

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

QUESTIONS

1. Choose the correct answer having regard to the provisions of the Income-tax Act, 1961–
  - (a) Interest on capital or loan received by a partner from a firm is
    - (i) exempt under section 10(2A)
    - (ii) taxable under the head "Profits and gains from business and profession"
    - (iii) taxable under the head "income from other sources"
    - (iv) taxable under the head "income from salary"
  - (b) In respect of animals which have been used by the assessee for the purpose of carrying on his business or profession (otherwise than as stock in trade) and have died or become permanently useless, the amount of the deduction available under section 36(1)(vi) would be the -
    - (i) actual cost of animals
    - (ii) actual cost less depreciation
    - (iii) Nil
    - (iv) difference between the actual cost of the animals and the price realized on sale of the animals themselves or their carcasses
  - (c) Which of the following statement is true?
    - (i) Section 10(37) provides exemption for the capital gains arising to an individual or a HUF from transfer of agricultural land by way of compulsory acquisition
    - (ii) The provisions of section 10(37) are attracted in case the assessee has not used the land for agricultural activities
    - (iii) The provisions of section 10(37) are attracted in case the assessee has sold the agricultural land
    - (iv) Section 10(37) provides exemption for the capital gains arising to a company from transfer of agricultural land by way of compulsory acquisition.
  - (d) Under the head "Profits and gains from business or profession", the method of accounting which an assessee can follow shall be -
    - (i) mercantile system
    - (ii) cash system
    - (iii) mercantile system or cash system
    - (iv) hybrid system

- (e) An industrial undertaking fulfills the conditions laid down for claim of additional depreciation in respect of a machinery costing Rs.10 lakh acquired and installed on October 3, 2008. It is eligible to claim additional depreciation of -
- (i) Rs.75,000
  - (ii) Rs.1,50,000
  - (iii) Rs.1,00,000
  - (iv) None of the above

#### Residential Status and Scope of total income

2. Mr. Mahesh and Mrs. Mahesh are foreign citizens. During the previous year 2008-09, Mr. Mahesh and Mrs. Mahesh have the following income:

Particulars		Mr. Mahesh Amount (Rs.)	Mrs. Mahesh Amount (Rs.)
(i)	Interest on company deposits in India	60,000	8,00,000
(ii)	Income deemed to be received in India	40,000	70,000
(iii)	Income from business situated in Nepal and controlled from India (40 percent is received in India and 60 per cent is received outside India)	75,000	50,000
(iv)	Dividend declared by an Indian company	40,000	60,000
(v)	Salary received in India for services rendered outside India	1,00,000	92,000
(vi)	Interest received from the Government of India (received outside India)	70,000	22,000
(vii)	Interest received from a foreign company outside India (on capital which is utilized outside India)	90,000	10,000
(viii)	Income from a business in France, controlled from Mumbai	50,000	98,000
(ix)	Royalty received in India from the Government of India	20,000	9,000
(x)	Royalty received in India from a non-resident in respect of technology used by such person outside India	25,000	12,000
(xi)	Agricultural income in Europe	60,000	80,000

From the above particulars ascertain the gross total income of Mr. Mahesh and Mrs. Mahesh for the assessment year 2009-10, if Mr. Mahesh is a resident but not ordinarily resident in India and Mrs. Mahesh is non - resident in India.

### Basic Concepts

3. Discuss the meaning of the following terms under the Income-tax Act, 1961-
  - (i) Infrastructure Capital Company;
  - (ii) Infrastructure Capital fund;
  - (iii) India.
4. Fill in the blanks, having regard to the provisions of Income-tax Act, 1961:
  - (a) Daily allowance received by any Member of Parliament or of State Legislatures or any Committee thereof is\_\_\_\_\_.
  - (b) The maximum limit of entertainment allowance available in case of government employee is\_\_\_\_\_.
  - (c) The loss under the head house property is allowed to be carried forward upto\_\_\_\_\_.
  - (d) If an employee receives any portion of his salary in arrears or in advance, he can claim\_\_\_\_\_.

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

5. Discuss briefly on:
  - (a) Exemption of specified income of Investor Protection Fund set up by commodity exchanges [Section 10(23EC)]
  - (b) Taxability of Retrenchment compensation received by workmen [Section 10(10B)]

### Salaries

6. Surya was the General Manager of Amity Ltd. in Delhi. He retired from his service on 31-12-2008 after 30 years of service. The following information has been provided by him:
  - (i) Basic Salary Rs. 20,000 p.m. Dearness allowance 40% of basic salary (50% of which forms part of salary for retirement benefits).
  - (ii) House rent allowance Rs. 5,000 p.m. He pays Rs. 6,000 p.m. as rent.
  - (iii) Medical allowance Rs. 1,200 p.m.
  - (iv) A car of 1.4 ltrs. engine cubic capacity is provided by the company for official and personal use and all expenses of running and maintenance of car and salary of the driver are borne by the company.
  - (v) The monthly expenses incurred by Surya on gas and electricity were Rs. 800 which were reimbursed by the employer.
  - (vi) Reimbursement of educational expenses of his two children which amount to Rs. 450 p.m.

- (vii) A watchman, a sweeper and a cook have been provided to whom the company pays a salary of Rs.600 p.m. each.
- (viii) Loan of Rs. 1,50,000 @ 10% p.a. for construction of his house was given by the company. SBI rate of interest is 8% p.a.
- (ix) He received Rs. 2,40,000 as gratuity. His salary for the preceding years was as under:

Particulars	Rs.
(a) Year ending 31-12-2005	1,10,000
(b) Year ending 31-12-2006	1,16,000
(c) Year ending 31-12-2007	1,20,000

- (x) He received Rs. 1,25,000 for encashment of leave being twelve months unavailed leave of Surya. He was entitled to one month's leave for every year of service.
- (xi) Surya contributes 20% of his salary to a recognised provident fund and the employer's contribution is 10%.
- (xii) He has invested Rs.20,000 in National Savings Certificates VIII issue and Rs. 15,000 in public provident fund. He paid Rs.10,000 towards life insurance premium.

Compute the total income of Surya for the assessment year 2009-10.

#### Income from House property

7. Alok has a house property situated in Delhi which consists of two units. Unit A has 60% floor area, whereas Unit B has 40% floor area. Unit A was self-occupied by Alok for 8 months and w.e.f. 1-12-2008, it was let out for Rs.12,000 p.m. Unit B was also meant for self occupation but it was also let out w.e.f. 1-10-2008 for Rs. 9,000 p.m. The other particulars of the house property were as under:

	Rs.
Municipal taxes paid	55,000
Insurance premium	8,000
Interest on money borrowed	25,000

Compute income from house property for the assessment year 2009-10.

#### Profits and gains of business or profession

8. Write short notes on:
- (a) Bond Washing transactions and Dividend Stripping
- (b) Set off and carry forward of unabsorbed depreciation

Profits and gains of business or profession

9. Mr. Shankar, a retail trader of Chennai gives the following Trading and Profit and Loss Account for the year ended 31<sup>st</sup> March, 2009:

Trading and Profit and Loss Account for the year ended 31.03.2009

Particulars	Amount (Rs.)	Particulars	Amount (Rs.)
To Opening stock	95,000	By Sales	14,00,000
To Purchases	10,00,000	By Income from UTI	3,500
To Gross Profit	5,05,000	By Other business receipts	6,500
		By Closing stock	1,90,000
	<u>16,00,000</u>		<u>16,00,000</u>
To Salary	70,000	By Gross profit b/d	5,05,000
To Rent and rates	40,000		
To Interest on loan	25,000		
To Depreciation	1,35,000		
To Printing & stationery	25,000		
To Postage & telegram	2,500		
To Loss on sale of shares (Short term)	9,200		
To Other general expenses	8,000		
To Net Profit	1,90,300		
	<u>5,05,000</u>		<u>5,05,000</u>

Additional Information:

- (i) It was found that some stocks were omitted to be included in both the Opening and Closing Stock, the values of which were
- |               |           |
|---------------|-----------|
| Opening stock | Rs.10,000 |
| Closing stock | Rs.20,000 |
- (ii) Salary includes Rs.15,000 paid to his brother, which is unreasonable to the extent of Rs.5,000.
- (iii) The whole amount of printing and stationery was paid in cash.

- (iv) The depreciation provided in the Profit and Loss Account Rs.1,35,000 was based on the following information :

The written down value of plant and machinery is Rs.4,50,000. A new plant falling under the same Block of depreciation of 25% was bought on 1.7.2008 for Rs.80,000. Two old plants were sold on 1.10.2008 for Rs.50,000.

- (v) Rent and rates includes sales tax liability of Rs.3,800 paid on 7.4.2009.
- (vi) Other business receipts include Rs.2,500 received as refund of sales tax relating to 2008-09.
- (vii) Other general expenses include Rs.3,000 paid as donation to a Public Charitable Trust.

You are required to advise Mr. Shankar whether he can offer his business income under section 44AF i.e. presumptive taxation.

#### Set off and carry forward of losses

10. Discuss briefly on Carry forward and set - off of losses in case of change in constitution of firm or succession
11. State with reasons whether the following statements are true or false [A.Y. 2009-10] -
- (a) The income of all Mutual Funds will be exempt from tax irrespective of whether or not the prescribed conditions laid down by the Central Government are fulfilled.
- (b) No capital gains would arise in the hands of the company in respect of compensation received on compulsory acquisition of agricultural land.
- (c) Partnership firms deriving loss need not file return of income.
- (d) Interest on loan borrowed which is payable outside India shall not be allowed as deduction.

#### Capital Gains

12. Sumit purchases 2,500 (non-listed) shares in Amit Ltd. on August 16, 1990 for Rs. 10,000. On May 17, 1992, he gets 500 bonus shares. On October 20, 2006, he acquires 1,500 right shares at the rate of Rs.15 per share. He sells 4,500 (non-listed) shares in Amit Ltd. on February 12, 2009 at the rate of Rs. 150 per share (brokerage on sale: 2 per cent). He owns one residential house property. He purchases a residential house on June 29, 2009 for Rs. 3,50,000. Ascertain the amount of capital gains chargeable to tax for the assessment year 2009-10. [Cost Inflation Index (CII): F.Y.2008-09: 582, F.Y.2006-07: 519, F.Y.1990-91:182]

#### Income from other sources

13. From the following particulars, you are required to work out the total income by Mrs. Priya, aged 70 years; in respect of Assessment Year, 2009-10:

Particulars	Amount (Rs.)
(i) Family pension Gross	85,000
(ii) Income from House Property (Net)	30,000
(iii) Income from other sources:	
(a) Interest on Bank Deposits	18,000
(b) Income from horse racing	25,000
(iv) Capital gains on transfer of Land – Long term	20,000
	1,78,000

#### Deductions from Gross Total Income

14. Following details are furnished by Suman, an Indian citizen for the year ending March 31, 2009:

Particulars	Amount (Rs.)
Salary (net of tax and Suman's contribution to provident fund)	1,50,000
Suman's contribution to provident fund	15,000
Employer's contribution to provident fund	15,000
Interest credited to provident fund (@ 8% per annum)	6,000
Leave Travel Allowance received	14,000
Dividend's from ACC Ltd an Indian company (net of tax)	3,000
Dividend collection charge	500
Tax deduction at source on salary	2,000
Contribution to public provident fund	15,000
Contribution to National Laboratory approved U/s.35	16,000
Amount received on maturity of a keyman insurance policy	17,000

Suman acquired 2,000 shares of Rs.6 lakhs during 1984-85. Company allotted him equal value of bonus shares during 1990-91. Second bonus issue was made during March, 1998, when he received 1 bonus share for every 2 shares held by him. The entire shares held in the company have been sold by him during November, 2008 @ Rs.1,500 per share.

[Cost Inflation Index for F.Y.2008-09 – 582, F.Y.1984-85 – 125, F.Y. 1998-99 – 351]

Determine the total income of Suman for the Assessment year 2009-10.

### Computation of total income and tax liability of an individual

15. Following are the details of income provided by Mr. Ramaswamy for the year ending 31.3.2009:

- (i) Rental income from property at Chennai - Rs. 5,00,000, Municipal Value – Rs. 4,00,000; Standard Rent - Rs. 3,50,000, Fair Rent – Rs. 3,00,000.
- (ii) Municipal and water tax paid to Municipality, Current year - Rs. 40,000, Arrears – Rs. 1,60,000.
- (iii) Interest on loan borrowed towards major repairs to the property - Rs. 1,40,000
- (iv) Arrears of rent from property at Hyderabad which was sold on 10.04.2005 – Rs. 25,000

Mr. Ramaswamy furnishes the following additional information regarding sale of a property in Delhi:

- (i) Mr. Ramaswamy's father acquired a property in April 1988 for Rs. 40,000. Mr. Ramaswamy acquired this property by inheritance on 1<sup>st</sup> December 1988 after the demise of his father.
- (ii) Fair Market Value as on 01.04.1981 was Rs. 15,000.
- (iii) Fair Market Value as on 12.12.1988 was Rs. 45,000.
- (iv) Sale consideration received is Rs. 40,00,000.
- (v) Stamp duty charges paid by the purchaser at the time of registration @ 13% is Rs. 6,50,000 without any protest.
- (vi) Mr. Ramaswamy has invested the sale consideration in a residential flat for Rs. 25 lakhs out of the sale proceeds. A sum of Rs. 20 lakhs was invested in Capital Gains Bonds issued by NHAI and Rural Electrification Corporation Limited.

Compute the total income of Mr. Ramaswamy for the A.Y. 2009-10. [Cost Inflation Index (CII): F.Y.2008-09: 582, F.Y.1988-89: 161]

### Computation of total income and tax liability of an individual

16. Deepak is an employee of a private limited company in Mumbai. He gets Rs. 18,000 per month as salary and medical allowance at the rate of Rs. 1,200 per month. The employer provides sports club facility. A similar facility will cost Deepak Rs. 8,000 per year.

Compute the total income and tax liability of Deepak for the assessment year 2009-10 after giving due consideration to the following particulars:

Particulars	Rs.
Long term capital gains in respect of commercial buildings	19,000
Long-term capital gains in respect of shares (non-listed)	15,000

Income from horse races (gross)	6,000
Winnings from lottery (gross)	80,000
Expenditure on recovery of lottery prize	20,000
Interest from IFCI	10,000
Interest paid on capital borrowed for the purpose of investment in bonds of IFCI	9,500
Interest on company deposit	50,000
Insurance premium paid on a joint life policy on the life of Deepak and Mrs. Deepak (Sum assured : Rs. 1,00,000)	26,000
Medicclaim insurance on the life of Deepak's father	15,000

#### Deductions from Gross Total Income

17. Discuss the provisions regarding deductions allowable to an assessee in respect of the following:
- Deduction in respect of contributions given by companies to political parties.
  - Deduction in respect of royalty on patents.

#### Capital Gains

18. What are the tax implications, when a fire accident takes place in a factory and the following events occur?
- Foreign motor car, on which depreciation was claimed, was destroyed and compensation received from Insurance Company.
  - Machinery destroyed and compensation is received from Insurance Co.
  - Machinery damaged is replaced by Insurance Co. with new machinery.
  - Machinery damaged is repaired during the year and insurance compensation is received towards reimbursement in the next year.
  - Raw materials destroyed and compensation is received.

#### Assessment Procedure

19. (a) If a return of loss was not filed within due date, what are the consequences?  
 (b) Write a short note on Audit under section 142(2A).

#### Income tax Authorities

20. What are the powers of an income-tax authority in regard to survey covered by section 133A of the Income-tax Act?

## Appeals and Revision

21. Which of the orders are not subject to revision under section 264?

## The Central Sales-tax Act, 1956

22. Choose the correct answer with regard to the provisions of the Central Sales-tax Act :

- (a) The collection of Central Sales-tax is effected by
  - (i) the State where the goods are produced ;
  - (ii) the State where the movement of goods begins ;
  - (iii) the State where the goods are delivered ;
  - (iv) the Central Government directly from the dealer.
- (b) A dealer engaged in effecting inter-state sale is required to get himself registered where his turnover exceeds
  - (i) Any amount
  - (ii) Rs.1,00,000
  - (iii) Rs.2,50,000
  - (iv) Rs.3,00,000
- (c) R Oils Ltd., New Delhi sent via its pipeline special purified oil to B Ltd. in Noida, Uttar Pradesh, through its branch at Noida. This transaction has to be regarded as:
  - (i) Branch transfer by HO to branch
  - (ii) Branch transfer by HO to branch and then sale with State by the branch of R Oils Ltd., to B Ltd.
  - (iii) Inter-State sale
  - (iv) Intra-State sale
- (d) X effected his first inter-state sale on 12.3.2009 and applied for registration on 10.4.2009. The effective date of registration will be:
  - (i) 10.4.2009
  - (ii) 12.3.2009
  - (iii) 12.4.2009
  - (iv) Date on which the registering authority issues the registration certificate.
- (e) The levy of Central Sales-tax is on
  - (i) purchase of goods ;
  - (ii) sale of goods ;

- (iii) purchase or sale of goods ;
  - (iv) None of the above.
23. State with reasons, whether the following statements are true or false, as per the provisions of Central Sales-tax Act, 1956:
- (a) To avail concession in CST, in respect of sales to registered dealers, 'Form D' is to be furnished by the dealer.
  - (b) Both registered and unregistered dealers can collect tax under CST.
  - (c) Charity or dharmada collected by dealer will not form part of sale price.
  - (d) The supply of Aviation Spirit by a petroleum dealer from his depots at an Airport in India to an Aircraft proceeding abroad is an export out of India eligible for exemption under CST.
  - (e) Indian Railways which sells unclaimed/uncollected goods is a dealer.

#### Definitions

24. Define the following terms under the Central Sales-tax Act, 1956:
- (a) Dealer
  - (b) Declared Goods

#### Determination of Turnover

25. From the following details, compute the central sales-tax payable by a dealer carrying on business in New Delhi:

	Rs.
Total turnover for the year which included	18,00,000
(i) Trade commission for which credit notes have to be issued separately	50,000
(ii) Installation charges	30,000
(iii) Excise duty	85,000
(iv) Freight, insurance and transport charges recovered separately in the invoice	65,000
(v) Goods returned by dealers within six months of sale, but after the end of the financial year	45,000
(vi) Central Sales tax buyers have issued 'C' forms for all purchases	

SUGGESTED ANSWERS/HINTS

1. (a) (ii) (b) (iv) (c) (i) (d) (iii) (e) (iii)
2. Computation of Gross Total Income of Mr. Mahesh and Mrs. Mahesh for the A.Y. 2008-09

	Particulars	Mr. Mahesh (Resident but not ordinarily resident)	Mrs. Mahesh (Non – resident)
		Rs.	Rs.
(i)	Interest on company deposits in India	60,000	8,00,000
(ii)	Income deemed to be received in India	40,000	70,000
(iii)	Income from business in Nepal		
	- 40% received in India	30,000	20,000
	- 60% received outside India (as business is controlled in India)	45,000	---
(iv)	Dividend declared by an Indian company [exempt under section 10(34)]	---	---
(v)	Salary received in India for services rendered outside India	1,00,000	92,000
(vi)	Interest received from the Government of India (received outside India)	70,000	22,000
(vii)	Interest received from a foreign company outside India (borrowed money is utilized outside India)	---	---
(viii)	Income from a business in France, controlled from Mumbai	50,000	---
(ix)	Royalty received In India from the Government of India	20,000	9,000
(x)	Royalty received in India from a non-resident in respect of technology used by such person outside India	25,000	12,000
(xi)	Agricultural income in Europe	---	---
	Gross Total Income	4,40,000	10,25,000

3. (i) Infrastructure Capital Company [Section 2(26A)]

Infrastructure Capital Company means such company which makes investments by way of acquiring shares or providing long-term finance to -

- (1) any enterprise or undertaking wholly engaged -
  - (a) in the business referred to in Section 80-IA(4) i.e. business of
    - (i) developing/operating and maintaining/developing, operating and maintaining any infrastructure facility fulfilling the specified conditions
    - (ii) providing telecom services, whether basic or cellular
    - (iii) developing, developing and operating or maintaining and operating an industrial park or special economic zone notified by the Central Government
    - (iv) generating, transmitting or distributing power or undertaking substantial renovation and modernization of the existing network of transmission or distribution lines.
  - (b) in the business referred to in Section 80-IAB(1) i.e. any business of developing a SEZ.
- (2) an undertaking developing and building a housing project referred to in section 80-IB(10) i.e. approved before 31.3.2007 by a local authority and commences or commenced development and construction on or after 1.10.98 and completes or completed development and construction within the time specified.
- (3) a project for constructing a hotel of not less than three-star category as classified by the Central Government or
- (4) a project for constructing a hospital with at least 100 beds for patients

(ii) Infrastructure Capital Fund [Section 2(26B)]

Infrastructure Capital Fund means such fund operating under a trust deed registered under the provisions of the Registration Act, 1908 established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to -

- (1) any enterprise or undertaking wholly engaged in the business referred to in section 80-IA(4) or section 80-IAB(1) or
- (2) an undertaking developing and building a housing project referred to in section 80-IB(10) or
- (3) a project for constructing a hotel of not less than three star category as classified by the Central Government or
- (4) a project for constructing a hospital with at least 100 beds for patients.

(iii) India [Section 2(25A)]

The term 'India' means –

- (i) the territory of India as per article 1 of the Constitution,
- (ii) its territorial waters, seabed and subsoil underlying such waters,
- (iii) continental shelf,
- (iv) exclusive economic zone or
- (v) any other specified maritime zone and the air space above its territory and territorial waters.

Specified maritime zone means the maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

- 4. (a) exempt from tax
  - (b) Rs. 5,000
  - (c) 8 assessment years
  - (d) relief under section 89
5. (a) Exemption of specified income of Investor Protection Fund set up by commodity exchanges [Section 10(23EC)]
- (a) Section 10(23EC) exempts income, by way of contributions received from commodity exchanges and the members thereof, of such Investor Protection Fund set up by commodity exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf.
  - (b) Where any amount standing to the credit of the said Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a commodity exchange, the entire amount so shared shall be deemed to be the income of the previous year in which the amount is so shared and shall accordingly be chargeable to income-tax.
  - (c) A "commodity exchange" means a "registered association" as defined in clause section 2(jj) of the Forward Contracts (Regulation) Act, 1952. i.e. an association to which for the time being a certificate of registration has been granted by the Forward Markets Commission under section 14B of that Act.
- (b) Retrenchment compensation [Section 10(10B)]
- Retrenchment compensation will be exempt from tax subject to the following limits:
- (a) Amount calculated in accordance with the provisions of Section 25F of the Industrial Disputes Act, 1947; or
  - (b) An amount, not less than Rs. 5,00,000 as may be notified by the Central Government in this behalf, whichever is lower.

The retrenchment compensation for this purpose means the compensation paid under Industrial Disputes Act, 1947 or under any Act, Rule, Order or Notification issued under any law. It also includes compensation paid on transfer of employment u/s 25F or closing down of an undertaking u/s 25FF of the Industrial Disputes Act, 1947.

The above limits will not be applicable to cases where the compensation is paid under any scheme approved by the Central Government for giving special protection to workmen under certain circumstances.

6. Computation of Total Income of Surya for the A.Y. 2009-10

Particulars	Amount (Rs.)	Amount (Rs.)
Basic Salary (Rs. 20,000 x 9)		1,80,000
Dearness Allowance (Rs. 1,80,000 x 40%)		72,000
House Rent Allowance (Rs. 5,000 x 9)	45,000	
Less: Exempt under section 10(13A) (Note 1)	32,400	12,600
Medical allowance (Rs. 1,200 x 9)		10,800
Value of car (Note 2)		Nil
Gas / electricity (Rs. 800 x 9)		7,200
Education Re-imburement (Rs. 450 x 9)		4,050
Watchman (Rs. 600 x 9)		5,400
Sweeper (Rs. 600 x 9)		5,400
Cook (Rs. 600 x 9)		5,400
Interest on loan (Note 3)		Nil
Gratuity	2,40,000	
Less: Exempt under section 10(10) (Note 4)	2,40,000	Nil
Leave salary	1,25,000	
Less: Exempt under section 10(10AA) (Note 5)	1,25,000	Nil
Income from salary		3,02,850
Gross Total Income		3,02,850
Less : Deduction under section 80C		

PF (Note 6)	43,200	
NSC	20,000	
PPF	15,000	
LIP	10,000	88,200
Total Income		<u>2,14,650</u>

Notes:

1. HRA is exempt to the extent of least of the following:

Particulars	Amount (Rs.)
(i) Actual HRA received	45,000
(ii) Rent paid – 10% of Salary (Rs. 54,000 – 10% x (Rs. 1,80,000+ Rs. 36,000))	32,400
(iii) 50% of Salary [50% of (Rs.1,80,000+ Rs.36,000)]	1,08,000

Therefore, Rs. 32,400, being the least amount, is exempt under section 10(13A).

2. Since the employer is a company, it is liable to FBT. Therefore, the car facility will be taxable as a fringe benefit in the hands of the company and not as a perquisite in the hands of the employee.
3. Interest on loan is not taxable as interest charged is more than the rate of SBI.
4. Gratuity is exempt to the extent of minimum of the following:

Particulars	Amount (Rs.)
(i) Statutory limit	3,50,000
(ii) Half month's salary for every year of service ( $\frac{1}{2} \times 30 \times$ Rs. 24,000)	3,60,000
(iii) Actual gratuity received	2,40,000

Therefore, Rs. 2,40,000 is exempt under section 10(10). It is assumed that the employer is not covered under The Payment of Gratuity Act, 1972.

5. Leave encashment is exempt to the extent of minimum of the following:

Particulars	Amount (Rs.)
(i) Statutory limit	3,00,000
(ii) Cash equivalent of leave at the credit of the employee (12 x Rs. 24,000)	2,88,000

(iii)	10 months average salary (10 x Rs. 24,000)	2,40,000
(iv)	Actual amount received	1,25,000

Therefore, Rs.1,25,000 is exempt under section 10(10AA).

6. Employee's Contribution to RPF = 20% of (BS + DA for retirement benefits)  
= 20% of (Rs. 1,80,000 + Rs. 36,000)  
= 20% of Rs. 2,16,000  
= Rs. 43,200
7. In the above question, both house properties are part of the year self occupied and part of the year let out. Hence, benefit of self-occupation for residential purposes shall not be allowed due to the provisions of section 23(3). In this case, annual value of both the house properties shall be determined as per section 23(1).

#### Computation of Income from House property for the A.Y. 2009-10

Unit A : Gross annual value, higher of the following two :

	Rs.	Rs.
(a) Expected rent (Rs.12,000 x 12)		1,44,000
(b) Actual rent received or receivable (Rs.12,000 x 4)		48,000
Gross annual value (GAV)		1,44,000
Less : Municipal taxes paid (60% of Rs. 55,000)		33,000
Net annual value (NAV)		<u>1,11,000</u>
Less : Deduction under section 24		
(a) Statutory deduction @ 30% of NAV	33,300	
(b) Interest on money borrowed (60% of Rs. 25,000)	15,000	48,300
Income from Unit A		<u><u>62,700</u></u>

Unit B: Gross annual value, higher of the following two :

	Rs.	Rs.
(a) Expected rent (Rs. 9,000 x12)		1,08,000
(b) Actual rent received or receivable (Rs. 9,000 x 6)		54,000
Gross annual value (GAV)		1,08,000

Less : Municipal taxes paid (40% of Rs. 55,000)		22,000
Net annual value (NAV)		86,000
Less : Deduction under section 24		
(a) Statutory deduction @ 30% of NAV	25,800	
(b) Interest on money borrowed (40% of Rs. 25,000)	10,000	35,800
Income from Unit B		50,200

Income from House Property = Rs.62,700 + Rs. 50,200 = Rs.1,12,900

Note : In the absence of information, actual rent has been taken as expected rent.

8. (a) Bond washing transactions and Dividend stripping [Section 94]
- (i) A bond-washing transaction is a transaction where securities are sold some time before the due date of interest and reacquired after the due date is over. This practice is adopted by persons in the higher income group to avoid tax by transferring the securities to their relatives/friends in the lower income group just before the due date of payment of interest. In such a case, interest would be taxable in the hands of the transferee, who is the legal owner of securities. In order to discourage such practice, section 94(1) provides that where the owner of a security transfers the security just before the due date of interest and buys back the same immediately after the due date and interest is received by the transferee, such interest income will be deemed to be the income of the transferor and would be taxable in his hands.
  - (ii) In order to prevent the practice of sale of securities-cum-interest, section 94(2) provides that if an assessee who has beneficial interest in securities sells such securities in such a manner that either no income is received or income received is less than the sum he would have received if such interest had accrued from day to day, then income from such securities for the whole year would be deemed to be the income of the assessee.
  - (iii) Section 94(7) provides that where
    - (a) any person buys or acquires any securities or unit within a period of three months prior to the record date and
    - (b) such person sells or transfers –
      - (1) such securities within a period of three months after such date, or
      - (2) such unit within a period of nine months after such date and
    - (c) the dividend or income on such securities or unit received or receivable by such person is exempted,

then, the loss, if any, arising therefrom shall be ignored for the purposes of computing his income chargeable to tax. Such loss should not exceed the amount of dividend or income received or receivable on such securities or unit.

- (b) Set off and carry forward of unabsorbed depreciation
- (a) Section 32(2) provides the manner in which the unabsorbed depreciation is to be carried forward and set off. If, as a result of inadequacy of profits and gains, full effect cannot be given to depreciation allowable under section 32(1) such portion of depreciation becomes unabsorbed depreciation.
  - (b) Such unabsorbed depreciation should be set off against the profits and gains, if any of any business or profession carried on by the assessee and assessable for that assessment year.
  - (c) If such unabsorbed depreciation cannot be wholly set off against business income, then the balance unabsorbed depreciation can be set off against income under any other head (except salary) for that assessment year.
  - (d) The balance unabsorbed depreciation shall be carried forward to the following assessment year and it would become depreciation of that year eligible for set off against any income (except salary).
  - (e) The unabsorbed portion shall be carried forward without any limitation for any number of years. Even unabsorbed depreciation of discontinued business is eligible for set off in the future assessment years.
  - (f) There is no time limit for carry forward of unabsorbed depreciation.
9. Computation of business income of Shankar for the Assessment year 2009-10.

Particulars	Amount (Rs.)	Amount (Rs.)
Net Profit as per profit and loss account		1,90,300
Add : Inadmissible expenses / losses		
Under valuation of closing stock	20,000	
Unreasonable salary paid to brother [Section 40A(2)]	5,000	
Printing and stationery paid in cash [Section 40A(3)]	25,000	
Depreciation	1,35,000	
Short term capital loss on shares	9,200	
Donation to public charitable trust	3,000	1,97,200
		3,87,500
Less: Deductible items:		
Under valuation of opening stock	10,000	

Income from UTI	3,500	
Refund of sales tax [Taxable under section 41(1)]	--	13,500
Business income before depreciation		<u>3,74,000</u>
Less: Depreciation (see note 1)		<u>72,000</u>
Business income		<u>3,02,000</u>

#### Computation of business income as per section 44AF

As per section 44AF, the business income would be 5% of turnover

$$\text{Rs. } 14,00,000 \times 5 / 100 = \text{Rs. } 70,000$$

The business income under section 44AF is Rs. 70,000

As the business income under section 44AF is lower than the business income as per the normal provisions of the Act, it is advisable for Shankar to offer the business income under section 44AF of the Act.

Note:

#### 1. Calculation of depreciation

	Rs.
WDV of the block of plant & machinery as on the first day of previous year	4,50,000
Add : Cost of new plant & machinery	<u>80,000</u>
	5,30,000
Less : Sale proceeds of assets sold	<u>50,000</u>
WDV of the block of plant & machinery as on the last day of previous year	4,80,000
Depreciation @ 15%	72,000

2. Since sales-tax liability has been paid before the due date of filing return of income under section 139(1), the same is deductible.

#### 10. (a) Carry Forward and Set off of Losses in case of change in Constitution of Firm or succession [Section 78]

(i) Where there is a change in the constitution of a firm, so much of the loss proportionate to the share of a retired or deceased partner remaining unabsorbed, shall not be allowed to be carried forward by the firm. However, unabsorbed depreciation can be carried forward.

(ii) Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, such other person shall not be allowed to carry forward and set off against his income, any loss incurred by the predecessor.

- (iii) Where there is a succession by inheritance, the legal heirs (assessable as BOI) are entitled to set-off the business loss of the predecessor. Such carry forward and set-off is possible even if the legal heirs constitute themselves as a partnership firm. In such a case, the firm can carry forward and set-off the business loss of the predecessor.
11. (a) False – Under section 10(23D), only the income of a Mutual Fund set up by a public sector bank / public financial institution / SEBI / RBI is exempt subject to certain conditions.
- (b) False – Section 10(37) exempts capital gains arising to individual or a HUF from transfer of agricultural land by way of compulsory acquisition. Since, the land belongs to a company, the exemption is not available in this case and the compensation would be subject to capital gains tax.
- (c) False – As per section 139(3) any person who sustained loss in any previous year and claims that such loss should be carried forward shall furnish a return of loss within the time allowed under section 139(1) in the prescribed form. Therefore, partnership firms have to file their loss return on or before the due date specified u/s 139(1) to carry forward the loss.
- (d) False – Interest on loan borrowed which is payable outside India shall be allowed as deduction, provided tax has been deducted or paid at source.

12. Computation of Capital Gains for the A.Y. 2009-10

Particulars	2500	500 bonus	1500 right
	original	shares	shares
	shares	Rs.	Rs.
	Rs.		
Gross Sale consideration @ Rs. 150 per share	3,75,000	75,000	2,25,000
Less: Expenses on transfer (Brokerage @ 2%)	7,500	1,500	4,500
Net Sale consideration	3,67,500	73,500	2,20,500
Less : Indexed cost of acquisition (Note 1)	31,978	Nil	25,231
Long-term capital gain	3,35,522	73,500	1,95,269
Long-term capital gain as percentage of net sale consideration	91.30%	100%	88.56%
Order of preference for claiming exemption under section 54F	2	1	3

Exemption under section 54F (Note 2)	2,52,440	73,500	Nil
Long term capital gain	83,082	Nil	1,95,269

Taxable Long Term Capital Gain = Rs. 83,082 + Rs. 1,95,269 = Rs. 2,78,351.

Notes –

1. Indexed cost of acquisition is computed as follows:

$$\text{Original Shares (Non-Listed)} = \text{Rs. } 10,000 \times \frac{582}{182} = \text{Rs. } 31,978$$

$$\text{Right Shares (Non-Listed)} = \text{Rs. } 1,500 \times 15 \times \frac{582}{519} = \text{Rs. } 25,231$$

2. The amount of exemption is determined as under –

Particulars	Investment utilized for claiming exemption	Exemption
Bonus shares [Rs. 73,500 / Rs. 73,500 x Rs. 73,500]	73,500	73,500
Original shares [Rs. 3,35,522 / Rs. 3,67,500 x Rs. 2,76,500]	2,76,500	2,52,440
Total [any other order of preference will give lower exemption]	3,50,000	3,25,940

13. Computation of Total Income of Mrs. Priya for the Assessment year 2009-10

	Rs.
I. Income from house property (Net)	30,000
II. Income from other sources:	
Family Pension gross	85,000
Less: Deduction under section 57(iiia)	<u>15,000</u>
	70,000
Interest from Bank deposits	18,000
Income from horse racing	25,000

III	Long term capital gain	20,000
	Total Income	<u>1,63,000</u>

14. Computation of Total Income of Suman for Assessment year 2009-10

Rs.

Income from Salaries		
Net salary received		1,50,000
Add : Tax deduction at source		2,000
Add : Contribution of Suman to Provident fund		15,000
		<u>1,67,000</u>
Add: Leave travel allowance (Note 1)		14,000
Add : Profits in lieu of salary – amount received on maturity of keyman insurance policy		17,000
Taxable salary		<u>1,98,000</u>

Income from Capital gains:

Sale consideration (2,000 + 2,000 + 2,000)	Rs.1,500	90,00,000
Less : Indexed cost of acquisition		
Original shares Rs.6,00,000	$582 / 125 =$	27,93,600
First issue of bonus shares	Nil	
Second issue of bonus shares	<u>Nil</u>	27,93,600
Taxable long term capital gain		<u>62,06,400</u>
Gross Total Income		<u>64,04,400</u>
Less : Deduction under section 80C		
Contribution to provident fund		15,000
Contribution to public provident fund		15,000
Total Income		<u>63,74,400</u>

Notes:

1. Leave travel allowance is exempt only if the conditions specified in section 10(5) read with Rule 2B are satisfied. Since no data has been given of the amount of expenditure actually incurred and the frequency of such leave travel allowance given by the employer to the employee, the whole of LTA is considered as taxable.

2. Interest credited to provident fund at 8% of Rs.6,000 is exempt from tax, since the rate is less than 12%.
  3. Contribution to National Laboratory under section 35 does not qualify for deduction under the head "salary".
  4. Dividends from ACC Ltd are exempt under section 10(34). Dividend collection charges are correspondingly not deductible.
  5. It is assumed that the share held by Suman and transferred during the year is not exempt under section 10(38). The second bonus issue is assumed as obtained in March, 1998 but sold in the previous year 2008-09. The benefit of indexation is accordingly given.
15. Computation of Total income of Mr. Ramaswamy for the A.Y. 2009-10

Particulars	Amount (Rs.)	Amount (Rs.)
Income from House Property		
Computation of Gross Annual Value (GAV)		
ALV for the year = Higher of Municipal Value (MV) and Fair Rent (FR), but restricted to Standard Rent (SR)	3,50,000	
Actual rent received or receivable for the period	5,00,000	
GAV is the higher of the ALV and Actual rent received or receivable	5,00,000	
Gross Annual Value (GAV)		5,00,000
Less : Municipal taxes paid (Current year + Arrears)		2,00,000
Net Annual Value (NAV)		3,00,000
Less : Deduction under section 24		
(i) 30% of NAV i.e. 30% of Rs. 3,00,000	90,000	
(ii) Interest on loan borrowed	1,40,000	2,30,000
		70,000
Arrears of rent received from property in Hyderabad	25,000	
Less : Deduction under section 25B		
– 30% of Arrears of rent	7,500	17,500
Income from House Property		87,500
Capital Gains		

Sale consideration as per section 50C (Note1)	50,00,000	
Less : Indexed cost of acquisition (Note 2)	1,44,596	
Long Term Capital Gains	<u>48,55,404</u>	
Less : Exemptions under section 54		
- under section 54 – Residential Flat	25,00,000	
- under section 54EC – NHAI & RECL bonds	20,00,000	
Long term Capital Gains	<u>3,55,404</u>	
Total Income		<u>4,42,904</u>

Notes:

- As per section 50C, where the consideration received or accruing as a result of transfer of a capital asset, being land or building or both, is less than the valuation by the stamp valuation authority, such value adopted or assessed by the stamp valuation authority shall be deemed to be the full value of consideration. Hence, the value of house property sold by an individual shall be higher of (i) actual sale consideration & (ii) value applied for stamp duty.

(a) Actual sale consideration = Rs. 40,00,000

(b) Value for stamp duty = Rs.6,50,000 / 13% = Rs. 50,00,000

Therefore, the value for stamp duty i.e. Rs. 50,00,000 shall be taken as the sale consideration for the purpose of capital gain as per section 50C.

- Indexed cost of acquisition = Rs. 40,000  $\times \frac{582}{161}$  = Rs.1,44,596

16. Computation of Total income of Deepak for the A.Y. 2009-10

Particulars	Amount (Rs.)	Amount (Rs.)
Income from salary		
Basic salary (Rs.18,000 x 12)		2,16,000
Medical allowance (Rs. 1,200 x12)		14,400
Income from salary		<u>2,30,400</u>
Capital gains (Rs. 19,000 + Rs. 15,000)		34,000
Income from other sources		
Income from horse races	6,000	

Winnings from lotteries	80,000	86,000
	<hr/>	
Interest from IFCI	10,000	
Less : Interest paid on capital borrowed	9,500	500
	<hr/>	
Income from company deposit		50,000
Gross total income		<hr/> 4,00,900
Less : Deduction under sections 80C to 80U		
Under section 80C	20,000	
Under section 80D	15,000	35,000
	<hr/>	
Total income		<hr/> 3,65,900
Computation of tax liability		
Income tax		
- On Rs. 86,000 @ 30%	25,800	
- On Rs. 34,000 @ 20%	6,800	
- On balance (i.e. 3,65,900 – Rs. 86,000 – Rs. 34,000)	9,590	
	<hr/>	
Total Tax		42,190
Add : Surcharge (not applicable if total income does not exceed Rs. 10,00,000)		Nil
		<hr/> 42,190
Add : Education cess @ 2%		844
Add : Secondary and higher education cess @ 1%		422
		<hr/> 43,456
Tax liability		43,456
Tax liability (rounded off)		43,460

Notes:

The perquisite in respect of club facility is not chargeable to tax in the hands of Deepak. However, it is subject of fringe benefit tax in the hands of employer.

17. (a) Deduction in respect of contributions given by companies to political parties [Section 80GGB]
  - (i) Section 80GGB provides for deduction of any sum contributed in the previous year by an Indian company to any political party.

- (ii) For the purposes of this section, the word “contribute” has the same meaning assigned to it under section 293A of the Companies Act, 1956, which provides that-
    - (a) a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose;
    - (b) the expenditure incurred, directly or indirectly, by a company on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.
  - (iii) “Political party” means a political party registered under section 29A of the Representation of the People Act, 1951.
- (b) Deduction in respect of royalty on patents [Section 80RRB]
- (i) This section allows deduction to a resident individual in respect of income by way of royalty of a patent registered on or after 1.4.03 up to an amount of Rs.3 lakhs.
  - (ii) This deduction shall be available only to a resident individual who is registered as the true and first inventor in respect of an invention under the Patents Act, 1970, including the co-owner of the patent.
  - (iii) This exemption shall be restricted to the royalty income including consideration for transfer of rights in the patent or for providing information for working or use thereof in India.
  - (iv) The exemption shall not be available on any consideration for sale of product manufactured with the use of the patented process or patented article for commercial use.
  - (v) In respect of any such income which is earned from sources outside India, the deduction shall be restricted to such sum as is brought to India in convertible foreign exchange within a period of 6 months or extended period as is allowed by the competent authority (Reserve Bank of India). For claiming this deduction the assessee shall be required to furnish a certificate in the prescribed form signed by the prescribed authority, along with the return of income.
  - (vi) No deduction in respect of such income will be allowed under any other provision of the Income-tax Act.
  - (vii) Where the patent is subsequently revoked or the name of the assessee was excluded from the patents register as patentee in respect of that patent, the deduction allowed during the period shall be deemed to have been wrongly allowed and the assessment shall be rectified under the provisions of section 155.

18. According to Section 45(1A), insurance compensation received on account of destruction or damage to a capital asset by way of any money or other assets, the profits arising thereof shall be chargeable to income-tax under the head 'Capital Gains'. The chargeability shall arise in the year of receipt of the compensation. For this purpose, the money so received or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration. In the light of this legal position, the tax implications in respect of each of the above mentioned situations are analyzed as follows:
- (a) In the case of Foreign motor car, the provisions of section 45(1A) shall apply if it is destroyed and insurance compensation is received. The computation shall be in accordance with the provisions of section 48. By virtue of section 50, the gain so computed shall be short term in nature and the gain computed without the benefit of indexation shall be included in the total income and normal rates of tax shall apply. If it is resulting in short term capital loss, the same shall be setoff against any other capital gain during the year or it shall be carried forward under section 74.
  - (b) Since the asset destroyed is machinery, a depreciable asset, one has to examine whether there are other assets in the block other than the machinery destroyed. If there are no other assets left in the block, the surplus of the compensation over the written down value of the block shall be assessable as short term capital gain under section 50. If there is short fall due to the written down value exceeding the compensation, the same shall be assessable as short term capital loss. On the other hand, if there are other assets in the block and if there is surplus, it is still assessable as a short term capital gain. If the compensation received is less than the written down value of block assessee can avail depreciation on the reduced written down value.
  - (c) If machinery damaged is replaced by the insurance company, the same analogy discussed above shall apply. The fair market value of the machinery shall be taken as the full value of consideration.
  - (d) If the damaged machinery is repaired and reused, the expenses incurred for repairing the machinery shall be allowable as current repairs under section 31. In such a case insurance compensation received towards damage shall be deemed as income under section 41(1) to the extent deduction was availed earlier. If the compensation so received exceeds the deduction claimed, the excess shall be regarded as capital receipt not liable to tax.
  - (e) The definition of capital asset under section 2(14) does not include raw materials held in business. Any compensation received towards destruction of stock-in-trade or raw material is a revenue receipt chargeable to tax under the head 'Profits and gains of business or profession'.
19. (a) Section 80 provides that certain losses which have not been determined in pursuance of a return filed in accordance with the provisions of section 139(3) shall not be carried forward and set off.

Thus, where a return of loss was not filed within the due date, the following losses cannot be carried forward and set off.

- (a) Business loss – section 72(1)
  - (b) Speculation business loss – section 73(2)
  - (c) Losses from capital gains – section 74(1)
  - (d) Losses incurred in the activity of owning and maintaining race horses – section 74A(3)
- (b) The Assessing Officer may direct the assessee to get his accounts audited by an accountant nominated by Chief CIT/CIT, even if accounts of the assessee have been audited under any other provision of this Act or under any other law, if the following conditions are satisfied.
- (i) Such direction can be issued at any stage of the proceeding pending before the Assessing Officer, before the completion of such proceedings;
  - (ii) Such direction can be issued only if having regard to the nature and complexity of the accounts of the assessee and interest of the revenue, the Assessing Officer. is of the opinion that it is necessary to do so; and
  - (iii) Such direction can be issued only with the previous approval of Chief CIT/CIT. The audit report shall be furnished by the assessee within the period specified by the Assessing Officer.
  - (iv) The Assessing Officer has power to extent such period.

Failure to comply with a direction u/s.142(2A) to get books of accounts audited entails a best judgment assessment u/s.144. It will also result in penalty u/s.271(1)(b) which shall be in addition to tax payable a sum of Rs.10,000. Also, it is punishable under section 276D.

20. Powers of an Assessing Officer with regard to survey under section 133A are given below –

- (1) An income-tax authority may enter any place where business or profession is carried on, if such place is within the limits of the area assigned to him or is occupied by any person in respect of whom the Assessing Officer exercises jurisdiction or in respect of which he is authorised to do so by another income-tax authority who has jurisdiction. For this purpose, any other place where the books of account or other documents or cash or stock or other valuable article relating to the business is kept shall also be considered to be a place of business.
- (2) The Income-tax authority may require the person attending the business or profession to afford necessary facilities to inspect books of account, or other documents, and to check and verify the cash, stock or other valuable article which may be available at that place.

- (3) He may enter the place of business or profession only during the hours at which it is open for the conduct of business or profession. In the case of any other place, he may enter the place only after sunrise and before sunset.
  - (4) The Income-tax authority, cannot remove any books of account or other documents without recording his reasons for so doing. He cannot seize cash, stock or valuables from the place where he has entered for survey under section 133 A. The books impounded by the income-tax authority cannot be kept for a period exceeding 10 days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General, as the case may be.
  - (5) The Income-tax authority making survey under section 133A may record a statement from any person which may be useful for or relevant to, any proceeding under the Act. He may place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom. He may also make an inventory of any cash, stock or other valuable article or thing checked or verified by him.
  - (6) The income-tax authority may ask a person to submit the necessary information relating to expenditure incurred in a particular ceremony or event.
21. Section 264 says that any order other than an order to which section 263 applies passed by an authority subordinate to him, the Commissioner may either of his own motion or an application by the assessee for revision, call for the record of any proceeding under the Act and make an order. The order so passed may be after making such enquiry and not being prejudicial to the interests of the assessee.

The Commissioner shall not of his own motion revise an order under section 264 after the expiry of one year after it was made.

Where an appeal lies to the Commissioner (Appeals) or to the appellate tribunal shall not be eligible for revision under section 264. Where the time limit for making appeal before Commissioner (Appeals) or Appellate Tribunal has not expired and where the assessee has not waived his right of appeal, an order under section 264 is not possible.

22. (a) (ii) the State where the movement of goods begins
  - (b) (i) Any amount
  - (c) (iii) Inter-State sale
  - (d) (ii) 12.3.2009
  - (e) (ii) sale of goods
23. (a) False – “Form D” will be produced only for sale to Government.
- (b) False – Only a registered dealer can collect tax under the Central Sales Tax Act as per section 9A. Further, the registered dealer should collect the tax in accordance with the Central Sales Tax Act, 1956 and rules made thereunder.
- (c) False – Any amount received by a dealer as consideration for the sale of any goods

will form part of the sale price under section 2(h). Hence Charity/Dharmada collected will form part of sale price.

- (d) False - As there is no destination to which the spirit is said to have been exported. Hence, no exemption is available.
  - (e) True - As per Explanation 2 to section 2(b), Indian Railways which sells unclaimed/uncollected goods is deemed to be a dealer. The Supreme Court has held in the Member, Board of Revenue, West Bengal vs. Controller of Stores, Eastern Railway, Calcutta (1989) 74 STC 5, that the sale of unclaimed goods was an activity for which the South Eastern Railway was a "dealer" and was liable to sales tax.
24. (a) Dealer - As per section 2(b) the term "dealer" means any person who carries on (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods, directly or indirectly, for cash or for deferred payment and includes –
- (i) a local authority, a body corporate, a company, any co-operative society or other society, club, firm, HUF or other association of persons which carries on such business;
  - (ii) a factor, broker, commission agent, del credere agent or any other mercantile agent, by whatever name called, who carries on the business of buying, selling or distribution of goods belonging to any principal, whether disclosed or not.
  - (iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not, whether the offer of the intending purchaser is accepted by him or by the principal or his nominee.
- (b) Declared goods means goods declared under section 14 of Central Sales Tax Act, 1956 to be of special importance in inter-State trade or commerce [Section 2(c)].
- Examples of declared goods are :-
- (i) Cereals
  - (ii) Coal, including coke in all its forms, but excluding charcoal
  - (iii) Cotton (indigenous or imported) in its un-manufactured state, whether ginned or unginned, baled, pressed or otherwise, but not including cotton waste
  - (iv) Cotton fabrics
  - (v) Cotton yarn, but not including cotton yarn waste
  - (vi) Crude oil
  - (vii) hides and skins, whether in a raw or dressed state
  - (viii) Iron and steel
  - (ix) Jute
  - (x) Oil seeds

- (xi) Pulses
- (xii) Man made fabrics
- (xiii) Sugar
- (xiv) Un-manufactured tobacco and tobacco refuse, cigars and cheroots of tobacco, cigarettes and cigarillos of tobacco and other manufactured tobacco
- (xv) Woven fabrics of wool
- (xvi) Aviation Turbine Fuel sold to a Turbo-Prop Aircraft

25. Computation of Central Sales tax payable

	Amount (Rs.)	Amount (Rs.)
Gross turnover		18,00,000
Less :Trade commission	50,000	
Installation charges	30,000	
Freight, transport charges	65,000	
Goods returned within 6 months	45,000	1,90,000
Turnover including CST		<u>19,90,000</u>
Central sales tax @ 2% (Rs.19,90,000 / 102)		39,020
Turnover		<u>20,29,020</u>
CST at 2% thereof		39,020

IMPORTANT CIRCULARS / NOTIFICATIONS ISSUED BETWEEN 1.5.08 and 30.4.09

INCOME - TAX

I. CIRCULARS

1. Circular No. 5/2008 dated 14.7.2008

The CBDT has, vide notification S.O. No. 493(E), dated 13.3.2008 notified the categories of taxpayers who are mandatorily required to electronically pay taxes on or after 1st April, 2008. The taxpayers who are required to pay taxes by the prescribed mode are - (i) a company; and (ii) a person (other than a company), to whom the provisions of section 44AB of the Income-tax Act, 1961 are applicable. Further, payment of tax electronically has been defined to mean payment of tax by way of - (i) internet banking facility of the authorised bank or (ii) credit or debit cards.

Consequent to issue of the notification, foreign assesseees have been facing difficulties in complying with the provisions with regard to mandatory e-payment of taxes. Since they do not have a presence in India, they are not able to meet the 'know your customer norms' of the banks. This has resulted in their inability to open bank accounts and make payment of taxes through the electronic mode. Also, the resident taxpayers have been facing difficulties in availing internet banking facilities of the authorized banks. A clarification has also been sought as to whether payment of tax deducted at source by a deductor will fall within the meaning of 'tax' for the purpose of the impugned notification.

Therefore, with a view to facilitating electronic payment of taxes by different categories of taxpayers, CBDT has issued Circular No.5/2008 dated 14.7.2008 to clarify that an assessee can make electronic payment of taxes also from the account of any other person. However, the challan for making such payment must clearly indicate the Permanent Account Number (PAN) of the assessee on whose behalf the payment is made. It is not necessary for the assessee to make payment of taxes from his own account in an authorized bank. Further, it is also clarified that payment of any amount by a deductor by way of Tax Deducted at Source (TDS) or Tax Collected at Source (TCS) shall fall within the meaning of 'tax' for the purpose of Rule 125 of the Income-tax Rules, 1962.

2. Circular No.10/2008 dated 5.12.2008

Clarification regarding the meaning of the expression 'fish or fish products' used in Rule 6DD(e)(iii) of the Income-tax Rules, 1962

Under section 40A(3), disallowance is attracted in the computation of income in a case where a payment or aggregate of payments exceeding twenty thousand rupees is made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft. However, payment otherwise than by an account payee cheque drawn on a bank or by an account payee bank draft exceeding twenty thousand rupees does not attract the aforesaid disallowance in certain circumstances as prescribed under Rule 6DD of the Income-tax Rules, 1962. Such exceptions, inter-alia, refer to payment made to the producer for the purchase of fish or fish products under sub-clause (iii) of clause (e) of rule 6DD.

In regard to this sub-clause, the following clarifications have been issued for proper implementation of Rule 6DD -

- (i) The expression 'fish or fish products' used in rule 6DD(e)(iii) would include 'other marine products such as shrimp, prawn, cuttlefish, squid, crab, lobster etc.'.
- (ii) The 'producers' of fish or fish products for the purpose of rule 6DD(e) would include, besides the fishermen, any headman of fishermen, who sorts the catch of fish brought by fishermen from the sea, at the sea shore itself and then sells the fish or fish products to traders, exporters etc.

However, the above exception will not be available on the payment for the purchase of fish or fish products from a person who is not proved to be a 'producer' of these goods and is only a trader, broker or any other middleman, by whatever name called.

3. Circular No.11/2008 dated 19.12.2008

Exemption under section 11 in case of an assessee claiming both to be a charitable institution as well as a mutual organisation

Section 2(15) defines charitable purpose to include the following:-

- (i) Relief of the poor
- (ii) Education
- (iii) Medical relief, and
- (iv) the advancement of any other object of general public utility.

An entity with a charitable object of the above nature was eligible for exemption from tax under section 11 or alternatively under section 10(23C) of the Act. However, it was seen that a number of entities who were engaged in commercial activities were also claiming exemption on the ground that such activities were for the advancement of objects of general public utility in terms of the fourth limb of the definition of charitable purpose. Therefore, section 2(15) was amended vide Finance Act, 2008 by adding a proviso which states that the advancement of any other object of general public utility shall not be a charitable purpose if it involves the carrying on of -

- (a) any activity in the nature of trade, commerce or business; or
- (b) any activity of rendering any service in relation to any trade, commerce or business; for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention of the income from such activity.

The following implications arise from this amendment -

- (1) The newly inserted proviso to section 2(15) will not apply in respect of the first three limbs of section 2(15), i.e., relief of the poor, education or medical relief. Consequently, where the purpose of a trust or institution is relief of the poor, education or medical relief, it will constitute charitable purpose even if it incidentally involves the carrying on of commercial activities.
- (2) Relief of the poor encompasses a wide range of objects for the welfare of the economically and socially disadvantaged or needy. It will, therefore, include within its ambit purposes such as relief to destitute, orphans or the handicapped, disadvantaged women or children, small and marginal farmers, indigent artisans or senior citizens in need of aid. Entities who have these objects will continue to be eligible for exemption even if they incidentally carry on a commercial activity, subject, however, to the conditions stipulated under section 11(4A) or the seventh proviso to section 10(23C) which are that -

- (i) the business should be incidental to the attainment of the objectives of the entity, and
- (ii) separate books of account should be maintained in respect of such business.

Similarly, entities whose object is education or medical relief would also continue to be eligible for exemption as charitable institutions even if they incidentally carry on a commercial activity subject to the conditions mentioned above.

The newly inserted proviso to section 2(15) will apply only to entities whose purpose is advancement of any other object of general public utility i.e. the fourth limb of the definition of charitable purpose contained in section 2(15). Hence, such entities will not be eligible for exemption under section 11 or under section 10(23C) of the Act if they carry on commercial activities. Whether such an entity is carrying on an activity in the nature of trade, commerce or business is a question of fact which will be decided based on the nature, scope, extent and frequency of the activity.

There are industry and trade associations who claim exemption from tax u/s 11 on the ground that their objects are for charitable purpose as these are covered under any other object of general public utility. Under the principle of mutuality, if trading takes place between persons who are associated together and contribute to a common fund for the financing of some venture or object and in this respect have no dealings or relations with any outside body, then any surplus returned to the persons forming such association is not chargeable to tax. In such cases, there must be complete identity between the contributors and the participants.

Therefore, where industry or trade associations claim both to be charitable institutions as well as mutual organizations and their activities are restricted to contributions from and participation of only their members, these would not fall under the purview of the proviso to section 2(15) owing to the principle of mutuality. However, if such organizations have dealings with non-members, their claim to be charitable organizations would now be governed by the additional conditions stipulated in the proviso to section 2(15).

In the final analysis, however, whether the assessee has for its object the advancement of any other object of general public utility is a question of fact. If such assessee is engaged in any activity in the nature of trade, commerce or business or renders any service in relation to trade, commerce or business, it would not be entitled to claim that its object is charitable purpose. In such a case, the object of general public utility will be only a mask or a device to hide the true purpose which is trade, commerce or business or the rendering of any service in relation to trade, commerce or business. Each case would, therefore, be decided on its own facts and no generalization is possible.

## II NOTIFICATIONS

### 1. Notification No. 86/2008 dated 13.8.2008

The Central Government has, vide notification no.86/2008 dated 13.8.2008 specified the cost inflation index for the financial year 2008-09. The CII for F.Y. 2008-09 is 582.

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

2. Notification No.97/2008 dated 10.10.2008

Rule 6DD of the Income-tax Rules has been substituted. This Rule now provides for

cases and circumstances in which a payment or aggregate of payments exceeding twenty thousand rupees may be made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft.

As per this rule, no disallowance under sub-section (3) of section 40A shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3A) of section 40A where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees in the cases and circumstances specified hereunder, namely:

- (a) where the payment is made to -
  - (i) the Reserve Bank of India or any banking company;
  - (ii) the State Bank of India or any subsidiary bank;
  - (iii) any co-operative bank or land mortgage bank;
  - (iv) any primary agricultural credit society or any primary credit society;
  - (v) the Life Insurance Corporation of India;
- (b) where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;
- (c) where the payment is made by -
  - (i) any letter of credit arrangements through a bank;
  - (ii) a mail or telegraphic transfer through a bank;
  - (iii) a book adjustment from any account in a bank to any other account in that or any other bank;
  - (iv) a bill of exchange made payable only to a bank;
  - (v) the use of electronic clearing system through a bank account;
  - (vi) a credit card;
  - (vii) a debit card.
- (d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;
- (e) where the payment is made for the purchase of -
  - (i) agricultural or forest produce; or
  - (ii) the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or
  - (iii) fish or fish products; or
  - (iv) the products of horticulture or apiculture,  
to the cultivator, grower or producer of such articles, produce or products;

- (f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;
- (g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;
- (h) where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed fifty thousand rupees;
- (i) where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee -
  - (i) is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and
  - (ii) does not maintain any account in any bank at such place or ship;
- (j) where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;
- (k) where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;
- (l) where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

4. Notification No. 3/2009 dated 5.1.2009

Clause (xv) of section 80C(2) provides that the subscription to any such deposit scheme of the National Housing Bank as the Central Government may notify in this behalf would qualify for deduction under section 80C. Accordingly, in exercise of the powers conferred in section 80C(2)(xv), the Central Government has specified the National Housing Bank (Tax Saving) Term Deposit Scheme, 2008, the subscription to which would qualify for deduction under section 80C.

5. Notification No. 9/2009 dated 7.1.2009

Section 10(15)(iv)(h) exempts interest payable by any public sector company in respect of such bonds or debentures specified by the Central Government by notification in the Official Gazette. The notification would also specify the conditions subject to which the exemption would be available. Accordingly, in exercise of the powers conferred in section 10(15)(iv)(h), the Central Government has specified the issue of tax free bonds by India Infrastructure Finance Company Limited during the financial year 2008-09, the interest on which would be exempt under the said section. Further, it has been provided

that such benefit shall be admissible only if the holder of such bonds registers his or her name and the holding with the said Corporation.

6. Notification No. 37/2009 dated 21.4.2009

The CBDT has, through Notification No.10/2009 dated 19.1.09, notified the Income-tax (Third Amendment) Rules, 2009 which came into force from 1.4.2009. This notification had inserted "new commercial vehicles acquired on or after 1.1.2009 but before 1.4.2009 and put to use before 1.4.2009 for the purposes of business or profession" under the head MACHINERY AND PLANT, which would be eligible for depreciation at the rate of 50%.

Subsequently, the CBDT has, through this notification notified that the benefit of increased depreciation of 50% on commercial vehicles be extended to such vehicles acquired and put to use before 1<sup>st</sup> October 2009. Therefore, the commercial vehicles acquired on or after 1.1.2009 but before 1.10.2009 and put to use before 1.10.2009 will be eligible for depreciation at the rate of 50%.