71,864</b>
	Less: Deductions under Chapter VI A:			
	<b>Under section 80C</b>			
	Life insurance premium paid for life insurance of major son (Note 4)	40,000		
	Deposit in public provident fund	<u>75,000</u>		
		<u>1,15,000</u>		
	restricted to (section 80CCE)		1,00,000	
	<b>Under section 80D (Note 5)</b>			
	Premium paid for health insurance of father	17,000		
	Payment made for health check-up			
	- Self ₹ 1,800			
	- his father ₹ 3,000	<u>4,800</u>		
			<u>21,800</u>	
			<u>1,21,800</u>	
	but restricted to (Note 6)			<u>1,16,400</u>
	<b>Total income</b>			<b><u>3,55,464</u></b>
	<b>Total income (rounded off)</b>			<b><u>3,55,460</u></b>

## Computation of tax liability of Dr. Naveen for the A.Y. 2013-14

Particulars	₹	₹
Tax on winnings from lotteries (₹ 40,000 x 30%) (Note 7)	12,000	

Tax on Long-term capital gain (₹ 1,15,460 x 20%) (Note 8)	<u>23,092</u>	35,092
Add: Education cess @ 2%		702
Add: Secondary and higher education cess @ 1%		<u>351</u>
<b>Total tax liability</b>		<b><u>36,145</u></b>
<b>Total tax liability (rounded off)</b>		<b><u>36,150</u></b>

**Notes:**

- (1) Rent received has been assumed to be the annual value in the absence of other information i.e. municipal value, fair rent and standard rent.
- (2) Since the property was acquired by Dr. Naveen through inheritance, the period of holding for the asset shall be reckoned from the date it was held by the previous owner, i.e. August, 2007, therefore it is a long-term capital asset. The cost of acquisition to him will be the cost to the previous owner. However, indexation will be from the year in which the assessee (i.e., Dr. Naveen in this case) first held the asset i.e. F.Y. 2008-09.

***Alternative view:** In the case of CIT v. Manjula J. Shah 16 Taxmann 42 (Bom.), the Bombay High Court held that the indexed cost of acquisition in case of gifted asset can be computed with reference to the year in which the previous owner first held the asset.*

*As per this view, the indexation cost of acquisition of property would be ₹ 49,48,094 and long-term capital gain would be ₹ 51,906.*

- (3) Winnings from lottery should be grossed up for the chargeability under the head "Income from other sources". The applicable rate of TDS is 30%. Gross income from lottery, would, therefore, be ₹ 28000/70% = ₹ 40,000  
As per section 58(4), no expenditure can be allowed against winnings from lotteries. Therefore, amount spent on lottery tickets being ₹ 500, cannot be allowed as deduction from winnings from lotteries.
- (4) As per the amendment made by Finance Act, 2012, deduction under section 80C shall be allowed in respect of premium paid for life insurance only to the extent of 10% of sum assured in respect of insurance policy issued on or after 01.04.2012. Therefore, in respect of premium paid for life insurance policy of Mr. Naveen's son, deduction is allowable only upto 10% of ₹ 4,00,000 since, the policy was issued after 01.04.2012 and the premium amount exceeds 10% of sum assured.
- (5) As per section 80D, in case the premium is paid in respect of health of a person specified therein and for health check-up of such person who is a senior citizen i.e. aged 60 years or more, deduction shall be allowed up to ₹ 20,000. Deduction of up to ₹ 5,000 in aggregate shall be allowed in respect of health check-up of self,

spouse, dependent children and parents and payment for the same can be made in any mode including cash. However, the payment for health insurance premium has to be paid in any mode other than cash.

Therefore, in the present case, deduction of ₹ 17,000 is allowed in respect of premium paid for health insurance of his father, since he is a senior citizen and the payment is made by cheque.

Since, the aggregate value of premium paid for health insurance and the payment for health check-up for his father is ₹ 21,000 ( 17,000 + 4,000), which is more than 20,000, deduction for payment made for health check-up for his father would be restricted to ₹ 3,000.

Deduction for preventive health check-up would therefore be ₹ 4,800 (i.e. ₹ 1,800 for self and ₹ 3,000 for his father).

- (6) Deduction under Chapter VI-A cannot exceed Gross Total Income. Further, no deduction is allowable from long-term capital gains and income by way of winning from lottery. Therefore, the maximum deduction allowable would be -

	₹
Gross Total Income	4,71,864
Less: Winnings from lottery	40,000
Long-term capital gain	<u>3,15,464</u>
Maximum deduction under Chapter VI-A	<u>1,16,400</u>

- (7) Winnings from lottery is taxable at a flat rate of 30%, without any basic exemption limit.
- (8) Long term capital gains is chargeable to tax @ 20% as per section 112. Further, since the total income comprises only of long-term capital gain and winnings from lottery, the long-term capital gains of ₹ 3,15,464 will be reduced by ₹ 2,00,000 i.e. basic exemption limit applicable for resident individuals and only the balance long-term capital gains of ₹ 1,15,464 (₹ 3,15,464 - ₹ 2,00,000) will be taxed at 20%.

11.

	Tax deductible or not	Amount of tax to be deducted at source (₹)	Reason
(i)	Deductible	19,000 (₹ 1,90,000×10%)	Tax is required to be deducted @ 10% under section 194LA, since payment or aggregate of payments made to a resident as compensation on compulsory acquisition of immovable property exceeds ₹ 1 lakh. Since the threshold limit for attracting the

			provisions of section 194LA has been increased from ₹ 1 lakh to ₹ 2 lakh by the Finance Act, 2012, w.e.f. 1.07.2012, the TDS provisions of section 194LA would not be attracted if the payment was made on 8.07.2012.
(ii)	Not deductible	-	Section 192 requires deduction of tax from salary at the time of payment. Thus, the employer is not required to deduct tax at source when salary has not been paid but is merely credited to the account of the employee in its books of account. Kingfisher Ltd. is, therefore, not required to deduct tax at source in respect of the salary merely credited to the account of Shivam which is not paid.
(iii)	Deductible	2,500 (₹ 25,000 × 10%)	According to section 194J, the company shall be liable to deduct tax at source@10% under this section on any remuneration, fees or commission paid to a director on or after 1.7.2012, on which the tax is not deductible under section 192. The threshold limit of ₹ 30,000 for the applicability of section 194J, is applicable only in respect of royalty, fees for technical services, fees for professional services and non-compete fee referred to in section 28(va) and not in respect of any remuneration or fees or commission payable to director of a company.
(iv)	Deductible	60,000 (₹ 6,00,000 × 10%)	As per <i>Circular No. 4/2008 dated 28<sup>th</sup> April, 2008</i> issued by the CBDT, service tax charged by the landlord does not partake the nature of income of the landlord. The landlord only acts as a collecting agency for collection of service tax. Therefore, tax is required to be deducted at source under section 194-I on the amount of rent paid or payable excluding the amount of service tax, i.e. tax has to be deducted under section 194-I on ₹ 6 lakh @ 10%.
(v)	Deductible	10,000 (₹ 10,00,000 × 1%)	An individual who is liable for tax audit under section 44AB in the immediately preceding financial year (i.e. F.Y. 2011-12) is liable to

			<p>deduct tax at source @ 1% under section 194C for the financial year 2012-13 in respect of payment made to contractor exceeding ₹ 30,000 in a single payment and ₹ 75,000 in aggregate during the financial year. Since turnover of Samarth has exceeded ₹ 60 lacs in the financial year 2011-12, he is liable to get his accounts audited under section 44AB for that year. Hence, he would be liable to deduct tax at source under section 194C @ 1% on ₹ 10,00,000.</p> <p>Further, the estimated turnover of P.Y. 2012-13 is not relevant to assess the liability to deduct tax at source during the same financial year.</p>
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12. (i) As per the provisions of section 139(3), any person who has sustained loss, *inter alia*, under the head 'Profit and gains of business or profession' is allowed to carry forward such a loss under section 72(1), only if he has filed the return of loss within the time allowed under section 139(1).

Also, the provisions of section 80 specify that a loss which has not been determined as per the return filed under section 139(3) shall not be allowed to be carried forward and set-off under, *inter alia*, section 72(1). However, there is no such condition for carry forward of unabsorbed depreciation under section 32(2).

In the given case, assessee has filed its return of loss in December, 2013, which is a belated return filed under section 139(4) and therefore, the benefit of carry forward of business loss under section 72(1) shall not be available. However, the assessee shall be entitled to carry forward the unabsorbed depreciation as per the provisions of section 32(2).

- (ii) Mr. Y had filed its original return under section 139(3) before the time allowed under section 139(1) i.e. on or before 31<sup>st</sup> July, 2012. He has also filed his revised return within the time allowed under section 139(5).

As per section 139(3), if the return is filed under this section, all the provisions of the Act shall apply as if such return has been filed under section 139(1). In other words, a return filed under section 139(3) is deemed to be a return filed under section 139(1). Therefore, a loss return filed under section 139(3) can be revised by filing a revised return under section 139(5) within the time allowed therein. Return filed under section 139(5) substitutes the return originally filed under section 139(1). Therefore, the loss as per the revised return can be carried forward, even though section 80 does not specifically provide for carry-forward of loss which has been determined in pursuance of return filed under section 139(5).

Therefore, Mr. Y can carry forward business loss of ₹ 8,00,000 to set off against business income of subsequent years.

- (iii) As per the fourth proviso to section 139(1), every resident and ordinarily resident having, *inter alia*, any asset located outside India during the previous year is required to file a return of income, whether or not he has taxable income.

Since Mr. Joseph has sold the house property situated in London during the current year, the proviso mentioned above would be applicable to him, as he was having a house property located outside India during the previous year. Therefore, he has to file his return for the A.Y. 2013-14, even if he has no taxable income.

13. Services provided by the Government or a local authority are not chargeable to service tax as they are included in the negative list. However, following services provided to a person other than Government, by the Department of Posts are excluded from the negative list:-

- (i) Speed post
- (ii) Express parcel post
- (iii) Rural postal Life Insurance
- (iii) Agency services which include distribution of mutual funds, bonds, passport applications, collection of telephone and electricity bills, etc.

Hence, the aforesaid services are taxable.

Thus, the amount of service tax payable by Lakhanpur Post Office for the quarter ending 31.03.2013 would be as follows:-

Particulars	Amount(₹)
Basic mail services	Nil
Transfer of money through money orders	Nil
Operation of saving accounts	Nil
Rural postal life insurance services	2,00,000
Distribution of mutual funds, bonds and passport applications	5,00,000
Issue of postal orders	Nil
Collection of telephone and electricity bills	1,00,000
Pension payments	Nil
Speed post services	5,00,000
Express parcel post	<u>2,00,000</u>
Value of taxable service	<u>15,00,000</u>
Service tax @ 12% [15,00,000×12%]	1,80,000



Education cess @ 2% [1,80,000×2%]	3,600
Secondary and higher education cess @ 1% [1,80,000×1%]	<u>1,800</u>
Service tax liability	<u>1,85,400</u>

14. (i) (a) For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Hence, in the given case, value of taxable service would be as follows:-

(RBI reference rate for \$ – Selling rate for \$) × Total units of US \$

= ₹ (45-44) × 9,000

= ₹ 9,000

- (b) If the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money .

Hence, in the given case, value of taxable service would be as follows:-

1% of ₹ (44 × 9,000)

= ₹ 3,960

- (ii) Where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

Hence, in the given case, value of taxable service would be 1% of the lower of the following:-

(a) US dollar converted into Indian rupees = \$ 9,000 × ₹ 46

= ₹ 4,14,000

(b) UK pound converted into Indian rupees = £ 4,500 × ₹ 88

= ₹ 3,96,000

Value of taxable service = 1% of ₹ 3,96,000

= ₹ 3,960

15. Computation of value of taxable service and service tax liability of Euro Bank Ltd.:-

Particulars	Amount (₹)
Interest on overdraft (Note-1)	Nil
Interest on loans with a collateral security (Note-1)	Nil

Interest on corporate deposits (Note-1)	Nil
Administrative charges (over and above interest) on loans, advances and deposits (Note-2)	6,00,000
Sale of foreign exchange to general public (Note-3)	15,00,000
Service charges relating to issuance of CD (Note-4)	<u>20,00,000</u>
Value of taxable service	<u>41,00,000</u>
Service tax @ 12% [₹ 41,00,000×12%]	4,92,000
Education cess @ 2% [₹ 4,92,000×2%]	9,840
Secondary and higher education cess @ 1% [₹ 4,92,000×1%]	<u>4,920</u>
Service tax liability	<u>5,06,760</u>

**Notes:**

1. Following services provided in consideration of payment of interest are included in the negative list and hence are not taxable:-
    - Overdraft facility.
    - Loans with a collateral security.
    - Corporate deposits.
  2. Administrative charges or amounts collected over and above the interest or discount amounts would not be part of the negative list and thus would represent taxable consideration.
  3. Sale of foreign exchange between banks or by banks to authorized dealers of foreign exchange is included in the negative list. However, sale of foreign exchange to general public is not so covered and hence taxable.
  4. Since CDs are in the nature of promissory notes, transactions in CDs shall be considered as transaction in money. However, a related activity, for which a separate consideration is charged would not be treated as a transaction of money and would be taxable. Hence, service charges relating to issuance of CDs shall be chargeable to service tax.
16. In case of "associated enterprises", where the person providing the service is located outside India, the point of taxation shall be:-
- (a) the date of debit in the books of account of the person receiving the service
- OR
- (b) date of making the payment
- whichever is earlier.
- Hence, in the given case, the point of taxation shall be earlier of the following two dates:-

(a) the date of debit in the books of account of SIL i.e. 07.02.2013

or

(b) date of making the payment i.e. 25.03.2013

Thus, the point of taxation is 07.02.2013.

17. No, the demand raised by the Revenue is not valid in law. A Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment is an approved vocational education course and is included in the negative list. Therefore, Industrial Training Institute (ITI), Manikpuri is not liable to pay service tax.

18. **Computation of VAT payable and input tax credit for March, 2013:**

Particulars	Amount(₹)
Output VAT payable (Note-1)	Nil
Less: Input tax credit $\left[ 80,00,000 \times \frac{(12.5 - 2)}{100} \right]$ [Note-2]	<u>8,40,000</u>
Net VAT payable	<u>Nil</u>
Balance input tax credit carried forward to next month	8,40,000

**Notes:**

- Inter-State stock transfers do not involve sale and, therefore they are not subjected to VAT or CST.
  - VAT paid on inputs used in the manufacture of finished goods which are stock transferred (inter-State) will be available as input tax credit after retention of 2% of such tax by the State Governments.
19. If a dealer wishes to opt for the composition scheme, he should not have the stock of goods which were brought from outside the State on the day he exercises the option to pay tax by way of composition.

Hence, it is not possible for Arihant Traders to opt for the composition scheme as it has a stock of goods costing ₹1,50,000/- purchased from outside the State on the day it wishes to opt for the composition scheme.

Other conditions to be satisfied by a dealer who wishes to opt for the composition scheme are as follows:

- (i) A dealer who wishes to avail the composition scheme has to exercise the option in writing for a year or a part of the year in which he gets himself registered. For this, the dealer has to intimate to the Commissioner.
- (ii) The dealer should also not claim input tax credit on the inventory available on the date on which he opts for composition scheme.

20.

	Particulars	₹	₹
A.	Purchases made in January, 2013		55,00,000
	Less:(i) Inter-State purchases (input credit not available)	9,00,000	
	(ii) Purchase from unregistered dealer (input credit not available)	21,50,000	
	(iii) Capital goods (not eligible for input credit)	<u>9,50,000</u>	<u>40,00,000</u>
	Total purchases eligible for tax credit		<u>15,00,000</u>
B.	Input tax credit available		
	VAT credit on input @ 4%		
	4% of (₹ 15,00,000 – ₹ 9,00,000)		
	i.e. 4% of ₹ 6,00,000		24,000
	VAT credit on eligible capital goods		
	(4% of ₹ 9,00,000) x $\frac{1}{36}$		<u>1,000</u>
	Input credit available for January, 2013		<u>25,000</u>
C.	VAT on sales @ 12.5% of ₹ 10,00,000		1,25,000
	Less:Input tax credit		<u>25,000</u>
	Net VAT payable		<u>1,00,000</u>
	Input tax credit carried forward to February,2013		<u>Nil</u>

21. Broadly, VAT system has following tax rates:

- (a) Zero rate for tax free goods comprising of natural and unprocessed products in unorganized sector, items which are legally barred from taxation and items which have social implications.
- (b) 1% on precious or semi-precious stones, bullion, gold and silver ornaments etc.
- (c) 4% on items of basic necessities, medicines and drugs, agricultural and industrial inputs, capital goods and declared goods.
- (d) 12.5% on other goods.

- (e) 20% on non VAT goods like petrol, diesel, ATF, other motor spirit, liquor and lottery tickets.
- 22.
- (i) False, VAT is a multi-point tax where tax is imposed at each and every stage of sales and tax paid at the earlier stage is allowed as set-off.
  - (ii) True, VAT increases the working capital requirements and the interest burden. The tax is imposed or paid at various stages and not on last stage only. It increases the requirement of working capital and also the interest element as compared to single stage-last point taxation system.
  - (iii) True, VAT is a system based simply on transactions. Thus there is no need to go through complicated definitions like sales, sales price, turnover of purchases and turnover of sales. The tax is also broad-based and applicable to all sales in business leaving little room for different interpretations. Thus, this system brings certainty to a great extent.