PAPER – 4: TAXATION

PART – I : STATUTORY UPDATE

Significant Notifications in income-tax and indirect taxes
issued between 1st May 2013 and 30th April, 2014

A. INCOME TAX

NOTIFICATIONS

1. Notification No. 39/2013 dated 31.05.2013

Time and mode of payment of tax deducted at source under section 194-IA to the credit of Central Government, furnishing challan-cum-statement and TDS Certificate [Rules 30, 31A & 31]

New section 194-IA has been inserted by the Finance Act, 2013, requiring every transferee responsible for paying any sum as consideration for transfer of immovable property (land, other than agricultural land, or building or part of building) to deduct tax, at the rate 1% of such sum, at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to a resident transferor, whichever is earlier.

Accordingly, the time and mode of, payment of tax deducted at source under section 194-IA, furnishing challan-cum-statement and TDS Certificate have been provided, by amending Rules 30, 31A & 31, respectively -

(i) Such sum deducted under section 194-IA shall be paid to the credit of the Central Government within a period of seven days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No.26QB *[Rule 30].*

(ii) The amount so deducted has to be deposited to the credit of the Central Government by electronic remittance within the above mentioned time limit, into RBI, SBI or any authorized bank *[Rule 30]*.

(iii) Every person responsible for deduction of tax under section 194-IA shall furnish to the DGIT (Systems) or any person authorized by him, a challan-cum-statement in Form No.26QB electronically within seven days from the end of the month in which the deduction is made *[Rule 31A]*.

(iv) Every person responsible for deduction of tax under section 194-IA shall furnish the TDS certificate in Form No.16B to the payee within 15 days from the due date for furnishing the challan-cum-statement in Form No.26QB under Rule 31A, after generating and downloading the same from the web portal specified by the DGIT (Systems) or the person authorized by him *[Rule 31]*.

2. Notification No. 40/2013 dated 6.06.2013

Notification of Cost Inflation Index for F.Y.2013-14

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 2013-14 as 939.

S. No.	Financial Year	Cost Inflation Index	S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100	18.	1998-99	351
2.	1982-83	109	19.	1999-2000	389
3.	1983-84	116	20.	2000-01	406
4.	1984-85	125	21.	2001-02	426
5.	1985-86	133	22.	2002-03	447
6.	1986-87	140	23.	2003-04	463
7.	1987-88	150	24.	2004-05	480
8.	1988-89	161	25.	2005-06	497
9.	1989-90	172	26.	2006-07	519
10.	1990-91	182	27.	2007-08	551
11.	1991-92	199	28.	2008-09	582
12.	1992-93	223	29.	2009-10	632
13.	1993-94	244	30.	2010-11	711
14.	1994-95	259	31.	2011-12	785
15.	1995-96	281	32.	2012-13	852
16.	1996-97	305	33.	2013-14	939
17.	1997-98	331			

3. Notification No. 64/2013, dated 19.08.2013

Notification of foreign company for claiming exemption under section 10(48)

Income received by a foreign company in India in Indian currency from sale of crude oil, any other goods or rendering of services, as may be notified by the Central Government in this behalf, to any person in India is exempt under section 10(48). For this purpose, the foreign company, as well as the arrangement or agreement, should be notified by the Central Government having regard to the national interest. The foreign company should

not be engaged in any other activity in India, except receipt of income under such arrangement or agreement.

Accordingly, vide this notification, the Central Government, having regard to the national interest, has notified for the purposes of the said clause, the National Iranian Oil Company, as the foreign company and the Memorandum of Understanding entered into between the Government of India in the Ministry of Petroleum and Natural Gas and the Central Bank of Iran on 20th January, 2013, as the agreement subject to the condition that the said foreign company shall not engage in any activity in India, other than the receipt of income under the agreement aforesaid.

The Notification is deemed to be effective from 20th January, 2013.

4. Notification No.79/2013 dated 07.10.2013

Reverse Mortgage Scheme amended to include within its scope, disbursement to an annuity sourcing institution for periodic payments by way of annuity to the Reverse Mortgagor

The Central Government had notified the Reverse Mortgage Scheme, 2008 in exercise of the powers conferred by clause (xvi) of section 47 of the Income-tax Act, 1961. Reverse Mortgage means mortgage of a capital asset by an eligible person against a loan obtained by him from an approved lending institution. Such kind of a transaction is not regarded as transfer under section 47(xvi) and amounts received by the Reverse Mortgagor as loan, either in lump-sum or in installment, are exempt under section 10(43).

The Central Government has, vide this notification, amended the Reverse Mortgage Scheme, 2008, to include within its scope, disbursement of loan by an approved lending institution, in part or in full, to the annuity sourcing institution, for the purposes of periodic payments by way of annuity to the reverse mortgagor. This would be an additional mode of disbursement, i.e., in addition to direct disbursements by the approved lending institution to the Reverse Mortgagor by way of periodic payments or lump sum payment in one or more tranches.

An annuity sourcing institution has been defined to mean Life Insurance Corporation of India or any other insurer registered with the Insurance Regulatory and Development Authority.

Maximum Period of Reverse Mortgage Loan

	Mode of disbursement	Maximum period of loan
(a)	Where the loan is disbursed directly to the Reverse Mortgagor	20 years from the date of signing the agreement by the reverse mortgagor and the approved lending institution.
(b)	Where the loan is disbursed, in part or in full, to the annuity sourcing institution for the purposes of periodic payments by way of annuity to the Reverse Mortgagor	The residual life time of the borrower.

5. Notification No. 94/2013, dated 18.12.2013

Notification of "Rajiv Gandhi Equity Savings Scheme, 2013" for the purpose of deduction under section 80CCG

The Finance Act, 2012 had inserted section 80CCG in the Income-tax Act, 1961 to provide for a one-time deduction for A.Y.2013-14 to a resident individual who acquires listed equity shares in a previous year in accordance with a scheme notified by the Central Government, to encourage flow of savings in financial instruments and improve the depth of domestic capital market. However, only a resident individual, being a new retail investor, whose gross total income did not exceed ₹ 10 lakh was eligible for the benefit of deduction. The deduction was 50% of amount invested in such equity shares or ₹ 25,000, whichever is lower. The maximum deduction of ₹ 25,000 was available on investment of ₹ 50,000 in such listed equity shares.

The Finance Act, 2013 has amended the provisions of section 80CCG w.e.f. A.Y.2014-15 so that the benefit of deduction under this section is available to a new retail investor, being a resident individual with gross total income of up to **₹ 12 lakh**, for investment in listed equity shares **or listed units of equity oriented fund**, in accordance with a notified scheme. Further, the deduction shall be allowed **for three consecutive assessment years**, beginning with the assessment year relevant to the previous year in which the listed equity shares or listed units of equity oriented fund were first acquired. The quantum of deduction would continue to remain the same.

Accordingly, the Central Government has, in exercise of the powers conferred by section 80CCG(1), notified the Rajiv Gandhi Equity Savings Scheme, 2013. The said scheme provides for eligibility criteria, procedure for investment, period of holding and other conditions.

S.No.	Particulars	Content
1.	Eligibility	The deduction under this scheme shall be available to a **new retail investor** who complies with the conditions of the Scheme and whose gross total income for the financial year in which the investment is made under the Scheme is less than or equal to₹ 12 lakh. **New retail investor** means a resident individual,: (i) **who has not opened a demat account** and has not made any transactions in the derivative segment before – - the date of opening of a demat account; or - the first day of the **initial year**, (whichever is later) However, an individual who is not the first account holder of an existing

		joint demat account shall be deemed to have not opened a demat account for the purposes of this Scheme; (ii) who has opened a demat account but has not made any transactions in the equity segment or the derivative segment before – - the date he designates his existing demat account for the purpose of availing the benefit under the Scheme; or - the first day of the initial year.	whichever is later
		Initial year means - (a) the financial year in which the investor designates his demat account as Rajiv Gandhi Equity Savings Scheme account and makes investment in the eligible securities for availing deduction under the Scheme; or (b) the financial year in which the investor makes investment in eligible securities for availing deduction under the Scheme for the first time, if the investor does not make any investment in eligible securities in the financial year in which the account is so designated.	
2.	Procedure for investment under the Scheme	A new retail investor shall make investments under the Scheme in the following manner, namely:- 1. the new retail investor may invest in one or more financial years in a block of three consecutive financial years beginning with the initial year; 2. the new retail investor may make investment in eligible securities in one or more than one transaction during any financial year during the three consecutive financial years beginning with the initial year in which the deduction has to be claimed; 3. the new retail investor may make any amount of investment in the demat account but the amount eligible for deduction under the Scheme shall not exceed fifty thousand rupees in a financial year;	

<table>
<tr><td></td><td></td><td>4. the new retail investor shall be eligible for the tax benefit under the Scheme only for three consecutive financial years beginning with the initial year, in respect of the investment made in each financial year;
5. if the new retail investor does not invest in any financial year following the initial year, he may invest in the subsequent financial year, within the three consecutive financial years beginning with the initial year, in accordance with the Scheme;
6. the new retail investor who has claimed a deduction under sub-section (1) of section 80CCG of the Act in any assessment year shall not be allowed any deduction under the Scheme for the same investment for any other assessment year;
7. the new retail investor shall be permitted a grace period of seven trading days from the end of the financial year so that the eligible securities purchased on the last trading day of the financial year also get credited in the demat account and such securities shall be deemed to have been acquired in the financial year itself;
8. the new retail investor can make investments in securities other than the eligible securities covered under the Scheme and such investments shall not be subject to the conditions of the Scheme nor shall they be counted for availing the benefit under the Scheme;
9. the deduction claimed shall be withdrawn if the lock-in period requirements of the investment are not complied with or any other condition of the Scheme is contravened by the new retail investor.</td></tr>
<tr><td>3.</td><td>Period of holding</td><td>The period of holding of eligible securities invested in each financial year shall be under a lock-in period of three years to be counted in the following manner:
<table>
<tr><th>Type of lock-in</th><th>Meaning</th><th>Condition</th></tr>
<tr><td>Fixed lock-in period</td><td>The period commencing from the date of purchase of eligible securities in the relevant financial year and ending on 31st March of the year</td><td>The new retail investor shall hold eligible securities for fixed lock-in period. He shall not be permitted to sell, pledge or hypothecate any eligible security during the fixed lock-in</td></tr>
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			immediately following the relevant financial year.	period.
		Flexible lock-in period	The period of two years beginning immediately after the end of the fixed lock-in period shall be called the flexible lock-in period.	The new retail investor shall be permitted to trade the eligible securities after the completion of the fixed lock-in period subject to the conditions prescribed under the scheme. The demat account should be compliant for a cumulative period of a minimum of 270 days during each of the two years of the flexible lock-in period. The demat account shall be considered as compliant for the number of days for which the value of the investment portfolio of eligible securities (other than those which are in fixed lock-in) is equal to or higher than the corresponding investment claimed as eligible for the purpose of deduction under section 80CCG.
4.	Other Conditions	(i) While making initial investments up to ₹ 50,000, the total cost of acquisition of eligible securities shall not include brokerage charges, securities transaction tax, stamp duty, service tax and any other tax, which may appear in the contract note. (ii) Where the investment of the new retail investor undergoes a change as a result of involuntary corporate actions including demerger of companies, amalgamation and such other actions, as may be notified by SEBI, resulting in debit or credit of securities		

		covered under the Scheme, the deduction claimed by such investor shall not be affected. (iii) In the case of voluntary corporate actions, including buy-back resulting only in debit of securities where new retail investor has the option to exercise his choice, the same shall be considered as a sale transaction for the purpose of the Scheme.
5.	Consequence of failure to comply with the prescribed conditions	If the new retail investor fails to fulfill any of the provisions of the Scheme, the deduction originally allowed to him under section 80CCG(1) for any previous year, shall be deemed to be the income of the assessee of the previous year in which he fails to comply with the provisions of the Scheme and shall be liable to tax for the assessment year relevant to such previous year.
6.	Savings	A new retail investor who has invested in accordance with the Rajiv Gandhi Equity Savings Scheme, 2012 shall continue to be governed by the provisions of that Scheme to the extent it is not in contravention of the provisions of this Scheme and such investor shall also be eligible for the benefit of investment made in accordance with this Scheme for the financial years 2013-14 and 2014-15.

6. Notification No.6/2014 dated 15.01.2014

Contributory Health Service Scheme of the Department of Space notified under section 80D

Section 80D(2)(a) provides for deduction in respect of medical insurance premium paid or for contribution made by an individual to the Central Government Health Scheme or such other scheme as may be notified by the Central Government. Accordingly, the Central Government has notified the Contributory Health Service Scheme of the Department of Space, contribution to which would be eligible for deduction under section 80D.

Therefore, any contribution made by an individual towards the Contributory Health Service Scheme of the Department of Space would be eligible for deduction under section 80D, subject to the overall limit of ₹ 15,000 or ₹ 20,000, as the case may be.

CIRCULARS

1. Circular No.10/2013, dated 16.12.2013

Disallowance of interest etc. paid to a resident at any time during the previous year without deduction of tax under section 40(a)(ia)

Section 40(a)(ia) provides for disallowance of any interest, commission or brokerage, rent, royalty, fees for professional services or fees for technical services payable to a resident, or amounts payable to a contractor or sub-contractor, being resident, for

carrying out any work (including supply of labour for carrying out any work), on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in section 139(1).

There have been conflicting interpretations by judicial authorities regarding the applicability of provisions of section 40(a)(ia), with regard to the amount not deductible in computing the income chargeable under the head 'Profits and gains of business or profession'. Some court rulings have held that the provisions of disallowance under section 40(a)(ia) apply only to the amount which remained payable at the end of the relevant financial year and would not be invoked to disallow the amount which had actually been paid during the previous year without deduction of tax at source.

Departmental View: The CBDT's view is that the provisions of section 40(a)(ia) would cover not only the amounts which are payable as on 31st March of a previous year but also amounts which are payable at any time during the year. The statutory provisions are amply clear and in the context of section 40(a)(ia), the term "payable" would include "amounts which are paid during the previous year".

The Circular has further clarified that where any High Court decides an issue contrary to the above "Departmental View", the "Departmental View" shall not be operative in the area falling in the jurisdiction of the relevant High Court.

2. Circular No. 1/2014, dated 13.1.2014

Non-deduction of tax at source on the service tax component comprised in payments made to residents, if the service-tax component is indicated separately

The CBDT had issued Circular No.4/2008 dated 28.4.2008 clarifying that tax is to be deducted at source under section 194-I, on the amount of rent paid/payable without including the service tax component. However, this Circular was silent regarding deduction of tax at source on the service tax component of other payments on which TDS provisions are applicable.

Accordingly, in exercise of the powers conferred under section 119, the Board has, vide this Circular, clarified that wherever in terms of the agreement/contract between the payer and the payee, the service tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B on the amount paid/payable without including such service tax component.

3. Circular No. 2/2014 dated 20.01.2014

Taxability of Awards received by a Sportsman

The CBDT had issued Circular No.447 on 22nd January, 1986 clarifying that awards received by a sportsman, who is not a professional, will not be liable to tax in his hands as the award will be in the nature of a gift and/or personal testimonial. This circular was applicable when the gift was not taxable in the hands of the recipient. Thereafter, in the year 2005, there was a fundamental change in the manner of treatment of gift through insertion of sub-clauses (xiii), (xiv) and (xv) of section 2(24). Corresponding amendments

were also made in section 56(2) by insertion of clauses (v), (vi) and (vii), thereby making an amount of money or immovable property received without consideration taxable subject to provisions of these clauses. Consequently, the CBDT has, through this Circular, clarified that Circular No.447 had become inapplicable w.e.f. 1-4-2005, since the statutory provisions have overridden the same.

It may however be noted that, in terms of provisions of section 10(17A), Central Government approves awards instituted by Central Government, State Government or other bodies as also the purposes for rewards instituted by Central Government or State Government from time to time. Tax exemption can be sought by eligible persons in respect of awards or rewards covered by such approvals.

4. Circular No. 5/2014, dated 11.2.2014

Clarification regarding disallowance of expenses under section 14A in cases where corresponding exempt income has not been earned during the financial year

The Finance Act, 2001 had introduced section 14A, with retrospective effect from 1st April, 1962, to provide that no deduction shall be allowed in respect of expenditure incurred relating to income which does not form part of total income. A controversy has arisen as to whether disallowance can be made by invoking section 14A even in those cases where no income has been earned by an assessee, which has been claimed as exempt during the financial year.

The CBDT has, through this Circular, clarified that the legislative intent is to allow only that expenditure which is relatable to earning of income. Therefore, it follows that the expenses which are relatable to earning of exempt income have to be considered for disallowance, irrespective of the fact whether such income has been earned during the financial year or not.

The above position is clarified by the usage of the term "includible" in the heading to section 14A [Expenditure incurred in relation to income not includible in total income] and Rule 8D [Method for determining amount of expenditure in relation to income not includible in total income], which indicates that it is not necessary that exempt income should necessarily be included in a particular year's income, for triggering disallowance. Also, the terminology used in section 14A is "income under the Act" and not "income of the year", which again indicates that it is not material that the assessee should have earned such income during the financial year under consideration.

In effect, section 14A read along with Rule 8D provides for disallowance of expenditure even where the taxpayer has not earned any exempt income in a particular year.

5. Circular No. 8/2014 dated 31.03.2014

Taxability of partner's share, where the income of the firm is exempt under Chapter III / deductible under Chapter VI-A

Section 10(2A) provides that a partner's share in the total income of a firm which is separately assessed as such shall not be included in computing the total income of the partner. In effect, a partner's share of profits in such firm is exempt from tax in his hands.

Sub-section (2A) was inserted in section 10 by the Finance Act, 1992 with effect from 1.4.1993 consequent to change in the scheme of taxation of partnership firms. Since A.Y.1993-94, a firm is assessed as such and is liable to pay tax on its total income. A partner is, therefore, not liable to tax once again on his share in the said total income.

An issue has arisen as to the amount which would be exempt in the hands of the partners of a partnership firm, in cases where the firm has claimed exemption/deduction under Chapter III or Chapter VI-A.

The CBDT has clarified that the income of a firm is to be taxed in the hands of the firm only and the same can under no circumstances be taxed in the hands of its partners. Therefore, the entire profit credited to the partners' accounts in the firm would be exempt from tax in the hands of such partners, even if the income chargeable to tax becomes Nil in the hands of the firm on account of any exemption or deduction available under the provisions of the Act.

B. INDIRECT TAXES

CENTRAL EXCISE

Following amendments have been carried out in the CENVAT Credit Rules, 2004:

1. Procedure, safeguards, conditions and limitations prescribed for refund of CENVAT credit to service providers covered under partial reverse charge

   Rule 5B stipulates that a service provider providing services taxed under reverse charge mechanism and unable to utilize the CENVAT credit availed on inputs and input services for payment of service tax on such output services, shall be allowed refund of such unutilized CENVAT credit.

   The procedure, safeguards, conditions and limitations to which such refund shall be subject to have been prescribed by CBEC vide *Notification No. 12/2014 CE (NT) dated 03.03.2014* as under:

   I. SAFEGUARDS, CONDITIONS AND LIMITATIONS

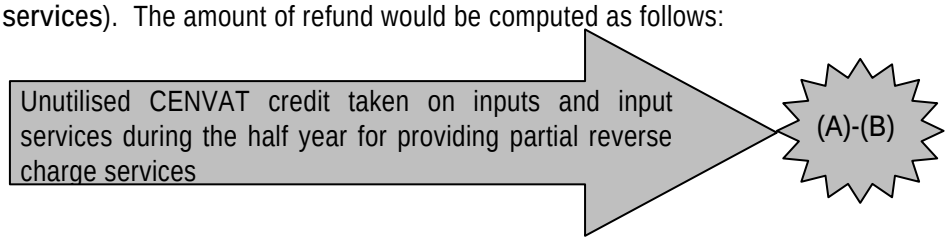
   (a) Refund is admissible, of unutilised CENVAT credit taken on inputs and input services during the half year for which refund is claimed, for providing following output services:

      (i) renting of a motor vehicle designed to carry passengers on non-abated value, to any person who is not engaged in a similar business;

      (ii) supply of manpower for any purpose or security services; or

      (iii) service portion in the execution of a works contract;

(hereinafter above mentioned services will be termed as **partial reverse charge services**). The amount of refund would be computed as follows:



where

$$A = \text{CENVAT credit taken on inputs and input services during the half year} \times \frac{\text{Turnover of output service under partial reverse charge duirng the half year}}{\text{Total turnover of goods and services during the half year}}$$

B = Service tax paid by the service provider for such partial reverse charge services during the half year.

(b) Refund shall not exceed the amount of service tax liability paid/payable by the service receiver with respect to the partial reverse charge services provided during the period of half year for which refund is claimed.

(c) Amount claimed as refund shall be debited by the claimant from his CENVAT credit account at the time of making the claim. However, if the amount of refund sanctioned is less than the amount of refund claimed, then the claimant may take back the credit of the difference between the amount claimed and the amount sanctioned.

(d) The claimant shall submit not more than one claim of refund under this notification for every half year.

(e) Refund claim shall be filed after filing of service tax return for the period for which refund is claimed.

(f) No refund shall be admissible for the CENVAT credit taken on input or input services received prior to 01.07.2012.

Half year means a period of six consecutive months with the first half year beginning from the 1st day of April every year and second half year from the 1st day of October of every year.

II. PROCEDURE FOR FILING THE REFUND CLAIM

(a) The output service provider shall submit an application in Form A, along with specified documents and enclosures, to jurisdictional Assistant Commissioner/Deputy Commissioner, before the expiry of 1 year* from the due date

of filing of return for the half year. Copies of return(s) filed for the said half year shall also be filed along with the application.

**In case of more than one return required to be filed for the half year, 1 year shall be calculated from due date of filing of the return for the later period.*

However, last date of filing of application in Form A, for the half year ending on 30.09.2012, shall be 30.04.2014.

(b) The Assistant Commissioner/Deputy Commissioner, may call for any document in case he has reason to believe that information provided in the refund claim is incorrect or insufficient and further enquiry needs to be caused before the sanction of refund claim, and shall sanction the claim after satisfying himself that the refund claim is correct and complete in every respect.

2. Provisions relating to distribution of credit in case of input service distributor amended [Rule 7]

With effect from 01.04.2014, rule 7 has been amended to simplify the mechanism of distribution of CENVAT credit in case of input service distributor as under:

S. No.	Position as per erstwhile rule 7	Position as per the amended rule 7	
1.	In case of a unit exclusively engaged in manufacture of exempted goods/ providing exempted services, service tax paid on input services used IN such a unit was not allowed to be distributed as CENVAT credit.	In case of a unit exclusively engaged in manufacture of exempted goods/ providing exempted services, service tax paid on input services used BY one or more such units will not be allowed to be distributed as CENVAT credit	With the substitution of word 'IN' with 'BY', credit of services, which have been used by such units though not actually consumed within such units, would also not be distributed.
2.	Credit of service tax attributable to service used wholly IN a unit was to be distributed only to that unit.	Credit of service tax attributable to service used wholly BY a unit shall be distributed only to that unit.	Substitution of word 'IN' with 'BY' would increase the scope of services pertaining to which credit could be distributed to a unit. Resultantly, credit for services like good transport agency services, rent-a-cab

			service, testing and analysis of the product etc. would now be available to the unit availing them.
3.	Credit of service tax attributable to service used IN more than one unit was to be distributed pro rata on the basis of the turnover during the relevant period of the concerned unit to the sum total of the turnover of all the units to which the service related during the same period.	Credit of service tax attributable to service used BY more than one unit shall be distributed pro rata on the basis of the turnover of such units during the relevant period to the total turnover of all its units, which are operational in the current year, during the said relevant period.	In case of common input services, amount of CENVAT credit attributed to a unit may be reduced as now turnover of all operational units has to be taken in denominator instead of only the units to which the service relates.
4.	Relevant period was the month/quarter previous to the month/quarter during which the CENVAT credit was distributed. In case of an assessee who did not have any total turnover in the said period, the input service distributor was to distribute any credit only after the end of such relevant period wherein the total turnover of its units was available.	Relevant period shall be the 'financial year' preceding to the year during which credit is to be distributed for month/ quarter provided assessee has turnover in such preceding financial year. If the assessee does not have turnover for some/ all the units in the preceding financial year, relevant period shall be the last quarter for which details of turnover of all the units are available, previous to the month/ quarter for which credit is to be distributed.	Distribution of credit is now based on previous financial year's turnover instead of previous month's/quarter's turnover.

[Notification No. 5/2014-CE (NT) dated 24.02.2014]

3. Amendments in rule 3

(i) Duty leviable on transaction value to be paid on removal of capital goods as waste and scrap [Rule 3(5A)]

Rule 3(5A) of the CENVAT Credit Rules, 2004 provides for reversal of CENVAT credit in the event of removal of capital goods after being used, whether as capital goods or as waste/ scrap. Earlier, the quantum of credit that needs to be reversed was higher of the following two amounts:

(I) CENVAT credit taken on the said capital goods reduced by the specified percentage points calculated by straight line method for each quarter of a year or part thereof from the date of taking the CEVAT credit

or

(II) Duty leviable on transaction value.

However, with effect from 27.09.2013, if the capital goods are cleared as waste and scrap, the manufacturer shall pay an amount equal to the duty leviable on transaction value.

Thus, a manufacturer removing capital goods as waste and scrap will no longer be required to compare the amount equivalent to the duty leviable on transaction value with the amount equivalent to CENVAT credit taken on the said capital goods reduced by the specified percentage points. However, when capital goods will be removed, after being used, otherwise than as waste and scrap, the higher of the above-mentioned two amounts will be required to be paid.

[Notification No. 12/2013 CE (NT) dated 27.09.2013]

(ii) CENVAT credit taken on input services to be reversed if duty paid on final product remitted [Rule 3(5C)]

Earlier, where on any goods manufactured or produced by an assessee, the payment of duty was ordered to be remitted under rule 21 of the Central Excise Rules, 2002, the CENVAT credit taken on the inputs used in the manufacture or production of said goods was required to be reversed. Thus, earlier, reversal was only required in respect of inputs and not for input services.

Rule 3(5C) has been amended to provide that CENVAT credit taken on input services used in or in relation to the manufacture or production of said goods is also required to be reversed.

[Notification No. 1/2014 CE (NT) dated 08.01.2014]

(iii) Amount payable under sub-rules (5), (5A), (5B) and (5C) of rule 3 to be paid on or before the 5th day of the following month by utilizing CENVAT credit or otherwise

As per explanation 1 inserted after rule 3(5C), the amount payable under following sub-rules of rule 3 shall be paid by the manufacturer of goods or the provider of output service

(i)	Rule 3(5)	Reversal of credit in case of removal of inputs or capital goods as such from the factory/premises of the output service provider
(ii)	Rule 3(5A)	Reversal of credit in case of removal of capital goods after being used, whether as capital goods or as scrap or waste
(iii)	Rule 3(5B)	Reversal of credit in case of full or partial writing off of the value of input or capital goods before being put to use
(iv)	Rule 3(5C)	Reversal of credit in case of remission of duty on final product

- by debiting the CENVAT credit or otherwise
- on or before the 5th day of the following month except for the month of March, where such payment shall be made on or before the 31st day of the month of March.

[Notification No. 1/2014 CE (NT) dated 08.01.2014]

(iv) Failure to reverse the credit taken on inputs and input services used in goods on which duty is ordered to be remitted also to attract recovery provisions under rule 14 [Explanation 2 to rule 3(5C)]

Hitherto, as per explanation occurring after proviso to rule 3(5B), recovery provisions under rule 14 of the CENVAT Credit Rules, 2004 were applicable if the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rules (5), (5A) and (5B) of rule 3.

The said explanation has been omitted and a new explanation 2 has been inserted after rule 3(5C). As per the new explanation 2, in addition to sub-rules (5), (5A) and (5B) of rule 3, recovery provisions under rule 14 will also apply to sub-rule (5C) of rule 3.

In other words, even in a case where the manufacturer of goods or the provider of output service fails to reverse the CENVAT credit taken on inputs and input services used in goods on which duty has been ordered to be remitted, it would be recovered, in the manner provided under rule 14, for recovery of CENVAT credit wrongly taken.

[Notification No. 1/2014 CE (NT) dated 08.01.2014]

4. Importer also required to file quarterly return

Earlier, rule 9(8) required a first stage dealer and a second stage dealer to submit a return (electronically) within 15 days from the close of each quarter of a year to the Superintendent of Central Excise quarterly.

With effect from 01.04.2014, a registered importer is also required to submit such quarterly return.

[Notification No. 9/2014-CE (N.T.) dated 28.02.2014]

SERVICE TAX

I. Exemptions:

1. Mega exemption notification amended

Mega exemption *Notification No. 25/2012-ST dated 30.06.2012* has been amended as follows:-

(a) Services provided by NSDC or by an approved SSC/assessment agency/training partner exempted

Services provided by:-

(i) the National Skill Development Corporation (NSDC) set up by the Government of India;

(ii) a Sector Skill Council (SSC) approved by the NSDC;

(iii) an assessment agency approved by the SSC or the NSDC;

(iv) a training partner approved by the NSDC or the SSC

in relation to:-

(a) the National Skill Development Programme implemented by the NSDC; or

(b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or

(c) any other Scheme implemented by the NSDC

have been exempted from service tax.

[Notification No. 13/2013-ST dated 10.09.2013]

(b) Services provided by cord blood banks by way of preservation of stem cells exempted

Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation have been exempted from service tax.

[Notification No. 04/2014-ST dated 17.02.2014]

(c) Loading/unloading/packing/storage/warehousing of rice exempted

Services by way of loading, unloading, packing, storage or warehousing of rice have been exempted from service tax.

[Notification No. 04/2014-ST dated 17.02.2014]

(d) Scope of definition of 'Governmental authority' widened

The definition of "Governmental authority" has been substituted with the following new definition:-

"Governmental authority" means an authority or a board or any other body;

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.

Thus, the scope of the definition has been enhanced. Henceforth, an authority or a board or any other body established by Government with 90% or more participation by way of equity or control need not be set up under an Act of Parliament or a State Legislature to qualify as Governmental authority.

[Notification No. 02/2014-ST dated 30.01.2014]

(e) Expansion in the scope of exemption of services provided by way of sponsorship of sports events

Hitherto, services provided by way of sponsorship of sporting events organized by a national sports federation, or its affiliated federations were exempt from service tax where the participating teams or individuals represent any district, State or zone. The said exemption has been extended even in a case where the participating teams or individuals represent any COUNTRY.

[Notification No. 01/2014-ST dated 10.01.2014]

2. Revised scheme of service tax exemption in case of services provided to SEZ unit/Developer

Notification No. 40/2012-ST dated 20.06.2012 prescribing the scheme for claiming exemption in respect of the services received by a developer/units of an SEZ has been superseded by *Notification No. 12/2013-ST dated 01.07.2013.* The new notification has expanded the scope of *ab-initio* exemption and refund available to SEZ unit/developer.

The significant relevant changes in the new notification vis-à-vis erstwhile notification have been outlined as follows:-

Basis	*NN 40/2012*	*NN 12/2013*
Services eligible for *ab initio* exemption	Only specified services wholly consumed within SEZ were eligible for the *ab initio* exemption. Further, the definition of wholly consumed	Specified services received by the SEZ Unit or the Developer used exclusively for the authorized operations are eligible for the *ab initio* exemption.

	services, linked with the Place of Provision of Services Rules, 2012, emphasized that the specified services must be provided only within SEZ.	Consequently, any services used exclusively for the authorized operations whether provided within SEZ or outside, will be eligible for upfront exemption.
Refund of service tax paid on the common services shared between authorized operations in SEZ and its DTA operations	Maximum refund was restricted as under:- Maximum refund $= \frac{ST \times ET}{TT}$ where ST stands for service tax paid on services other than wholly consumed services (used for both SEZ and DTA Unit) ET stands for Export turnover of goods and services of SEZ Unit/Developer TT stands for Total turnover for the period	The service tax paid on the specified services that are common to the authorized operation in an SEZ and the operation in domestic tariff area [DTA unit(s)] shall be distributed amongst the SEZ Unit/Developer and the DTA unit(s) in the manner as prescribed in rule 7 of the CENVAT Credit Rules, 2004. For the purpose of distribution, the turnover of the SEZ Unit/Developer shall be taken as the turnover of authorized operation during the relevant period. Such amount would be available as refund.
Option not to avail the exemption and instead take CENVAT credit as usual	Earlier scheme did not expressly provide for such an option.	SEZ Unit/the Developer has an option not to avail of this exemption and instead take CENVAT credit on the specified services in accordance with the CENVAT Credit Rules, 2004.
Availability of refund of service tax on the specified services on which *ab-initio* exemption is admissible but not claimed	Refund of service tax on the specified services on which *ab-initio* exemption is admissible but not claimed was not expressly provided in the earlier scheme.	The SEZ Unit or the Developer shall be entitled to the refund of service tax on the specified services on which *ab-initio* exemption is admissible but not claimed.

II. Threshold limit for e-payment of service tax reduced from ₹ 10 lakh to ₹ 1 lakh

Proviso to rule 6(2) of the Service Tax Rules, 1994 has been amended to reduce the threshold limit for e-payment of service tax from ₹ 10 lakh to ₹ 1 lakh. Henceforth, with effect from 01.01.2014, where an assessee has paid a total service tax of ₹ 1 lakh or more including the amount paid by utilization of CENVAT credit, in the preceding

financial year, he shall deposit the service tax liable to be paid by him electronically through internet banking.

[Notification No. 16/2013-ST dated 22.11.2013]

III. Clarifications

1. Clarification as to whether "agricultural produce" includes rice and benefits available in respect of rice under mega exemption notification

CBEC vide *Circular No.177/03/2014 – ST dated 17.02.2014,* has clarified that the definition of agricultural produce under section 65(5) of the Finance Act, 1994 covers 'paddy'; but excludes 'rice'. It implies that benefits available to agricultural produce in the negative list [Section 66D(d)] are not available to rice.

However, many such benefits have been extended to rice by way of appropriate entries in the mega exemption notification as follows:-

(i) Services by way of transportation of food stuff by rail/vessel/goods transport agency is exempt from service tax. Food stuff includes rice.

(ii) Services by way of loading, unloading, packing, storage or warehousing of rice are exempt from service tax.

(iii) Carrying out an intermediate production process as job work in relation to agriculture is exempt from service tax. It is clarified that paddy milled into rice, on job work basis is also exempt from service tax since such milling of paddy is an intermediate production process in relation to agriculture.

2. Clarification regarding exemption available to services provided by a Resident Welfare Association (RWA) to its own members

Mega exemption *Notification No. 25/2012-ST dated 20.06.2012* provides exemption to services provided by an RWA to its own members by way of reimbursement of charges or share of contribution up to ₹ 5,000 per month per member for sourcing of goods or services from a third person for the common use of its members.

Certain doubts have been raised regarding the scope of said exemption. CBEC vide *Circular No.175/01/2014 – ST dated 10.01.2014*, has clarified these doubts as follows:

Sl. No.	Doubt	Clarification
1.	(i) In a residential complex, monthly contribution collected from members is used by the RWA for the purpose of making payments to the third parties, in respect of commonly used services or goods	Exemption in mega exemption notification is provided specifically with reference to service provided by an unincorporated body or a non–profit entity registered under any law for the time being in force such as RWAs, to its own members.

	[Example: for providing security service for the residential complex, maintenance or upkeep of common area and common facilities like lift, water sump, health and fitness centre, swimming pool, payment of electricity Bill for the common area and lift, etc.]. Is service tax leviable on the same? (ii) If the contribution of a member(s) of a RWA exceeds ₹ 5,000 per month, how should the service tax liability be calculated?	However, a monetary ceiling has been prescribed for this exemption, calculated in the form of ₹ 5,000 per month per member contribution to the RWA, for sourcing of goods or services from third person for the common use of its members. If per month per member contribution of any or some members of a RWA exceeds ₹ 5,000, entire contribution of such members whose per month contribution exceeds ₹ 5,000 would be ineligible for the exemption under the said notification. Service tax would then be leviable on the aggregate amount of monthly contribution of such members.
2.	(i) Is Small Service Provider's (SSP) exemption under *Notification No. 33/2012-ST* available to RWA? (ii) Does 'aggregate value' for the purpose of threshold exemption, include the value of exempt service?	SSP exemption under *Notification No. 33/2012-ST* is applicable to a RWA, subject to conditions prescribed in the notification. Under this notification, taxable services of aggregate value not exceeding ₹ 10 lakh in any financial year is exempted from service tax. As per the definition of 'aggregate value' provided in explanation of the notification, aggregate value does not include the value of services which are exempt from service tax.
3.	If a RWA provides certain services such as payment of electricity or water bill issued by third person, in the name of its members, acting as a 'pure agent' of its members, is exclusion from value of taxable service available for the purposes of SSP exemption or exemption provided under mega exemption notification?	In Rule 5(2) of the Service Tax (Determination of Value) Rules, 2006, it is provided that expenditure or costs incurred by a service provider as a pure agent of the recipient of service shall be excluded from the value of taxable service, subject to the conditions specified in the said rule. For example, where the payment for an electricity bill raised by an electricity transmission or distribution utility in the name of the owner of an apartment in respect of electricity consumed thereon, is collected and paid by the RWA to the

		utility, without charging any commission or a consideration by any other name, the RWA is acting as a pure agent and hence exclusion from the value of taxable service would be available. However, in the case of electricity bills issued in the name of RWA, in respect of electricity consumed for common use of lifts, motor pumps for water supply, lights in common area, etc., since there is no agent involved in these transactions, the exclusion from the value of taxable service would not be available.
4.	Is CENVAT credit available to RWA for payment of service tax?	RWA may avail CENVAT credit and use the same for payment of service tax, in accordance with the CENVAT Credit Rules, 2004.

PART – II: QUESTIONS AND ANSWERS

QUESTIONS

Residential Status and Scope of total income

1. From the following particulars of income furnished by Mr. Anand pertaining to the year ended 31.3.2014, compute his total income for the assessment year 2014-15, if he is:

   (i) Resident and ordinarily resident;

   (ii) Resident but not ordinarily resident;

   (iii) Non-resident

	Particulars	₹
(a)	Short term capital gain on sale of shares in Indian Company received in Japan	25,000
(b)	Dividend from a South African company received in South Africa	20,000
(c)	Rent from property in UK deposited in a bank in UK, later on remitted to India through approved banking channels	1,50,000
(d)	Dividend from SK Ltd., an Indian Company	12,000
(e)	Agricultural income from land in Madhya Pradesh	56,000

Income which do not form part of total income

2. (i) A special purpose distinct entity (regulated by SEBI), set up in the form of a trust to undertake securitization activities, receives ₹ 20 lakh from the activities of

securitisation and distributes ₹ 5 lakh to its investors. What would be the tax implications in the hands of :-

(a) the special purpose distinct entity, in respect of its income from the activity of securitisation; and

(b) investors, in respect of income distributed by the special purpose distinct entity.

(ii) Discuss the taxability or otherwise of the income of Investor Protection Fund (IPF), by way of contributions received from;

(a) a recognised stock exchange and its members, where the IPF is set up by the recognised stock exchange.

(b) a depository, where the IPF is set up by the depository.

(iii) Determine the taxability of the following sums received by Mr. Tularam from LIC on account of the life insurance policies taken by him -

S. No.	Date of Issue of policy	Person insured	Actual capital sum Assured	Annual Insurance Premium	Sums received as bonus during the previous year 2013-14
1.	20.10.2010	Minor Son	5,00,000	75,000	60,000
2.	10.06.2012	Spouse	2,00,000	30,000	15,000
3.	11.04.2013	Handicapped daughter (section 80U disability)	8,00,000	1,00,000	18,000

Income from Salaries

3. (a) Mrs. Meera, aged about 65 years, is the HR Manager of M/s. Alpha Pvt. Ltd., based at Mumbai. She is in continuous service since 1980 and receives the following salary and perks from the company during the year ending 31.03.2014:

(i) Basic Salary (₹ 60,000 x 12) = ₹ 7,20,000

(ii) D.A. (₹ 24,000 x 12) = ₹ 2,88,000 (forms part of pay for retirement benefits)

(iii) Bonus – 1.5 months basic salary.

(iv) Commission – 0.1% of the turnover of the company. The turnover for the F.Y. 2013-14 was ₹ 50.00 crores.

(v) Contribution of the employer and employee to the recognized provident fund Account ₹ 3,50,000 each.

(vi) Interest credited to Recognized Provident Fund Account at 9.5% - ₹ 80,000.

(vii) Rent free unfurnished accommodation provided by the company for which the company pays a rent of ₹ 1,00,000 per annum.

(viii) Entertainment Allowance – ₹ 25,000.

(ix) Hostel allowance for three children – ₹ 3,500 each.

She makes the following payments and investments:

(i) Premium paid to insure the life of her major son – ₹ 20,000. Actual Capital Sum Assured is ₹ 2,00,000

(ii) Medical Insurance premium for self & spouse ₹ 18,000.

(iii) Donation of ₹ 1,50,000 to approved public charitable institution by way of cheque.

(iv) LIC Pension Fund – ₹ 15,000.

Determine the tax liability for the Assessment Year 2014-15.

(b) Mr. Arpan, a Government employee, retired on 28-02-2014 after rendering service of 27 years and 8 months. He received gratuity of ₹ 12,00,000. His salary at the time of retirement was as under:

Basic salary ₹ 38,000 p.m.

Dearness Allowance ₹ 25,000 p.m.

(i) Compute the taxable gratuity.

(ii) If Mr. Arpan is not a Government employee but covered by Payment of Gratuity Act, 1972, what would be the taxable gratuity?

(iii) Would your answer be different if he was not covered by Payment of Gratuity Act, 1972?

Income from house property

4. Mr. Karan and Mr. Kunal constructed their houses on a piece of land purchased by them at Kanpur. The built up area of each house was 1,250 sq.ft. ground floor and an equal area in the first floor. Karan started construction on 1-04-2012 and completed on 1-04-2013. Kunal started the construction on 1-07-2012 and completed the construction on 30-06-2013. Karan occupied the entire house on 01-04-2013. Kunal occupied the ground floor on 01-07-2013 and let out the first floor for a rent of ₹ 25,000 per month. However, the tenant vacated the house on 30-11-2013 and Kunal occupied the entire house during the period 01-12-2013 to 31-03-2014.

Following are the other information:

(i)	Fair rental value of each unit (ground floor/first floor)	₹ 1,25,000 per annum
(ii)	Municipal value of each unit (ground floor/first floor)	₹ 80,000 per annum
(iii)	Municipal taxes paid by	Karan – ₹ 10,000

(iv)	Repair and maintenance charges paid by	Kunal – ₹ 10,000 Karan – ₹ 35,000 Kunal– ₹ 32,000

Karan has availed a housing loan of ₹ 30 lakh @ 11% p.a. on 01-04-2012. Kunal has availed a housing loan of ₹ 25 lakh @ 10% p.a. on 01-07-2012. No repayment was made by either of them till 31-03-2014. Compute income from house property for Karan and Kunal for the A.Y. 2014-15.

Profits and gains of business or profession

5. (a) M/s. Amla Ltd., a manufacturing concern, furnishes the following particulars for the P.Y. 2013-14:

		₹ (in crore)
(i)	Opening written down value of plant and machinery (15% block)	50.00
(ii)	Purchase of plant and machinery (put to use on 10.09.2013)	106.00
(iii)	Sale proceeds of plant and machinery which became obsolete- the plant and machinery was purchased on 01-04-2011 for ₹ 0.50 crore.	0.20

Further, out of purchase of plant and machinery:

(a) Plant and machinery of ₹ 0.30 crore has been installed in office.

(b) Plant and machinery of ₹ 0.20 crore was used previously for the purpose of business by the seller.

Compute the depreciation, additional depreciation under section 32 and amount of deduction under section 32AC as per Income-tax Act, 1961 for the Assessment Year 2014-15.

(b) Mr. Jagat engaged in retail trade, reports a turnover of ₹ 82,46,000 for the financial year 2013-14. His income from the said business as per books of account is computed at ₹ 5,85,600. Retail trade is the only source of income for Mr.Jagat.

(i) Is Mr. Jagat eligible to opt for presumptive taxation of his income chargeable to tax for the assessment year 2014-15?

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

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

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

Capital Gains

6. Ms. Gunjan purchased a land at a cost of ₹ 50 lakh in the financial year 2000-01 and held the same as her capital asset till 31st August, 2012. She started her real estate business on 1st September, 2012 and converted the said land into stock-in-trade of her business on the said date, when the fair market value of the land was ₹ 320 lakh.

She constructed 8 flats of equal size, quality and dimension. Cost of construction of each flat is ₹ 36 lakh. Construction was completed in January, 2014. She sold 5 flats at ₹ 90 lakh per flat in February, 2014.

She invested ₹ 70 lakh in bonds issued by National Highways Authority of India on 31st March, 2014.

Compute the capital gains and business income arising from the above transactions in the hands of Ms. Gunjan for Assessment Year 2014-15 indicating clearly the reasons for treatment for each item.

Cost Inflation Indices: F.Y. 2000-01: 406; F.Y.2012-13: 852; F.Y. 2013-14: 939.

Income from Other Sources

7. Discuss the tax implications under section 56(2) in respect of each of the following transactions -

(i) Mr. Tejpal received a painting by M. F. Hussain worth ₹ 2 lakh from his nephew on his 10th wedding anniversary.

(ii) Verma's son transferred shares of D Ltd. to Verma HUF without any consideration. The fair market value of the shares is ₹ 2.5 lakh.

(iii) Sunshine (P) Ltd. purchased 9,500 equity shares of Saturn (P) Ltd. at ₹ 86 per share. The fair market value of the share on the date of transaction is ₹ 105.

(iv) Bijali (P) Ltd. issued 28,000 equity shares of ₹ 10 each at a premium of ₹ 8. The fair market value of each share on the date of issue is ₹ 15.

(v) Mr. Sharan's land was acquired by the Government in August 2010. He received interest of ₹ 5,40,000 on enhanced compensation in January, 2014, out of which ₹ 1,20,000 related to the year 2010-11, ₹ 1,60,000 related to the year 2011-12, ₹ 2,00,000 related to the year 2012-13 and 60,000 related to the year 2013-14.

Profits and gains of business or profession, Capital Gains & Income from Other Sources

8. Mr. Suraj, a Sales Manager with Moon Ltd., sold a building to his friend Mr. Rohan, who is engaged in the business of artificial jewellery, for ₹ 80 lakh on 01.01.2014, when the stamp duty value was ₹ 220 lakh. The agreement was, however, entered into on 04.06.2013 when the stamp duty value was ₹ 150 lakh. Mr. Suraj had received a down payment of ₹ 30 lakh by cheque from Mr. Rohan on the date of agreement. Discuss the tax implications in the hands of Mr. Suraj and Mr. Rohan, assuming that Mr. Suraj had purchased the building for ₹ 61 lakh on 20th October, 2011.

Would your answer be different if Mr. Suraj was a property dealer and he sold the building to Mr. Rohan in the course of his business?

Income of Other Persons included in assessee's Total Income

9. A proprietary business was started by Smt. Reena in the year 2011. As on 1.4.2012, her capital in business was ₹ 5,00,000.

Her husband gifted ₹ 3,50,000 on 15.05.2012, which was invested in her business on the same date. Smt. Reena earned profits from her proprietary business for the Financial year 2012-13, ₹ 2,00,000 and Financial year 2013-14 ₹ 5,10,000. Compute the income, to be clubbed in the hands of Reena's husband for the Assessment year 2014-15 with reasons.

Set off and Carry Forward of Losses

10. The following are the details relating to Mr. Sitaraman, a resident Indian, aged 57, relating to the year ended 31.3.2014:

Particulars	₹
Income from salaries	3,22,000
Loss from house property	1,65,000
Loss from retail business	2,25,000
Income from speculation business	26,000
Loss from specified business covered by section 35AD	31,000
Long-term capital gains from sale of residential house	3,60,000
Long-term capital loss from sale of listed shares in recognized stock exchange (STT paid)	1,21,000
Loss from card games	33,000
Income from betting (Gross)	51,000
Life Insurance Premium paid (policy taken on 10th August 2012 for actual capital sum assured of ₹ 9 lakh)	1,00,000

Compute the total income and show the items eligible for carry forward.

Deductions from Gross Total Income

11. Mr. Rakesh, Mr. Jaiprakash and Mr. Himesh, new retail investors, have made the following investments in equity shares/units of equity oriented fund of Rajiv Gandhi Equity Savings Scheme for the P.Y.2013-14 as below :

Particulars		Mr. Rakesh	Mr. Jaiprakash	Mr. Himesh
		₹	₹	₹
(i)	Investment in listed equity shares	35,000	35,000	28,000

(ii)	Investment in units of equity-oriented fund	25,000	-	15,000
(iii)	Gross Total Income (comprising of salary income and bank interest)	9,26,000	12,81,000	10,17,000

Compute the deduction available to Mr. Rakesh, Mr. Jaiprakash & Mr. Himesh under section 80CCG for the A.Y. 2014-15.

What would be the tax consequences if Mr. Jaiprakash & Mr. Himesh sold the entire investment made in listed equity shares in January 2015?

Computation of Total Income of an individual

12. Dr. Sonia, a resident individual, aged 60 years is running a clinic. Her Income and Expenditure Account for the year ending March 31st, 2014 is as under:

Expenditure	₹	Income	₹
To Medicine consumed	6,72,340	By Consultation and Medical charges	19,96,750
To Staff salary	4,20,000	By Income-tax refund (Principal ₹ 4,800, interest ₹ 650)	5,450
To Clinic consumables	1,42,000	By Dividend from units of UTI	9,400
To Rent paid	75,000	By winning from game show on T.V. (net of TDS of ₹ 15,600)	36,400
To Administrative expenses	2,81,000	By Rent	36,000
To Amount paid to scientific research association approved under section 35	1,80,000		
To Net profit	3,13,660		
	20,84,000		20,84,000

(i) Rent paid includes ₹ 37,000 paid by cheque towards rent for her residential house in Gwalior.

(ii) Clinic equipments are:

01.04.2013 Opening W.D.V. - ₹ 4,50,000

15.01.2014 Acquired (cost) - ₹ 2,25,000

(iii) Rent received relates to property situated at Gwalior. Gross Annual Value ₹ 36,000. The municipal tax of ₹ 2,800, paid in January, 2014, has been included in "administrative expenses".

(iv) She received salary of ₹ 15,000 p.m. from "Radha Krishnan Hospital" which has not been included in the "consultation and medical charges".

(v) Dr. Sonia availed a loan of ₹ 7,50,000 from a bank for higher education of her daughter. She repaid principal of ₹ 80,000, and interest thereon ₹ 75,000 during the year 2013-14.

(vi) She paid ₹ 80,000 as tuition fee (not in the nature of development fees/ donation) to the university for full time education of her daughter.

(vii) An amount of ₹ 23,000 has also been paid by cheque on 15th February, 2014 for her medical insurance premium.

From the above, compute the total income of Dr. Sonia for the A.Y. 2014-15.

Provisions concerning deduction of tax at source/Provisions for filing of Return of Income

13. (a) State, in brief, the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2013-14:

(i) Mr. Jagdish sold his house property in Delhi as well as rural agricultural land for a consideration of ₹ 80 lakh and ₹ 25 lakh, respectively, to Mr. Siddharth on 31st August 2013.

(ii) Payment of royalty of ₹ 25,000 and fee for professional services of ₹ 28,000 to Mr. Varun.

(iii) Punjab National Bank pays ₹ 1,00,000 per month as rent to the Central Government for a building in which one of its branches is situated.

(iv) Payment of ₹ 1,98,000 on 01.05.2013 to Mr. Karan for compulsory acquisition of his urban land by the State Government.

(b) Mr. Rajveer is a resident Indian. During the F.Y. 2013-14, interest of ₹ 3,06,000 was credited to his Non-resident (External) Account with the SBI. ₹ 25,000 being interest on fixed deposit with SBI was credited to his savings bank account during this period. He also earned ₹ 9,600 as interest on this savings account. Is Mr. Rajveer required to file return of income?

What will be your answer, if he owns a house in London?

Exemption from service tax

14. X Techies Ltd. imported a taxable service (involving transfer of technology) for ₹ 12,00,000 from USA in the month of June, 2013. The exporter raised an invoice for the same on 01.07.2013. X Techies Ltd. paid the said amount on 10.12.2013. The

Research and Development cess (R & D cess) of ₹ 60,000 leviable on such import of technology was paid by X Techies Ltd. on 22.11.2013. You are required to answer the following with respect to the given transaction:

(i) Who is liable to pay service tax?

(ii) What is the point of taxation?

(ii) What is the amount of service tax payable on the said taxable service?

Note:

(1) X Techies Ltd. has maintained proper records which show the linkage between the invoice raised for the service and R&D cess payment challan.

(2) ₹ 12,00,000 is exclusive of service tax and R & D cess.

Basic concepts of service tax

15. BTR Association, an unincorporated body of individuals, provided warehousing services to Mr. Raman for ₹ 15,00,000. BTR Association is of the view that since it is not a natural person, warehousing service provided by it will not be a *'service'* in terms of section 65B(44) of the Finance Act, 1994.

Examine whether the view taken by BTR Association is valid in law.

Computation of service tax

16. Ms. Kohana has provided you the following details in respect of various services received/availed by her during December, 2013:-

(i) Deposited ₹ 1,00,000 in her Savings Bank A/c. Interest of ₹ 5,000 was credited in her account on 31.12.2013.

(ii) Availed services of a mobile network operator and received a monthly bill for ₹ 2,000.

(iii) Visited an Orthopaedician (MBBS, MS) as she had severe backache and paid consultancy fee of ₹ 1,000.

(iv) Availed beauty treatment services from a salon for ₹ 6,000.

Notes:

1. All the amounts given above, are exclusive of service tax, wherever applicable.
2. All the service providers who have provided services to Ms. Kohana are not eligible for small service provider's exemption, wherever service tax is applicable.
3. Wherever applicable, service tax is to be recovered from the service receiver.

Compute the amount of service tax leviable on services availed/received by Ms. Kohana.

Point of taxation

17. Sunidhi & Co. provided business support services to Bansi on 10th March, 2014 for ₹ 50,000. The invoice for the same was issued on 20th March, 2014. Sunidhi & Co. received the payment against the said invoice on 15th March, 2014 vide cheque dated 12th March, 2014. The entry for the receipt of payment was made in the books of accounts on 15th March, 2014 itself. However, the amount was credited in the bank A/c on 25th March, 2014.

    Determine the point of taxation in the given case.

Valuation of taxable service

18. Well-Being Nursing Home has received the following amounts in the month of February, 2014 in lieu of various services rendered by it in the same month. You are required to determine its service tax liability for February, 2014 from the details furnished below:-

S. No.	Particulars	(₹) (in lakh)
(i)	Palliative care for terminally ill patients at patient's home *(Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease)*	30
(ii)	Services provided by cord blood bank unit of the nursing home by way of preservation of stem cells	24
(iii)	Hair transplant services	100
(iv)	Ambulance services to transport critically ill patients from various locations to nursing home	12
(v)	Naturopathy treatments. *Such treatment is a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010*	80
(vi)	Plastic surgery to restore anatomy of a child affected due to an accident.	30
(vii)	Pranic healing treatments. *Such treatment is not a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010*	120
(viii)	Mortuary services	10

Note: All the amounts given above are exclusive of service tax. Further, Well-Being Nursing Home is not eligible for the small service provider's exemption under Notification No. 33/2012-ST dated 20.06.2012. Point of taxation for the services rendered by Well-Being Nursing Home in the month of February, 2014 fall in the month of February itself.

Basic concepts of service tax

19. Shyam has given his tempos on hire to Mohan Brothers for transportation of food stuff for ₹ 40,00,000. He has also transferred the right to use such tempos to Mohan Brothers. Shyam has not paid any service tax on the consideration so received. Discuss whether Shyam is liable to pay service tax on the said transaction.

CENVAT credit

20. LMN (Pvt.) Ltd. is engaged in providing taxable services to its clients. Its service tax liability for the month of January, 2014 is ₹ 3,50,000. LMN (Pvt.) Ltd. intends to make e-payment of service tax on the due date i.e., on 06.02.2014.

Break-up of CENVAT credit available with LMN Ltd. as on 01.01.2014 is given below:

Particulars	*(₹)*
Inputs	50,000
Capital goods	1,00,000
Input services	15,000

LMN (Pvt.) Ltd. has provided the following further details:

Particulars	Excise duty		Service tax (₹) [Input services]
	Inputs (₹)	Capital goods (₹)	
Inputs received on 10.01.2014	30,000		
Inputs received on 15.01.2014	50,000		
Capital goods received on 20.01.2014		70,000	
Invoices (for input services) dated 23.01.2014 received on same day			35,000
Invoices (for input services) dated 02.02.2014 received on same day			35,000
Inputs received on 04.02.2014	45,000		

Out of total duty of ₹ 50,000 paid on inputs received on 15.01.2014, ₹ 15,000 represented National Calamity Contingent Duty.

You are required to determine the service tax payable by LMN (Pvt.) Ltd. in cash, if any. [Ignore EC and SHEC.]

Note: LMN (Pvt.) Ltd. is not eligible for the small service provider exemption under *Notification No. 33/2012-ST dated 20.06.2012*.

Computation of central excise duty and customs duty payable

21. (a) Grand India Ltd. sold a machine, manufactured by it, to Indian Industries Ltd. (IIL) at

a price of ₹ 10,00,000 (excluding taxes and duties). Further, following additional amounts were also charged:

Particulars	(₹)
Expenses pertaining to installation and erection of the machine at premises of IIL (machine was permanently affixed to earth)	30,000
Special packing charges	12,500
Design and engineering charges	40,000
Dharmada (charged in the invoice and recovered from IIL)	10,000

Determine the total amount of central excise duty payable on the machine from the aforesaid information.

(b) Sneha Subramanian imports a carton of goods from Germany on 10.01.2014 containing 8,000 pieces with assessable value of ₹ 1,20,000 under section 14 of the Customs Act, 1962. On the said product, rate of basic customs duty is 10% and rate of excise duty is 12% ad valorem. Similar product in India is assessable under section 4A of the Central Excise Act, 1944, after allowing an abatement of 30%. MRP printed on the package at the time of import is ₹ 30 per piece.

Calculate the countervailing duty (CVD) under section 3(1) of the Customs Tariff Act, 1975 payable on the imported goods.

Computation of net VAT liability

22. Compute net VAT payable by Rainbow & Co. from the following details furnished by it for the month of March, 2014:-

Inputs procured		(₹)
(i)	Raw material at Nil rate of VAT	5,00,000
(ii)	Raw material at 4% VAT	20,00,000
(iii)	Raw material at 12% VAT	10,00,000
Output		**(₹)**
(i)	Intra-State sale of finished goods at 4% VAT (these goods were produced entirely from raw material procured at Nil VAT)	8,00,000
(ii)	Exempted sales (60% of the raw material procured at 4% VAT was used in producing these goods)	10,00,000
(iii)	Intra-State sale of finished goods at 12% VAT	10,00,000
(iv)	Intra-State sale of raw material purchased at 4% VAT	5,00,000
(v)	50% of the raw material produced at 12% VAT has been utilised to produce capital goods for the manufacturing process in Rainbow & Co's factory (Market Value is ₹ 7,50,000)	

There was no opening and closing stock of goods.

Determination of turnover for central sales tax

23. Mediatek Pvt. Ltd.'s total inter-State sales @ 4% CST for the Financial Year 2013-14 is ₹ 2,00,00,000 (CST not shown separately). In this regard, following additional information is available:

(i) Goods sold to Amit for ₹ 1,50,000, on 10.07.2013 were returned by him on 08.12.2013.

(ii) A buyer, Sumit, to whom goods worth ₹ 45,000 were dispatched on 25.08.2013, rejected such goods. The said goods were received back on 10.03.2014.

(iii) Goods sold to Shyam for ₹ 3,00,000, on 11.07.2013 were returned by him on 12.02.2014.

Determine the amount of taxable turnover of Mediatek Pvt. Ltd.

SUGGESTED ANSWERS/HINTS

1. Computation of total income of Mr. Anand for A.Y. 2014-15

Particulars	Resident & ordinarily resident	Resident but not ordinarily resident	Non-Resident
1) Short term capital gain on sale of shares in an Indian company, received in Japan	25,000	25,000	25,000
2) Dividend from a South African company, received in South Africa	20,000	-	-
3) Rent from property in UK deposited in a bank in UK [See Note (ii) below]	1,05,000	-	-
4) Dividend from SK Ltd., an Indian Company [See Note (iii) below]	-	-	-
5) Agricultural income from land in Madhya Pradesh [See Note (iv) below]	-	-	-
Total Income	1,50,000	25,000	25,000

Notes:

(i) Global income is taxable in case of a resident & ordinarily resident as per section 5(1). In case of a not ordinarily resident, income which accrues or arises outside India would be taxable only if it is from a business controlled from or profession set up in India. As per section 5(2), in case of a non-resident, only the following incomes are taxable –

(a) Income which accrues or arises or is deemed to accrue or arise in India.

(b) Income received or deemed to be received in India.

Accordingly, dividend from a South African company and rent from property in UK is taxable only in case of resident & ordinarily resident. However, short term capital gain on sale of shares in an Indian company is taxable in all three cases, since it accrues or arises in India.

(ii) 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)	1,50,000
Less: Deduction under section 24 (30% of ₹ 1,50,000)	45,000
Income from house property	1,05,000

(iii) Dividend from Indian company is exempt under section 10(34).

(iv) Agricultural income from land situated in India is exempt under section 10(1).

2. (i) (a) As per section 10(23DA), in case of special purpose distinct entities set up as a trust and whose activities are regulated by SEBI, the income from the activity of securitization of such trusts will be exempt from taxation.

In this case, since income of ₹ 20 lakh arises to the special purpose distinct entity, set up as a trust, from the activity of securitization, the same would be exempt under section 10(23DA).

(b) As per section 10(35A), the distributed income received from a securitization trust will be exempt from tax in the hands of recipient investors.[1]

(ii) In case of an Investor Protection Fund set up by a recognized stock exchange in India, section 10(23EA) exempts income by way of contributions received by such Investor Protection Fund from the recognized stock exchange and its members thereof.

As per section 10(23ED), the income by way of contributions from depository of an Investor Protection Fund set up in accordance with the regulations made under the SEBI Act, 1992 and the Depositories Act, 1996 will not be included while computing the total income of such Investor Protection Fund.

[1] The distributed income is exempted in the hands of recipient investor consequent to the levy of additional income tax under section 115TA on such distributed income in the hands of securitization trust.

(iii) Taxability of the sums received by way of bonus in the hands of Mr. Tularam from LIC shall be determined in accordance with the provisions of section 10(10D) in the following manner:

S. No.	Date of Issue of policy	Person insured	Actual capital sum Assured	Annual Insurance Premium	Sums received as bonus during the previous year 2013-14
1.	20.10.2010	Minor Son	5,00,000	75,000	60,000
	Taxability: Sum received is exempt under section 10(10D), as the policy is issued on or before 31.3.2012 and the annual premium does not exceed 20% of the Actual Capital Sum Assured.				
2.	10.06.2012	Spouse	2,00,000	30,000	15,000
	Taxability: Sum received is taxable, as the policy is issued after 1.4.2012 and the annual premium exceeds 10% of the Actual Capital Sum Assured.				
3.	11.04.2013	Handicapped daughter (section 80U disability)	8,00,000	1,00,000	18,000
	Taxability: Sum received is exempt under section 10(10D), since the policy is issued after 1.4.2013 for insuring the life of the handicapped daughter, being a person with section 80U disability, and the annual premium does not exceed 15% of the Actual Capital Sum Assured.				

3 (a) Computation of total income and tax liability of Mrs. Meera for A.Y. 2014-15

Particulars	₹	₹
Income from salary		
Basic salary		7,20,000
Dearness allowance		2,88,000
Bonus (₹ 60,000 x 1.5 months)		90,000
Commission (calculated as percentage of turnover)[0.1% of ₹ 50 crore)		5,00,000
Entertainment allowance		25,000

Children's hostel allowance (₹ 3,500 x3)	10,500	
Less : Exemption for ₹ 7,200 (₹ 300 x 12 x 2), but restricted to actual amount received for 2 children i.e. ₹ 7,000 (3500 x 2)	7,000	3,500
Interest credited to recognized provident fund account (exempt)		-
Rent free unfurnished accommodation (Refer Working Note 1)		1,00,000
Excess contribution to PF by employer (Refer Working Note 2)		1,69,040
Gross salary		18,95,540
Less : Deduction under section chapter VI-A		
Deduction under section 80C		
• Life insurance premium paid for insurance of major son, allowed as deduction since it is within the limit of 10% of ₹ 2,00,000 (actual capital sum assured)	20,000	
• Contribution to recognized provident fund	3,50,000	
Deduction under section 80CCC (LIC pension fund)	15,000	
	3,85,000	
Deduction limited to ₹ 1,00,000 as per section 80CCE		1,00,000
Deduction under section 80D (Medical Insurance premium for self and spouse)		18,000
Total income before deduction under section 80G		17,77,540
Deduction under section 80G :		
50% of ₹ 1,50,000 (Refer Working Note 3)		75,000
Total income		17,02,540
Tax on total income		3,35,762
Add : Education cess @ 2%		6,715
Add : Secondary and higher education cess @ 1%		3,358
Total tax liability		3,45,835
Total tax liability (Rounded off)		3,45,840

Working Notes:

1 Value of rent free unfurnished accommodation

Particulars	₹
Basic salary	7,20,000
Dearness allowance	2,88,000
Bonus	90,000
Commission @ 0.1% of turnover	5,00,000
Entertainment allowance	25,000
Children's hostel allowance	3,500
Gross Salary	16,26,500
Value of perquisite:	
(i) 15% of salary	2,43,975
(ii) Actual rent paid by the company	1,00,000
The lower of (i) and (ii) is chargeable as perquisite.	

2. Employer's contribution to P.F. in excess of 12% of salary

Employer's contribution	₹ 3,50,000
Less : 12% of basic salary, dearness allowance & commission i.e. 12% of ₹ 15,08,000	₹ 1,80,960
	₹ 1,69,040

3. Donation to approved Public Charitable Institution by way of cheque qualifies for deduction under section 80G.

Net qualifying amount is lower of:-

(i) ₹ 1,50,000 (the amount of donation); or

(ii) ₹ 1,77,754 (10% of adjusted gross total income i.e. 10% of ₹ 17,77,540)

Therefore, ₹ 75,000 (50% of ₹ 1,50,000) is allowed as deduction under section 80G.

(b) (i) As per section 10(10)(i), gratuity received by a Government employee on retirement is fully exempt from tax. Since Mr. Arpan is a government employee, gratuity amounting to ₹ 12,00,000 received would be fully exempt. The taxable portion of gratuity shall be Nil.

(ii) If Mr. Arpan is not a Government employee but covered by the Payment of Gratuity Act, 1972, then, gratuity received by him would be exempt upto least of the following :

Particulars		₹
(i)	Statutory limit	10,00,000
(ii)	Actual gratuity received	12,00,000
(iii)	15/26 x last drawn salary x years of service (including part of the year in excess of 6 months) 15/26 x ₹ 63,000 x 28 years	10,17,692

Therefore, ₹ 10,00,000 is exempt under section 10(10)(ii).

Taxable gratuity = ₹ 12,00,000 – ₹ 10,00,000 = ₹ 2,00,000

Salary, for the purpose of computing exempt gratuity in this case, means basic salary plus dearness allowance i.e. ₹ 63,000 (₹ 38,000 + ₹ 25,000).

(iii) If Mr. Arpan is not a Government employee and not covered under the Payment of Gratuity Act, 1972 then, gratuity received by him would be exempt upto the least of the following:

Particulars		₹
(i)	Statutory limit	10,00,000
(ii)	Actual gratuity received	12,00,000
(iii)	1/2 x Average salary of 10 months immediately preceding the month of retirement x years of service (shall not include part of the year in excess of 6 months)1/2 x ₹ 38,000 x 27 years	5,13,000

Therefore, ₹ 5,13,000 is exempt under section 10(10)(iii) The taxable gratuity is ₹ 6,87,000 (₹ 12,00,000 – ₹ 5,13,000)

Salary, for the purpose of computation of exempt gratuity, means basic salary of ₹ 38,000 p.m [Average salary for 10 months = (₹ 38,000x10)/10]

Note: It is assumed that dearness allowance does not form part of salary for retirement benefits.

4. Computation of income from house property of Mr. Karan for A.Y. 2014-15

Particulars	₹	₹
Annual Value is nil (since house is self occupied)		Nil
Less : Deduction under section 24(b)		
Interest paid on borrowed capital ₹ 30,00,000 @ 11%	3,30,000	
Pre-construction interest ₹ 3,30,000 / 5	66,000	
	3,96,000	
As per second proviso to section 24(b), interest deduction restricted to		1,50,000
Loss under the head "income from house property" of Mr. Karan		(1,50,000)

Computation of income from house property of Mr. Kunal for A.Y. 2014-15

Particulars	Ground floor (Self occupied)	First floor
Gross Annual Value (See Note below)	Nil	1,25,000
Less :Municipal taxes (for first floor)		5,000
Net Annual Value (A)	Nil	1,20,000
Less : Deductions under section 24		
(a) 30% of Net Annual Value		36,000
(b) Interest on borrowed capital		
Current year interest		
₹ 25,00,000 x 10% = ₹ 2,50,000	1,25,000	1,25,000
Pre-construction interest		
₹ 25,00,000 x 10% x 9/12 = ₹ 1,87,500		
₹ 1,87,500 allowed in 5 equal installments		
₹ 1,87,500 / 5 = ₹ 37,500 per annum	18,750	18,750
Total deduction under section 24 (B)	1,43,750	1,79,750
Income from house property (A)-(B)	(1,43,750)	(59,750)
Loss under the head "income from house property" of Mr. Kunal (both ground floor and first floor)		(2,03,500)

Note : Computation of Gross Annual Value (GAV) of first floor of Kunal's house

If a single unit of property (in this case the first floor of Kunal's house) is let out for some months and self-occupied for the other months, then the annual letting value (ALV) of the property shall be taken into account for determining the annual value. The ALV shall be compared with the actual rent and whichever is higher shall be adopted as the annual value. In this case, the actual rent shall be the rent for the period for which the property was let out during the previous year.

The Annual Letting Value (ALV) is the higher of fair rent and municipal value. This should be considered for 9 months since the construction of property was completed only on 30.6.2013.

Annual letting value =	₹ 93,750, being higher of -
	Fair rent = 125,000 x 9 /12 = ₹ 93,750
	Municipal value = 80,000 x 9/12 = ₹ 60,000
Actual rent =	₹ 1,25,000 (₹ 25,000 p.m. for 5 months from July to November, 2013)

Gross annual value = ₹ 1,25,000 (being higher of ALV of ₹ 93,750 and actual rent of ₹ 1,25,000)

5. (a) Computation of written down value of Plant and Machinery of M/s. Amla Ltd.for A.Y. 2014-15

Particulars	₹ (in crores)
Opening written down value (as on 01.04.2013)	50.00
Add: Purchase of plant and machinery during the previous year	106.00
	156.00
Less: Sale proceeds of obsolete plant and machinery sold during the year	0.20
Closing Written Down Value (as on 31.03.2014)	155.80

Computation of Depreciation and Additional Depreciation for A.Y. 2014-15 as per section 32 of the Income-tax Act, 1961

Particulars	₹ (in crores)
Normal Depreciation (₹ 155.80 x 15%)	23.37
Additional Depreciation(Refer Note 2)(₹ 106.00 – ₹ 0.30 - ₹ 0.20) x 20%	21.10
Depreciation on Plant and Machinery	44.47

Computation of deduction under section 32AC for A.Y. 2014-15

Particulars	₹ (in crores)
Deduction under section 32AC (Refer Note 3) (₹ 106.00 – ₹ 0.30 - ₹ 0.20) x 15%	15.825

Notes:-

(1) Since the new plant and machinery was purchased and put to use on 10.09.2013, it was put to use for more than 180 days in the year. Hence, full depreciation is allowable for A.Y. 2014-15.

(2) As per section 32(1)(iia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed after 31.3.2005 by an assessee engaged in, *inter alia,* the business of manufacture or production of any article or thing, at the rate of 20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of, *inter alia*, –

(i) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;

(ii) any machinery or plant installed in office premises, residential accommodation or in any guest house.

In view of the above provisions, additional depreciation cannot be claimed in respect of -

(i) Plant and machinery of ₹ 0.20 crores used previously for the purpose of business by the seller.

(ii) Plant and machinery of ₹ 0.30 crores installed in office.

Therefore, in the given case, additional depreciation has to be provided only on ₹ 105.50 crore (i.e., ₹ 106.00 crore – ₹ 0.50 crore).

(3) As per section 32AC, manufacturing companies would be entitled to deduction @ 15% of aggregate amount of actual cost of new plant and machinery acquired and installed during the F.Y. 2013-14 and F.Y. 2014-15, if the same exceeds ₹ 100 crore.

The deduction under section 32AC would be in addition to the deduction under section 32 in respect of depreciation and additional depreciation. Further, the deduction under section 32AC would not be reduced to arrive at the WDV of plant and machinery.

The amount of plant or machinery which is previously used by the seller of ₹ 0.20 crores and the plant and machinery of ₹ 0.30 crores installed in office premises has to be deducted while calculating deduction under section 32AC.

(b) (i) Yes. Since his total turnover for the F.Y.2013-14 is below ₹ 1 crore, he is eligible to opt for presumptive taxation scheme under section 44AD in respect of his retail trade business.

(ii) His income from retail trade, applying the presumptive tax provisions under section 44AD, would be ₹ 6,59,680, being 8% of ₹ 82,46,000.

(iii) In case he does not opt for the presumptive taxation scheme under section 44AD, and claims that his income is ₹ 5,85,600 (which is lower than the presumptive business income of ₹ 6,59,680), 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 ₹ 2,00,000.

(iv) In case he opts for the presumptive taxation scheme under section 44AD, the due date would be 31st July, 2014.

In case he does not opt for the presumptive taxation scheme and claims that his income is ₹ 5,85,600 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, 2014.

6. Computation of capital gains and business income of Ms. Gunjan for A.Y.2014-15

Particulars	₹
Capital Gains	
Fair market value of land on the date of conversion deemed as the full value of consideration for the purposes of section 45(2)	3,20,00,000
Less: Indexed cost of acquisition [₹ 50,00,000 × 852/406]	1,04,92,611
	2,15,07,389
Proportionate capital gains arising during the A.Y. 2014-15 (2,15,07,389 x 5/8)	1,34,42,118
Less: Exemption under section 54EC (restricted to ₹ 50 lakh)	50,00,000
Capital gains chargeable to tax for A.Y.2014-15	84,42,118
Business Income	
Sale price of flats [5 × ₹ 90 lakh]	4,50,00,000
Less: Cost of flats	
Fair market value of land on the date of conversion (3,20,00,000 x 5/8)	2,00,00,000
Cost of construction of flats [5 × ₹ 36 lakh]	1,80,00,000
	70,00,000

Notes:

(1) The conversion of a capital asset into stock-in-trade is treated as a transfer under section 2(47). It would be treated as a transfer in the year in which the capital asset is converted into stock-in-trade.

(2) However, as per section 45(2), the capital gains arising from the transfer by way of conversion of capital assets into stock-in-trade will be chargeable to tax only in the year in which the stock-in-trade is sold.

(3) The indexation benefit for computing indexed cost of acquisition would be available only up to the year of conversion of capital asset to stock-in-trade and not up to the year of sale of stock-in-trade.

(4) For the purpose of computing capital gains in such cases, the fair market value of the capital asset on the date on which it was converted into stock-in-trade shall be deemed to be the full value of consideration received or accruing as a result of the transfer of the capital asset.

In this case, since only 5/8th of stock-in trade (5 flats out of 8 flats) is sold in the P.Y. 2013-14 only proportionate capital gains (i.e. 5/8th) would be chargeable to tax in the A.Y. 2014-15.

(5) On sale of such stock-in-trade (i.e., flats, in this case), business income would arise. The business income chargeable to tax would be the price at which the flats are sold as reduced by the fair market value on the date of conversion of the capital asset (i.e., land) into stock-in-trade and the cost of construction of flats.

(6) In case of conversion of capital asset into stock-in-trade and subsequent sale of stock-in-trade, the period of 6 months, for the purpose of exemption under section 54EC, is to be reckoned from the date of sale of stock-in-trade [*CBDT Circular No.791 dated 2.6.2000]*. In this case, since the investment in bonds of NHAI has been made within 6 months of sale of flats, the same qualifies for exemption under section 54EC, subject to a maximum of ₹ 50 lakh.

7. Tax implications under section 56(2)

(i) Since paintings are included in the definition of "property", therefore, when paintings are received without consideration, the same is taxable under section 56(2)(vii), as the aggregate fair market value of paintings exceed ₹ 50,000.

Therefore, ₹ 2,00,000, being the value of painting gifted by his nephew, would be taxable under section 56(2)(vii) in the hands of Mr. Tejpal, since "nephew" is not included in the definition of "relative" thereunder.

(ii) Any property received without consideration by a HUF from its relative is not taxable under section 56(2)(vii).

Since Verma's son is a member of Verma HUF, he is a "relative" of the HUF. Therefore, if Verma HUF receives any property (shares, in this case) from its member, i.e., Verma's son, without consideration, then, the fair market value of such shares will <u>not</u> be chargeable to tax in the hands of the HUF, since gift received from a "relative" is excluded from the scope of section 56(2)(vii).

(iii) The difference between the aggregate fair market value of shares of a closely held company and the consideration paid for purchase of such shares is deemed as income in the hands of the purchasing company under section 56(2)(viia), if the difference exceeds ₹ 50,000.

Accordingly, in this case, the difference of ₹ 1,80,500 [i.e.,(₹ 105 – ₹ 86) × 9,500] is taxable under section 56(2)(viia) in the hands of Sunshine (P) Ltd.

(iv) The provisions of section 56(2)(viib) are attracted in this case since the shares of a closely held company are issued at a premium (i.e., the issue price of ₹ 18 per share exceeds the face value of ₹ 10 per share) and the issue price exceeds the fair market value of such shares.

The consideration received by the company in excess of the fair market value of the shares would be taxable under section 56(2)(viib).

Therefore, ₹ 84,000 {i.e., (₹ 18 – ₹ 15) x 28,000 shares} shall be the income chargeable under section 56(2)(viib) in the hands of Bijali (P) Ltd.

(v) As per section 145A(b), interest received on enhanced compensation shall be deemed to be the income of the previous year in which it is received,

irrespective of the method of accounting followed by the assessee. Therefore, in this case, interest on enhanced compensation received by Mr. Sharan in January, 2014 shall be deemed to be the income of P.Y.2013-14, i.e., the year of receipt, irrespective of the method of accounting followed by him. Such interest is taxable under section 56(2)(viii).

(₹ 1,20,000 + ₹ 1,60,000 + ₹ 2,00,000+ ₹ 60,000)	₹ 5,40,000
Less: Deduction under section 57(iv)@50% of ₹ 5,40,000	₹ 2,70,000
	₹ 2,70,000

8. (a) Tax implications on sale of a building representing a capital asset in the hands of Mr. Suraj, a salaried employee

(i) Tax implications in the hands of Mr. Suraj for A.Y.2014-15

The building represents a capital asset in the hands of Mr. Suraj, a salaried employee. On sale of the building, the provisions of section 50C are attracted and ₹ 159 lakh, being the difference between the stamp duty value on the date of registration (i.e., ₹ 220 lakh) and the purchase price (i.e., ₹ 61 lakh) would be chargeable as short-term capital gains in the hands of Mr. Suraj.

It may be noted that under section 50C, there is no option to adopt the stamp duty value on the date of agreement, even if the date of agreement is different from the date of registration and part of the consideration has been received on or before the date of agreement otherwise than by way of cash.

(ii) Tax implications in the hands of Mr. Rohan for A.Y.2014-15

The building purchased would be a capital asset in the hands of Mr. Rohan, who is engaged in the business of artificial jwellery. The provisions of section 56(2)(vii) would be attracted in the hands of Mr. Rohan who has received immovable property, being a capital asset, for inadequate consideration. For the purpose of section 56(2)(vii), Mr.Rohan can take the stamp duty value on the date of agreement instead of the date of registration since he has paid part of the consideration by a mode other than cash on the date of agreement.

Therefore, ₹ 70 lakh, being the difference between the stamp duty value of the property on the date of agreement (i.e., ₹ 150 lakh) and the actual consideration (i.e., ₹ 80 lakh) would be taxable as per section 56(2)(vii) under the head "Income from other sources" in the hands of Mr. Rohan.

(b) Tax implications if Mr. Suraj is a property dealer

(i) Tax implications in the hands of Mr. Suraj for A.Y.2014-15

If Mr. Suraj is a property dealer who has sold the building in the course of his business, the provisions of section 43CA would be attracted, since the building represents his stock-in-trade and he has transferred the same for a consideration less than the stamp duty value. For the purpose of section

43CA, Mr.Suraj can take the stamp duty value on the date of agreement instead of the date of registration since he has received part of the consideration by a mode other than cash on the date of agreement. Therefore, ₹ 89 lakh, being the difference between the stamp duty value on the date of agreement (i.e., ₹ 150 lakh) and the purchase price (i.e., ₹ 61 lakh), would be chargeable as business income in the hands of Mr. Suraj.

(ii) Tax implications in the hands of Mr. Rohan for A.Y.2014-15

There would be no difference in the taxability in the hands of Mr. Rohan, whether Mr. Suraj is a property dealer or a salaried employee.

Therefore, the provisions of section 56(2)(vii) would be attracted in the hands of Mr. Rohan who has received immovable property, being a capital asset, for inadequate consideration. Consequently, ₹ 70 lakh, being the difference between the stamp duty value of the property on the date of agreement (i.e., ₹ 150 lakh) and the actual consideration (i.e., ₹ 80 lakh) would be taxable as per section 56(2)(vii) under the head "Income from other sources" in the hands of Mr. Rohan.

9. Section 64(1) provides for the clubbing of income in the hands of the individual, if the income earned is from the assets transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration. In this case Smt. Reena received a gift of ₹ 3,50,000 from her husband which she invested in her business. The income to be clubbed in the hands of Smt. Reena's husband for A.Y.2014-15 is computed as under:

Particulars	Smt. Reena's Capital Contribution	Capital Contribution out of gift from husband	Total
	₹	₹	₹
Capital employed as at 1.4.2012	5,00,000	--	5,00,000
Investment on 15.05.2012 out of gift received from her husband		3,50,000	3,50,000
	5,00,000	3,50,000	8,50,000
Profit for F.Y. 2012-13 to be apportioned on the basis of capital employed on the first day of the previous year i.e. on 1.4.2012	2,00,000		2,00,000
Capital employed as at 1.4.2013	7,00,000	3,50,000	10,50,000
Profit for F.Y.2013-14 to be apportioned on the basis of capital employed as at 1.4.2013 (i.e. 2:1)	3,40,000	1,70,000	5,10,000

Therefore, the income to be clubbed in the hands of Smt. Reena's husband for A.Y.2014-15 is ₹ 1,70,000.

10. Computation of total income of Mr. Sitaraman for the A.Y.2014-15

Particulars	₹	₹
Salaries		
Income from salaries	3,22,000	
Less: Loss from house property	1,65,000	1,57,000
Profits and gains of business or profession		
Income from speculation business	26,000	
Less: Loss from retail business set off	26,000	Nil
Capital gains		
Long-term capital gains from sale of residential house	3,60,000	
Less: Loss from retail business set off	1,99,000	1,61,000
Income from other sources		
Income from betting		51,000
Gross total income		3,69,000
Less: Deduction under section 80C for life insurance premium paid (restricted to 10% of ₹ 9 Lakh, being actual capital sum assured)		90,000
Total income		2,79,000

Losses to be carried forward:

Particulars	₹
(1) Loss from retail business (₹ 2,25,000 - ₹ 26,000 - ₹ 1,99,000)	Nil
(2) Loss from specified business covered by section 35AD	31,000

Notes:

(i) Long-term capital gains from sale of listed shares in a recognized stock exchange is exempt under section 10(38). Loss from an exempt source cannot be set off against profits from a taxable source. Therefore, long-term capital loss on sale of listed shares cannot be set-off against long-term capital gains from sale of residential house.

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

(iii) Business loss cannot be set off against salary income. However, the balance business loss of ₹ 1,99,000 (₹ 2,25,000 – ₹ 26,000 set-off against income from speculation business) can be set-off against long-term capital gains of ₹ 3,60,000 from sale of residential house. Consequently, the taxable long-term capital gains would be ₹ 1,61,000.

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

(v) 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.

11. The deduction under section 80CCG shall be available to ;

(i) a new retail investor who complies with the conditions of Rajiv Gandhi Equity Savings Scheme, 2013; and

(ii) whose gross total income for the financial year in which investment is made under the scheme is less than or equal to ₹ 12 lakh.

The question specifies that Mr. Rakesh , Mr. Jaiprakash & Mr. Himesh are new retail investors.

However, since gross total income of Mr. Jaiprakash for the A.Y. 2014-15 exceeds ₹ 12 lakh, he is not eligible for deduction under section 80CCG, even though he is a new retail investor.

Computation of deduction under section 80CCG for A. Y. 2014-15

Particulars	Mr. Rakesh	Mr. Himesh
Investment in listed equity shares	35,000	28,000
Investment in units of equity-oriented fund	25,000	15,000
Total Investment in eligible securities	60,000	43,000
Maximum amount of investment eligible for deduction under section 80CCG(1)	50,000	43,000
Deduction under section 80CCG for A.Y. 2014-15 (50% of Above)	25,000	21,500

Note – In case Mr. Himesh sells all the listed shares in January 2015, the amount of ₹ 14,000 (50% of ₹ 28,000), being the deduction allowed to him under section 80CCG in A.Y. 2014-15, would be subject to tax in the A.Y. 2015-16, since the condition of minimum fixed lock-in period upto 31.03.2015 has been violated in this case. However in the case of Mr. Jaipraksh, since deduction under section 80CCG was not allowed during the A.Y. 2014-15 on account of his gross total income exceeding ₹ 12 lakh, no amount invested in that year can be subject to tax in the A.Y. 2015-16, being the year of violation of condition, even though, the units are sold within the fixed lock-in period (Refer Notification No. 94/2013, dated 18.12.2013 given in Part I of this RTP).

12. Computation of total income of Dr. Sonia for A.Y. 2014-15

	Particulars	₹	₹	₹
I	Income from Salary			
	Salary (₹ 15,000 x 12)			1,80,000
II	Income from house property			
	Gross Annual Value (GAV)		36,000	
	Less : Municipal taxes paid		2,800	
	Net Annual Value (NAV)		33,200	
	Less : Deduction under section 24 @ 30% of ₹ 31,200		9,960	23,240
III	Income from profession			
	Net profit as per Income and Expenditure account		3,13,660	
	Less : Items of income to be treated separately			
	(i) Rent received	36,000		
	(ii) Dividend from units of UTI	9,400		
	(iii) Winning from game show on T.V. (net of TDS)	36,400		
	(iv) Income tax refund	5,450	87,250	
			2,26,410	
	Less : Allowable expenditure			
	Depreciation on Clinic equipments			
	on ₹ 4,50,000 @ 15%	67,500		
	on ₹ 2,25,000 @ 7.5%	16,875		
	(On equipments acquired during the year which were put to use for less than 180 days; she is entitled to depreciation @ 7.5% being, 50% of 15%)			
	Additional deduction of 75% for amount paid to scientific research association (Since weighted deduction of 175% is available in respect of such payment)	1,35,000	2,19,375	
			7,035	
	Add: Items of expenditure not allowable			

	while computing business income			
	(i) Rent for her residential accommodation included in Income and Expenditure A/c	37,000		
	(ii) Municipal tax paid relating to residential house at Gwalior included in administrative expenses	2,800	39,800	46,835
IV	Income from other sources			
	(a) Interest on income-tax refund		650	
	(b) Dividend from UTI [Exempt under section 10(35)]		Nil	
	(c) Winnings from the game show on T.V. (₹ 36,400 + ₹ 15,600)		52,000	52,650
	Gross Total Income			3,02,725
	Less: Deductions under Chapter VI A:			
	(a) Section 80C - Tuition fee paid to university for full time education of her daughter		80,000	
	(b) Section 80D - Medical insurance premium (Maximum of ₹ 20,000 allowed as deduction since, she is a senior citizen)		20,000	
	(c) Deduction under section 80E - Interest on loan taken for higher education is deductible		75,000	1,75,000
	Total income			1,27,725

Notes:

(i) The principal amount received towards income-tax refund will be excluded from computation of total income. Interest received will be taxed under the head "Income from other sources".

(ii) Winnings from game show on T.V. should be grossed up for the chargeability under the head "Income from other sources" (₹ 36,400 + ₹ 15,600). Thereafter, while computing tax liability, TDS of ₹ 15,600 should be deducted to arrive at the tax payable. Winnings from game show are subject to tax @30% as per section 115BB.

(iii) Since Dr. Sonia is staying in a rented premise in Gwalior itself, she would not be eligible for deduction u/s 80GG, since she owns a house in Gwalior which she has let out.

(iv) It is assumed that clinical equipments do not include life saving medical equipments eligible for depreciation @40%.

13. (a) (i) Since the sale consideration of house property exceeds ₹ 50 lakh, Mr. Siddharth is required to deduct tax at source under section 194-IA. The tax to be deducted under section 194IA would be ₹ 80,000, being 1% of ₹ 80 lakh.

TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.

(ii) As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for professional services and royalty, individually, exceeds ₹ 30,000 during the financial year. In the given case, since, the individual payment for fee of ₹ 28,000 for professional services and royalty of ₹ 25,000 is less than ₹ 30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for professional services and royalty were made during the year to Mr. Varun.

(iii) Section 194-I, which requires the deduction of tax at source on payment of rent exceeding ₹ 1,80,000 per annum is applicable to all persons other than individuals and HUF's, who are not subject to tax audit in the immediately preceding financial year. Therefore, the TDS provisions under section 194-I are applicable in respect of rental payments made by a bank. However, under section 196, payments made to Government are exempt from the application of provisions of tax deduction at source.

Hence, Punjab National Bank is not required to deduct tax at source on payment of ₹ 1,00,000 per month as rent to Central Government.

(iv) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,00,000.

In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed ₹ 2,00,000.

(b) Computation of total income of Mr. Rajveer for A.Y. 2014-15

Particulars	₹
Income from other sources	
Interest earned from Non-resident (External) Account ₹ 3,06,000 [Exempt under section 10(4)(ii), assuming that Mr. Rajveer has been permitted by RBI to maintain the aforesaid account]	Nil
Interest on bank fixed deposit	25,000

Interest on savings bank account	9,600
Gross Total Income	34,600
Less: Deduction under section 80TTA – Interest on saving bank account	9,600
Total Income	25,000

An individual is required to furnish a return of income under section 139(1) if his total income, before giving effect to the provisions of chapter VI-A, exceeds the maximum amount not chargeable to tax i.e. ₹ 2,00,000 (for A.Y. 2014-15). In this case, since Mr. Rajveer's total income of ₹ 34,600 before giving effect to deduction under section 80TTA, is less than the basic exemption limit of ₹ 2 lakh, he is not required to file a return of income.

However, as per section 139(1), every person who is a resident, other than not-ordinarily resident in India, having –

(i) any asset (including financial interest in any entity) located outside India or

(ii) signing authority in any account located outside India

is required to file a return of income in the prescribed form compulsorily on or before the due date of filing the return of income, irrespective of the fact that his total income does not exceed the basic exemption limit.

Since Mr. Rajveer owns a house in London, he has to compulsorily file his return of income for A.Y 2014-15 on or before 31st July 2014, irrespective of the fact that his total income is less than the basic exemption limit of ₹ 2 lakh.

14. (i) In case where the taxable services are provided by any person located in a non-taxable territory and are received by any person located in the taxable territory, person liable to pay service tax is the recipient of such service under reverse charge mechanism. Thus, in the given case, X Techies Ltd. is liable to pay service tax on the taxable service imported by it.

(ii) As per the Point of Taxation Rules, 2011, the point of taxation in respect of the persons required to pay tax under reverse charge mechanism is the date on which payment is made provided payment is made within a period of 6 months from the date of invoice.

Since in the given case, X Techies Ltd. has made the payment within 6 months from the date of the invoice, the point of taxation is the date of payment i.e., 10.12.2013.

(iii) The amount of R&D cess payable is allowed as a deduction from the service tax payable on the taxable service involving the import of technology provided:-

(i) said amount of R&D cess is paid at the time or before the payment for the service subject to a maximum of 6 months from the date of invoice and

(ii) records of R&D cess are maintained for establishing the linkage between the invoice and the R&D cess payment challan.

Since both the aforesaid conditions are fulfilled, X Techies Ltd. is eligible for said exemption. Therefore, service tax payable by X Techies Ltd. would be computed as under:

Particulars	(₹)
Service tax (₹12,00,000 × 12.36%)	1,48,320
Less: Research and development cess paid	60,000
Net service tax liability	88,320

15. The view taken by BTR Association is not valid in law. As per section 65B(44) of the Finance Act, 1994, service means, *inter alia*, any activity for consideration carried out by a person for another. The term 'person' is not restricted to a natural person. The definition of person under section 65B(37), includes, *inter alia*, body of individuals, whether incorporated or not.

Thus, BTR Association is a person as it is a body of individuals and services provided by it would come under purview of definition of 'service' under section 65B(44) of the Finance Act, 1994.

16. Computation of service tax leviable on services received/availed by Ms. Kohana

Particulars	Value of taxable service received (₹)	Service tax @ 12.36% (₹)
Amount deposited in the saving bank account and interest earned (Note-1)	-	-
Services of mobile network operator (Note-2)	2,000.00	247
Visit to an orthopaedician on complaint of severe backache (Note-3)	-	-
Beauty treatment services (Note-2)	6,000.00	742
Total service tax payable on services availed/received		989

Notes:

1. Amount of ₹ 1,00,000 deposited in Savings Bank Account is a transaction in money which is specifically excluded from the definition of service under section 65B(44) of the Finance Act, 1994. Further, ₹ 5,000 received by Ms. Kohana as interest on deposits will not be liable to service tax as services by way of extending deposits in so far as the consideration is represented by way of interest are covered in the negative list of services [Section 66D of the Finance Act, 1994].

2. Service tax is leviable on services of a mobile network operator and beauty treatment services received from a beauty salon as such services are neither covered under negative list of services nor under any exemption notification.

3. Health care service provided, *inter alia,* by an authorized medical practitioner is exempt vide mega exemption *Notification No. 25/2012 ST dated 20.06.2012*. Health care service means any service by way of diagnosis or treatment or care for *inter alia* any illness in any recognized system of medicines in India. Allopathy is a recognized system of medicine in India and a MBBS, MS doctor is an authorized medical practitioner. So, visit to an orthopaedician on complaint of severe backache is not taxable.

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

(a) date of invoice (i.e. 20.03.2014)

or

(b) date of receipt of payment (i.e. 15.03.2014) [Refer note below]

whichever is earlier, i.e. 15.03.2014.

Note: Date of payment is the :-

(1) date on which the payment is entered in the books of account (i.e. 15.03.2014)

or

(2) date on which the payment is credited to the bank account of the person liable to pay tax (i.e. 25.03.2014)

whichever is earlier, i.e. 15.03.2014 [Rule 2A of the Point of Taxation Rules, 2011].

18. Computation of service tax liability of Well-Being Nursing Home for the month of February, 2014

Particulars	(₹) (in lakh)
Palliative care for terminally ill patients at patient's home [Note- 1(a)]	-
Services provided by cord blood bank by way of preservation of stem cells. [Note-2]	-
Hair transplant services [Note-1(b)]	1,00.000
Ambulance services to transport critically ill patients from various locations to nursing home [Note-1(c)]	-
Naturopathy treatments [Note-1(d)]	-
Plastic surgery to restore anatomy of a child affected due to an accident	-

[Note-1(e)]	
Pranic healing treatments [Note-1(f)]	1,20.000
Mortuary services [Note 3]	-
Value of taxable service	2,20.000
Service tax @ 12% [₹ 220 lakh × 12%]	26.400
Education cess @ 2% [₹ 26.40 lakh × 2%]	0.528
Secondary and higher education cess @ 1% [₹ 26.40 lakh ×1%]	0.264
Service tax liability	27.192

Notes:

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

(a) Health care service means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. It is immaterial whether such service is provided at the clinical establishment or at the home of the patient or at any other place. Thus, palliative care for terminally ill patients at patient's home is eligible for exemption.

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

(c) Services by way of transportation of the patient to and from a clinical establishment are specifically included in the health care services. Thus, ambulance services to transport critically ill patients from various locations to nursing home are eligible for exemption.

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

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

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

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

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

19. No, Shyam is not liable to pay service tax on the transaction entered into by him with Mohan Brothers. The transfer of tempos by way of hiring along with right to use is a deemed sales as per article 366(29A) of the Constitution of India. Charging section 66B of the Finance Act, 1994 stipulates that service tax is leviable on the value of all 'services' provided by one person to another. However, transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of article 366(29A) of the Constitution is specifically excluded from the definition of 'service' under section 65B(44) of the Finance Act, 1994.

Therefore, the transaction entered into by Shyam with Mohan Brothers is not chargeable to service tax. Instead, VAT is leviable on the same.

20. As per rule 3(4) of CENVAT Credit Rules, 2004, while paying excise duty or service tax, CENVAT credit can be utilised only to the extent such credit is available on the last day of the month or quarter for payment of duty or tax relating to that month or the quarter. Thus, CENVAT credit available as on 31.01.2014 can only be utilized by LMN (Pvt.) Ltd. to discharge service tax liability of the month of January.

Further, as per rule 3(7), credit of NCCD can be utilized towards payment of NCCD only. Therefore, CENVAT credit of ₹ 15,000 relating to NCCD cannot be utilized by LMN (Pvt.) Ltd. towards payment of its service tax liability.

In view of the above provisions, CENVAT credit available with LMN (Pvt.) Ltd. as on 31.01.2014 will be computed as under:

Particulars	CENVAT credit			
	Excise duty		Service tax (₹) [Input services]	Total (₹)
	Inputs (₹)	Capital goods (₹)		
Balance as on 01.01.2014	50,000	1,00,000	15,000	1,65,000
Inputs received on 10.01.2014	30,000			30,000
Inputs received on 15.01.2014	50,000			50,000
Capital goods received on 20.01.2014 [Upto 50% of the excise duty paid can be availed as CENVAT credit in respect of capital goods in the year of purchase.]		35,000		35,000

Invoices (for input services) dated 23.01.2014 received same day			35,000	35,000
Balance as on 31.01.2014	1,30,000	1,35,000	50,000	3,15,000

Computation of service tax payable in cash by LMN (Pvt.) Ltd.

Particulars	(₹)
Service tax liability for the month of January, 2014	3,50,000
Less: CENVAT credit available as on 31.01.2014 [(₹3,15,000 - ₹15,000) as credit of NCCD cannot be utilized to pay service tax]	3,00,000
Service tax to be paid in cash	50,000

21. (a) Computation of central excise duty payable

Particulars	(₹)
Price of machine excluding taxes and duties	10,00,000
Installation and erection expenses [Note 1]	-
Special packing charges [Note 2]	12,500
Design and engineering charges of the machine [Note 2]	40,000
Dharmada charged in the invoice [Note 3]	10,000
Assessable value	10,62,500
Excise duty payable @ 12.36% [inclusive of 3% education cesses]	1,31,325

Notes:

1. Installation and erection expenses have not been included in the assessable value as after the installation and erection, machine has been permanently affixed to earth and thus, it has resulted in an immovable property.
2. Special packing charges and design and engineering charges have been included in the assessable value as such payments are 'in connection with sale'.
3. Dharmada charged in the invoice and recovered from the customer has been included in the assessable value.

(b) If imported goods are similar to goods covered under section 4A of the Central Excise Act, 1944, CVD is payable on the basis of MRP printed on the package less abatement as permissible. Therefore, CVD payable by Sneha Subramanian will be computed as under:

Particulars	(₹)
Maximum retail price [8,000 pieces × 30]	2,40,000
Less: Abatement @ 30%	72,000
Assessable value	1,68,000
CVD @ 12% of ₹ 1,68,000 [Education cesses on CVD are exempt]	20,160

22. Computation of Net VAT payable by Rainbow & Co.:-

Particulars	(₹)
Output VAT payable:	
Sale of goods at 4% VAT (₹ 8,00,000 × 4%) (manufactured out of exempted material)	32,000
Sale of finished goods at 12% VAT (₹ 10,00,000 × 12%)	1,20,000
Sale of raw materials purchased at 4% VAT (₹ 5,00,000 × 4%)	20,000
Total (A)	1,72,000
Input tax credit available:	
Purchase of raw material @ 4% VAT 40% of (₹ 20,00,000 × 4%) [Note – 1]	32,000
Purchase of raw material @ 12% VAT including purchases used for manufacturing capital goods produced (12% of ₹ 10,00,000) [Note – 2]	1,20,000
Total (B)	1,52,000
Net VAT payable (A) – (B)	20,000

Notes:

1. Input tax credit in respect of goods used to produce exempted goods is not allowed. Hence, 60% of the input tax credit has been disallowed on goods purchased at 4% VAT which are utilized to produce exempted goods.
2. Input tax credit on raw materials is allowed even if the same has been consumed to produce capital goods. Hence, full input tax credit on goods purchased at 12% VAT has been allowed.

23. Computation of taxable turnover of Mediatek Pvt. Ltd.

Particulars	(₹)
Total sales	2,00,00,000
Less: Goods returned by Amit (deductible as returned within 6 months)	1,50,000

Less: Goods rejected by Sumit after six months (Refer note below)	45,000
Less: Goods returned by Shyam (not deductible since returned after six months)	-
Turnover including CST	1,98,05,000
Less : Central sales tax = $1,98,05,000 \times \frac{4}{104}$ (Rounded off)	7,61,731
Taxable turnover	1,90,43,269

Note: The period of six months for return of goods is not applicable in respect of rejected goods as it is a case of un-fructified sale.

Applicability of Pronouncements/Legislative Amendments/Circulars etc. for November, 2014 – Intermediate (IPC) Examination

Paper 1: Accounting

Accounting Standards

AS 1 : Disclosure of Accounting Policies

AS 2 : Valuation of Inventories

AS 3 : Cash Flow Statements

AS 6 : Depreciation Accounting

AS 7 : Construction Contracts (Revised 2002)

AS 9 : Revenue Recognition

AS 10 : Accounting for Fixed Assets

AS 13 : Accounting for Investments

AS 14 : Accounting for Amalgamations

Non-Applicability of Ind ASs for November, 2014 Examination

The MCA has hosted on its website 35 Indian Accounting Standards (Ind AS) without announcing the applicability date. Students may note that these Ind ASs are not applicable for November, 2014 Examination.

Paper 2: Business Laws, Ethics and Communication

The Companies Act, 2013

The 53 sections of the Companies Act, 2013 along with the clarifications notified by the Ministry of Corporate Affairs.

Supplementary study material in this regard has been hosted on the student portal, ICAI at the following link http://220.227.161.86/32794ssp-p2blec-ipcc.pdf

Non-Applicability of the following /Circulars/Notifications

S.No.	Subject Matter
1.	*New 184 sections of the Companies Act, 2013 notified on 27th February, 2014 and 26th March, 2014.
2.	*Rules notified under the Companies Act, 2013

Interdepartmental Note-(For Examination Committee only) : * Strictly speaking, the matter regarding applicability of further notified sections of the Companies Act, 2013 and rules thereof are under consideration with the Board of Studies and then will be sent to Council.

Paper 4: Taxation

Applicability of the Finance Act, Assessment Year etc. for November, 2014 examination

The provisions of income-tax and indirect tax laws, as amended by the Finance Act, 2013, including circulars and notifications issued upto 30th April, 2014. The relevant assessment year for income-tax is A.Y. 2014-15.

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