

PAPER – 4 : TAXATION

PART – I : STATUTORY UPDATES

Significant Notifications & Circulars Issued between 1.5.2011 and 30.04.2012

A : INCOME TAX

NOTIFICATIONS

1. Notification No. 32/2011 dated 3.06.2011

Limits for exemption of interest on Post Office Savings Bank Account

Under section 10(15)(i), income by way of, *inter alia*, interest on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits as the Central Government may, by notification in the Official Gazette, specify in this behalf, would be exempt subject to such conditions and limits specified in the said notification.

In exercise of powers given in section 10(15)(i), the Central Government has, through this notification, amended the Notification No. GSR 607(E) dated 9th June, 1989 which specified the bonds, annuity certificates, savings certificates and other certificates issued by the Central Government for the purpose of exemption under this clause as well as the maximum limit up to which the income by way of, *inter alia*, interest on such securities, bonds, savings certificates etc. issued by the Central Government shall be exempt from tax for any assessment year. The said notification dated 9th June, 1989 provided for exemption of the whole of the amount of interest on Post Office Savings Bank Account.

However, as per the amendment by this notification, the interest on Post Office Savings Bank Account which was so far fully exempt would henceforth be exempt from tax for any assessment year only to the extent of:

- (i) ₹ 3,500 in case of an individual account.
- (ii) ₹ 7,000 in case of a joint account.

2. Notification No.33/2011 dated 3.06.2011

Income received by any person on behalf of a fund established for the purpose of providing cash benefits to its employee-members to meet the cost of annual medical tests or medical checkups to qualify for benefit of exemption under section 10(23AAA)

Section 10(23AAA) provides that any income received by any person on behalf of the fund established for notified purposes for the welfare of employees or their dependents, and of which fund such employees are members, would be exempt subject to fulfillment of certain conditions.

Accordingly, in exercise of the powers conferred by section 10(23AAA), the CBDT had, vide Notification No. S.O. 672(E) dated 27th July, 1995, notified the following purposes –

- (1) cash benefits to a member of the fund -
 - (a) on superannuation, or
 - (b) in the event of his illness or illness of his spouse or dependent children, or
 - (c) to meet the cost of education of his dependent children or
- (2) cash benefits to the dependents of a member of the fund in the event of the death of such member.

The CBDT has, through this notification, amended the Notification No. S.O. 672(E) dated 27th July, 1995 to include cash benefits to a member of the fund to meet the cost of annual medical tests or medical checkups of a member, his spouse and dependent children as one of the purposes of the fund.

3. Notification No. 35/2011 dated 23.06.2011

Notification of Cost Inflation Index for F.Y.2011-12

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 2011-12 as 785.

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

4. Notification No. 49/2011 dated 6.9.2011

Notification of allowances and perquisites exempt under section 10(45)

The Finance Act, 2011 has inserted new clause (45) in section 10 to exempt specified allowances and perquisites received by Chairman or any other member, including retired Chairman or member of the Union Public Service Commission (UPSC). The exemption would be available in respect of such allowances and perquisites as may be notified by the Central Government in this behalf.

Accordingly, the Central Government has notified the following allowances and perquisites for serving Chairman and members of UPSC, for the purpose of exemption under section 10(45) -

- (i) the value of rent free official residence,
- (ii) the value of conveyance facilities including transport allowance,
- (iii) the sumptuary allowance and
- (iv) the value of leave travel concession.

In case of retired Chairman and retired members of UPSC, the following have been notified for exemption under section 10(45):

- (i) a sum of maximum ₹ 14,000 per month for defraying the service of an orderly and for meeting expenses incurred towards secretarial assistance on contract basis.

- (ii) the value of a residential telephone free of cost and the number of free calls to the extent of ₹1,500 pm (over and above free calls per month allowed by the telephone authorities)

This notification shall be effective retrospectively from 1st April, 2008.

5. Notification No. 50/2011 dated 9.9.2011

Notification of Long-term infrastructure bonds for section 80CCF

Section 80CCF exempts any amount paid or deposited by an individual or HUF as subscription to long-term infrastructure bonds notified by the Central Government, subject to a limit of ₹ 20,000.

Accordingly, the Central Government has specified the long term infrastructure bonds to be issued in the financial year 2011-12 by The Industrial Finance Corporation of India (IFCI), The Life Insurance Corporation of India (LIC), The Infrastructure Development and Finance Company Ltd. (IDFCL), The India Infrastructure Finance Company Ltd. (IIFCL) and a Non-Banking Finance Company classified as an Infrastructure Finance Company by Reserve Bank of India, as long term infrastructure bonds for the purpose of the deduction under section 80CCF. The tenure of the bond shall be for a minimum period of ten years. The minimum lock-in period for investors shall be five years.

The notification further specifies certain conditions relating to limit on issuance, yield of the bond, end-use of the proceeds and reporting or monitoring mechanism. Further, it shall be mandatory for the subscribers to furnish their PAN to the issuer.

6. Notification No. 52/2011 dated 23-09-2011 (as amended by Notification No. 6/2012 dated 14-2-2012)

Specification of bonds for interest exemption under section 10(15)(iv)(h)

Section 10(15)(iv)(h) exempts interest payable by any public sector company in respect of such bonds or debentures specified by the Central Government by notification in the Official Gazette. The notification would also specify the conditions subject to which the exemption would be available.

Accordingly, in exercise of the powers conferred in section 10(15)(iv)(h), the Central Government has specified the issue of tax free, secured, redeemable, non-convertible bonds of National Highways Authority of India (NHAI), Indian Railways Finance Corporation Ltd. (IRFCL), Housing and Urban Development Corporation Ltd.(HUDCL) and Power Finance Corporation (PFC) to be issued during the financial year 2011-12, the interest on which would be exempt under the said section.

The tenure of the bonds shall be ten or fifteen years. It shall be mandatory for the subscribers to furnish their PAN to the issuer. Further, it has been provided that such benefit shall be admissible only if the holder of such bonds registers his or her name and the holding with the said entity.

7. Notification No. 57/2011 dated 24.10.2011

Relaxation of time limit for submission of quarterly statements in case of a deductor being an office of Government

The CBDT has, through this notification, notified the Income-tax (Eighth Amendment) Rules, 2011 which shall come into force on 1st November, 2011. The said amendment Rules have given effect to following amendments:

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

- (i) Rule 31A(2) has been substituted to extend the time limit for submission of quarterly statements in case the deductor is an office of Government :

Date of ending of the quarter of the financial year	Due date in the case of a deductor, being an office of Government
30th June	31st July of the financial year
30th September	31st October of the financial year
31st December	31st January of the financial year
31st March	15th May of the financial year immediately following the financial year in which deduction is made

For other deductors, the due dates as prescribed earlier (i.e., 15th July, 15th October and 15th January of the financial year for quarters ending 30th June, 30th September and 31st December of the financial year, respectively) would continue to be applicable.

- (ii) In Rule 31A(4), clause (vii) has been inserted which requires the deductor to furnish, at the time of preparing statements of tax deducted, particulars of amount paid or credited on which tax was not deducted in view of the furnishing of declaration under section 197A(1) or 197A(1A) or section 197A(IC) by the payee.

(b) Rule 37BA – Credit for tax deducted at source for the purposes of section 199

Rule 37BA(1) provides that credit for tax deducted at source and paid to the Central Government shall be given to the person to whom the payment has been made or credit has been given (i.e., the deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorized by such authority.

Clause (i) of Rule 37BA(2) has four sub-clauses (a) to (d) providing for the specific instances where income of the deductee is assessable in the hands of another person, consequent to which credit for tax deduction at source shall be given to the other person in those specific cases.

Clause (i) of Rule 37BA(2) has been substituted to provide that where under any provisions of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee. In effect, the specific situations have been substituted by a general provision.

However, the deductee should file a declaration with the deductor and the deductor should report the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1) of Rule 37BA.

8. Notification G.S.R. 844(E) dated 25-11-2011

Increase in limit for subscription to public provident fund

As per Paragraph 3(1) of Public Provident Fund Scheme, 1968, the maximum limit for subscription by an individual, on his behalf or on behalf of a minor of whom he is the guardian, is ₹ 70,000.

In exercise of the powers conferred by section 3(4) of the Public Provident Fund Act, 1968, the Central Government has amended Paragraph 3(1) of the Public Provident Fund Scheme, 1968 to increase the maximum limit to ₹ 1,00,000. Such contribution to PPF would qualify for deduction under section 80C.

9. Notification No. 7/2012 dated 14-2-2012 (as amended by Notification No. 13/2012 dated 6-03-2012)

Specification of bonds for interest exemption under section 10(15)(iv)(h)

- (a) Section 10(15)(iv)(h) exempts interest payable by any public sector company in respect of such bonds or debentures specified by the Central Government by notification in the Official Gazette. The notification would also specify the conditions subject to which the exemption would be available.
- (b) Accordingly, in exercise of the powers conferred in section 10(15)(iv)(h), the Central Government has specified the issue of tax free, secured, redeemable, non-convertible bonds of the **Rural Electrification Corporation Limited (RECL)**, to be issued during the financial year 2011-12, the interest on which would be exempt under the said section.
- (c) The tenure of the bonds shall be ten or fifteen years. It shall be mandatory for the subscribers to furnish their PAN to the issuer. Further, it has been provided that such benefit shall be admissible only if the holder of such bonds registers his, her or its name and the holding with the said entity.
- (d) Such exemption shall be available if such bonds are issued by way of public issue and not by way of a private placement.

10. Notification No. 9/2012 dated 17-2-2012

Specified persons exempted from filing return of income under section 139(1) for A.Y. 2012-13

- (a) As per the provisions of section 139(1C), the Central Government is empowered to issue a notification exempting any class or classes of person from the requirement of furnishing a return of income, subject to certain conditions as may be specified.
- (b) In exercise of above mentioned power, the Central Government has, vide this notification, exempted the following class of persons, subject to the conditions specified, from the requirement of furnishing a return of income under section 139(1) for A.Y. 2012-13:

Class of persons exempt from filing of return of income

An individual whose total income does not exceed ₹ 5 lakh shall not be required to furnish the return of income under section 139(1) for the A.Y. 2012-13, in case the total income consists of only income chargeable to income-tax under the head:

- (1) Salaries; and/or
- (2) Income from other sources which consists of only income by way of interest from a **saving account in a bank**, not exceeding ₹ 10,000.

Conditions to be satisfied for claiming above mentioned exemption

The following conditions are to be satisfied by the individual to claim such exemption:

- (1) he has reported his Permanent Account Number (PAN) to his employer;
 - (2) he has reported his income from other sources i.e, interest from the savings bank account in the bank to his employer and the employer has deducted tax on the same;
 - (3) the individual is in receipt of certificate of tax deduction in Form 16 from his employer, mentioning the PAN, particulars of income during the year and the tax deducted at source and deposited to the credit of the Central Government;
 - (4) his total tax liability for the assessment year is discharged only through tax deduction at source and the same is deposited by the employer to the credit of Central Government;
 - (5) he has not claimed any refund of taxes due to him in respect of income relating to that assessment year for which exemption is claimed; and
 - (6) he is in receipt of salary from only one employer for such relevant assessment year.
- (c) The individual shall not be exempt from filing return of income for the assessment year in cases where notice under section 142(1) or section 148 or section 153A or section 153C has been issued by the Assessing Officer to such individual requiring him to file return of income for such assessment year.

11. Notification No. 11/2012 dated 28-2-2012**Specification of body/ authority/ Board/ Trust/ Commission for exemption under section 10(46)**

- (a) Section 10(46) exempts any specified income arising to a body/ authority/ Board/ Trust/ Commission which has been constituted with the object of regulating or administering any activity for the benefit of the general public and is not engaged in any commercial activity, if the same is notified by the Central Government in this regard subject to certain conditions mentioned the notification.

Accordingly, the Central Government has notified that for the purposes of section 10(46), the following income arising to the National Skill Development Corporation (NSDC), a body constituted by the Central Government, for F.Y. 2011-12 to F.Y. 2015-16, shall not be chargeable to tax:

- (i) long-term or short-term capital gain out of investment in an organization for skill development;
 - (ii) dividend and royalty from skill development venture supported or funded by NSDC;
 - (iii) interest on loans to Institutions for skill development;
 - (iv) interest earned on fixed deposits with banks; and
 - (v) amount received in the form of Government grants.
- (b) Such exemption shall apply if:
- (i) the activities and the nature of the specified income of NSDC remain unchanged throughout the financial year, and
 - (ii) NSDC files its return of income in accordance with section 139(4C)(g).

12. Notification No. 12/2012 dated 28-2-2012**Specification of body/ authority/ Board/ Trust/ Commission for exemption under section 10(46)**

- (a) Section 10(46) exempts any specified income arising to a body/ authority/ Board/ Trust/ Commission which has been constituted with the object of regulating or administering any activity for the benefit of the general public and is not engaged in any commercial activity, if the same is notified by the Central Government in this regard subject to certain conditions mentioned the notification.

Accordingly, the Central Government has notified that for the purposes of section 10(46), the following income arising to the Competition Commission of India (CCI), a Commission established under section 7(1) of the Competition Act, 2002, for F.Y. 2011-12 to F.Y. 2015-16, shall not be chargeable to tax:

- (i) amount received in the form of Government grants;

- (ii) fee received under the Competition Act, 2002; and
 - (iii) interest income accrued on Government grants and interest accrued on fee received under the Competition Act, 2002.
- (b) Such exemption shall apply if:
- (i) the activities and the nature of the specified income of CCI remain unchanged throughout the financial year, and
 - (ii) CCI files its return of income in accordance with section 139(4C)(g).

13. Notification No. 15/2012 dated 30-3-2012

Depreciation on wind mill installed after 31.03.2012 restricted to 15%

As per the existing provisions, the plant and machinery in the nature of renewable energy devices being:

- (a) Wind mills and any specially designed devices which run on wind mills
- (b) Any special devices including electric generators and pumps running on wind energy are entitled to depreciation@80% under section 32.

The CBDT has, vide this notification, restricted the eligibility of claiming depreciation@80% to such wind mills and special devices installed on or before 31.03.2012. Accordingly, such plant and machinery installed on or after 1st April, 2012 shall be entitled to depreciation at the general rate applicable to plant & machinery i.e., 15%. However, such plant and machinery installed on or before 31st March, 2012 shall continue to claim depreciation@80%.

B : SERVICE TAX

Rate of service tax restored to 12%

As per section 66, rate of service tax is 12% of the value of taxable services. However, in February 2009, the rate of service tax was reduced to 10% vide *Notification No. 8/2009 ST dated 24.02.2009*.

With effect from 01.04.2012, *Notification No. 02/2012-ST dated 17.03.2012* rescinded the said notification and resultantly, the rate of service tax has again been restored to 12%.

I. AMENDMENTS IN THE SERVICE TAX RULES, 1994

1. All assesseees to file Service Tax Returns electronically

Service Tax Rules, 1994 have been amended to provide that every assessee will have to submit half-yearly service tax return electronically, irrespective of the amount of service tax paid by him in the preceding financial year. The amendment would be effective from October 1, 2011.

Earlier, electronic filing of service tax returns was mandatory for the assesseees who had paid service tax of ₹ 10 lakh or more including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year.

[Notification No. 43/2011 ST dated 25.08.2011]

Procedure for electronic filing of Central Excise and Service Tax returns and for electronic payment of excise duty and service tax

Central Excise and Service Tax returns, the DG (Systems) has issued comprehensive instructions outlining the procedure for electronic filing of Central Excise duty and Service Tax returns and electronic payment of taxes under ACES. The said instructions outline the registration process for new assesseees, existing assesseees, non-assesseees and for Large Taxpayers Units, steps for preparing and filing of return, use of XML Schema for filing dealer's return, procedure for obtaining acknowledgement of e-filed return, procedure for e-payment etc.

[Circular No. 956/17/2011 CX dated 28.09.2011]

2. Amendments made by Notification No. 3/2012-ST dated 17.03.2012 (effective from 01.04.2012)

(a) Partnership firm defined [Rule 2(cd)]

Rule 2(cd) defines partnership firm as follows:-

Partnership firm includes limited liability partnership.

(b) Amendments in rule 6

(i) Individuals/partnership firms with aggregate value of taxable services of ₹ 50 lakh or less in previous year allowed to pay service tax on payment basis in current year upto a total of ₹ 50 lakh [Fourth proviso to sub-rule (1) inserted]

In case of **individuals and partnership firms** whose aggregate value of taxable services provided from one or more premises is ₹ 50 lakh or less in the previous financial year, the due dates for payment of service tax on taxable services provided or to be provided by him up to a total of ₹ 50 lakh in the current financial year, at the option of service provider, is as follows:-

S.No.	Particulars	Due date for payment of service tax
1.	If the service tax is paid electronically through internet banking	6 th day of the following quarter in which the payment is received
2.	In any other case	5 th day of the following

		quarter in which the payment is received
3.	In the case payment is received in the quarter ending in March	31 st day of March

(ii) **Restrictions in rule 6(4B) omitted thereby allowing unlimited amount of permissible adjustment of excess service tax paid**

Prior to amendment

Earlier the excess amount of service tax paid on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification was allowed subject to the following conditions:-

- The excess payment shall be utilized for the payment of service tax for the subsequent month liability subject to maximum of ₹ 2,00,000/- for a relevant month or quarter, as the case may be.
- The excess amount paid by a registered assessee, on account of delayed receipt of details of payments towards taxable services may be adjusted without monetary limit.
- The adjustment shall be intimated to the jurisdictional superintendent of Central Excise within 15 days from such adjustment.

After the amendment

All the three aforesaid conditions [mentioned in point (a) to (c) above] have now been dispensed with. Consequently, sub-rule (4) now provides as under:-

The adjustment of excess amount paid, under sub-rule (4A), shall be subject to the condition that the excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification.

(iii) **Changes in the composition rates**

A. In case of insurer carrying on life insurance business [Sub-rule (7A)]

Where amount of the gross premium allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service:-

	Rate of service tax	
	Prior to amendment (Till 31.03.2012)	After amendment (With effect from 01.04.2012)
First	1.5% of the gross amount of	3% of the gross amount of

	premium charged	premium charged
Subsequent year	1.5% of the gross amount of premium charged	1.5% of the gross amount of premium charged

B. In case of sale/purchase of foreign currency including money changing [Sub-rule (7B)]

S.No.	For an amount	Rate of service tax	
		Prior to amendment (Till 31.03.2012)	After amendment (With effect from 01.04.2012)
1.	Upto ₹ 100,000	0.1 % of the gross amount of currency exchanged or ₹ 25 whichever is higher	0.12 % of the gross amount of currency exchanged or ₹ 30 whichever is higher
2.	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	₹ 100 + 0.05 % of the gross amount of currency exchanged	₹ 120 + 0.06 % of the gross amount of currency exchanged
3.	Exceeding ₹ 10,00,000	₹ 550 + 0.01 % of the gross amount of currency exchanged or ₹ 5,000 whichever is lower	₹ 660 + 0.012 % of the gross amount of currency exchanged or ₹ 6,000 whichever is lower

C. In case of Distributor or Selling Agents of Lotteries [Sub-rule (7C)] :

Guaranteed lottery prize payout	Amount of service tax payable on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw	
	Prior to amendment (Till 31.03.2012)	After amendment (With effect from 01.04.2012)
More than 80%	₹ 6000/-	₹ 7000/-
Less than 80%	₹ 9000/-	₹ 11000/-

II. AMENDMENTS IN THE POINT OF TAXATION RULES, 2011 [Notification No. 04/2011-ST dated 17.03.2012] effective from 01.04.2012

1. Date of payment [Rule 2A]

Rule 2A has been inserted to define the date of payment.

For the purposes of these rules, "date of payment" shall be:-

(a) date on which the payment is entered in the books of accounts

or

(b) date on which payment is credited to the bank account of the person liable to pay tax

whichever is earlier.

(A) Date of payment in case of change in effective rate of tax or a new levy between the above two dates

In case,

(i) there is a change in effective rate of tax or when a service is taxed for the first time during the period between such entry in books of accounts and its credit in the bank account;

(ii) the bank account is credited **after four working days** from the date when there is change in effective rate of tax or a service is taxed for the first time; and

(iii) the payment is made by way of an instrument which is credited to a bank account,

the date of payment shall be the date of credit in the bank account instead of the date of recording of payment in the books of accounts.

Analysis

Since rate of service tax has been changed from 10% to 12% with effect from 01.04.2012,

(i) In case where service has been provided before 01.04.2012 and the cheque / demand draft etc. has been received upto March 31, 2012, applicable rate of service tax would be 10% provided cheque / demand draft is credited in the bank account by April 4, 2012. Otherwise, the date of payment would be date of credit in the bank account [viz. after April 4, 2012] and consequently, new rate of 12% would be applicable.

(ii) In case where date of issuance of invoice and receipt of payment by cheque / demand draft etc. is before 01.04.2012, applicable rate of service tax would be 10% provided cheque / demand draft etc. is credited in the bank account by April 4, 2012. Otherwise, the date of payment would be date of credit in the bank account [viz. after April 4, 2012] and consequently, new rate of 12% would be applicable.

(B) If any rule requires determination of the time or date of payment received: the expression "date of payment" shall be construed to mean such date on which the payment is received.

2. Amendments in rule 3 relating to determination of point of taxation

(a) Proviso to clause (a) amended

Prior to amendment

In case the invoice is not issued within 14 days of the completion of the provision of the service, the point of taxation shall be date of such completion.

After the amendment

In order to align the aforesaid proviso with increased time-limit for issuance of invoice from 14 days to 30 days (45 days in case of banks and financial institutions providing banking and other financial services) in rule 4A of the Service Tax Rules, 1994, proviso to clause (a) of rule 3 has been substituted with the following proviso:-

In case the invoice is not issued within the time period specified in rule 4A of the Service Tax Rules, 1994 (30 or 45 days, as the case may be) of the completion of the provision of the service, the point of taxation shall be date of such completion.

(b) Proviso to clause (b) inserted

For the purposes of clauses (a) and (b), —

(i) **Date of completion of provision of service in case of continuous supply of service:** In case of continuous supply of service where the provision of the whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the receiver of service to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service.

(ii) **Point of taxation in case where payment upto ₹ 1,000 received in excess of the invoiced amount**

Wherever the provider of taxable service receives a payment up to ₹ 1,000 in excess of the amount indicated in the invoice, the point of taxation to the extent of such excess amount, at the option of the provider of taxable service, shall be determined on the basis of invoice or completion of service, whichever is earlier, rather than payment.

Purpose of the aforesaid provision:-

In this regard, DOF No. 334/1/2012-TRU dated 16.03.2012 clarifies as follows:-

As a measure of added facilitation, an option has been provided to determine the point of taxation in respect of small advances up to ₹ 1000, in excess of the amount indicated in the invoice, on the basis of invoice or completion of service rather than payment. Such provision is expected to address the accounting problems faced by service providers in telecommunications, credit card businesses who regularly receive minor excess payments from their customers.

3. Rule 5 relating to payment of tax on new services substituted with the new rule

Rule 5 has been substituted with a new rule which provides as follows:-

Where a service is taxed for the first time, then,—

- (a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
- (b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within 14 days** of the date when the service is taxed for the first time.

**It is important to note that time-period available in case of new levy for the issuance of the invoice has still been restricted to 14 days as against normal time-period for issuance of invoice been extended to 30 days.

4. Omission of rule 6 relating to determination of point of taxation in case of continuous supply of service

Since the essence of the rule applicable in case of continuous supply of service is the same as the main rule-rule 3, the separate rule for continuous supply of service has been omitted and merged with the main rule.

5. Rule 7 substituted with a new rule**Prior to amendment**

Earlier, rule 7 provided that in the following cases, subject to specified conditions, date of receipt or payment of consideration would be the point of taxation:-

- (a) Person liable to pay service tax under reverse charge mechanism
- (b) *Export of services*
- (c) *Individuals or proprietary firms or partnership firms providing the eight specified services***

Further, 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 credit in the books of account of the person receiving the service
or
(b) date of making the payment
whichever is earlier.

After the amendment

The special relaxation provided to category (b) has been shifted from the Point of Taxation Rules, 2011 to the Service Tax Rules, 1994.

Further, the benefit of payment of service tax on receipt basis earlier provided to eight specified services in category (c) has also been withdrawn. However, in case of **individuals and partnership firms** whose aggregate value of taxable services provided from one or more premises is ₹ 50 lakh or less in the previous financial year, service tax on taxable services provided or to be provided by him up to a total of ₹ 50 lakh in the current financial year is payable on receipt basis (provided in Service Tax Rules, 1994).

This would help provide certainty in the application of rate of tax while retaining the benefit of payment of tax until payment is received.

New rule 7 reads as under:-

Notwithstanding anything contained in these rules, the point of taxation in respect of the persons required to pay tax as recipients of service under the rules made in this regard in respect of services notified under sub-section (2) of section 68 of the Act, shall be the date on which payment is made:

However, where the payment is not made within a period of six months of the date of invoice, the point of taxation shall be determined as if this rule does not exist:

Further, in case of "associated enterprises", where the person providing the service is located outside India, the point of taxation shall be the date of debit in the books of account of the person receiving the service or date of making the payment whichever is earlier.

****Note:** CBEC vide *Circular No. 154/5/2012 – ST dated 28.03.2012* has clarified that, in respect of the specified eight services, for invoices issued on or before 31st March 2012, the point of taxation shall be the date of payment.

Further, Board has clarified vide *Circular No. 158/9/2012 ST dated 08.05.2012* that the rate of service tax prevalent on the date when point of taxation occurs is the rate of service tax applicable on any taxable service. Therefore, in the abovementioned cases where the point of taxation is the date of payment, service tax should be charged @ 12% on these services, if the payment is received on or after 1st April, 2012 even though the invoices have been issued before 1st April, 2012.

It has also been clarified that the supplementary invoices may be issued to reflect the new rate of tax, if required to recover the differential amount and that CENVAT credit can

be availed on such supplementary invoices and tax payment challans (in case of reverse charge).

6. Determination of point of taxation in other cases [Rule 8A inserted]

A residual rule-rule 8A has been inserted to determine the point of taxation by way of best judgment to handle situations where the tax-payer is unable to furnish one or more of the details needed i.e. date of payment or date of invoice or both to determine point of taxation. It provides as follows:-

Where the point of taxation cannot be determined as per these rules as the date of invoice or the date of payment or both are not available, the Central Excise officer, may, require the concerned person to produce such accounts, documents or other evidence as he may deem necessary and after taking into account such material and the effective rate of tax prevalent at different points of time, shall, by an order in writing, after giving an opportunity of being heard, determine the point of taxation to the best of his judgment.

Definitions inserted / amended [Rule 2]

Following definitions have been inserted / amended:-

1. Definition of change in effective rate of tax inserted [Section 2(ba)]

“**Change in effective rate of tax**” shall include a change in the portion of value on which tax is payable in terms of a notification issued in the Official Gazette under the provisions of the Act, or rules made thereunder.

Earlier, this definition was provided as an explanation to rule 4 which has been omitted now.

2. Definition of continuous supply of service amended [Section 2(c)]

Prior to amendment

Earlier, **continuous supply of service** means any service which is provided, or to be provided continuously, under a contract, for a period exceeding three months or any other notified service.

After the amendment

Amended definition reads as follows:-

Continuous supply of service means

(i) any service which is provided, or to be provided continuously *or on recurrent basis, under a contract, for a period exceeding three months with the obligation for payment periodically or from time to time,*

or

(ii) where the Central Government, by a notification in the Official Gazette, prescribes

provision of a particular service to be a continuous supply of service, whether or not subject to any condition.

Implication of the amendment

The definition of continuous supply of service has been amended to capture the concept in a more wholesome manner. Consequently, in case of continuous supply of services, the condition of making payment periodically or from time-to-time has been inserted. Moreover, the services provided on a recurrent basis shall also be considered as continuous supply of service.

7. Service to be treated as “completed” on completion of all the auxiliary activities enabling the service provider to issue the invoice

CBEC has clarified that the test for the determination whether a service has been completed would be the completion of all the related activities that place the service provider in a situation to be able to issue an invoice. The Service Tax Rules, 1994 require that invoice should be issued within a period of 30 days from the completion of the taxable service. The invoice needs to indicate *inter alia* the value of service so completed. Thus, it is important to identify the service so completed. This would include not only the physical part of providing the service but also the completion of all other auxiliary activities that enable the service provider to be in a position to issue the invoice. Such auxiliary activities could include activities like measurement, quality testing etc. which may be essential pre-requisites for identification of completion of service. However, it has been clarified that such activities do not include flimsy or irrelevant grounds for delay in issuance of invoice.

The Board has elucidated that the above interpretation also applies to determination of the date of completion of provision of service in case of “continuous supply of service”.

[Circular No. 144/13/2011- ST dated 18.07.2011]

III. EXEMPTIONS / WITHDRAWAL OF EXEMPTIONS

1. Simpler scheme for refund of service tax paid on specified services used for export of goods

With effect from 03.01.2012, the old procedure for grant of refund prescribed vide *Notification 17/2009-ST dated 07.07.2009* has been dispensed with and a new scheme for refund of the service tax paid on the services received by an exporter and used for export of goods has been prescribed.

Under the latest simplified scheme, the exporters have been provided with an option to claim refund electronically through ICES scheme. Otherwise, they can claim refund on the basis of documents. Refund, however, continues to be restricted to specified 18 taxable services as before. Minimum service tax refund for an electronic shipping bill is ₹ 50. Time-limit for filing the refund claim shall be one year from the date of export of the

said goods. No CENVAT credit of service tax paid on the specified services used for export of the said goods can be taken under the CENVAT Credit Rules, 2004. The said exemption cannot be claimed by a Unit or Developer of a Special Economic Zone.

[Notification No. 52/2011 dated 30.12.2011]

2. **First clearances up to ₹ 10 lakh, for the purposes of small service providers' exemption, to be in terms of invoices and not mere payments received**

With effect from 01.04.2012, *Notification No. 6/2005 dated 01.03.2005* granting exemption to small service providers has been amended recognizing that the first clearances up to ₹ 10 lakh will be in terms of invoices and not mere payments received. This amendment has been carried out to align the said exemption with the Point of Taxation Rules, 2011.

Prior to amendment	After the amendment
<p>"aggregate value not exceeding ₹ 10,00,000"</p> <p>means the sum total of first consecutive payments received during a financial year towards the gross amount, charged by the service provider towards taxable services till the aggregate amount of such payments is equal to ₹ 10 lakh</p> <p>but does not include payments received towards such gross amount which are exempt from whole of service tax leviable thereon under section 66 of the said Finance Act under any other notification.</p>	<p>"aggregate value not exceeding ₹ 10,00,000"</p> <p>means the sum total of value of taxable services charged in the first consecutive invoices issued or required to be issued, as the case may be, during a financial year</p> <p>but does not include value charged in invoices issued towards such services which are exempt from whole of service tax leviable thereon under section 66 of the said Finance Act under any other notification.</p>

[Notification No. 05/2012-ST dated 17.03.2012]

IV. CLARIFICATIONS

1. **Service tax is not chargeable on delayed payment charges collected by Stock Brokers**

CBEC has clarified that delayed payment charges received by the stock brokers are not includible in taxable value as the same are not the charges for providing taxable services. Such charges are on account of delay in making payments by the service recipient to the service provider and are in the nature of a penal charge for not making the payment within stipulated time.

It may be noted that the Board has stated that this principle will also apply to other service providers.

However, section 67 of the Finance Act 1994 provides that service tax is chargeable on taxable value which shall be the 'gross amount charged' by the service provider. Therefore, if in the account statement / invoice / bill etc issued by the service provider, only the gross amount is shown without indicating the delayed payment charges separately, the service tax would be payable on the entire amount. Delayed payment charges would not be includible in 'gross value charged' only if these charges are shown separately in the account statement/invoice/bill etc.

[CBEC Letter No. F.No.137/25/2011-ST dated 03.08.2011]

2. Cess paid by Consulting Engineer on transfer of technology and holder of intellectual property right on import of technology – Exemption made conditional

Notification No. 18/2002 ST dated 16.12.2002 exempts the taxable services provided by a consulting engineer on transfer of technology from so much of the service tax leviable thereon, as is equivalent to the amount of cess paid on the said transfer of technology under the provisions of Section 3 of the Research and Development Cess Act, 1986. The said exemption would now be available if the Research & Development Cess is paid at the time of service or before payment for the service subject to maximum of six months period from the date of invoice or in case of associated enterprises the date of credit in the books of account. Also, necessary records will have to be maintained so as to establish a linkage between the invoice or the credit entry (as the case may be) and the cess payment challan.

Similar conditions have been imposed in respect of the exemption available to the amount of cess paid by the holder of intellectual property right on import of technology under the provisions of Section 3 of the Research and Development Cess Act, 1986.

[Notification No. 46 and 47/2011 ST dated 19.09.2011]

PART – II : QUESTIONS AND ANSWERS

QUESTIONS

Residential Status and Scope of total income

1. Compute the total income of Mr. Ankit for the assessment year 2012-13 from the following particulars of income furnished by him, if he is:
 - (i) Resident and ordinary resident;
 - (ii) Resident but not ordinarily resident;
 - (iii) Non-resident

	Particulars	₹
(a)	Rent from property in New York deposited in a bank in New York, later on remitted to India through approved banking channels.	90,000
(b)	Fees for technical services rendered in Japan and received in Japan. The services were, however, utilized in India.	50,000
(c)	Dividend from an Australian Company received in Australia	15,500
(d)	Profit on sale of shares in Indian Company received in Canada	27,500
(e)	Dividend from Indicom Ltd., an Indian Company	15,000
(f)	Agricultural income from land in Rajasthan	46,000

Income from Salaries

2. Mr. Rupesh is the Finance Manager of Vaibhav Construction Pvt. Ltd. and he is in receipt of the following emoluments from his employer. Compute his taxable salary for the Assessment year 2012-13.

Particulars	₹
Basic Salary	
Up to 30.9.2011	28,000 p.m.
From 1.10.2011	35,000 p.m.
D.A. (forming part of retirement benefits)	16,000 p.m.
Transport allowance	2,800 p.m.
Employer's contribution to recognised provident fund (R.P.F.)	18% of basic salary and dearness allowance
Interest credited to recognized provident fund @10%	40,000
Children education allowance (total p.m.)	240 p.m. (See Note below)
Entertainment allowance	450 p.m.
Hostel expenses allowance (total p.m.)	600 p.m. (See Note below)
Tiffin allowance	7,500 p.a.
Professional tax paid (₹ 2,500 was paid by his employer)	3,200

Note: Children education allowance and hostel expenditure allowance have been given for two children of Mr. Rupesh, aged 16 years and 14 years, in accordance with the policy of the employer. As per the said policy, the eligible children education allowance and hostel expenditure allowance in respect of an employee's child above 15 years of age would be double the eligible children education allowance/hostel expenditure allowance, as the case may be, in respect of an employee's child up to 15 years of age.

Income from house property

3. Two brothers, Vinay and Nitesh, are co-owners of a house property with equal share. The property was constructed during the financial year 1997-98. The property consists of four identical units and is situated at Jodhpur.

During the financial year 2011-12, each co-owner occupied one unit for residence and the remaining two units were let out at a rent of ₹ 18,000 per month per unit. The municipal value of the house property is ₹ 8,00,000 and the municipal taxes are 15% of municipal value, which were paid during the year by the owners. The other expenses were as follows:

	₹
(i) Repairs and maintenance charges	32,000
(ii) Light and water charges	15,000
(iii) Insurance premium paid	20,000
(iv) Interest on borrowed capital for construction of house	1,80,000

One of the let out units remained vacant for one month during the year.

Vinay could not occupy his unit for six months as he was transferred to Jaipur. He does not own any other house.

You are required to compute the income under the head 'Income from House Property' of Vinay and Nitesh for the assessment year 2012-13.

Profits and gains of business or profession

4. Mr. Sanjay is engaged in wholesale trade, having turnover of ₹ 40,00,000 for the financial year 2011-12. His income from the said business as per books of account is computed at ₹ 2,55,000. Wholesale trade is the only source of income of Mr. Sanjay.
- Is Mr. Sanjay eligible to opt for presumptive determination of his income chargeable to tax for the assessment year 2012-13?
 - If so, determine his income from wholesale trade as per the applicable presumptive tax provisions.
 - In case Mr. Sanjay does not opt for presumptive taxation of income from wholesale trade, what are his obligations under the Income-tax Act, 1961?
 - What is the due date for filing his return of income under both the options?
5. Mr. Tata is engaged in the business of growing and curing coffee in Yercaud, Tamil Nadu. The whole of coffee grown in his plantation is cured. Relevant information pertaining to the year ended 31.3.2012 are given below:

Particulars	₹
WDV of car as on 1.4.2011	5,00,000

WDV of machinery as on 1.4.2011 (15% rate)	20,00,000
Expenses incurred for growing coffee	4,25,000
Expenditure for curing coffee	5,33,000
Sale value of cured coffee	31,00,000

The car is used both for agricultural operations and for personal purposes. 50% is attributable to personal use. The expenses incurred for car running and maintenance are ₹ 1,10,000. The machines were used in coffee curing business operations.

Compute the income arising from the above activities for the assessment year 2012-13. Show the WDV of the assets as on 31.3.2012.

Capital Gains

6. Mr. Shivam purchased a residential house in February, 1979 for ₹ 2,40,000. In addition, he also paid stamp duty at the rate of 10% on stamp duty value of ₹ 2,50,000. Fair market value of property on 1.4.1981 is ₹ 2,60,000.

In January 1985, Mr. Shivam entered into an agreement with Mr. Namit for sale of such property for ₹ 4,20,000 and received an amount of ₹ 50,000 as an advance. However, as Mr. Namit did not pay the balance amount, Mr. Shivam forfeited the advance.

In March, 1988, Mr. Shivam constructed the first floor by incurring a cost of ₹ 1,35,000. He sold the said house on 25th January, 2012 for ₹ 25,00,000. Stamp duty is paid by purchaser at the rate of 12% of stamp duty value of ₹ 32,00,000. Shivam has paid brokerage @ 1% to the broker on sale transaction.

He purchased a residential house on 12th May, 2012 for ₹ 6,00,000. He invested ₹ 3,50,000 in NHAI Bonds on 29th September, 2012

Compute the capital gains chargeable to tax in the hands of Mr. Shivam for the assessment year 2012-13.

Financial Year	Cost Inflation Index
1981-82	100
1984-85	125
1987-88	150
2011-12	785

Income from Other Sources

7. Compute the income chargeable under the head "Income from other sources" from the following details furnished by Mrs. Tripti pertaining to the year ended 31.3.2012 :
- Cash gift of ₹ 1,01,000 received from her friend on the occasion of her 25th wedding anniversary.
 - On the above occasion, a diamond necklace worth ₹ 10 lacs was presented by her

brother living in Canada.

- (iii) On the occasion of her birthday, she gets a gift of a car worth ₹ 2,40,000 from her friend.
- (iv) Interest on enhanced compensation received amounting to ₹ 3,50,000. Out of this interest, ₹ 75,000 relates to the previous year 2008-09, ₹ 1,10,000 relates to the previous year 2009-10 and ₹ 1,65,000 relates to the previous year 2010-11.
- (v) She has received interest of ₹ 7,000 on post office savings bank account during the year.

Income of other Persons included in Assessee's Total Income

8. Compute the total income of Mr. & Mrs. Shah from the following information for the Assessment Year 2012-13:

S.No.	Particulars	₹
(i)	Income from profession of Mr. Shah	4,80,000
(ii)	Salary income (computed) of Mrs. Shah	3,00,000
(iii)	Long term capital gain (computed) of Mrs. Shah (through sale of land which has been gifted by Mr. Shah on their wedding anniversary)	2,20,000
(iv)	Income of minor son 'A' who suffers from disability specified in Section 80U	95,000
(v)	Income of minor daughter 'B' from a music talent show	75,000
(vi)	Interest from bank received by 'B' on deposit made out of income earned from a music talent show	5,000
(vii)	Income of minor married daughter 'C' from company deposit	25,000

Set-off and Carry Forward of Losses

9. Mr. Vivek furnished the following information for the assessment year 2012-13:

Particulars	₹
Income from salaries	4,50,000
Loss from house property	(50,000)
Income from business (before providing for depreciation)	1,65,000
Short term capital gain from sale of land	54,000
Long term capital loss from sale of building	(86,000)
Long term capital gain from shares (STT paid)	32,000
Short term capital loss under section 111A	(25,000)
Share of profit in a firm in which he is a partner	45,000
Winnings from lottery (Gross)	58,000

Loss on gambling	(8,000)
Dividend from a domestic company carrying on agricultural operation	15,000
Income from betting	10,000
Current year depreciation	60,000
Brought forward business loss relating to assessment year 2010-11	1,20,000

You are required to:

- Compute the gross total income and
- Ascertain the amount of losses that can be carried forward.

Deductions from Gross Total Income

10. The gross total income of Mr. Chetan for the A.Y. 2012-13 is ₹ 4,88,000. He has made the following investments/payments during the F.Y. 2011-12 -

- Deposited ₹ 30,000 in fixed deposit in the name of minor son in IDBI bank.
- Paid ₹ 18,000 towards premium to effect an insurance on the life of his wife.
- Purchased IDFC infrastructure bonds for ₹ 32,000 in November 2011.
- Contributed ₹ 15,000 to National Defence fund.
- Donated ₹ 24,000 to a Government recognized institution for scientific research.

You are required to compute the total income of Mr. Chetan for the assessment year 2012-13, assuming that his gross total income does not include any income under the head 'Profits and gains of business or profession', 'Capital gains' and income taxable at flat rate of 30% under section 115BB.

Computation of Total Income and Tax liability of an individual

11. Mr. Manik, a resident individual aged 60 years has retired from the services of the Central Government on 31.8.2011. You are required to compute the total income of Mr. Manik from the following particulars of his income and other details:

- Salary @ ₹ 10,000 p.m.
- Pension @ ₹ 6,000 p.m. for September 2011 to December 2011.
- On 1.01.2012, he got 1/3rd of his pension commuted for ₹ 2,40,000.
- A house plot at Kanpur sold on 27.11.2011 for ₹ 10,50,000. Mr. Manik purchased the same on 24.02.1980 for ₹ 57,000. The stamp valuation authority had assessed the value of said house plot at ₹ 12,00,000 which was neither disputed by the buyer nor by him. The value of this house plot as on 1.4.1981 was ₹ 1,05,000 (The cost inflation index for the year 2011-12 is 785).
- Received interest of ₹ 47,250 on bank FDRs, dividend of ₹ 8,500 on mutual fund units, specified under section 10(23D) and interest on maturity of NSC of

₹ 82,500, out of which an amount of ₹ 67,500 was already disclosed by him on accrual basis in the returns upto assessment year 2011-12.

6. Investment in purchase of NSC for ₹ 65,000 and payment of premium of ₹ 16,000 (by way of a cheque) to effect an insurance on the health of self and wife. Payment of premium of ₹ 53,000 for insuring the life of self and spouse.

Provisions concerning tax deducted at source

12. Examine the applicability of the provisions for deduction of tax at source in the following cases for the assessment year 2012-13 :

- (i) Saurav, an employee of the Central Government is due to receive arrears of salary for the earlier three years in the P.Y. 2011-12. He enquires whether such amount of arrears would be subject to deduction of tax during the previous year 2011-12.
- (ii) X Ltd. entered into an agreement with ABC Consultants for providing engineering services to the company for a consideration of ₹ 7,500 per month. ABC Consultants requires X Ltd. to deduct tax at source @ 2% under section 194C. The accountant of X Ltd. states that tax deduction should be @ 10% under section 194J. State the correct position.
- (iii) Mr. Sharma has to make payment of ₹ 5 lacs to Mr. Y, a contractor (for business purposes) during the last two quarters of the year ended 31.03.2012. Mr. Sharma's turnover for the year ended 31.3.2011 was ₹ 62 lacs. Is there any obligation on Mr. Sharma to deduct tax at source on payment to be made to Mr. Y?
- (iv) Nishant has to pay ₹ 1 lac to DSM Ltd., a resident contractor who, under the contract dated 15th October, 2011, manufactures a product according to specification of Nishant by using materials purchased from Nishant. Nishant's turnover from business for the year ended 31.03.2011 was ₹ 80 lacs.
- (v) Interest amounting to ₹ 55,000 payable to Corporation Bank by A Ltd.

Provisions for filing of Return of Income

13. State whether filing of income-tax return is mandatory for the assessment year 2012-13 in respect of the following cases:

- (i) Mr. Chauhan, a non-resident (aged 82 years) having total income of ₹ 1,60,000 after deduction of ₹ 1,20,000 under Chapter VI-A. His total income comprises of Income from house property and interest income.
- (ii) Registered trade union eligible for exemption under section 10(24) having following incomes:
- | | |
|---------------------------------------|------------|
| Income from house property (computed) | ₹ 1,10,000 |
| Income from other sources (computed) | ₹ 50,000 |
- (iii) Mr. Santosh, a resident individual (aged 39 years), having following incomes:

Income from salary	₹ 4,95,000
Interest from savings bank account	₹ 5,000
(iv) A Limited Liability Partnership (LLP) with business loss of ₹ 1,80,000 during the previous year 2011-12.	

Payment of Service Tax

14. Miss Radhika, a wedding planner, has rendered service to Mr. Ram Kapoor in relation to planning the marriage of his son. Miss Radhika, being a close relative of Mr. Ram Kapoor, has not charged any fee from him. Is service tax payable on such free, but taxable service?

Special rate of service tax

15. Discuss the special rate of service tax in case of distributor or selling agents of lotteries.

Point of Taxation

16. Nikhil Ltd. provides Management Consultancy Services to its client Aggarwal Properties Ltd. for agreed consideration of ₹ 1,50,000. Aggarwal Properties Ltd. makes the payment on 25th April, 2012. However, the date of completion of service is 15th April, 2012. The relevant invoice for ₹ 1,50,000 is raised by Nikhil Ltd. as per following table:

CASE I	30 th April, 2012
CASE II	16 th May, 2012
CASE III	20 th April, 2012

Determine Point of Taxation in each of the above three cases.

Payment of service tax

17. Mr. Rajesh Singla, an assessee wants to adjust ₹ 2,50,000, the excess payment of service tax against his liability of service tax for the subsequent periods. Can he do so? What is the condition to be satisfied for it?

Computation of service tax liability

18. M/s Smart Laboratories Ltd. is engaged in providing various types of technical testing and analysis services. The following are the receipts for the services rendered-

Particulars	Received on	Receipts (₹)
Testing and analysis of agricultural products and foods	April 1, 2012	7,500
Testing of Blood sample of cow for identification of disease.	April 15, 2012	4,000
Testing for side effects of certain drugs	March 3, 2012	4,500

Testing for fertility of soil	April 10, 2012	16,000
Testing for toxicity in the toys for children	March 23, 2012.	500
Test on concrete and other building materials	April 22,2012	6,500
Complete Medical Test of Mr. Mehta for diagnosis of Dengu.	March 28,2012.	2,500
Testing of composition and purity of minerals	March 5,2012	5,000

On the basis of the above information, compute the service tax payable by Smart Laboratories Ltd. for March 2012 and April 2012 and the due date for payment thereof.

Note: All the receipts are exclusive of service tax. M/S Smart Laboratories Ltd. is not eligible for small service provider's exemption under *Notification No. 6/2005 ST dated 01.03.2005* in the financial year 2011-12. Point of taxation in all the aforesaid cases is in the respective month of receipts.

Composition Scheme for small dealers

19. Who are not eligible for composition scheme under the VAT regime? Discuss briefly.

Assessment under VAT

20. "The basic simplification of VAT is with reference to assessment". Discuss briefly

Auditor's Role under VAT system

21. How can an auditor play a role to ensure that the tax payers discharge their tax liability properly under the VAT system?

Input tax credit

22. What is meant by input tax credit in the context of VAT provisions? How does input tax credit help in achieving the essence of VAT?

Computation of VAT

23. Mr. Jagannath, a dealer in Delhi dealing in consumer goods, submits the following information pertaining to the month of April, 2012:

- (i) Exempt goods 'X' purchased for ₹ 1,00,000 and sold for ₹ 1,60,000.
- (ii) Goods 'Y' purchased for ₹ 2,25,000 (including VAT) and sold at a margin of 20% profit on purchases excluding VAT. [VAT rate 12.5% (both input and output)]
- (iii) Goods 'Z' purchased for ₹ 2,00,000 (excluding VAT) and sold for ₹ 3,00,000 [VAT rate 4% (both input and output)]
- (iv) His unutilized balance of VAT input credit on 1.4.2012 was ₹ 6,000.

Compute the taxable turnover, Input VAT, Output VAT and Net VAT payable by Mr. Jagannath.

SUGGESTED ANSWERS/HINTS

1. Computation of total income of Mr. Ankit for the A.Y. 2012-13

Particulars	Resident & ordinarily resident	Resident but not ordinarily resident	Non-Resident
1) Rent from property in New York deposited in a bank in New York [See Note (i) below]	63,000	-	-
2) Fees for technical services rendered in Japan but services utilized in India [See Note (ii) below]	50,000	50,000	50,000
3) Dividend from an Australian company, received in Australia.	15,500	-	-
4) Profit on sale of shares of an Indian company, received in Canada	27,500	27,500	27,500
5) Dividend from Indicom Ltd., an Indian Company [See Note (iii) below]	-	-	-
6) Agricultural income from land in Rajasthan [See Note (iv) below]	-	-	-
TOTAL INCOME	<u>1,56,000</u>	<u>77,500</u>	<u>77,500</u>

Notes:

- (i) 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 total income of a resident and ordinarily resident.

	₹
Rent received (assumed as gross annual value)	90,000
Less: Deduction under section 24 (30% of ₹ 90,000)	27,000
Income from house property	63,000

- (ii) As per *Explanation* below section 9(2), fees for technical services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, irrespective of whether the services are rendered in India or not.
- (iii) Dividend from Indian company is exempt under section 10(34).
- (iv) Agricultural income is exempt under section 10(1).

2. Computation of taxable salary of Mr. Rupesh for the Assessment Year 2012-13

Particulars	₹	₹
Basic Salary (₹ 28,000 x 6) +(₹ 35,000 x 6)		3,78,000
Dearness Allowance (₹ 16,000 x 12)		1,92,000
Transport allowance (₹ 2,800 x 12)	33,600	
Less: Exempt under section 10(14) (₹ 800 x 12)	<u>9,600</u>	24,000
Children education allowance (See Notes 1 & 2)		720
Hostel Expenses Allowance (See Notes 1 & 3)		1,200
Entertainment Allowance (₹ 450 x 12)(See Note 4)		5,400
Tiffin allowance (fully taxable)		7,500
Professional tax paid by employer (See Note 5)		2,500
Employer's contribution to R.P.F in excess of 12% of salary (i.e., 6% of ₹ 5,70,000)		34,200
Interest credited to recognized provident fund in excess of 9.5% [(₹ 40,000 × 0.5%) /10%]		<u>2,000</u>
Gross Salary		6,47,520
Less: Professional tax paid [deductible under section 16(iii)]		<u>3,200</u>
Taxable salary		<u>6,44,320</u>

Note:

1. The children education allowance and the hostel expenditure allowance given by the employer to Mr. Rupesh for two children, shall be in the ratio of 2:1, since, Mr. Rupesh has one child aged 16 years (i.e., above 15 years) and other aged 14 years (i.e., below 15 years). Therefore,

Particulars	Child I	Child II	Total
Children education allowance	160	80	240
Hostel expenditure allowance	400	200	600

2. As per section 10(14), children education allowance is exempt upto ₹ 100 per month per child for two children. Therefore, taxable amount of children education allowance would be computed as under:

$$\text{Child 1: } [(\text{₹ } 160 - \text{₹ } 100)\text{p.m} \times 12 \text{ months}] = \text{₹ } 720$$

$$\text{Child 2: } [(\text{₹ } 80 - \text{₹ } 80)\text{p.m} \times 12 \text{ months}] = \text{Nil}$$

$$\underline{\text{₹ } 720}$$

3. As per section 10(14), hostel expenditure allowance is exempt upto ₹ 300 per month per child for two children. Therefore, taxable amount of hostel expenditure allowance would be computed as under:

$$\text{Child 1: } [(\text{₹ } 400 - \text{₹ } 300)\text{p.m} \times 12 \text{ months}] = \text{₹ } 1,200$$

$$\text{Child 2: } [(\text{₹ } 200 - \text{₹ } 200)\text{p.m} \times 12 \text{ months}] = \text{Nil}$$

₹1,200

4. Since Mr. Rupesh is not a Government employee, deduction under section 16(ii) in respect of entertainment allowance is not available to him.
5. Professional tax paid by employer should be included in the salary of Mr. Rupesh as a perquisite since it is discharge of monetary obligation of the employee by the employer. Thereafter, the entire professional tax paid is allowed as deduction from his gross salary under section 16(iii).
3. **Computation of income from house property for the A.Y. 2012-13**

Particulars	Vinay	Nitesh
Income from house property	₹	₹
I. Self-occupied portion (50%)		
Annual value	Nil	Nil
Less: Deduction under section 24(b)		
Interest on loan taken for construction ₹ 90,000 (being 50% of ₹ 1.8 lakh) in total restricted to maximum of ₹ 30,000 for each co-owner (since the property was constructed before 01.04.1999)	<u>30,000</u>	<u>30,000</u>
Loss from self occupied property	(30,000)	(30,000)
II. Let-out portion (50%) – See Working Note below	<u>78,900</u>	<u>78,900</u>
Income from house property	<u>48,900</u>	<u>48,900</u>

Working Note

Computation of income from let-out portion of house property

Particulars	₹	₹
Let-out portion (50%)		
Gross Annual Value		
(a) Municipal value (50% of ₹ 8 lakh)	4,00,000	
(b) Actual rent [(₹ 18,000 x 2 x 12) – (₹ 18,000 x 1 x 1)] = ₹ 4,32,000 - ₹ 18,000	4,14,000	
- whichever is higher		<u>4,14,000</u>
Less: Municipal taxes 50% of ₹ 1,20,000 (15% of ₹ 8 lakh)		<u>60,000</u>
Net Annual Value (NAV)		<u>3,54,000</u>

Less: Deduction under section 24		
(a) 30% of NAV	1,06,200	
(b) Interest on loan taken for the house [50% of ₹ 1.8 lakh]	<u>90,000</u>	<u>1,96,200</u>
Income from let-out portion of house property		<u>1,57,800</u>
Share of each co-owner (50%)		78,900

Note: The benefit of "Nil" Annual Value under section 23(2) in respect of a self occupied property can also be availed where the owner cannot occupy the property by reason of his employment at a different place and he resides, at such other place, in a building not belonging to him, provided he has not derived any other benefit from such property.

4. (i) Yes. Since his total turnover for the F.Y.2011-12 is below ₹ 60 lakhs, he is eligible to opt for presumptive taxation scheme under section 44AD in respect of his wholesale trade business.
- (ii) His income from wholesale trade, applying the presumptive tax provisions under section 44AD, would be ₹ 3,20,000, being 8% of ₹ 40,00,000.
- (iii) In case he does not opt for the presumptive taxation scheme under section 44AD, and claims that his income is ₹ 2,55,000 (which is lower than the presumptive business income of ₹ 3,20,000), he has to maintain books of account as required under section 44AA(2) and also get them audited and furnish a report of such audit under section 44AB, since his total income exceeds the basic exemption limit of ₹ 1,80,000.
- (iv) In case he opts for the presumptive taxation scheme under section 44AD, the due date for filing of return under section 139(1) would be 31st July, 2012.

In case he does not opt for the presumptive taxation scheme and claims that his income is ₹ 2,55,000 as per books of account, then he has to get his books of account audited under section 44AB, in which case the due date for filing of return would be 30th September, 2012.

5. Where an assessee is engaged in the composite business of growing and curing of coffee, the income will be segregated between agricultural income and business income, as per Rule 7B of the Income-tax Rules, 1962.

As per the above Rule, income derived from sale of coffee grown and cured by the seller in India shall be computed as if it were income derived from business, and 25% of such income shall be deemed to be income liable to tax. The balance 75% will be treated as agricultural income.

Particulars	₹	₹	₹
Sale value of cured coffee			31,00,000
Less: Expenses for growing coffee		4,25,000	

Car expenses (50% of ₹ 1,10,000)		55,000	
Depreciation on car (50% of 15% of ₹ 5,00,000)		<u>37,500</u>	
Total cost of agricultural operations		5,17,500	
Expenditure for coffee curing operations	5,33,000		
Add: Depreciation on machinery (15% of ₹ 20,00,000) (See Note below)	<u>3,00,000</u>		
Total cost of curing operations		<u>8,33,000</u>	
Total cost of composite operations			<u>13,50,500</u>
Total profits from composite activities			<u>17,49,500</u>
Amount regarded as business income (25% of above)			4,37,375
Amount treated as agricultural income (75% of above)			13,12,125

Computation of value of depreciable assets as on 31.3.2012

Particulars	₹	₹	₹
Car: Opening value as on 1.4.2011		5,00,000	
Depreciation thereon at 15%	75,000		
Less: Disallowance @ 50% for personal use	<u>37,500</u>		
Depreciation actually allowed		<u>37,500</u>	
Closing value as on 31.3.2012			4,62,500
Machinery: Opening value as on 1.4.2011		20,00,000	
Less: Depreciation @ 15%		<u>3,00,000</u>	
Closing value as on 31.3.2012			17,00,000

Note- Explanation 7 to section 43(6) provides that in cases of 'composite income', for the purpose of computing written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire composite income of the assessee (and not just 25%) is chargeable under the head "Profits and gains of business or profession". The depreciation so computed shall be deemed to have been "actually allowed" to the assessee.

6. **Computation of capital gains in the hands of Mr. Shivam for the A.Y.2012-13**

Particulars	₹	₹
Capital Gains:		
Sale price of the residential house	25,00,000	

Valuation as per Stamp Valuation authority (Value to be taken is the higher of actual sale price or valuation adopted for stamp duty purpose as per section 50C)	32,00,000	
Deemed Sale Consideration for the purpose of Capital Gains		32,00,000
Less: Expenses on transfer (Brokerage @1% of ₹ 25,00,000)		<u>25,000</u>
Net Sale Consideration		31,75,000
Less: Indexed cost of acquisition (Note 1)	16,87,750	
Indexed cost of improvement (Note 2)	<u>7,06,500</u>	<u>23,94,250</u>
		7,80,750
Less: Exemption under section 54		<u>6,00,000</u>
Long-term Capital Gain		<u>1,80,750</u>

Note 1: Computation of indexed cost of acquisition

Cost of acquisition, being the higher of - (i) fair market value as on April 1, 1981 i.e. ₹ 2,60,000 (ii) actual cost of acquisition i.e. ₹ 2,65,000 (₹ 2,40,000 + ₹ 25,000, being stamp duty @ 10% of ₹ 2,50,000)	2,65,000
Less: Advance taken and forfeited	<u>50,000</u>
Cost for the purpose of indexation	<u>2,15,000</u>
Indexed cost of acquisition (₹ 2,15,000 x 785/100)	16,87,750

Note 2: Computation of indexed cost of improvement

Indexed cost of improvement	
Construction of first floor in March, 1988 (i.e. ₹ 1,35,000 x 785/150)	7,06,500

Note 3: Since NHAI bonds were purchased after 6 months from the date of transfer of house property, Mr. Shivam cannot avail exemption under section 54EC.

7. Computation of "Income from other sources" of Mrs. Tripti for the A.Y. 2012-13

S.No.	Particulars	₹	₹
(i)	Cash gift from a non-relative is taxable under section 56(2)(vii), since it exceeds ₹ 50,000		1,01,000
(ii)	The provisions of section 56(2)(vii) are not attracted in respect of any sum of money or property received from a relative. It may be noted that brother is included in the definition of relative. Thus, the gift of		-

	diamond necklace received from her brother is not taxable under section 56(2)(vii), even though jewellery falls within the definition of "property".		
(iii)	Gift of a car [car is not "property" for the purpose of section 56(2)(vii) and hence, not taxable]		-
(iv)	Interest on enhanced compensation [taxable in the year of receipt as per section 56(2)(viii)]	3,50,000	
	Less: Deduction under section 57(iv) @ 50%	<u>1,75,000</u>	1,75,000
(v)	Interest on post office savings bank account	7,000	
	Less: Exempt under section 10(15)(i)	<u>3,500</u>	<u>3,500</u>
Income from Other Sources			<u>2,79,500</u>

8. Computation of Total Income of Mr. & Mrs. Shah for the A.Y. 2012-13

Particulars	₹	Mr. Shah (₹)	Mrs. Shah (₹)
Salaries		-	3,00,000
Profits and gains of business or profession		4,80,000	
Long term capital gains (See Note-1)		2,20,000	
		7,00,000	3,00,000
Income from other sources			
Interest from bank received by B (See Note 2 & 4)	5,000		
Less : Exemption under section 10(32)	<u>1,500</u>	3,500	
Income by way of interest from company deposit earned by minor married daughter C [See Note-2 & 5]	25,000		
Less : Exemption under section 10(32)	<u>1,500</u>	23,500	
Total Income		7,27,000	3,00,000

Notes :

- (1) Since long term capital gain arising to Mrs. Shah is out of land gifted by Mr. Shah on their marriage anniversary, it is includible in the income of Mr. Shah as per section 64(1)(iv).
- (2) As per the provisions of section 64(1A), all such income accruing or arising to a minor child has to be clubbed in the hands of that parent whose total income (excluding the income of the minor) is greater. The income of Mr. Shah is ₹ 7,00,000 and income of Mrs. Shah is ₹ 3,00,000. Since the income of Mr. Shah is

greater than that of Mrs. Shah, the income of the minor children have to be clubbed in the hands of Mr. Shah.

- (3) The income of a minor child suffering from any disability of the nature specified in section 80U shall not be included in the hands of the parents. Hence, ₹ 95,000, being the income of minor son 'A' who suffers from disability specified under section 80U, shall not be included in the hands of either of his parents.
- (4) The income derived by the minor from manual work or from any activity involving exercise of his skill, talent or specialised knowledge or experience will not be included in the income of his parent. Hence, in the given case, ₹ 75,000 being the income of the minor daughter 'B' from music talent show shall not be clubbed in the hands of the parents.

However, interest from bank deposit received by B has to be clubbed even if the deposit is made out of income arising from music talent show.

- (5) The clubbing provisions are attracted even in respect of income of a minor married daughter. Therefore, income of minor married daughter 'C' from company deposit is includible in the income of Mr. Shah.

9. (a) **Computation of gross total income of Mr. Vivek for the A.Y.2012-13**

Particulars	₹	₹
Salaries		
Income from salaries	4,50,000	
<i>Less:</i> Loss from house property set-off against salary income as per section 71	<u>(50,000)</u>	4,00,000
Profits and gains of business or profession		
Income from business	1,65,000	
<i>Less:</i> Current year depreciation	<u>60,000</u>	
	1,05,000	
<i>Less:</i> Brought forward loss from business set-off as per section 72(1) (Balance business loss of ₹ 15,000 of A.Y.2010-11 carried forward to A.Y.2013-14)	<u>1,05,000</u>	Nil
Capital gains		
Long term capital gain on sale of shares (STT paid) (See Note 1)	NIL	
Short term capital gain on sale of land	54,000	
<i>Less:</i> Short term capital loss under section 111A set-off	<u>(25,000)</u>	29,000
Income from other sources		
Dividend (See Note 1)	NIL	

Winnings from lottery (Gross)	58,000	
Income from betting	<u>10,000</u>	<u>68,000</u>
Gross Total Income		<u>4,97,000</u>

(b) **Statement of losses to be carried forward to A.Y. 2013-14**

Particulars	₹
Long term capital loss of A.Y. 2012-13 to be carried forward under section 74 (See Note 2)	86,000
Business loss of A.Y. 2010-11 to be carried forward under section 72 (₹ 1,20,000 - ₹ 1,05,000)	15,000

Notes:

- The following income are exempt under section 10 –
 - Share of profit from firm of ₹ 45,000 [Exempt under section 10(2A)].
 - Dividend income of ₹ 15,000 [Exempt under section 10(34)].
 - Long-term capital gains of ₹ 32,000 on which STT is paid [Exempt under section 10(38)]
- Long-term capital loss cannot be set-off against short-term capital gains. Therefore, it has to be carried forward to the next year to be set-off against long-term capital gains of that year.
- Loss from gambling can neither be set-off against any other income, nor it can be carried forward.
- Winnings from lottery and income from betting 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.

10. **Computation of total income of Mr. Chetan for the A.Y.2012-13**

Particulars	₹	₹
Gross total income		4,88,000
Less: Deductions under Chapter VI-A		
(i) Deposit of ₹ 30,000 in fixed deposit in the name of minor son in IDBI bank – Fixed deposit in the name of son does not qualify for deduction under section 80C	-	
(ii) Premium paid to effect an insurance on the life of his wife - Eligible for deduction under section 80C	18,000	
(iii) Investment in IDFC infrastructure bonds ₹ 32,000 eligible for deduction under section 80CCF, subject to a maximum of ₹ 20,000	20,000	

(iv) Contribution of ₹ 15,000 to National Defence fund, eligible for 100% deduction under section 80G	15,000	
(v) Payment of ₹ 24,000 to a Government recognized institution for scientific research - Eligible for deduction under section 80GGA	<u>24,000</u>	<u>77,000</u>
Total Income		<u>4,11,000</u>

11. **Computation of total income of Mr. Manik for A.Y.2012-13**

Particulars	₹
Income from salaries (See Working Note 1)	86,000
Capital gains (See Working Note 2)	3,75,750
Income from other sources (See Working Note 3)	<u>62,250</u>
Gross Total Income	5,24,000
Less: Deductions under Chapter VI-A (See Working Note 4)	<u>1,15,000</u>
Total Income	<u>4,09,000</u>

Working Notes:

1. **Income from salaries**

Particulars	₹
Salary for 5 months received from Government of India (₹ 10,000 x 5)	50,000
Pension for 4 months from Sep. 2011 to Dec. 2011 @ ₹ 6000 p.m. (₹ 6000 x 4)	24,000
Pension for 3 months (2/3 of ₹ 6000) from Jan 2012 to March 2012 @ ₹ 4,000 p.m. (₹ 4,000 x 3)	<u>12,000</u>
	<u>86,000</u>

Note : Commuted value of pension of ₹ 2,40,000 received from the Central Government is fully exempt under section 10(10A).

2. **Capital gains**

Particulars	₹
Long term capital gains on sale of house plot at Kanpur on 27.11.2011	
Sale consideration received is ₹ 10,50,000. However, since the value assessed by the stamp valuation authority (i.e. ₹ 12,00,000) is higher than the sale consideration, such value assessed is deemed to be the full value of the consideration received or accruing as a result of such transfer as per section 50C	12,00,000

Less: Indexed cost of acquisition (₹ 1,05,000 x 785/100)	<u>8,24,250</u>
	<u>3,75,750</u>

3. Income from other sources

Particulars	₹	₹
Interest on bank FDRs		47,250
Dividend of ₹ 8,500 on units of Mutual Fund [exempt under section 10(35)]		-
Interest on maturity of NSC	82,500	
Less: Interest already shown on accrual basis in the past returns	<u>67,500</u>	<u>15,000</u>
		<u>62,250</u>

4. Deductions under Chapter VI-A

Particulars	₹	₹
Under section 80C		
Purchase of NSC	65,000	
Life Insurance Premium paid	<u>53,000</u>	
Total	<u>1,18,000</u>	
Maximum deduction available under section 80C		1,00,000
Under section 80D		
Medical insurance premium paid (₹ 16,000), restricted to ₹ 15,000, being the maximum allowable deduction		<u>15,000</u>
		<u>1,15,000</u>

12. (i) Arrears of salary are taxable in the previous year of receipt by the employee. The employer shall, therefore, be liable for deduction of tax at source from such arrears. However, if an employee receives any salary in arrears, he can claim relief as per section 89, provided the employee furnishes the relevant details in the prescribed form to the employer. If the employee furnishes the details in the prescribed form, the employer has to consider the relief under section 89 while deducting tax at source under section 192.
- (ii) The definition of "professional services" under section 194J includes "engineering services". Therefore, fee of ₹ 7,500 p.m. paid to ABC Consultants represents fees for professional services, in respect of which tax is deductible @ 10% under section 194J. Hence, X Ltd. is required to deduct tax at source @ 10% on payment to be made to ABC Consultants.
- (iii) Yes. In the given case, since the turnover from business of Mr. Sharma has exceeded ₹ 60 lakhs for the year ended 31st March 2011 and the contract is relating

to business activities, Mr. Sharma shall be liable to deduct tax at source @ 1% under section 194C from payments made to Mr. Y, a contractor, who is an individual.

- (iv) The definition of “work” under section 194C includes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. In the instant case, DSM Ltd. manufactures the product as per the specification given by Nishant by using the raw materials purchased from Nishant. Therefore, it falls within the definition of “work” under section 194C. Consequently, tax is to be deducted on the invoice value excluding the value of material purchased from such customer if such value is mentioned separately in the invoice. If the material component is not mentioned separately in the invoice, tax is to be deducted on the whole of the invoice value.

Since, the business turnover of Nishant has exceeded ₹ 60 lacs in the P.Y. 2011-12, he is liable to deduct tax at source @ 2% under section 194C from the amount payable to DSM Ltd.

- (v) The liability to deduct tax at source under section 194A is not attracted in respect of interest payable to a banking company. Therefore, A Ltd. is not liable to deduct tax at source on interest payment to Corporation Bank.
13. (i) As per section 139(1), every person, whose total income without giving effect to the provisions of Chapter VI-A exceeds the maximum amount not chargeable to tax, is required to furnish the return of income for the relevant assessment year on or before the due date. The gross total income of Mr. Chauhan (before deduction under Chapter VI-A) is ₹ 2,80,000 which exceeds the basic exemption limit of ₹ 1,80,000 applicable to a non-resident individual. Therefore, Mr. Chauhan has to furnish his return of income for the A.Y. 2012-13.

Note: Even though Mr. Chauhan is over 80 years of age, he is not entitled to the higher basic exemption limit of ₹ 5 lacs, since he is a non-resident.

- (ii) As per section 139(4C), a registered trade union referred to in section 10(24) must file its return of income if the total income exceeds the basic exemption limit without giving effect to the provisions of section 10.

Since the total income of the trade union is less than the basic exemption limit of ₹ 1,80,000, it need not file its return of income for the A.Y. 2012-13.

- (iii) As per *Notification No. 09/2012 dated 17.02.2012*, an individual whose total income does not exceed ₹ 5,00,000 is exempted from filing of return of income, in case his total income consists only of salary and/or interest from savings bank account (not exceeding ₹ 10,000), subject to fulfillment of certain conditions.

Therefore, Mr. Santosh having total income of ₹ 5,00,000 (₹ 4,95,000 + ₹ 5,000) comprising only of salary and interest on saving bank account, is not required to furnish his return of income for the A.Y. 2012-13, provided he has reported interest

from the savings bank account to his employer and the employer has deducted tax on the same and the other conditions mentioned in the said notification are fulfilled.

Note: For other conditions mentioned in the notification please refer to Notification No. 09/2012 dated 17.02.2012 reported in Part – I: Statutory Updates of this revision test paper.

- (iv) As per the third proviso to section 139(1), every company or firm shall furnish on or before the due date, the return in respect of its income or loss in every previous year. Since LLP is included in the definition of firm under the Income-tax Act, 1961, it has to file its return mandatorily, even though it has incurred a loss.
14. Section 67(1)(iii) of the Finance Act, 1994 ensures payment of service tax based on valuation even when consideration is not ascertainable. However, these provisions apply only when there is consideration. If there is no consideration i.e., in case of free service, section 67 cannot apply.

Thus, no service tax is payable when value of service is zero, as the charging section 66 provides that service tax is chargeable on the value of taxable service.

Hence if the value is zero, the tax will also be zero even though the service may be taxable. However, this principle applies only when there is really a 'free service' and not when its cost is recovered through other means.

Therefore, in the light of the aforesaid discussion, it may be inferred that, the service tax is not payable on service rendered by Miss Radhika to Mr. Ram Kapoor as Miss Radhika has not charged any fee from Mr. Ram Kapoor.

15. An optional mode of payment of service tax has been provided to a distributor or selling agent of lotteries. The distributor or selling agents rendering the taxable service of promotion, marketing or organizing /assisting in organising lottery can discharge their service tax liability in the following manner instead of paying service tax at the rate of 12%.-

Where the guaranteed lottery prize payout is > 80%	₹ 7000/- on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.
Where the guaranteed lottery prize payout is < 80%	₹ 11000/- on every ₹ 10 Lakh (or part of ₹ 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.

However, the following points are to be noted:-

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

2. The distributor/selling agent will have to exercise such option within a period of one month of the beginning of each financial year. The new service provider can exercise such option within one month of providing the service.
 3. The option once exercised cannot be withdrawn during the remaining part of the financial year.
16. As per Rule 3 of the Point of Taxation Rules, point of taxation would be determined as follows:-
1. Date of invoice or payment, whichever is earlier, if the invoice is issued within 30 days from the date of completion of service.
 2. Date of completion of provision of service or payment, if the invoice is not issued within 30 days.

Point of Taxation in each of the above three cases will be as under:

CASE I-The point of taxation is date of payment [25th April,2012] as date of payment [25.04.2012] falls before date of issuance of invoice[30.04.2012] and invoice has been issued within 30 days of completion of service.[15.04.2012].

CASE II- The point of taxation is date of completion of service [15th April,2012] as date of completion of service [15.04.2012] falls before date of payment [25.04.2012] and invoice [16.05.2012] has not been issued within 30 days of completion of service [15.04.2012].

CASE III- The point of taxation is 20th April, 2012 as date of invoice [20.04.2012] falls before date of payment[25.04.2012] and invoice has been issued within 30 days of completion of service [15.04.2012].

17. Yes, Mr. Rajesh Singla, can adjust ₹ 2,50,000, the excess payment of service tax against his liability of service tax for the subsequent periods subject to the fulfillment of specified condition.

As per *Notification No.3/2012-Service Tax*, with effect from 1st April, 2012 Rule 6(4B) has been substituted with the new one providing for only one condition for adjustment of excess amount paid towards service tax liability that is the excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification. Hence, with effect from 1st April, 2012 other restrictions earlier provided in rule 6(4B) has been omitted thereby allowing unlimited amount of permissible adjustment of excess service tax paid.

18. **Computation of service tax payable by M/s Smart Laboratories Ltd. for the month of March, 2012:-**

Particulars	Receipts (₹)
Testing for side effects of certain drugs on March 3, 2012.	4,500
Testing for toxicity in the toys for children on March 23, 2012.	500
Complete Medical Test of Mr. Mehta for diagnosis of Dengu.	-

on March 28,2012.(Note-2)	
Testing of composition and purity of minerals on March 5,2012	<u>5,000</u>
Value of taxable services	10,000
Service tax @10% = `10,000× 10%	1,000
Education cess @ 2% = `1,000× 2%	20
Secondary and higher education cess @1%= `1,000× 1%	<u>10</u>
Service tax payable	<u>1,030</u>

Computation of service tax payable by M/s Smart Laboratories Ltd. for the month of April, 2012:-

Particulars	Receipts (₹)
Testing and analysis of agricultural products and foods on April 1,2012	7,500
Testing of Blood samples of cow for identification of disease on April 15,2012 (Note-2)	-
Testing for fertility of soil on April 10, 2012	16,000
Test on concrete and other building materials on April 22,2012	<u>6,500</u>
Value of taxable services	30,000
Service tax @12% = ₹30,000× 12%	3,600
Education cess @ 2% = ₹3,600× 2%	72
Secondary and higher education cess @1%= ₹3,600× 1%	<u>36</u>
Service tax payable	<u>3,708</u>

Notes:

- As per section 65(105)(zzh), Service provided to any person, by a technical testing and analysis agency, in relation to physical, chemical, biological or any other scientific testing or analysis of goods or material or information technology software or any immovable property is liable to service tax. .
- “Technical testing and analysis” service specifically excludes testing or analysis for the purpose of determination of the nature of diseased condition or identification of a disease in human beings or animals. Hence, the amount of ` 4,000 for testing of blood sample of cow and complete medical test of Mr. Mehta for ₹ 2,500 is not liable to service tax.
- For the period ended 31.03.2012, applicable rate is 10%.However with effect from 1.04.2012 onwards rate has been restored to 12%.

The due date for payment of service tax for the month of March, 2012 is 31st March, 2012 and for the month of April, 2012 is 5th May, 2012 and 6th May, 2012 if service tax is paid electronically.

19. Following are not eligible for composition scheme under the VAT regime:-
- (i) a manufacturer or a dealer who sells goods in the course of inter-state trade or commerce.
 - (ii) a dealer who sells goods in the course of import into or export out of the territory of India.
 - (iii) a dealer transferring goods outside the State otherwise than by way of sale or for execution of works contract.
20. The basic simplification of VAT is with reference to assessment as under VAT system, there is no compulsory assessment at the end of each year. The VAT liability is self-assessed by the dealer himself in terms of submission of returns upon setting off the tax credit, return forms etc. The other procedures are also simple in all the States.
- Deemed assessment concept is a major feature of the VAT. If no specific notice is issued proposing departmental audit of the books of account of the dealer within the time limit specified in the Act, the dealer will be deemed to have been self-assessed on the basis of the returns submitted by him.
- VAT pre-supposes that all the dealers are honest. Scrutiny may be done in cases where a doubt arises of under-reporting of transaction or evasion of tax. Honest dealers will be protected and fictitious or dishonest would be penalized heavily.
21. Under the VAT system, trust has been reposed on tax payers, as there will be no regular assessment of all VAT returns, but only a few VAT returns will be taken up for scrutiny assessment. In other cases, the return filed by the trader will be accepted. It will not be also seen whether proper records have been maintained by the trader.
- As a consequence, a check on compliance becomes essential. Chartered Accountants can ensure tax compliance by:-
- (i) helping the client in systematic record keeping;
 - (ii) helping the client in interpretation of the provisions of VAT law, and
 - (iii) performing audit of VAT accounts.
 - (iv) reporting the under-assessment, if any, made by the dealer requiring additional payment or
 - (v) reporting any excess payment of tax warranting refund to the tax payers.
22. The tax paid by a registered dealer at the earlier point is called input tax. This amount will be adjusted against the tax payable by the purchasing dealer on his sales. This credit availability is called input tax credit (ITC). It can also be referred to as tax credit on a sale within the State or in the course of intra-State trade or commerce.

The essence of VAT is in providing set-off for the tax paid earlier, and this is given effect through the concept of input tax credit/rebate. Thus, input tax credit in relation to any period can be set off by the registered dealer against the amount of his output tax.

23.

Goods	Purchases	Input credit	VAT	Sales (Turnover)	Output VAT
	₹	₹		₹	₹
X	1,00,000	-		1,60,000	-
Y(Refer Note)	2,00,000	25,000		2,40,000	30,000
Z	<u>2,00,000</u>	<u>8,000</u>		<u>3,00,000</u>	<u>12,000</u>
	<u>5,00,000</u>	<u>33,000</u>		<u>7,00,000</u>	<u>42,000</u>
<i>Computation of the taxable turnover, Input VAT, Output VAT and Net VAT payable:-</i>				₹	₹
Total turnover				7,00,000	
Less: Exempt Turnover				<u>1,60,000</u>	
Taxable turnover				<u>5,40,000</u>	
Opening balance of Input VAT credit					6,000
Add: Input VAT credit for April, 2012					<u>33,000</u>
Total Input VAT credit available					39,000
Less: Output VAT payable on taxable turnover					<u>42,000</u>
Net VAT payable					<u>3,000</u>

Note: Goods Y purchase value (including VAT)	2,25,000
Less: VAT included in above	<u>25,000</u>
$2,25,000 \times \frac{12.5}{112.5}$	
Purchase price excluding VAT	2,00,000
Add: Profit on above @ 20%	<u>40,000</u>
Selling price before VAT	2,40,000
VAT @ 12.5% on selling price	30,000