



# The Chartered Accountant Student

Price Rs 50

The Institute of Chartered Accountants of India  
(Set up by an Act of Parliament)

Your Monthly Guide to the CA News, Information & Events

STUDENTS' JOURNAL

September 2010 Vol SJ1 Issue 9 Pages 36



## *Taxation Reforms - Marching Towards Simplification*



## President's Communication

Dear Students,

I on behalf of our Institute felicitate and convey my heartiest greetings to the teaching fraternity on the auspicious occasion of Teachers' Day

which is observed every year on 5<sup>th</sup> September to commemorate the birthday of the former President of India late Dr *Sarvepalli Radhakrishnan*, a philosopher and a teacher par excellence. No other personality can have an influence more insightful than that of a teacher. Teachers mould their students to bring out their latent skills and impart quality education to prepare good citizens for the nation. I do hope that under the able guidance and parental shadow of your respective Principal who is imparting practical training as a *Guru*, you will be successful in carving a niche in the realm of accounting profession.

Being a teacher myself for more than two decades, I am very much concerned about your overall development and professional growth. I can easily understand and realize your practical problems. We at the Institute are striving hard to solve all such problems. Hence, recently the Council of the Institute has decided to modify eligibility criteria applicable to different stream of students for appearing in the Final Examination to be held in November, 2010 examination and onwards. Uniformly all the students of PE-II Course irrespective of their switching over from PCC or to PCC and then to

IPCC or to IPCC can take up their Final Examination during the last 12 months of their articulated training. PCC students are also allowed to take up their Final Examination during the last 6 months of their articulated training. Moreover, in order to mitigate the hardship faced by PE-II students and bring uniformity among all the streams at the Intermediate level, the Council decided to allow PE-II students to commence their articulated training on passing either of the groups in PE-II Examination.

Our Council has also decided to provide exemption/relaxation to the students who have switched over from Intermediate/PE-II to IPCC from undergoing 35 hours Orientation Programme and such students are allowed to complete ITT before commencing articulated training or at the time of Final examination. Further, the Council has allowed PCC students to submit proof of Information Technology Training (ITT) completion certificate before the declaration of the result of the relevant examination. I advise you to log on to our Institute's website for the detailed information in this regard and hope that your *Planning, Persistent hard work, Positive attitude* and *Perseverance* will lead you to the pinnacle of success.

With Best Wishes

Yours sincerely,

**CA. Amarjit Chopra**

President, ICAI, New Delhi



## Vice-president's Communication

Dear Students,

At the outset, I extend my best wishes to all the *Gurus* on the idyllic occasion of Teachers' Day. The role of a teacher in any society is both noteworthy and

valuable. Having a teacher to guide us is precious. The teachers are the role models for the students as they try to follow them in their manners, costumes, etiquette and style of conversation. Teachers are considered architects for building the future of their students.

In the Accounting Profession, the role of our principal is very pivotal. The practical training serves as the launching platform to unfold the horizons of a successful professional career. Being a well groomed and disciplined student of Chartered Accountancy Course, it is the utmost responsibility of our students to follow the code of conduct while learning the nitty-gritty of the professional skills under the masterly and able guidance of their respective *Principals*.

Undoubtedly, *Guru* represents the radiance of information and knowledge that dispels our professional ignorance. In order to be a truly global professional of high order and rank, you need to uphold high ethical standard and discharge your professional duties with

diligence. As a CA professional you should always keep yourself adhere with the core principles of our enduring profession viz. Integrity, Objectivity, Independence, Confidentiality, Technical Standard, Professional Competence and Ethical Behavior. I hope that by following these principles candidly and earnestly, you can reach to the acme of success in your professional endeavors.

The Chartered Accountants play a very vital role in the society promoting reliable and transparent information both in the public and private domain. Being a responsible Accounting Professional, we can contribute for the betterment of the world around us by fostering a value based ethical professional environment. You have to be very agile, active and aware about latest happenings and keep your knowledge update. At the time of campus recruitment, organizations look forward for the candidates who are not only intelligent but also smart as well. Hone your communication skills and develop positive attitude to emerge as a successful professional.

*Wishing you all the best for a wonderful time ahead*

Yours sincerely,

**CA. G. Ramaswamy**

Vice-President, ICAI, New Delhi



## Message From The Chairman, Board of Studies

### EXAMINATION TIPS

#### Dear Students,

The examination system of the Institute is one of the best systems in India and it has maintained very high standards of **integrity, confidentiality and creditability** over the years. It seeks to test the multifaceted knowledge which a chartered accountant is expected to possess. To achieve success **you have to approach the examination with a positive attitude**. I am sure you would have already started your preparations for the November examination with some plans. Here, I have penned down the strategy to clear the examinations based on my experience of so many years which may be of help to you:

- **Read Study Material thoroughly:** The study materials would help you to develop a strong conceptual base. They give you the parameters within which you have to study. Make it a habit of going through them thoroughly as these will enable you to understand the basic concepts of the subjects and develop your ability in understanding the different concepts and their applications. Apart from the study material, **do refer to at least one standard text book** and solve all the illustrations and problems therein. This will further build your conceptual clarity of a particular subject and strengthen your problem solving skills.
  - **Practice and Practice:** Practice makes a man perfect. Therefore, I suggest that you practice as much as possible. Here I would like to mention that many students start practising from various books without **first understanding the subject and the concepts involved**. This approach is absolutely wrong. You need to first make your base, understand the concepts and then start practising.
  - The following **publications** brought out by the Institute will be of a great help:
    - The Practice Manual for each subject
    - Suggested Answers, Compilations
    - Revisionary Test Papers for last few attempts
- The more you practice, the better engraved will be concepts in your mind.
- **Don't indulge in Selective Studies:** No portion of the syllabus is less important and leaving any portion could be fatal
  - **Stay Focussed:**
    - Make goals: long term, medium term and short term and stick to them
    - Make a time table depending upon your aptitude and the time available
    - Keep regular hours of study
    - Do not spent time on making notes
    - Cut out disturbing factors like television, internet, mobile phones etc.
    - Take short breaks after each hour of study
  - **Revise and Review:** It is important to study the reading material at least 3 to 4 times. This would include:

- **First reading:** This will be more like **Novel reading** to gain overview
- **Second Reading:** This will be in depth study where concepts emerge
- **Third Reading:** This will be very intensive reading to fully understand the concept and to underline important points to be revised on exam day i.e. **Fourth reading**
- **Take Practical Training seriously:** Many a students take practical training to be a burdensome job. Practical knowledge is a must for success in exam
- **Visit Institute's Website:** Make it a habit of visiting The ICAI's website. It contains all the educational inputs of the Board of Studies like latest study materials, suggested answers, RTPs, supplementary study materials, notifications etc. It also contains announcements like relevant list of publications, Accounting Standards and Standards on Auditing etc. applicable for the examination.
- **Refer the Chartered Accountant Students' Journal and other publications:** The Students' Journal is another form of disseminating important information for your benefit. It provides quality articles and academic updates that will help you in your professional learning. You can also send in your articles for publishing in the journal.
- **Presentation:** It is not only necessary that you prepare well, it is equally essential that you present your answers well. For this following points are important:
  - Relax before the exam. Your mind thinks well when it is in a relaxed state.
  - Attempt those questions first which you are confident about.
  - Budget your time wisely. At least 15 minutes should be spent on reading the question paper thoroughly and 15 minutes should be kept in reserve for revision.
  - Give working notes to each practical question properly.
  - Give your assumptions wherever you feel necessary.
  - Give to the point answers and do not indulge in unnecessary details.
  - While answering questions involving application of law/standards etc, briefly state the facts, the legal position, your analysis backed up with case laws, if any and your conclusion.
  - Write legibly; avoid spelling mistakes and grammatical errors.

I am sure that the above points will help you in clearing the forthcoming examination with flying colours. Just keep a positive attitude and keep your cool and conquer the world!

Wishing you all the best in all your pursuits of life!

Yours sincerely,

CA. Vinod Jain

Email : chairmanbos@icai.org

**Availability of Merit, Merit-cum-Need, Need Based and Weaker Sections and Endowment Scholarship w.e.f. 1<sup>st</sup> October, 2010**

Sl. No.	Name of Scholarship	No. of Scholarship	Amount (p.m.)	Eligibility
1.	Merit	30	1,250	Students whose names appear at Sl. No. 1- 10 of Merit lists of CPT/ IPCC/PCC/ PE – II of May/June 2010 Exam.
2.	Merit – cum – Need	30	1,250	Rank holders of CPT/IPCC/PCC/ PE – II May/June 2010 Exam.
3.	Need Based and Weaker Sections	50	1,000	Students of PCC/IPCC/Final
4.	Sri Dhanraj Kanhaiyalal Dudheria Scholarship	7	1000	Students of IPCC/Final of Karnataka State
5.	Shorilal Kapoor Memorial Scholarship	1	500	Non-Commerce Students of IPCC from Maharashtra State
6.	G. D. Salarpuria Foundation Scholarship	1	500	Students of IPCC/Final Preferably for SC/ST Students
7.	Rukmani Devi Banarsilal Satnaliwala Seva Trust Shlolarship	1	500	Students of IPCC/Final
8.	Pallonji N Mehta Scholarship	1	500	Students of IPCC/Final of Western Region
9.	R. K. Khanna Memorial Scholarship	3	300	Students of PCC/IPCC/Final
10.	V. Suundararajan Memorial Scholarship	1	300	Students of Final Course of Chennai
11.	Chandu Lal Kapuri Devi Charitable Trust Scholarship	1	300	Students of IPCC/Final
12.	Satish Khanna Memorial Scholarship	1	300	Students of IPCC/ Final
13.	P. S. Krishnan Scholarship	1	300	Students of PCC/IPCC/Final of Southern Region
14.	J.S. Lodha Memorial Scholarship	1	300	Students of PCC/IPCC/Final

**Notes:**

1. The total annual income of parents/guardians should not exceed Rs. 1, 50,000 for students applying for Merit-cum-Need Scholarship and Rs. 1,00,000 for students applying for Need-based and Weaker Sections/Endowment Scholarships.
2. Applicants for grant of above scholarships should be registered students of PCC/IPCC or FINAL. Students of PCC/IPCC and Final Course will be paid scholarship for a maximum period of 18 and 30 months respectively or balance period of their articleship.
3. For students under SC/ ST/ OBC category, an additional amount of Rs. 100/- p.m. will be paid under Need-based and Weaker Section category of scholarship.
4. Two scholarships are reserved for physically handicapped students under Need Based and Weaker Section category.

The duly completed scholarship application in the prescribed Form No. 3 should reach the Director (BOS), The Institute of Chartered Accountants of India, ICAI Bhawan, A – 29, Sector – 62, Noida – 201301 latest by 30<sup>th</sup> September, 2010. Application form can be downloaded from the Institute web site [www.icai.org](http://www.icai.org).



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#### Annual Subscription Rates:

CA Students	:	Rs. 200	Total Circulation:
Members & Others	:	Rs. 500	2,06,900
Overseas	:	US \$ 100	

**Check your Address** : All students should check their mailing address printed on back cover. In case, there is any change or the PIN Code (Postal Index Code) is either missing or incorrect, kindly inform immediately the concerned Regional Office giving full particulars of your address along with correct PIN Code. This would enable us to ensure smooth and prompt delivery of the Journal.

**Editor:** CA. Vinod Jain

**Printed and published by** Shri Vijay Kapur, on behalf of The Institute of Chartered Accountants of India, New Delhi. **Published at the Institute's Office at Indraprastha Marg, New Delhi and printed at International Print-O-Pac Ltd., B-204, 205, Okhla Industrial Area, Phase-1, New Delhi.**

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# Revised Discussion Paper on Direct Taxes Code: Background and Effects

\*CA. Priya Subramanian

It is rightly said that “*Ignorantia juris non excusat*” i.e. ignorance is not an excuse for failure to comply with the law. Thus, no one can avoid or circumvent law on the plea of ignorance. Likewise, the complex language of the legislation cannot also be an excuse for non-compliance under law. However, in actual practice, there can be no doubt that interpreting and understanding the Income-tax Act, 1961, the complex language of its sections and innumerable provisos is highly cumbersome. Further, for proper appreciation of the income-tax law, inter-linking and combined reading of sections along with the relevant rules is an essential pre-requisite, which is, undoubtedly, an onerous task. This complexity is observed universally and is not restricted to the Indian income-tax law alone. No wonder that even Albert Einstein, the renowned Physicist, admitted “*The hardest thing in the world to understand is the income-tax*”.

Simplification of law is, therefore, of utmost importance, and it is very imperative that the language of law must be comprehensible on a plain reading. It is with this primary aim that the Direct Taxes Code Bill, 2009 was released last year. While this objective of the Direct Taxes Code (DTC) is commendable, the problem, however, lies in some of the controversial changes proposed in the basic concepts, like the presumptions being drawn against a taxpayer with regard to intimation and notice, shifting of burden of proof to the tax payer, introduction of General Anti Avoidance Rules (GAAR) giving unrestricted and sweeping powers to those in charge of tax administration etc. These proposals would result in gross inequity, which can never be the aim and intent of a well formulated statute.

Reverting to the objective of simplification, the degree to which the same can be achieved by introduction of DTC depends on the manner and the extent to which effect is given to the opinions of the various classes of assesseees, chambers of

commerce and the public at large. Therefore, bringing out a Revised Discussion Paper (RDP) on DTC on 15th June, 2010 in response to the suggestions received from different quarters, including the general public, is a step in the right direction. The RDP addresses the major issues on which various stakeholders have given their views. Some of the critical changes proposed in the DTC have been reversed, at least partially, in the RDP, for example, restoration of MAT on book profits as against MAT on gross value of assets proposed in the DTC, continuation of EEE on specified savings instruments as against the earlier proposal of EET on all instruments, restoration of exemption limits on terminal benefits like gratuity, voluntary retirement compensation, application of domestic law or DTAA, whichever is more beneficial rather than whichever is later, levy of wealth tax only on specified “unproductive assets” etc. An overview of these proposals and their probable effects follow in the ensuing paragraphs.

## Restoration of MAT on book profits

The DTC had proposed an asset-based calculation of MAT. Though this was a good way to encourage optimal utilisation of assets, there was a possibility of some companies showing reduced value of assets in their books of accounts to pay a lower tax. Thus, the asset-based calculation of MAT may have thrown open a new avenue for tax evasion. Further, the proposed MAT levy may have resulted in discouraging investments in highly geared projects or projects with long gestation periods. In order to avoid such practical difficulties and unintended consequences when MAT is computed on the basis of gross value of assets, the RDP proposes to continue MAT computation with reference to book profit. The RDP, however, does not provide for carry forward of credit for MAT paid on book profits nor does it specify the rate of

*\*The author is Sr. Assistant Director, ICAI*

MAT or the manner of computation of book profit. Only when these issues are clarified, the overall effect can be determined.

#### **EEE to continue on select savings instruments**

The EEE method of taxation is proposed to be restored on specified savings instruments keeping in mind the difficulties that could arise on account of implementation of EET in the absence of a social security system in place. The EEE method of taxation would continue for Government Provident Fund (GPF), Public Provident Fund (PPF) and Recognised Provident Funds (RPFs) and the pension scheme administered by Pension Fund Regulatory and Development Authority. Approved pure life insurance products and annuity schemes will also be subject to EEE method of tax treatment. Further, it is proposed to continue EEE for the full period of the investments in all eligible savings instruments made before the date of implementation of the Code, in line with the principle of promissory estoppel. It is indeed a relief that these exceptions have been provided, so that a person can avoid undue tax burden during his old age by investing in instruments which are covered under EEE.

However, all other instruments would be subject to EET method of tax treatment. EET need not necessarily be viewed as a negative proposal in toto. One of the positive aspects of EET is that it is expected to bring in awareness to make investments with a purpose of creating wealth and not merely to save tax. Under EEE regime, tax considerations assume undue importance in financial planning, which may adversely affect the overall return on investment. For instance, sometimes, money is borrowed at higher rates to invest in tax saving instruments. In some cases, housing loans have been taken without considering the potential income that the property could generate. The transition to EET, albeit partially, may lessen such practices.

#### **Exemption limits on retirement benefits restored**

The proposal to introduce Retirement Benefits Account Scheme is now being dropped. Employer's contribution to an approved provident fund, superannuation fund and New Pension Scheme within the limits prescribed shall not be considered as salary in the hands of the employee. Further, retirement benefits like gratuity, VRS compensation, commuted pension and leave encashment received by an employee at the time of superannuation will be exempt subject to specified monetary limits.

However, no exemption has been proposed for leave travel concession and house rent allowance. These areas also deserve some relaxation in the form of partial or complete exemption. Further, no standard deduction is proposed to be introduced, thereby the gross salary will continue to be taxed.

#### **Taxation of "real" income from house property**

Taxation of notional rent is proposed to be done away with and consequently, if a house is kept vacant, notional rent from such property would not be subject to tax. Gross rent will be nil in case of a house property which is not let out. However, this proposal might have the effect of encouraging people to keep their houses vacant instead of letting them out, thereby leading to a situation of non-availability of houses for occupation.

In case of let-out house property, the gross rent will be the amount of rent received or receivable for the financial year. Gross rent will not be computed at a presumptive rate of 6% of the ratable value or cost of construction/acquisition, as originally proposed in the DTC. This amendment in the RDP has rectified the inequity which would have otherwise been created between newly constructed houses (for which the cost would be high) and the houses constructed earlier at a lower cost.

The RDP has also restored the deduction on account of interest on capital borrowed for acquisition or construction of such house property (subject to a limit of Rs.1.5 lakh) in case of any one house property, which has not been let out, of an individual or HUF. However, such deduction would now be allowed from the gross total income and not as a deduction under the head "Income from house property".

These are welcome proposals as income from house property would now be based on real income, i.e., based on a person's ability to pay, rather than notional income. Further, the restoration of exemption for interest would help in giving a fillip to the real estate industry.

#### **Capital gains taxation scheme revamped**

In the DTC, it was proposed to abolish STT and remove exemption in respect of LTCG on sale of listed equity shares or units of an equity oriented mutual fund. The entire scheme of taxation of capital gains has been revamped in the RDP.

The RDP proposes to compute capital gains arising from transfer of an investment asset, being equity shares of a company listed on a recognized stock exchange or units of an equity oriented fund, which are held for more than one year from the end of the financial year in which they are

acquired, after allowing a deduction at a specified percentage of capital gains without any indexation. Also, the proposal in the DTC to abolish STT is being dropped. STT is proposed to be calibrated based on the revised taxation regime for capital gains and flow of funds to the capital market.

The RDP, however, does not specify the exact percentage of deduction or the rates of STT, in the absence of which it is not possible to determine the impact of the proposal.

For taxation of capital gains arising from transfer of investment assets held for more than one year (other than listed equity shares or units of equity oriented funds), the base date for determining the cost of acquisition is proposed to be shifted from 1.4.1981 to 1.4.2000. The capital gains will be computed after allowing indexation on this raised base. The proposal to introduce Capital Gains Savings Scheme on EET basis for capital gains arising on assets sold after holding for more than one year has now been dropped. Indexation is, therefore, the only benefit available in respect of such long term capital gains.

It has been clarified that the income of Foreign Institutional Investors (FIIs) from purchase and sale of securities would be chargeable as capital gains to eliminate litigation regarding whether the same is to be taxed as business income or capital gains. Further, the capital gains of FIIs would not be subject to TDS and the FIIs would be required to pay advance tax in line with the current practice.

### **Tax treatment of NPOs clarified**

The RDP has clarified the tax treatment of NPOs, including public religious trusts and partly charitable and partly religious trusts. Public religious trusts would be exempt if they satisfy certain conditions. One such condition is the application of the funds entirely for public religious purposes. It is not clear whether public religious purposes would encompass public charitable purposes also, since it might be practically difficult to apply the entire funds for purely religious purposes.

Partly religious and partly charitable institutions will also be considered as NPOs, if they are registered under the Code. Exemption would be available in respect of their income from public religious activity, provided they fulfill all the conditions stipulated for public religious trusts. In addition, separate books of account and separate financial statements should be maintained in respect of religious and charitable activities. Further, the trust deed/memorandum of the institution should contain a clause

specifying the application of its gross receipts in a pre-determined ratio between charitable and religious activities. This condition deserves some relaxation since it would not be practically possible to pre-determine the ratio for application of gross receipts between charitable and religious purposes.

The RDP also proposes to retain the phrase “charitable purpose” instead of “permitted welfare activity” as originally proposed, for the purpose of maintaining continuity and minimizing litigation. In the DTC, it was proposed that there would be no exemption for accumulation of income and deduction will be available only for application during the financial year. It is now proposed in the RDP that 15% of the surplus or 10% of gross receipts, whichever is higher, can be carried forward to be used within three years from the end of the relevant financial year. The RDP also proposes a basic exemption limit, and only the surplus in excess of such limit would be subject to tax@15%. These proposals have been introduced to provide the necessary relaxation for NPOs.

### **Exemption to existing SEZ units for the unexpired period under the Code**

The scope and the period of profit linked deductions are not proposed to be extended, since they have the effect of transferring profits from a taxable entity to a non-taxable entity. However, under the DTC, there are specific provisions for protecting such deduction for the unexpired period in the case of SEZ developers. The RDP, therefore, proposes a similar provision to protect profit linked deductions of units already operating in SEZs for the unexpired period. The problem which needs to be sorted out is the non-availability of benefit under the Code in respect of units which become operational after the date of implementation of the Code.

### **“Place of effective management” to determine the residential status of a company incorporated outside India**

Under the DTC, a foreign company will be treated as resident in India if, at any time in the financial year, the control and management of its affairs is situated “wholly or partly” in India (as against the requirement of being situated wholly in India under the present Income-tax Act, 1961).

This requirement has been modified in the RDP, taking into consideration the plethora of suggestions on this issue. The RDP now proposes that a company incorporated outside India will be treated as resident in India if its “place of effective management” is situated in India.

“Place of effective management of the company” means-

- (i) the place where the board of directors of the company or its executive directors, as the case may be, make their decisions; or
- (ii) in a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions.”

However, these criteria for determining residential status would also lead to extensive litigation, especially on account of clause (ii) of the definition. It may not be rational to consider the place where the officers of the company perform their functions as the place of effective management of the company. Controlled Foreign Corporation (CFC) provisions are also proposed to be introduced, as an anti-avoidance measure, to provide that the passive income, earned by a foreign company controlled directly or indirectly by a resident in India, which is not distributed to shareholders would be deemed to have been distributed. Accordingly, it would be taxable in India in the hands of resident shareholders as dividend received from the foreign company.

It is very crucial to introduce safe harbor rules for non-applicability of CFC provisions, if certain parameters are fulfilled, like, for instance, if passive income is within a certain percentage of total income, or a certain percentage of passive income is distributed.

#### **DTAA or Domestic Law, whichever is more beneficial, to apply**

Under the DTC, it was proposed that in case of a conflict between the provisions of a treaty and the provisions of the Code, the one that is later in point of time shall prevail. However, this provision was not in consonance with the principles enunciated by OECD and the Vienna convention. This would have also significantly increased the uncertainties faced by foreign investors in India.

The RDP, therefore, clarifies that the domestic law or the DTAA, whichever is more beneficial to the taxpayer, shall prevail. However, DTAA will not have preferential status over the domestic law when the GAAR or CFC provisions are invoked or when Branch Profits Tax is levied.

#### **Restoration of scheme of wealth-tax in line with the Wealth-tax Act, 1957**

The scheme of taxation of wealth, as proposed in the DTC, has been modified in the RDP and wealth-tax is proposed to be levied largely on the same lines as

provided in the Wealth-tax Act, 1957. Consequently, wealth-tax would be leviable only on specified “unproductive assets”. All taxpayers except non-profit organizations would be subject to wealth-tax.

Here again, the threshold limit and rate of tax have not been specified, making it difficult to determine the impact of the proposed change.

#### **Safeguards for invoking GAAR proposed**

As per the proposed GAAR provisions, every arrangement for tax mitigation would not be liable to be categorised as an impermissible avoidance arrangement. The GAAR provisions would be attracted only in a case where an arrangement, apart from obtaining a tax benefit for the assessee, also falls within the ambit of any one of the four conditions i.e. it is not at arm’s length or it represents misuse or abuse of the provisions of the Code or it lacks commercial substance or it is entered or carried on in a manner not normally employed for bona-fide business purposes.

The RDP proposes certain safeguards for invoking GAAR provisions, namely, the issuance of guidelines by CBDT providing for the circumstances for invoking GAAR, the specification of a threshold limit, above which alone GAAR provisions will be invoked and the availability of the forum of Dispute Resolution Panel (DRP) when GAAR provisions are invoked. However, the threshold limit has not been specified in the RDP. The threshold limit for invoking GAAR should be fixed at a high level so that inconsequential transactions and small assessee are not subject to rigors of GAAR. Also, the onus of proving that an arrangement has been made with an intention of obtaining tax benefit should be on the revenue authorities invoking GAAR provisions.

#### **Balancing the twin objectives of Simplicity and Equity – An essential prerequisite**

There are several other critical issues concerning penalty, prosecution, service of notice, revision of other orders, determination of arm’s length price, search and seizure, survey, branch profits tax, etc., arising out of the provisions of the Code, which have not been dealt with in the RDP. However, it has been specifically mentioned in the RDP, that all such issues will be considered while finalizing the Bill for introduction in Parliament. It is, therefore, hoped that these issues will be resolved to a great extent in the revised Bill to be presented in the Parliament. The Code, in its final form, should strike a fine balance between simplicity and equity. It is very important that the principle of equity does not take a back seat merely for the sake of simplicity.

# Authority for Advance Rulings – AAR

CA. Ruchika Bhatia

In order to provide the facility of ascertaining the income-tax liability of a non-resident, to plan their income-tax affairs well in advance and to avoid long drawn and expensive litigation, a scheme of Advance Rulings has been introduced in Chapter XIX-B of the Income-tax Act, 1961. A non-resident or certain categories of resident can obtain binding rulings from the Authority on question of law or fact arising out of any transaction/proposed transactions which are relevant for the determination of his tax liability.

## Uniqueness of the Indian Authority for Advance Rulings (“AAR”)

- Unlike the AAR’s in other nations where the rulings are given by Revenue Officials, in India the AAR is a quasi-judicial body chaired by a retired judge of the Supreme Court.
- Unlike the rulings of the AAR’s in other nations which are of non binding character, in India the rulings are binding on both the applicant and the income tax authorities.
- The binding nature of the rulings eliminates long drawn out litigation process.

## Composition of the Authority

As per section 245-O, the Central Government shall constitute, an authority for giving advance ruling, which consists of:

- a Chairman, who is a retired Judge of the Supreme Court;
- an officer from the Indian Revenue Service, who is qualified to be a member of CBDT;
- an officer of the Indian Legal Service, who is qualified to be an Additional Secretary to the Government of India.

**The advance ruling can be sought on any question of law or fact specified in the application in relation to a transaction which has been undertaken, or is proposed to be undertaken, by the non-resident applicant.**

## Who can seek Advance Ruling [Section 245N(b)]

1. Non-resident applicants: Any non-resident person, whether individual, company, firm, association of persons or other body corporates, can make an application for seeking an advance ruling in regard to his/its tax liability. The applicant should be a non resident in the year relating to which the advance ruling is sought.
2. Resident applicants: A resident can also make an application, in relation to a transaction which has been undertaken or is proposed to be undertaken by him with a Non-resident applicant, on any question of law or fact specified in the application.
3. Specified Category of resident applicants: A resident falling within notified categories [Public Sector undertakings (PSU)] may seek determination or decision by the Authority in respect of an issue relating to computation of total income which is pending before any Income-tax Authority or the

Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or fact relating to such computation of total income except determination of Fair Market Value of any property. A PSU, however, before the application is admitted under section 245(2) have to obtain the clearance from the Committee on Disputes (COD).

## Questions on which Advance Ruling can be sought

The advance ruling can be sought on any question of law or fact specified in the application in relation to a transaction which has been undertaken, or is proposed to be undertaken, by the non-resident applicant.

*The contributor is Executive Officer, ICAI*

**Important cases****1. Monte Harris v. CIT (1996) 218 ITR 413 (AAR)**

The applicant, is a citizen of the USA, employed in India by Verifone India Private Limited. The applicant has been in employment in India since April 1, 1994, with Verifone India Private Limited, making him a resident for the year 1994-1995 as per section 6(1) of the Act. Section 245N stipulates that only a non-resident can make an application to the AAR.

The Authority for Advance Ruling held that the term “previous year” must be construed as the year preceding the financial year and not the assessment year. In the present case, though the applicant is resident in India in the financial year 1994-95 during which the application has been made, he was non-resident in India during the immediately preceding financial year, i.e., 1993-94. The application is, therefore, maintainable.

**2. Meenu Sahi Mamik (2006) 287 ITR 514 (AAR)**

The applicant, a resident of Netherlands, wants to establish a manufacturing unit for formulation of pharmaceuticals in partnership with her husband, in the State of Himachal Pradesh. ‘B’, a resident company would like to outsource production to the proposed manufacturing unit. The applicant sought ruling of the Authority on the question of exemption under section 80-IC, with regard to direct business procured by it, and processing charges.

The Authority for Advance Ruling held that since *de facto* control and management of the firm would be with the applicant’s husband in India, the firm could not be said to be a non-resident entity. The application was held to be not maintainable.

**3. Dell International Services India Pvt. Ltd. (2008) 305 ITR 37(AAR)**

Indian company making payment to a foreign company seeking ruling on the question of TDS to be made.

**4. McLeod Russel India Ltd (2008) 299 ITR 79 (AAR)**

Indian company purchasing shares from foreign company can apply for ruling regarding tax liability of the foreign company on capital gains on such transaction under section 245N(b)(ii).

**Questions precluded from Advance Rulings**

Under section 245N of the Income-tax Act, 1961, certain restrictions have been imposed on the admissibility of application. These restrictions are as follows:

- (a) The Authority cannot allow any application where the question raised is already pending in the applicant’s case before any income tax authority, the Appellate Tribunal, or any court.
- (b) The Authority may not entertain questions relating to the determination of fair market value of any property, movable or immovable or
- (c) The Authority will not allow any application if it relates to a transaction designed *prima facie* for the avoidance of income tax

**Important cases****1. Mustaq Ahmed (2007) 293 ITR 530 (AAR)**

The applicant made a claim for exemption under the provisions of the Act for the first time in the revised return subsequent to filing of the application before AAR seeking ruling on issue of said claim for exemption.

The Authority for Advance ruling held that in order to decide whether the question raised in application is already pending before the income-tax Authority crucial point of time to be taken into account is date on which the application was filed before the AAR and it is on that date, that factual position as regards the pendency of question has to be decided. The application filed after original return but before revised return cannot be construed to be a design for avoidance of income-tax, so as to reject the application under section 245R(2).

**2. Airport Authority of India (2008) 299 ITR 102 (AAR)**

The applicant sought advance ruling in respect of its obligation to deduct tax under section 195 in connection with contracts entered into by it with a US based company called Raytheon Company. However, the question of Raytheon Company’s liability to pay income tax in India was already pending before the income-tax appellate authority. The applicant argued that it was Raytheon Company’s liability under the provisions of the Act, read with DTAA entered into between India and US that was under consideration with the appellate authority and not the question of tax deduction at source specifically.

The Authority for Advance Ruling held that

while the issues were inter-related they were not identical, the application was maintainable.

### 3. **Instrumentarium Corporation, (2005) 272 ITR 499 (AAR)**

The applicant was a tax resident of Finland and had a fully owned Indian subsidiary, to whom it granted interest free loan. It sought ruling from the AAR on the applicability of sections 92 to 92F of the Act with respect to the said transaction.

The Authority Advance Ruling rejected the application under section 245R(2) as the question raised involved determination of fair market value (arm's length price).

#### **Application for Advance Ruling**

1. The applicant may seek advance ruling by making an application to the Authority in the prescribed form (in quadruplicate)
  - Form No. 34C – Applicable for a non-resident applicant
  - Form No. 34D-Applicable for a resident having transactions with a non - resident
  - Form No. 34E–Applicable for notified categories of residents (Public Sector Undertakings)
2. The application including the documents annexed thereto shall be signed in the manner indicated in the prescribed form. Where a person signing the application and other documents claims to have been duly authorising to do so, the application must include a power of attorney, authorising him to sign and an affidavit setting out the unavoidable reasons which entitle him to sign it.
3. The application should be accompanied by a fee of Rs. 2,500 (Rupees Two Thousand Five Hundred) through a bank draft drawn in favour of the 'Authority for Advance Rulings' payable at New Delhi.

#### **Procedure on Receipt of Application**

1. On receipt of application, one copy of the application is sent to the jurisdictional Commissioner of Income tax (CIT).
2. The application is rejected only after giving the applicant an opportunity of being heard.
3. The Authority may, after examining the application and the records called for, either allow or reject the application.
4. If no objection to admission application is admitted without formal hearing and date is fixed for hearing on merits Applicant as well

as the CIT are heard either in person or through authorised representative.

5. The proceedings before the Authority are not open to public. Accordingly, only the applicant/authorized representative can remain present during such proceedings.
6. The Applicant cannot urge or be heard in support of any additional question not set forth in the application filed before the AAR.

#### **Applicability of the AAR Ruling**

1. The advance ruling pronounced by the Authority is binding on:
  - the applicant in respect of the transaction in respect of which the ruling had been sought
  - who had sought it
  - On the Commissioner and the revenue authorities subordinate to him, in respect of the applicant who had sought and the transaction in relation to which it had been sought
2. Thus, the pronouncement of AAR is not a *judgement in rem* but a *judgment in personam*.
3. For other transaction and other parties the ruling has a persuasive value.
4. The ruling is binding as long as there is no change in law or facts on the basis of which the advance ruling was pronounced.

#### **Appeal against Advance Ruling**

1. The ruling is binding on the assessee as well as the department.
2. No specific provision for appeal against the Ruling is provided in the Act.
3. However, the applicant/department can invoke the writ jurisdiction of the High Courts under Article 226 and 227 and extraordinary jurisdiction of the Supreme Court under Article 136 of the constitution.

#### **Withdrawal of Application**

As per section 245Q(3) of the Income-tax Act, the applicant may withdraw his application within 30 days from the date of filing the application, thereafter only with the leave of the Authority.

#### **Time limit for pronouncing the ruling**

As per section 245R(6) of the Income-tax Act, the Authority is required to pronounce its advance ruling in writing within six months of the receipt of a valid application.

#### **Significant Issues**

##### **E-Commerce**

1. **Factset Research Systems Inc. (2009) 317 ITR 169 (AAR )**

Whether subscription fees received by a

foreign company from the licensee (customer) for providing database containing financial and economic information of companies worldwide is taxable as royalty? Held

The Authority for Advance Ruling held that the subscription fees received by the applicant from the licensee (user of the database) did not fall within the scope of clause (v) of Explanation 2 to section 9(1)(vi) of the Act dealing with “royalty”.

#### Permanent Establishment

##### 1. *Cal Dive Marine Construction (Mauritius) Ltd. (2009) 315 ITR 334*

Whether permanent establishment exists, where a foreign company renders services through a fixed place of business in India which is maintained only for few days (15 days)?

The AAR held that as per Article 5(2)(i) of Agreement for Avoidance of Double Taxation between India and Mauritius, a construction, installation or assembly project cannot be treated as a permanent establishment unless it continues for a period of more than nine months. Hence, the applicant could not be said to have set up a “permanent establishment” in India.

##### 2. *Cushman and Wakefield (2008) 305 ITR 208*

Whether the referral fee received by the applicant from CWI can be characterized as business income?

Where the non-resident referred potential customers desirous of obtaining real estate consultancy to Indian company and received referral fee on each completed transaction, it was held that referral fees was not business income, royalty or fees for technical services.

##### 3. *Golf in Dubai (2008) 306 ITR 374*

Whether any income arises to a non-resident person from the sponsorship money received for organising a sporting event in India, taxable as business income?

The AAR held that it could not be said that by organizing and conducting golf tournaments in India for a week’s duration without repetition thereof the applicant had carried on business through a fixed place within the meaning of article 5(1).

##### 4. *Pintsch Bamag (2009) 318 ITR 190*

Whether the sub-contractor in India constituted permanent establishment for the foreign company in India.

The AAR held that the sub-contractor was independent and it could not be concluded that the business of the applicant was being carried on through the sub-contractor’s workshop. Therefore, it did not constitute a “permanent establishment.

##### 5. *Invensys Systems Inc USA (2009) 317 ITR 438*

Whether payments under the cost allocation agreement was taxable?

The AAR held that the many or most of the services were clearly managerial in nature; they were not really technical or consultancy services. Hence it would not be taxable as the applicant did not have a permanent establishment in India.

#### Fee for Technical Services/Royalty

##### 1. *Intertek Testing Service (2008) 307 ITR 418*

Whether an Indian company, subsidiary of a UK company providing testing and inspection services to its Indian and group affiliates as per global management services agreement (GMSA) will be taxable?

The AAR held that on a broad analysis the majority of the services catalogued were in the nature of technical or consultancy services, but most of them did not make available to the applicant technical knowledge, experience, skill, know-how, etc., possessed by the provider of the services.

#### Miscellaneous Issues

##### 1. *Geoconsult ZT GmbH (2008) 304 ITR 283*

It was held that where a Joint venture was to provide project consultancy services, then inspite of the fact that work was allotted to the members of the Joint venture and there was separate billing and members had separate bank accounts and each member had borne its own costs and expenses, it would be taxed as Association of persons for the reason that the Joint venture had meeting of minds of members, common design and common purpose.

##### 2. *Hyosung Corporation (2009) 314 ITR 343*

It was held that the foreign company and L&T could not be treated as an “association of persons” as none of the stipulations in the contract gave rise to the formation of an AOP in the matter of the execution of the contract which was a mere collaboration and overall responsibility assumed by the applicant for the successful performance of the project.

## Accounting - Fair Value Measurement

### Joint Podcast on Fair Value Project

The International Accounting Standards Board (IASB) and the Financial Accounting Standards Board (FASB) have posted a podcast to introduce the proposed measurement uncertainty analysis disclosure. The proposal in the IASB's Exposure Draft 'Measurement Uncertainty Analysis Disclosure' for Fair Value Measurements is identical to the proposed measurement uncertainty analysis disclosure in the FASB's Exposure Draft 'Fair Value Measurements and Disclosures'.

### Fair value measurement webinar

A webinar (short term used for web based seminar) on proposed improvements to fair value guidance is available on the IFRS website in the form of US FASB exposure draft. This FASB exposure draft is part of a joint project between the IASB and the FASB that is in progress. The webinar is tailored for a general audience and introduces the US exposure draft 'Fair Value Measurements and Disclosures'.

(Source: [www.ifrs.org](http://www.ifrs.org) and [www.fasb.org](http://www.fasb.org).)

## Finance

### Circular No. CIR/DNPD/ 5 /2010 dated 30-07-2010: Options on USD-INR Spot Rate

This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market. It has now been decided to permit introduction of options on USD-INR spot rate on currency derivatives segment of Stock Exchanges.

### Product Design and Risk Management Framework for Options on USD-INR Spot Rate

1. **Underlying:** US Dollar – Indian Rupee (US\$-INR) spot rate.
2. **Type of Option:** Premium styled European Call and Put Options.
3. **Trading Hours:** 9 a.m. to 5 p.m.
4. **Size of the Contract:** US\$ 1000.
5. **Quotation:** The premium would be quoted in rupee terms. However, the outstanding positions would be in USD terms.
6. **Available Contracts:** Three serial monthly contracts followed by three quarterly contracts of the cycle March/June/September/December.
7. **Strike Price:** Minimum of three in-the-money, three out-of-the-money and one near-the-money strikes would be provided for all available contracts.
8. **Settlement Mechanism:** The contract would be settled in cash in Indian Rupee.
9. **Expiry / Last Trading Day:** The expiry/last

trading day for the options contract would be two working days prior to the last working day of the expiry month.

10. **Settlement Price:** The final settlement price would be the Reserve Bank Reference Rate on the date of expiry of the contracts.
11. **Final Settlement Day:** The options contract would settle on the last working day (excluding Saturdays) of the contract month.
12. **Exercise at Expiry:** On expiry date, all open long in-the-money contracts, on a particular strike of a series, at the close of trading hours would be automatically exercised at the final settlement price and assigned on a random basis to the open short positions of the same strike and series.
13. **Initial Margin:** The Initial Margin requirement would be based on a worst scenario loss of a portfolio of an individual client comprising his positions in options and futures contracts on the same underlying across different maturities and across various scenarios of price and volatility changes.
14. **Extreme Loss Margin:** Extreme loss margin equal to 1.5 percent of the Notional Value of the open short option position would be deducted from the liquid assets of the clearing member on an on-line, real time basis.
15. **Net Option Value:** The Net Option Value is the current market value of the option times the number of options (positive for long options and negative for short options) in the portfolio.
16. **Calendar Spread Margin:** A long currency option position at one maturity and a short

option position at a different maturity in the same series, both having the same strike price would be treated as a calendar spread.

- 17. Settlement of Premium:** Premium would be paid in by the buyer in cash and paid out to the seller in cash on T+1 day.

#### **Position Limits for Participants in Options Contract on USD-INR Spot Rate**

- 1. Client Level:** The gross open positions of the client across all contracts (both futures and options contracts) not to exceed 6 percent of the total open interest or USD 10 million whichever is higher.
- 2. Trading Member Level:** The gross open positions of the trading member across all contracts (both futures and options contracts) not to exceed 15 percent of the total open interest or USD 50 million whichever is higher.
- 3. Bank:** The gross open positions of the bank across all contracts (both futures and options contracts) not to exceed 15 percent of the total open interest or USD 100 million whichever is higher.

- 4. Clearing Member Level:** No separate position limit is prescribed at the level of clearing member.

#### **Scenarios Used in Computation of Worst Scenario Loss of a Portfolio of an Individual Client Comprising His Positions in Options and Futures Contracts on the Underlying Across Different Maturities**

The price range for generating the scenarios would be 3.5 standard deviation and volatility range for generating the scenarios would be 3 percent. While computing the worst scenario loss, it is to be assumed that the prices of futures of all maturities on the underlying move up or down by the same amount. The maximum loss under any of the scenario is referred to in this circular as the Worst Scenario Loss.

The complete text of the above circular can be downloaded from:

<http://www.sebi.gov.in/circulars/2010/cirdnpd52010.pdf>

## **Income Tax**

### **Significant notifications issued by the Central Board of Direct Taxes during the period 01.07.2010 to 31.07.2010**

#### **1. Notification No. 48/2010 dated 9-07-2010**

#### **Notification of long-term infrastructure bonds by the Central Government, subscription to which would qualify for deduction under section 80CCF of the Income-tax Act, 1961**

Section 80CCF of the Income-tax Act, 1961 provides that an assessee, being an individual or a Hindu Undivided Family, shall get a deduction of upto rupees twenty thousand in computing his total income if he subscribes to long-term infrastructure bonds as may be notified by the Central Government for this purpose.

Consequently, the Central Government has, vide this notification, specified the long-term infrastructure bonds, subscription to which would qualify for deduction under section 80CCF. Accordingly, subscription to long-term infrastructure bonds to be issued by the Industrial Finance Corporation of India, Life Insurance Corporation of India,

Infrastructure Development Finance Company Limited and a non-banking Finance Company classified as an Infrastructure Finance Company by the Reserve Bank of India would qualify for deduction under section 80CCF. Further, the notification also prescribes the other conditions to be complied with, namely, the limit on issuance, the tenure of the bond, mandatory requirement to furnish the PAN to the issuer, yield of the bond and the end-use of proceeds and reporting or monitoring mechanism.

#### **2. Notification No. 49/2010 dated 9-07-2010**

#### **Manner of furnishing return of income by companies, firms and individuals and HUFs subject to tax audit**

Sub-rule (3) of Rule 12 of the Income-tax Rules, 1962 lays down the manner of furnishing the return of income by different persons. Clause (a) of the proviso to sub-rule (3) of Rule 12 has been substituted vide this notification. Accordingly,

- A company required to furnish the return in Form ITR-6 shall furnish the

## Income Tax

return for the assessment year 2010-11 and subsequent assessment years electronically under digital signature.

- (ii) A firm required to furnish the return in Form ITR-5 and to whom provisions of section 44AB are applicable, shall furnish the return electronically under digital signature or by transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-5.
- (iii) An individual or HUF required to furnish the return in Form ITR-4 and to whom provisions of section 44AB are applied, shall furnish the return for the assessment year 2010-11

and subsequent assessment years electronically under digital signature or by transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-5.

### 3. Notification No. 59/2010 dated 21-07-2010 Cost Inflation Index Financial year 2010-11 Notified

The Central Board of Direct Taxes (CBDT) has notified the cost inflation index for the financial year 2010-11 as 711.

The complete text of the above notifications are available at website of the Income-Tax Department ([www.incometaxindia.gov.in](http://www.incometaxindia.gov.in))

## Indirect Tax

Area	Notification No.	Amendment	Effect of amendment
Excise	26/2010 CE (NT) dated 29.06.2010	Amended the CENVAT Credit Rules, 2004. Fourth proviso to rule 3(4) inserted.	CENVAT credit of any duty specified in sub-rule (1) of rule 3 cannot be utilized for payment of the Clean energy cess.
	27/2010 CE (NT) dated 01.07.2010	Amended the CENVAT Credit Rules, 2004. Clause (iv) to rule 6(6) inserted.	The provisions of sub-rule (1) to (4) of rule 6 are not applicable in a case where the excisable goods are removed without payment of duty for the use of foreign diplomatic missions or consular missions or career consular offices or diplomatic agents in terms of the provisions of Notification No. 6/2006- CE dated 01.03.2006.
Area	Circular No.	Issue	Clarification
Service tax	126/08/2010 – ST dated 10.08.2010	Whether service tax is leviable on the underwriting commission received by the primary dealers for the auction of Government Securities?	It is clarified that the Primary Dealers registered with the RBI (as opposed to registration with the Securities Exchange Board of India) deal in Government Securities, issued by the RBI on behalf of the Government of India, as a part of the Central Government's market borrowing program. Therefore, service tax liability does not arise on Underwriting Fee or Underwriting Commission received by the primary dealers during the course of the dealing in Government Securities.

The complete text of above notifications and circulars are available at [www.cbec.gov.in](http://www.cbec.gov.in)

## Corporate Laws

### (I) The Companies Act, 1956

The Ministry of Corporate Affairs has issued new versions of Form 1, Form 1AA, Form 4, Form 15, Form 20A, Form 20B, Form 22, Form 22B, Form 23, Form 23AA, Form 25C, Form 44, Form 49, Form 52, Form 61, Form DD-B, Form I-Cost Audit Report and Form 67 effective from **1<sup>st</sup> August, 2010**.

Further, with effect from **8th August, 2010**, stamp duty payable on **Form No. 1, Memorandum of Association, Articles of Association and Form No. 44** in respect of State of **Himachal Pradesh**, should be compulsorily paid electronically at the time of their e-filing through MCA portal.

For further details refer [www.mca.gov.in](http://www.mca.gov.in)

### (II) SEBI Act, 1992

(i) The market regulator SEBI through Circular **CIR/IMD/FIIC/ 9/2010 dated August 06, 2010** drastically reduced the amount that a single such entity can invest in Government and corporate papers in order to attract FIIs in the debt market as under:

	Previous Limit	New Limit
<b>For Government debt</b>		
Ceiling on investment by a single FII in government debt	₹ 10,000 crore	₹ 100 crore
Amount of government debt which an FII can bid	₹ 250 crore	₹ 50 crore
Minimum tick size	₹ 100 crore	₹ 50 crore
<b>For Corporate debt</b>		
Ceiling on investment by a single FII in corporate debt	₹ 10,000	₹ 1,000
Amount of corporate debt which an FII can bid	₹ 250 crore	₹ 50 crore
Minimum tick size	₹ 100 crore	₹ 50 crore

(ii) The SEBI in its Board Meeting on 4<sup>th</sup> August, 2010 amended the format of shareholding pattern and its filing frequency for listed entities as under:

- (a) The companies shall file shareholding pattern as per Clause 35 one day prior to the date of listing, which shall be uploaded on the website of exchanges before commencement of trading.
- (b) whenever the change exceeds +/- 2% of the paid up share capital of the company post a corporate event, the companies shall file revised shareholding pattern with the stock exchanges within 10 days from the date of such change in the capital structure.

For further details refer [www.sebi.gov.in](http://www.sebi.gov.in)

### (III) The Insurance Act, 1938

The Insurance Regulator IRDA on 28<sup>th</sup> July, 2010 issued Grievance Redressal Guidelines which would be implemented with effect from 1<sup>st</sup> August, 2010. According to these guidelines, every insurer shall have a system and a procedure for receiving, registering and disposing of grievances in each of its offices. Any failure on the part of insurers to follow the procedures and time-frames mentioned in the guidelines would attract penalties by the concerned authority.

For further details refer [www.irda.gov.in](http://www.irda.gov.in)

**All above amendments will not be applicable for November-2010 examinations.**

## Business Law

The Object of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 is to provide some provision for the future of the industrial worker after he retires or for his dependants in case of his early death. Accordingly the Act, 1952 provides for *schemes relating to the institution of provident funds, pension fund and deposit-linked insurance* fund for employees in factories and other establishments. These schemes provide long term protection and security to the employee and after his death to his family members, and timely advances including advances during sickness and for the purchase/ construction of a dwelling house during the period of membership. The three schemes are:

- Employees' Provident Fund Scheme, 1952,
- Employees' Deposit Linked Insurance Scheme, 1976,
- Employees' Pension Scheme, 1995

Of the aforesaid three schemes Employees' Deposit Linked Insurance Scheme, 1976 was amended recently by the Government by way of passing Employees' Deposit Linked Insurance (Amendment) Scheme, 2010. In this modified scheme, the Government has increased the existing limit of employees' deposit linked

Fund or in the provident fund exempted under section 17 of the Act, as the case may be, in relation to any employee, is the sum total of contributions by the employee and the employer, due for and up to the relevant period, whether paid or unpaid in the Fund or in the Fund or in the provident fund exempted under section 17 of the Act, as the case may be, together with interest thereon, shall be included.

**Computation of 12 months:** The period of twelve months for calculation of benefits under this scheme shall be computed backwards from the month preceding the month in which death of the member occurs. Whereas in the case of a part-time employee who was a member of the Fund or of a provident fund exempted under section 17 of the Act, as the case may be, while serving in more than one factory or establishment the quantum of benefit under this scheme shall be determined with reference to the average of the aggregate balance in all his accounts in the Fund or of a provident fund exempted under section 17 of the Act, as the case may be, during the preceding twelve months.

The new EDLI scheme is illustrated in the following table:

Balance as per the PF	% of entitlement as per the new EDLI scheme	Maximum Ceiling Amount receivable
₹ 50,000	Full value of the balance	₹ 50,000
₹ 1,00,000	₹ 50,000 + 40% of the balance	₹ 70,000
₹ 2,00,000	₹ 50,000 + 40% of the balance	₹ 1,10,000 but restricted to ₹ 1,00,000 only as per the ceiling fixed by the new scheme

insurance (EDLI) amount from ₹ 60,000 to ₹1 lakh. The new scheme provides that the EDLI amount is equal to the *average balance* of your PF in the *last 12 months* or the overall balance, whichever is less. But if the balance exceeds ₹ 50,000, your nominee will get ₹ 50,000 plus 40% of the excess balance up to a total of ₹1 lakh.

**Average Balance:** The average balance in the

The new EDLI scheme thus ensures the nominees to get an insurance amount up to the prescribed limit after the death, apart from the accumulated EPF amount. This benefit of EDLI is available only to the nominees of members who are employed at the time of death. Death during a period of unemployment does not entitle the nominee for insurance benefits.

## Green Computing

A recent trend catching up with world's leading IT firm is Green Computing. Green Computing refers to the principle of using computing resources efficiently. The goals are to reduce the use of hazardous materials, maximize energy efficiency during the product's lifetime, and promote recyclability or biodegradability of defunct products and factory waste. Such practices include the implementation of energy-efficient Central Processing Units (CPUs), servers and peripherals as well as reduced resource consumption and proper disposal of electronic waste (e-waste).

The need and realization for sustainability in computing arises from the realization that firm need to give to the society, and adopt Business Practices which look beyond instant profits, to their long term survival. With the huge growth in use of computing devices in the past-decade, a lot of electricity is being consumed by Computers, Laptops, PDAs and other Gadgets. At the same time, with rapid outdated, these devices create problems of waste disposal and recycling.

The working habits of computer users and business can be modified to minimize adverse impact on the global environment. Some of the steps that can be taken are:

1. Adopt virtualization concepts where each server is divided into multiple virtual machines that run different applications providing more cost effective and greener energy efficient computing by increasing server utilization rates.
2. Use Cloud computing which is an internet-based computing where shared resources, software and information are provided to computers on demand while allowing significant workload shift. This reduces the networking equipment and makes systems less power consuming and compact.
3. Use more-efficient processor that consumes less watts.
4. Setting the power options of computer to switch to sleep mode when user is not working on the system.
5. Flat Panel monitors use less energy than traditional CRT monitors.
6. Small hard disk drive often consumes less power than physically larger drive.
7. Use recycled content paper and prints only those things which we need to be printed with two-sided printing option.
8. Buy energy star computers and Servers.

Throughout the globe, many government agencies have implemented standards and regulations that encourage green computing. A lot of initiatives have voluntarily come forward from the industry worldwide. A few being -

- Climate Severs Computing Initiative (CSCI) was started in 2007.
- Green computing Impact-organization (GCIO) was formed in 2008 by a group of Global-minded IT executive.
- Green Electronic Council (GEC) was founded in 2005.
- Green Grid is global consortium which was founded in 2007.

However in India, there has been no direct-regulator initiative to face this issue. The Indian Industry still lags behind in terms of voluntary initiatives on green computing. A few large firms like Infosys, Wipro and TCS have been taking sustainability initiatives to reduce their water and energy consumptions. It is expected that Green Computing will gain a lot more prominence in near future with a tightening regulatory scenario and pressure from civil society.

## Legal Decisions – Income Tax

- 1. Can the penalty under section 271(1)(c) be imposed where the assessment is made by estimating the net profit at a higher percentage applying the provisions of section 145?**

**CIT v. Vijay Kumar Jain (2010) 325 ITR 0378 (Chhattisgarh)**

In this case, the Assessing Officer levied penalty under section 271(1)(c) on the basis of addition made on account of application of higher rate of net profit by applying the provisions of section 145, consequent to rejection of book results by him.

On this issue, the High Court held that the particulars furnished by the assessee regarding receipts in the relevant financial year had not been found inaccurate and it was also not the case of revenue that the assessee concealed any income in his return. Thus, penalty could not be imposed.

The High Court placed reliance on the ruling of the Supreme Court in *CIT v. Reliance Petroproducts P. Ltd. (2010) 322 ITR 158*, while considering the applicability of section 271(1)(c). In that case, the Apex Court had held that in order to impose a penalty under the section, there has to be concealment of particulars of income of the assessee or the assessee must have furnished inaccurate particulars of his income. Where no information given in the return is found to be incorrect or inaccurate, the assessee cannot be held guilty of furnishing inaccurate particulars.

- 2. In determining the period of holding of a capital asset received by a partner on dissolution of firm, can the period of holding of the firm be taken into account?**

**P. P. Menon v. CIT (2010) 325 ITR 122 (Ker.)**

The assessee was a partner in a firm, which owned a hospital building and land. The firm was dissolved and the entire assets including the hospital building and land were taken over by the assessee. The assessee sold the hospital building and the land within three days of dissolution. He, however, claimed that the period of holding should be reckoned by including the period when he was a partner of the firm. He contended that since the total period has more than 36 months, the capital gain was to be treated as a long-term capital gain.

The High Court held that the benefit of taking the cost of acquisition as the cost to the previous owner under section 2(42A) read with section 49(1)(iii)(b) can be availed only if the dissolution of the firm had taken place at any time before April 1, 1987. In this case, the firm was dissolved on April 15, 2001 and therefore the benefit of these sections was not available to the assessee. Therefore, the period of holding of the asset by the assessee in this case was only from the date of dissolution of the firm. Since

the assessee sold the property within three days of acquiring the same, the gains have to be treated as short-term capital gain.

- 3. Can the amount incurred by the assessee for replacing the old mono sound system in its cinema theatre with a new Dolby stereo system be treated as revenue expenditure?**

**CIT v. Sagar Talkies (2010) 325 ITR 133 (Karn.)**

On this issue, the High Court observed held that the assessee had provided certain amenities to its customers by replacing the old system with a better sound system and by introducing such system; the assessee had not increased its income in any way. The assessee installed dolby stereo system instead of repairing the existing old stereo system. This had not benefited the assessee in any way with regard to the total income since there was no change in the seating capacity of the theatre or increase in the tariff rate of the ticket. In such a case, the expenditure on such change of sound system could not be considered capital in nature.

- 4. Can the interest payable by the assessee company on loan availed from the directors for the purchase of an asset be added to the cost of acquisition of the asset while computing long term capital gain, where the resolution to pay interest has been passed after the date of sale?**

**CIT v. Sri Hariram Hotels P. LTD (2010) 325 ITR 136 (Karn.)**

The assessee borrowed loans from some of its directors and purchased an immovable property in order to put up a hotel building. However, the project did not materialize on account of various reasons. Ultimately, the assessee sold the property. While filing the return, it claimed the interest paid to the directors on the loan borrowed from them in order to purchase the property as cost of acquisition for computation of the capital gain. The Assessing Officer disallowed the claim made by the assessee, but the Tribunal allowed it.

The main contention of the Revenue was that it was after the sale of property that a resolution was passed by the company to pay the interest to the Directors, and as such, there was no liability for the company to pay the interest as on the date of sale.

The High Court, dismissing the appeal, held that since the property had been purchased out of the loans borrowed from the directors, any interest paid thereon had to be included while calculating the cost of acquisition of the asset.

Note: In this case, it has been established that the date of passing resolution for payment of interest is not relevant since interest generally starts accruing as soon as the loan is taken.

## INTERVIEW

**A set of questions were asked to Sanjhi Agrawal, the topper of CA Final (New Course) Examination-May 2010. The questions and their responses are included in these pages.**



**Sanjhi Agrawal**

New Delhi, 1st Rank, CA Final, May 2010

**Q. How do you feel being first/second rank holder in the final examinations? How do you visualise your success?**

- A. Securing the first rank in a course that has largely been recognised as the most difficult course is indeed an overwhelming and humbling experience. When I saw the result, I was literally on top of the world! Ranking first in PE-2 had built up expectations among family and peers, which I had to live up to. So the excitement was mingled with a huge sense of relief!

This success is indeed an important milestone in my professional career. Things look bright and suddenly I am flooded with options. However, if not substantiated and regularly supported with exemplary performance at work, the glory fades away soon! So, this success inspires me to put in my best in all future endeavours and be loyal to the profession that has given me this recognition!

**Q. How did you prepare for the examinations? What were the various component of your plan?**

- A. I had to attend office regularly and the work hours were long. But I never used that as an excuse for myself. I started with theory subjects on weekends giving three to four hours on an average. I tried using every spare hour I could manage. I got study leave 4 months before exams and then I went on to strategise my study plan.

I had a broad monthly schedule, which was broken down to weekly allocation of timings per subject, on to per day preparation, sliced

downright to hourly basis. By February end, I had familiarised myself with all the eight subjects once, and then I started with revision. I followed a balance approach- each subject was equally important and there was no scope of laxity in any.

However, even though the arduous study schedule, I never compromised on sleep and there was time for leisure as well.

**Q. What are your views on the articleship training? What way the training has helped you in your learning and examinations?**

- A. I completely oppose the view that articleship hinders in studying process. I have taken so much from my articleship and applied to my studies.

I did my training in Audit and Taxation. Being clued on to the practical aspects of these areas, studying the course theoretically was not very difficult. I was able to understand the concepts better and retain and reproduce them effectively during exams.

Further, the challenge we face each day at work makes one strong mentally and prepares us to handle difficult situations that may arise. I followed the strategy that if client deadlines can be accomplished within two hours, so can a chapter- you just have to make effective use of time.

**Q. Please tell us about the contribution of study materials, students' newsletter, suggested answers and revision test papers in your success.**

- A. I referred to the study material for some of my subjects. For others, even if I was studying from some reference books, the study material had the final word in case of any confusion. Students newsletter kept us

updated with the recent amendments and applicability of the same. It was extremely important to browse through each edition.

I also went through the revision test papers around 15-20 days before exams to analyse where I stand and what I need to work on.

**Q. How have your family members and friends have contributed to your success?**

A. My family and friends have contributed in a big way towards my achievement.

This feat would not have been possible without the incessant support of my parents. They were my source of strength- the reason I kept going. They were my guide, my mentor and I feel it's more of their achievement than mine.

**Q. Why did you choose CA as a career? Having passed the examinations what prospects you see for yourself?**

A. A number of my family members are Chartered Accountants. Although there was no pressure from them to take up CA, the family environment was conducive for the same. I used to find the course challenging and exciting and had a keen interest in subjects like accounts and taxation.

Having qualified, there are a host of opportunities that await. Ranging from employment to own practice, there are multiple avenues to be explored before finalising one.

**Q. Do you think that the present students of chartered accountancy lack in general management and communication skills? What should they do to improve these skills?**

A. The examination-oriented approach followed by Chartered Accountancy students does play a role in limiting the overall development as a professional. Excessive stress is laid upon coaching classes and mugging up the course and other aspects that complete a professional are conveniently ignored.

By and large, I feel that CA students lack good communication and presentation skills. They

may know the theory well but face a challenge when it comes to practical application and general management. However, such is usually not the case with students who pursue their articleship diligently. The kind of exposure/training that a student gets during articleship hones the softer skills and makes him/her poised to face the challenges that lie ahead.

Further, though I have not yet completed the GMCS course conducted by the Institute, I have heard that if taken seriously, the same can be extremely beneficial to the students. The way the course is structured enables students to overcome the challenges they face when it comes to communication and presentation skills.

**Q. What challenges are being faced by a chartered accountant today? How do you intend to overcome them?**

A. As highlighted above, CA students usually struggle with communication and general management skills and this is where MBAs overpower us. Even though CAs are technically more sound, MBAs are given preference in the industry. However, if we can overcome this challenge, the tables can be turned!

**Q. And finally, what advice you would like to give to the other chartered accountancy students?**

- Pursue your articleship diligently. It is an extremely important part of the CA course and you cannot become an able professional without practical training.
- There is no substitute for hard work, zeal and passion to excel!
- The course is voluminous, the pressures are high. Only the ones who manage to keep their cool can manage to succeed.
- Excessive reliance on coaching classes should be avoided. You can definitely take guidance for subjects you're not comfortable with, but following the crowd in taking coaching for all subjects is an incorrect approach.

**SUMMARY OF EXAMINERS' COMMENTS : MAY - 2010 EXAMINATION**  
**Final (New) Group-I**

**I. General Comments :**

- (1) Conceptual clarity is lacking in almost all the subjects, for which intense learning of the study material is the solution.
- (2) The major areas of deficiency noticed in most subjects were lack of systematic and logical approach and analytical thinking.
- (3) The performance displayed lack of knowledge of Accounting Standards, Standards on Auditing and corporate and other laws, the outcome of which reflected in poor results.
- (4) Candidates have not been able to apply the Accounting Standards properly. The level of knowledge at the Final level requires the candidates to have application skills, but they have failed to live up to this expectation.
- (5) Solutions to practical problems have not been given in the prescribed format with suitable working notes in the subject of Financial Reporting.
- (6) Candidates lacked knowledge of specialized areas of Strategic Financial Management such as swaps, arbitrage, etc.
- (7) In the subject of Corporate and Allied Laws, the performance in the allied laws was not satisfactory, displaying poor comprehension of the provisions of the various Acts. The answers were also not supported with case laws, wherever necessary.
- (8) The presentation of answers was also very poor in many cases. The major deficiencies were -
  - (i) not starting the answer to a new question on a fresh page;
  - (ii) answering the different sub-parts of the questions in different places instead of answering the same one after the other;
  - (iii) leaving blank pages in between the answers;
  - (iv) writing the question number outside the margin, which is intended for answers;
  - (v) not marking the questions answered in the cover page inspite of specific instructions to do so;
  - (vi) very poor handwriting;
  - (vii) lack of expression;
  - (viii) spelling mistakes; and
  - (ix) grammatical mistakes.

**II. Paper-Wise Specific Comments :**

**PAPER – 1 : FINANCIAL REPORTING**

**Question 1. (a)** Most of the candidates were not able to apply the provisions of AS 11 “The Effects of Changes in Foreign Exchange Rates” correctly, and were hence, not able to answer the question. Few among them did not treat the forward contract as speculative and failed to compute the amount of profit for the contract.

**(c)** Some candidates wrongly computed the borrowing costs to be capitalized as 16.5 crores (13% of Rs. 150 crores ie.Rs. 19.5 crores less income from temporary investment Rs. 3.5 crores) instead of Rs. 13 crores (Interest paid Rs. 16.5 crores less Rs. 3.5 crores).

**(d)** Many candidates were not aware of the provisions of Accounting Standards Interpretation (ASI) 5 and erred in creation of deferred tax liability and the corresponding charge to profit and loss account.

**Question 2. (b)** Most of the candidates failed to understand

the provisions of AS 30 “Financial Instruments: Recognition and Measurement”. They failed to calculate the value of loan initially to be recognized and amortized cost for the subsequent years. Consequently, they could not give the required journal entries.

**Question 3.** Many candidates considered ‘O’ as “Subsidiary of W” instead of an “Associate of W”. Few erred in apportionment of profits between pre-acquisition and post-acquisition which resulted in wrong computation of goodwill, minority interest and consolidated reserves for the purpose of consolidated balance sheet of W. The answers exhibited inadequate knowledge of AS 21 ‘Consolidated Financial Statements’ and AS 23 ‘Accounting for investment in Associates in Consolidated Financial Statements’.

**Question 4.** Some of the candidates did not compute the correct amount of purchase consideration and the correct number of shares issued by Bat Ltd. to Cat Ltd. and consequently, could not prepare balance sheet after merger.

**Question 5.** Many candidates could not arrive at the correct amount of future maintainable profit and weighted average annual profit and therefore, they erred in valuation of goodwill.

**Question 6. (a)** Majority of the candidates could not determine the value of brand under potential earning model.

**(b)** Few candidates were not able to calculate the correct amount of depreciation and replacement reserve under replacement cost basis.

**PAPER - 2 : STRATEGIC FINANCIAL MANAGEMENT**

**Question 1. (a)** The following common errors were noted in the answer of candidates.

- (i) Most of the candidates could not calculate NPV for best and worst case scenarios.
- (ii) Some candidates could not understand the concept of probable NPV.

**(b)** Most of the candidate except a few have exhibited lack of knowledge of put and call options.

**(c)** Being a theoretical question most of candidates wrote general things about financial management and those who written specific answer gave only few points correctly.

**Question 2. (a)** Majority of candidates calculated NPV but could not calculate Equivalent Annual Cost (EAC) using Capital Recovery Factor leading to erroneous decisions.

**(b)** A common mistake found in their answer was not taking adjusted value of fixed income securities.

**(c)** Candidates used the names of stock exchanges i.e. BSE and NSE instead of their indices i.e. Sensex and Nifty respectively.

**Question 3. (a)** Some of the students could calculate WACC, EPS and market capitalization correctly but could not calculate EVA.

**(b)** In this question of Purchasing Power Parity (PPP) theory, candidates have exhibited lack of basic knowledge of PPP formulae.

**(c)** In this theoretical question on functions of investment bank, candidates exhibited an unsystematic approach in answering the question and lack of knowledge of the concept.

**Question 4. (a)** In this question of merger and acquisition most of the candidates could get few steps right i.e. net consideration payable, number of shares issued etc.

**(b)** In this theoretical question on the concept of Exchange

Traded Fund (ETF) the answer of the question was filled up with unnecessary and irrelevant details. Some candidates even confused it with 'Foreign Exchange'.

**Question 5. (a)** Majority of candidates exhibited lack of conceptual knowledge of Forward Interest Rates.

**(b)** In this question the calculation of FRA rate and arbitrage opportunity available were not properly understood by most of candidates.

**(c)** Even though it was a very common theoretical question on Debt Securitization candidates filled up their answers with unnecessary details.

### PAPER – 3 : ADVANCED AUDITING AND PROFESSIONAL ETHICS

**Question 1. (a)** Most of the candidates shifted the emphasis towards Schedule VI in their answers instead of provisions of Accounting Standard 22 "Accounting for Taxes on Income".

**Question 2. (b)** Majority of the candidates misunderstood the question as relating to advertisement, circulation etc rather than certification issued and consequently, gave wrong answers.

**Question 3. (b)** Most of the candidates were not able to answer about the risk factor and errors in the light of SA 530. Hence the answer was not correct.

**Question 4. (a)** Few candidates failed to present the issues relating to interbank transactions adjustments consequently could not answer satisfactorily.

**(b)** Some candidates were not able to required answer; as they treated the claims not acknowledged as debts as NPA advances/ usual contingent liabilities on bank guarantees.

**Question 5. (b)** Majority of the candidates failed to describe the control objectives.

**(c)** Most of the candidates could not understand the requirement of the question and gave vague answer.

**(d)** Few candidates laid emphasis on quantification of liability rather than required presentation as per provisions of section 62 of the Companies Act, 1956 in their answers.

**Question 6. (b)** Many candidates considered Mark to market either as per AS 11 or AS 13 rather than Stock Market Margin.

**(c)** Few candidates could not explain the steps required for presentation of Tax Audit under VAT.

### PAPER – 4 : CORPORATE AND ALLIED LAWS

**Question 1. (a)** The question was with reference to the appointment of a person as an additional director in a casual vacancy. Some of the candidates confused the question and mixed up the provisions of section 260 dealing with additional director and section 262 dealing with the filling of a casual vacancy.

**Question 2.** In the first part of the question few students confused with the terminologies 'inspection' (dealt in section 209) as 'investigation' (dealt in section 235) of the Companies Act, 1956. In the second part of the question, relating to declaration of dividends out of reserves, the conditions as prescribed in the Companies (Declaration of Dividend out of Reserves) Rules, 1975 were not stated clearly by many of the candidates.

**Question 3.** The first part of the question deals with the extension of financial year and annual accounts and balance sheet of a holding and subsidiary company, the answers were generalized without referring to the provisions of sections 210 and 213 of the Companies Act, 1956. In the second part of the question, dealing with the steps to be taken by the ROC to get the name of the company (defunct) struck off from the Register of Companies, candidates were not aware of Section 560 of

the Companies Act, 1956. Further, the essential step that is realization of all assets and payment of all liabilities and to prepare a 'nil' balance sheet was not known to many candidates.

**Question 4.** In the first part of the question relating to the Boards' decision charging duty assignment to Chief Accountant in ensuring compliance of provisions of the Companies Act, 1956 as contained in sections 209 and 211, the resolution was not in proper format.

**Question 5.** The questions relating to scheme of reconstruction and on winding-up were answered in a general manner without referring to the relevant provisions as contained in the Companies Act, 1956.

**Question 6.** The performance to both parts of the question in general was 'average'. Imposition of restrictions upon shares and debentures and prohibition of transfer of shares or debentures in certain cases as contained in section 250 of the Companies Act, 1956 was not known to many candidates.

**Question 7. (b)** Some of the candidates were confused whether guarantee commission to be treated as a remuneration or not.

**Question 8.** The performance of the candidates while answering the question relating to SEBI Guidelines was highly unsatisfactory. The question was based on SEBI (DIP) Guidelines, 2000 but most of the candidates did not state correctly the provision covered under chapter III for pricing its equity shares.

**Question 9.** Some of the candidates did not state correctly the penal provisions covered under section 11(3) of the Foreign Exchange Management Act, 1999 for the Authorised Person failing to file certain returns. However the performance of the candidates in part (b) of the question was highly satisfactory.

**Question 10.** The factors that the Competition Commission of India (CCI) will take into account in determining whether an agreement will have any appreciable adverse effect on competition in the market as prescribed in Section 3 of the Competition Act, 2002 were listed in general.

**Question 11.** The performance was 'average' in relation to the question on the termination of a director of a bank on then ground of his conduct detrimental to the interests of depositors and appointment of additional director by the RBI as provided in Section 36AA of the Banking Regulation Act, 1949.

**Question 12.** The rules relating to interpretation of deeds and documents were stated in general.

### Final (New) Group-II

#### I. General Comments:

- (1) At the Final level, advanced knowledge is expected from the candidates, which they seem to lack. They also lack basic conceptual understanding, which was reflected in their answers. Study Material would provide them the ideal base to develop conceptual clarity.
- (2) Candidates have a tendency to write much more than the required answer or give vague answers. The answers should be directed towards the question asked, and preferably be given point-wise.
- (3) It is very much necessary to support the answers with proper working notes while solving practical problems.
- (4) In the paper on Information Systems Control and Audit, there are many terms which are being used interchangeably by the candidates without understanding their meaning, e.g. assess and excess, default and fault etc. The candidates should clearly understand the concept as well as the meaning of every term used by them.
- (5) At the Final level, in taxation papers, the candidates are

expected to have the ability to apply the provisions of law in solving a problem or issue. However, candidates were found lacking in analytical and application skills.

- (6) One of the main deficiencies noted in the taxation papers is the lack of knowledge of the latest amendments and judicial rulings.
- (7) The presentation of answers was also very poor in many cases. The major deficiencies are -
- (i) not starting the answer to a new question on a fresh page.
  - (ii) answering the different sub-parts of the questions in different places instead of answering the same one after the other
  - (iii) leaving blank pages in between the answers
  - (iv) writing the question number outside the margin, which is intended for answers.
  - (v) not marking the questions answered in the cover page inspite of specific instructions to do so.
  - (vi) very poor handwriting,
  - (vii) lack of expression
  - (viii) spelling mistakes and
  - (ix) grammatical mistakes.

## II. Paper-Wise Specific Comments :

### PAPER - 5 : ADVANCED MANAGEMENT ACCOUNTING

**Question 1. (a) Decision making based on contribution and avoidable fixed costs:** The question was fairly simple and had to be attempted logically, taking one proposal after another. Most students mixed up the total contribution approach and the incremental benefit approach and made errors in calculation. They were mistaken about product A's avoidable fixed cost and made a mess of A's contribution lost on its discontinuance. Many others, surprisingly, at the Final level, took the fixed cost per unit given in the question and erroneously incorporated it into the calculation of the incremental benefits. Many students were able to identify the idle hours unutilized and correctly added it to the hours released by A's discontinuance. A few students attempted to compute idle capacity in terms of units. Here, some of the examinees failed to continue the process to calculate the hours from the units.

**(b) Production Budget:** This portion must have been covered in the Intermediate level itself. But students may have forgotten the formulae for EOQ and it is not available in the current study material. Many lost credit on EOQ due to ignorance of the formula.

Some students did not identify the requirement of Z and consequently, the requirement of Y went wrong. A well spaced out matrix would have easily led to the correct answer. Many students got the whole problem right. About 80 % of the candidates arrived at the correct production figures. The EOQ part must have been most unexpected for the examination.

**(c) Trend Identification:** This question which tests the knowledge of students on ability to identify the nature of trend on relevant practical situations, rather than merely memorizing the various trends. A handful of students got the answer completely right.

**Question 2. (a) Activity based costing:** This was a very simple question. The allocation of overheads as per ABC was very simple, with very little calculation. This question helped students pass. The target cost was worked out correctly by a large number of students. However, some students went wrong while decreasing the price in steps of % instead of steps of one rupee. Barring a

very small number of students, no one was able to interpret the use of ABC costing in favour of other modes of costing.

The question had the fallacy of giving the answer of the number of units to be produced at the maximum capacity. The intention was probably to indicate till what level of production the prices would have declined in steps of Re. 1 per 10 % increase in capacity. Also, the question was to compute unit costs as per the traditional, target and ABC methods of costing at the maximum level. The language of the question was slightly confusing in that some students had taken the overhead costs as other than customer support costs, since according to ABC classification, customer support was just one activity. Their assumption was quite logical, but the question may be analysed to check that total overhead costs made up to 30 % of prime cost.

Most students failed to analyse the costs under the three methods. This was reflected poorly. Students must attempt to understand why so much effort is being taken by business entities in implementing a cost effective ABC analysis.

**(b) Uniform costing:** This is a straightforward theory question from the study material. Yet, many students were ignorant about the concept and attempted to write their own ideas without having ever read the study material.

**Question 3. (a) Standard Costing:** This problem had no major difference from the ordinary questions. Only material price variance had to be calculated at the time of receipt. More than half the number of students did not do this correctly. The average performance was poor. Many students had a problem in fixing the standard as per actual production. This fundamental concept was found wanting.

**(b) Backflushing:** Though this is a very frequently appearing question, some students had not read about the concept. They managed to link it with Just in Time (JIT), yet, could not justify their answer. Many students attempted this question fairly well.

**Question 4 (a) Learning curve:** Many students answered it correctly. A few stopped at the weighted average price without calculating the price per unit of the successive orders.

**(b) Incremental/differential cost:** This question was attempted well by most students, as this relates to a topic on which students have been doing a number of problems. However, a few were not able to concisely express their knowledge.

**Question 5.(a) Simulation:** Many students were able to do half the problem right. Almost all were able to assign the random numbers successfully to the cumulative probabilities. Performance of the examinees attempted this question part was good.

**(b) Network:** This problem was well attempted by most of the examinees. However, the question had some unwanted 'Z' values probably inadvertently printed.

**(c) Synchronous manufacturing:** Only a handful of students had studied this theory from the material. Performance of the examinees was poor in this question.

**Question 6. (a) Contribution and decision making:** This was a good question on contribution and testing the student's ability to take decision. Many could do half of the problem right. However, a few students tried the linear programming approach and failed to solve this problem.

**(b) Degeneracy in transportation problem:** Almost all students attempted this part well. But the students had confusion over whether the no. of allocations were less than  $m + n - 1$  or the other way round. They attempted to tide over the difficulty by saying that if no. of allocations is unequal to  $m+n-1$ , there is degeneracy. Performance of the students was good in answering this question.

**(c) Price discrimination:** Many students had a fair understanding of the topic. They were able to provide practical examples and explain this concept fairly well. Performance of the students was good in answering this question.

### PAPER – 6: INFORMATION SYSTEMS CONTROL AND AUDIT

**Question 1.** This is a case study based question framed on the concepts of 2-3 chapters.

**(a)** In this part, examinees were required to discuss the primary methods through which the analyst would have collected the data such as reviewing internal documents and conducting interviews but these methods have not been answered specially by the examinees; rather they vaguely quoted many other methods. Hence, the performance was below average for this part.

**(b)** Most of the examinees were able to understand BS 7799 but they failed to mention how BS 7799 ensures that the objectives of the organizations are met. Hence, the performance was below average for this part.

**(c)** Good number of examinees were unable to write the answer correctly. They failed to understand that the question only requires knowing if the responsibility for the state of the affairs in the company lies on the auditor or on the management and hence need to address the question from that angle. Hence, the performance was below average for this question also.

**(d)** This question was directly based on Section 7 of the Information Technology (Amendment) Act, 2008. Most of the examinees gave the correct answer but a few of them did not mention the condition that needs to be satisfied regarding the details which facilitate the identification of the information. Some of the examinees were also unable to mention the non-applicability of the clause under the specified conditions.

**Question 2. (a)** In this question, examinees were required to discuss the threats to computerized environments other than natural disasters, fire and power failures. However, in some cases, examinees also discussed the normal disasters, fire and power failure.

**(b)** Some examinees misunderstood the data dictionary; they assumed the data dictionary to be a table having transaction details in addition to Meta data about the database. The performance was average in this question.

**(c)** Many examinees misunderstood the question and discussed only the detective controls and/or security objectives instead of describing how audit trail can be used to support security objectives. The performance was average in this question.

**Question 3. (a)** Some examinees have not specifically answered on how to get over impediments for successful implementation of ERP. Instead, they have answered on how to go about implementation of ERP. Perhaps, a few examinees could not understand the meaning of the word 'impediments'. Examinees' performance was average for this question.

**(b)** Most of the examinees touched upon a few key points to be considered by the security administrator while writing the contract for the usage of third party site for back-up and recovery purposes. Hence, the performance was above average rather reasonably good.

**(c)** Few examinees restricted the discussion on the validation of rules relating to User ID and Password; they did not mention the need of secure servers and operating systems while working with logical access controls mechanism. Performance of the examinees was average for this question.

**Question 4. (a)** A few examinees have been able to describe the applications of continuous audit techniques correctly while

in other cases, it was not clear whether they understood that continuous audit has got something to do with the system and not with auditor visiting the client's office on a daily or weekly basis. Performance was average in this question.

**(b)** Definition of the terminologies used in Information Technology (Amendment) Act, 2008 have not been given correctly by some of the examinees particularly in part (i) and (iv), due to lack of conceptual clarity. However, the overall performance was good for this question.

**(c)** The advantages of information systems in business were well written by the examinees.

**(d)** Many examinees expanded the acronym 'COBIT' but were unable to explain what COBIT means. In addition, they failed to categorize three vantage points under proper heads namely business Objectives, Resources, and Processes. Some examinees were confused them with the CMM. Overall performance was not satisfactory for this question.

**Question 5. (a)** Majority of the examinees discussed correctly the two primary questions while evaluating the risk inherent in a business function and the purpose of risk evaluation. Hence, the performance of the examinees was good for this question.

**(b)** Instead of discussing the factors that would be considered before undertaking the implementation of an ERP system, some examinees have answered on how to go about implementation. Performance of the examinees for this question was average.

**(c)** Some of the examinees misunderstood the question. Instead of explaining the characteristics of the types of information used in executive decision making, they explained the types of decisions taken by the management. However, some of the examinees well understood the topic and were able to explain it correctly; therefore the overall performance was satisfactory.

**(d)** Some of the examinees could not pin-point the benefits and limitations of Unit Testing, instead of they wrote generalized answer. Overall performance was good.

### PAPER – 7 : DIRECT TAX LAWS

**Question 1.** Most of the candidates were not able to apply the provisions of sections 41(1), 40A(3), 36(1)(vi) and 2(22)(e) correctly, and were hence, not able to answer the question correctly. Some of the candidates were not aware of the amendment in section 40A(3) in respect of payments to transport contractors. The adjustment for deemed dividend under section 2(22)(e), was not brought out correctly. In respect of animals used for business which have died, majority of the candidates have treated the same as a capital loss instead of allowing deduction from business income under section 36(1)(vi).

**Question 2. (a) (i)** Some of the candidates have wrongly considered dividend income as business income and interest expenditure incurred to earn the same as allowable business expenditure.

**(iii)** Many candidates have wrongly answered that weighted deduction was allowable in respect of capital expenditure incurred on scientific research related to the subsidiary company.

**Question 3. (a)** Though the provisions of section 35AD were explained correctly, the candidates have not explained application of provisions of section 73A properly.

**(c)** The question was well answered with reference to the application of provisions of section 50C in computing the capital gains of Bala. However, the application of provisions of section 56(2) and computation of capital gains in the hands of Kala were not satisfactory.

**Question 4. (a)** This question requires the candidates to explain the applicability of the provisions relating to the deduction of tax at source. While answering sub-part (i), many candidates did not bring out the point that if the cost of the material is separately shown in the bill, the same has to be excluded from the value of the invoice to compute TDS.

**(b)** Instead of explaining the situations when the amount withdrawn from recognized provident fund is taxable, some candidates have wrongly explained the provisions of section 80C.

**Question 5. (a)** This question relates to the powers of Appellate Tribunal to review its own order and to allow the assessee to urge any ground of appeal not taken up before the Commissioner (Appeals). It was not answered well by majority of the candidates, as they were not able to understand the issues raised in the question correctly.

**(b)** This question relates to allowability of deduction for stamp duty and registration charges while computing income from house property. Some of the candidates have answered based on the provisions of section 143(3), which is incorrect.

**Question 6. (a)** Many of the candidates resorted to giving vague answers having no relevance with the statutory provisions or with the judgments pronounced by the Courts.

**(b)** This question is on the application of provisions of section 90, but some candidates have wrongly answered by stating that the dividend income earned by a resident outside India is exempt under section 10(34).

**(c)** The candidates were not able to apply the provisions of section 11 and 115BBC correctly in computing the income of the trust.

**Question 7. (a)** This question requires computation of net wealth by applying the provisions of section 2(ea) and Rules 14 & 15 of Schedule III in computing the value of the assets. The candidates have not applied the relevant provisions correctly, and thus, could not arrive at the right values for each of the assets.

**(b)** This question is on whether penalty can be levied on the legal heir for the concealment of particulars of wealth by the deceased. Majority of the candidates have wrongly stated that to the extent of wealth inherited, the penalty can be imposed.

**PAPER – 8 : INDIRECT TAX LAWS**

**Question 1. (a)** Many candidates took price at factory i.e. Rs. 200 per unit as the transaction value instead of price at depot i.e. Rs. 220. Few candidates computed the excise duty @ 8% instead of 10%.

**Question 2. (b)** Candidates could not identify the difference in the provisions of sub-section (1A) and (2B) of section 11A of the Central Excise Act, 1944 with regard to levy of interest & penalty.

**Question 4. (a)** Many candidates applied incorrect rates while computing the amount under rule 6(3)(i) of the CENVAT Credit Rules, 2004. Moreover, few candidates also charged education cess and secondary and higher education cess on the said amount.

**Question 7. (a)** Many candidates were not aware of the method of calculating “landed value” required for computation of anti-dumping duty.

**Final (Old) Group-I**

**I. General Comments:**

(1) The answers of the candidates reflected lack of understanding of Accounting Standards, Standards on Auditing and company law. Therefore, their answers were found to be lacking in substance. A thorough reading of the basic text of the Accounting Standards, Standards on

Auditing and Bare Acts is required to strengthen their fundamentals.

- (2) Generally, answers in all subjects have exhibited lack of systematic and logical approach, conceptual clarity and analytical thinking. Intense learning of the study material will help to develop conceptual clarity.
- (3) In the subject of Advanced Accounting, solutions to practical problems have not been given in the prescribed format with suitable working notes. While solving practical problems, it is very important that the answers should be supported with proper working notes. Questions requiring practical application of Accounting Standards have not been answered well, reflecting lack of application skills.
- (4) In the subject of Management Accounting and Financial Analysis, the performance of the candidates showed lack of exposure to certain specific areas of finance such as forex operations, forward rate agreements, swaps, arbitrage, EVA etc.
- (5) In the subject of Corporate Laws and Secretarial Practice, candidates were not aware of the latest amendments in the law. They have also not written the main sections and case laws, which have to form part of the answer. Further, they were not able to apply the provisions of law correctly. Drafting skills were wanting in the area of Secretarial Practice.
- (6) The presentation of answers was also very poor in many cases. The major deficiencies were -
  - (i) not starting the answer to a new question on a fresh page;
  - (ii) answering the different sub-parts of the questions in different places instead of answering the same one after the other;
  - (iii) leaving blank pages in between the answers;
  - (iv) writing the question number outside the margin, which is intended for answers;
  - (v) not marking the questions answered in the cover page inspite of specific instructions to do so;
  - (vi) very poor handwriting;
  - (vii) lack of expression;
  - (viii) spelling mistakes; and
  - (ix) grammatical mistakes.

**II. Paper-Wise Specific Comments :**

**PAPER – 1 : ADVANCED ACCOUNTING**

**Question 1.** Few candidates made mistakes in apportionment of profits of Shuk Ltd. (subsidiary company) between pre-acquisition and post-acquisition which resulted in wrong computation of goodwill, minority interest and consolidated profit and loss account for the purpose of consolidated balance sheet of Kush Ltd. (holding company). Some of them erred in adjustment due to revaluation of plant, furniture, fixtures and fittings of Shuk Ltd. Few candidates failed to eliminate unrealized profit on stock and inter-company debts in the consolidated balance sheet.

**Question 2. (a)** Some candidates were not able to compute the correct amount of average adjusted profits, net assets owned by equity shareholders and goodwill. Hence, they could not arrive at the accurate amount of total consideration due to the vending shareholder.

**(b)** Few candidates failed to calculate the correct value of economic value added from the given data.

**Question 3. (a)** Majority of the candidates could not arrive at the correct value of goodwill under equity and long term fund

approaches. The candidates who computed the correct value of goodwill failed to show the leverage effect on goodwill.

**(b)** Most of the candidates were not able to apply the provisions of AS 30 "Financial Instruments: Recognition and Measurement". They could not give the required journal entries to record the hedging transaction.

**Question 4. (a)** Large number of candidates could not apply the provisions of Section 77A of the Companies Act regarding buy back of shares. They could not determine the maximum number of shares to be bought back and therefore, could not give the required journal entries.

**(b)** Most of the candidates failed to understand the provisions of AS 30 "Financial Instruments: Recognition and Measurement". They failed to calculate the value of loan initially to be recognized and amount of annual amortization for the subsequent years till closure thereof. Consequently, they could not give the required journal entries.

**Question 5.** Some candidates were not able to apply the provisions of AS 28 "Impairment of Assets", AS 13 "Accounting for Investments" and AS 7(Revised) "Construction Contracts" properly, and therefore, were not able to answer the question correctly.

**Question 6. (a)** Few candidates failed to apply the correct present value factor for different categories of employees which resulted in wrong valuation of human capital.

**(b)** Small number of candidates could not indicate how to record the given transactions in the background of Accounting Standards.

### PAPER - 2 : MANAGEMENT ACCOUNTING AND FINANCIAL ANALYSIS

**Question 1. (a)** In this problem on Leasing vs. Borrowing and Buying option following common errors were found in answers given by candidates:

- (i) Although in the question, it is clearly mentioned that payment of installment is in advance but some candidates considered the payment of installment in the end of the year leading to wrong answer.
- (ii) Some candidates took 7% discount rate instead of 10%, deducting tax benefit from WACC also, which is completely wrong.
- (iii) Taking wrong annuity factor for calculation of installment for loan repayment.
- (iv) Equal installment amount not arrived by some of the candidates consequently leading to wrong calculation of interest amount on outstanding loan.
- (v) Some of the candidates were not aware of the concept of Break Even Lease Rental (BELR).

**(b)** In this question of financial services (Factoring) most of the candidate could not compute correctly the estimated amount of receivable and hence could not compute the saving of overdraft interest by availing the factoring services. Further, majority of candidate only computed correctly only following three amounts:

- (a) Saving in Administration Cost
- (b) Saving of Bad Debts
- (c) Factoring Charges

**Question 2. (a)** In this question of Valuation of Firms following errors were noticed in the answers given by candidates:

- (i) It appears that the concept of Free Cash Flow (FCF) is not clear to the students as only a few candidates prepared the table exhibiting the FCF. Those who prepared the table committed mistake in taking Working Capital instead of Change in Working Capital (WC).

(ii) Those who have tried to solve the question could not proceed beyond the computation of FCFs and could not calculate the PV of FCFs.

(iii) It was also found that candidates have made mistakes in calculation of EBIT by applying the given growth rates.

**(b)** In this question of Mutual Fund some candidates committed errors such as ignoring capital gain while calculating returns, showing the annual return as monthly return etc.

**(c)** In this theoretical question of role of Financial Advisor in Public Sector Undertaking following errors were found in candidates' answers :

- (i) Some candidates mentioned the general functions of financial management or financial advisor instead of role of financial manger in PSU.
- (ii) Most of the candidates even could not mention the key areas of functioning of Financial Advisors in PSUs such as Capital Budgeting, Budgetary Control, Cost Control and Reduction, Pricing Policy etc.

**Question 3. (a)** Though the question on Option was conceptual in nature but most of the candidates were not clear about the concept of the expiration date cash flow and expiration date investment value.

**(b)** In the answer of this question following errors were noted:

- (i) Some candidates ignored the stream of dividend on bonus shares from 4<sup>th</sup> years onwards and in some cases considered it from 5<sup>th</sup> year onwards instead of 4<sup>th</sup> year onwards.
- (ii) Some ignored the sales expenses of shares.
- (iii) Some candidates used simple method of averaging, ignoring the concept of time value of money.

**(c)** Since a lot of statistics were involved in this question following major errors were noted in the answers of the candidates:

- (i) Most of the students were unable to rank the returns correctly.
- (ii) Most of the candidates could not give the required working to deal with the ranking of securities based on Excess Return to Beta Ratio.

**Question 4. (a)** In this question of Valuation of Business:

- (i) Only handful candidates could touch upon the correct valuation on the basis of P/E and Dividend Valuation Methods.
- (ii) Only a few candidates could calculate the cost of equity. Majority of candidates given the incorrect/ partly correct working of Beta (Equity) of target company and hence computation of equity.

**(b)** In spite of fact that the question is of basic nature on the topic of Foreign Exchange, following errors were noticed in answer of candidates:

- (i) Applying the reverse rate for the conversion of US Dollars into GBP i.e. more amount is payable in GBP.
- (ii) Calculation of wrong amount of interest in forward market cover.
- (iii) Calculation of wrong number of currency option contracts.
- (iv) Wrong amount of premium payable for the option contracts.
- (v) Leaving the balance (USD 3647) uncovered on account of fraction of currency option contract by Forward contract.

**(c)** In this theoretical question on Depository System in the category of major player most of the candidates mentioned the name of two depositories participants NSDL and CDSL instead of issuers, stock brokers, clearing corporation, investor, banks etc.. Some candidates even confused it with the Global Depository Receipts and American Depository Receipts.

**Question 5. (a)** In this question of Interest Rate Swap only very few candidates could work out correctly the first part of question i.e. All in Cost of Funds but could not proceed further. Remaining candidates exhibited lack of knowledge of the concept of LIBOR. Some of candidates even committed mistake in the calculation of period of swap.

**(b)** In this theoretical question without understanding the meaning of the term 'Swaption' candidates started writing lengthy answer. Only a few candidates written that "Swaption" is combination of 'Swap' and 'Option'. Majority of candidates mentioned the term 'Swap' and that too in great detail, leading to wastage of their precious time in the examination.

**(c)** This theoretical question on the popularity of Stock Market Futures also not properly understood by most of the candidates as they explained in details the concept of 'Future' without linking it to the Stock Market Index.

### PAPER – 3 : ADVANCED AUDITING

**Question 1. (a)** The question is based on AS-29 and Provisions of the CARO 2003. The students have not been able to attempt this question satisfactorily because of lack of knowledge of the Provisions of the CARD 2003 relating to non-deposit of tax dues under dispute, its amount and the forum where the case is pending.

**(b)** This question relates to external confirmations and is based on SA-505: The students have not properly understood the question. Consequently their performance has been very poor. They have not mentioned the reasons for non-payment by a debtor, and debtor's financial positions, who had confirmed his debt. They have also failed to give the type of advice, the Auditor should give to his client.

**(c)** The question pertains to revenue recognition and is based on AS-9. The majority of the students were confused and failed to appreciate the importance of date of Bill of Lading, which they thought was irrelevant. Hence their performance has been poor.

**(d)** The question relates to preparation of Cash Flow Statement. It is based on the provisions of Section 211 (3C) of the Companies Act 1956 and also needs reference to AS-3.

**Question 2. (c)** The question is based on Clause 9 of Part 1 of First Schedule to the Chartered Accountants Act, 1949 and Section 226 (3) (e) of the Companies Act, 1956 as amended in 2000. The attempt of the students in general has not been satisfactory because they did not specifically mentioned that if the CA holds shares in the Company with a voting right, he would be guilty of professional misconduct. Some of the students have written that the Auditor was a joint holder of shares with his wife of which he did not have any knowledge at the time of accepting the appointment.

**Question 3. (b)** Majority of the candidates failed to answer in accordance with the provisions of Section 227 of the Companies Act, 1956 resulting very poor performance for both the sub parts.

**Question 4. (a)** Additional matters to be reported by statutory auditor of the Banking company to the shareholders :

The auditor is required to report to the shareholders under Banking Companies Regulation Act, 1949 and the guidelines issued by the Reserve Bank of India from time to time.

The performance of the students has been extra ordinarily poor. It appears that they are particularly careful about reporting requirements of the auditor under Companies Act 1956.

They are totally unaware of the additional reporting requirements under the Banking Companies Act, 1949 and also under the guidelines of the RBI.

**(c)** Indicators to be considered while verifying the compliance of laws and regulations: -Majority of the students have not been able to attempt this question satisfactorily. The reason for this is that they were supposed to write what amounted to non compliance of laws and regulations, i.e. indicators of non compliance. They have instead explained the compliances with regard to various matters under various laws and regulations.

**Question 5. (c)** Broad matters to be considered while obtaining business for a new audit engagement of a manufacturing concern: The performance of the students has been an average one. They had tried to touch a very small number of matters to be covered in the answer.

**Question 6. (b)** The performance of students has not been satisfactory. They have written uses of check lists rather than the use of check lists as a tool of internal control by the auditor.

**(c)** CEO I CFO certification to the Board: (Relating to Corporate Governance): The performance of the students in this question has been highly unsatisfactory. The reason has been that they actually did not know the importance of the key position that CEO/CFO occupies in the company administration. The duties and responsibilities of CEO/CFO are such which warrant a lot of dependence of the Board of Directors of the company on CEO/CFO. This is why CEO/CFO has to report on variety of important matters to the Board of Directors, which has been ignored by the students.

### PAPER – 4 : CORPORATE LAWS AND SECRETARIAL PRACTICE

**Question 1.** Most of the candidates attempted question 1(a) correctly, but while answering question 1(b) many of them did not state correctly the conditions for recognition to a stock exchange covered under section 4(2) of the Securities Contracts (Regulations) Act, 1956.

**Question 2.** The performance of the candidates while answering sub-part (a) of the question was average. Many of them did not state correctly power of Reserve Bank to inspect authorised person under section 12 of the Foreign Exchange Management Act, 1999.

Most of the candidates attempted well sub-part (b) of the question by correctly stating the kind of approval required for the given transactions under the Foreign Exchange Management Act, 1999.

**Question 3.** Most of the candidates stated correctly the penalties covered under section 15F and Section 15G of the Securities and Exchange Board of India Act, 1992.

The performance was satisfactory in respect of sub part (b) of the question but many of them did not state correctly the constitution of benches of the commission under the Competition Act, 2002.

**Question 4.** The performance of the candidates was satisfactory in sub part (a) of the question. In part sub part (b) of the question, performance of majority of candidates was poor. Most of the candidates did not explain the provisions relating to protection to employees of the company under section 635B of the Companies Act, 1956.

**Question 5.** Most of the candidates correctly stated provision of Sole Selling Agent covered under section 294(2) of the Companies Act, 1956..

Most of the candidates did not attempt well the sub part (b) of the question. They failed to decide whether directors' bona fide decision not to declare dividend and to accumulate available profits into reserves is mismanagement or not.

**Question 6.** Most of the candidates have attempted this question in a proper manner.

The drafting of the resolution for appointment of the managing director was not upto the mark. It requires a lot of improvement.

**Question 7.** Most of the candidates correctly stated the provision of retiring director covered under Section 256 of the Companies Act, 1956 in sub-part (a) of the question.

In sub-part (b) of the question, the performance was not satisfactory as most of the candidates were not familiar with the case law on which the question was based.

### Final (Old) Group-II

#### I. General Comments :

- (1) Most of the candidates do not possess the expert level of knowledge required at the Final level. They also lack conceptual understanding. Therefore, some of their answers were found to be extremely vague and lacking in substance. An in-depth learning of the study material would help to build a strong conceptual base.
- (2) In many cases, lengthy answers dealing with irrelevant points were common. The answer should be directed towards the question asked, and in case of questions requiring descriptive answers, the same should preferably be given point-wise.
- (3) While solving practical problems, the answers have not been supported with appropriate working notes. Working notes are very important and they should form part of the answer.
- (4) At the Final level, in taxation papers, the candidates are expected to have the ability to apply the provisions of law in solving a problem or issue. However, candidates were found lacking in analytical and application skills.
- (5) Although in the taxation papers, there has been a fine balance between questions involving application provisions and theoretical questions as well as questions on latest amendments and case laws, the performance was not up to the mark and reflected lack of adequate preparation and lack of awareness of latest amendments and judicial rulings.
- (6) For questions relating to case laws in taxation papers, logical arguments in favour of the decision should be given instead of just giving the decision.
- (7) Some candidates have also resorted to selective study. This has been specifically observed in Indirect Taxes, where the syllabus is divided into Central Excise, Service tax and VAT and Customs. The performance of the candidates was not consistent i.e., if they have done well in one part, they have performed poorly in the other parts.
- (8) The presentation of answers was also very poor in many cases. The major deficiencies are -
  - (i) not starting the answer to a new question on a fresh page.
  - (ii) answering the different sub-parts of the questions in different places instead of answering the same one after the other
  - (iii) leaving blank pages in between the answers
  - (iv) writing the question number outside the margin, which is intended for answers.
  - (v) not marking the questions answered in the cover page inspite of specific instructions to do so.
  - (vi) very poor handwriting,
  - (vii) lack of expression
  - (viii) spelling mistakes and

#### II. Paper-Wise Specific Comments :

##### PAPER - 5 : COST MANAGEMENT

**Question 1.(a)** The question asked to compute break even points under both Absorption Costing and Marginal Costing from given data and also to find out Profit under Absorption costing at a certain level of sales. The answers in respect of Absorption costing were mostly incorrect as the candidates had very little idea about how to deal with the impacts of under absorbed overheads and adjustments for increase in inventories, as asked for in the question. Most of the students were not clear about the difference in the approach to find out profit under the two systems, particularly impact of under absorption of overheads. A large number of examinees were able to calculate BEP correctly under marginal costing but they were failed to calculate the profit under absorption costing.

**(b)** Majority of the candidates had reasonable idea about the application of either CPM or PERT in the given conditions. Most of the examinees attempted well in this question.

**Question 2. (a)** This was a practical question of working out total costs at various level of capacity utilization in a period covering 12 months. This numerical could not be answered by most of the candidates. Two points mentioned in the question – (i) for labour there was a minimum cost per month and (ii) increase in semi – variable cost by a fixed amount at a certain level of capacity utilization; were not clearly understood by them and as a result, the ultimate answers were incorrect.

**(b)& (c)** These theory questions were on the topics of Target Costing and Product Life Cycle. The question produced answers of different qualities – some good answers from candidates with knowledge of the topics and some ludicrous from candidates who based there answers on guess works.

**Question 3. (a)** Most of the examinees did not find out optimal solution through simplex table and only a few students had successfully calculated the correct contribution.

**(b)** This numerical problem was an assignment problem and most of the examinees attempted it correctly.

**(c)** This was a theory problem on benchmarking. Although the majority of the students could answer the first part of the question, most of them failed to state the code of conducts suggested for ethical and effective bench marking.

**Question 4. (a)** The problem asked the candidates to work out best strategies for Divisional performances over two consecutive years under given parameters and interdependence. As the question required to consider different Sales Mixes, in Order to find out the best strategy to be adopted it is essential to rank the various options on the basis of contribution and then proceed to find out the best one providing maximum profitability. A large number of students, could not understand the problem and as a result failed to come to correct conclusions.

It was evident that they lacked adequate practice to solve such problems based on opportunity cost-concept and did not have any key to how to go about finding a logical answer. Most of the answers were incomplete and wrong.

**(b)** This theory question related to unbalanced minimization transportation was well answered by the large number of students. Many of them were able to find out an optimal solution of transportation problem.

**Question 5. (a)** Although most of the candidates could work out variances under traditional standard costing system, majority could not work out the variance under Activity Based Costing (ABC) system.

**(b)** The theory question on penetration pricing was generally

well answered. However, some of them could not explain the use of 'penetration pricing' correctly.

(c) In the problem relating to simulation, most of the candidates could allocate the random numbers, but on a few cases they failed to work out the simulation table correctly.

#### PAPER – 6: MANAGEMENT INFORMATION AND CONTROL SYSTEMS

**Question 1. (a)** Some of the examinees did not mention the type of information required under different types of information systems. Further, they did not mention the levels of management by whom these systems are being used. However, the question was well answered by most of the examinees.

(b) Many examinees could not answer 'duties of certifying authorities with respect to digital signature' in the context of Information Technology (Amendment) Act, 2008. Performance was not satisfactory in this question.

(c) This question was well attempted by the examinees. However, a few of them discussed the objectives in generalized way without referring to information systems.

**Question 2. (a)** Examinees discussed correctly about the constraints of an effective MIS but the methods by which these constraints can be avoided, were not explained adequately in many cases.

(b) Instead of mentioning the components of CASE work bench, many examinees discussed the CASE tools/ types of work bench which resulted in poor performance.

(c) Majority of the examinees have given a generalized answer instead of mentioning the sub systems of Marketing Information System. Hence, the performance of the examinees was not satisfactory.

**Question 3. (a)** Most of the examinees well attempted the question based on the 'Evaluation of ERP Package' but in some cases, examinees mentioned evolution of ERP/Phases of ERP implementation.

(b) Various stages of developing an in-house software were described by the majority of the examinees, correctly. The performance was good in this question.

(c) Most of the examinees answered this question correctly. However, in some cases, examinees described the fraud reduction methods with respect to employees, instead of computers.

**Question 4. (a)** 'Components of client/server architecture' was explained satisfactorily by the examinees.

(b) Instead of describing the control objectives of an operating system, some of the examinees described either basics of the operating system or gave a generalized discussion. However, the overall performance was satisfactory.

(c) Majority of the examinees gave a generalized discussion on the role of a security administrator, instead of to-the-point answer. But, the overall performance was satisfactory.

**Question 5. (a)** Advantages of prewritten application software packages were well described by almost all the examinees. Performance was very good in this question.

(b) Examinees well explained the contents of system manual of systems design; hence, the performance was good for this question.

(c) Majority of the students could not describe 'Data Dictionary' in the desired way. Hence, the performance was not satisfactory in this question.

(d) Most of the examinees wrote the note on training for system operators and users in the desired manner.

#### PAPER – 7 : DIRECT TAXES

**Question 1.** This question requires computation of total income of a company. Most of the candidates have not correctly worked

out the effect of understatement of stock and sales on computation of business income. The candidates have not explained the reasons for additions/disallowances of various items of expenditure. Many candidates have computed minimum alternate tax under section 115JB, which was not required. Some candidates have calculated tax liability, which was also not required.

**Question 2. (a)** Some of the candidates were not able to explain that mere disallowance of an exemption claimed by the assessee will not tantamount to concealment of income and unless there is concealment of particulars of income or furnishing inaccurate particulars of income, penalty under section 271(1)(c) would not be leviable.

(c) Candidates could not correctly explain that the employer is not responsible for verifying the genuineness of the employee's claim for exemption of leave travel concession under section 10(5) for the purpose of tax deduction at source under section 192.

**Question 3. (b)** This is a direct question based on the provisions of section 288. However, many candidates have failed to state correctly the persons who can act as authorised representative. Some candidates have answered that only chartered accountants and lawyers can be authorized representatives.

(c) This question is on tax treatment of premium payable on redemption of debentures. Some candidates have not been able to answer that the provision for premium has to be allowed uniformly over the tenure of debentures.

(d) The reasoning given in the Supreme Court decision, on which this question is based, has not been clearly brought out by the candidates in their answers.

**Question 4. (a)** Some of the candidates were not aware of the amendment made in section 92C(2) by the Finance (No.2) Act, 2009 in respect of determination of arm's length price, where more than one price is determined by the most appropriate method.

(b) Many candidates were not aware of the amendment made in section 80-IA by the Finance (No.2) Act, 2009 to the effect that deduction under that section would not be available to an assessee who merely executes a works contract.

**Question 5. (b)** Some candidates were not aware of the retrospective amendment in section 115JB by the Finance (No.2) Act, 2009 requiring provision for diminution in the value of any asset to be added back for computing book profit. Instead, they have answered that the same is not an unascertained liability and therefore, should not be added back.

(c) Many candidates were not aware of the CBDT Circular No.10/2008 dated 5.12.2008 which defines "fish or fish products" to include "other marine products like crab, lobster, etc" and clarifies that disallowance under section 40A(3) would not be attracted in the case of payment in excess of Rs.20,000, made otherwise than by way of account payee cheque or account payee bank draft, to a producer being a fisherman or head of fisherman but disallowance would be attracted if such payment is made to a middlemen or trader, by whatever name called. Instead, candidates have discussed the exceptions contained in Rule 6DD generally.

**Question 7. (a)** Some of the candidates could not answer that reference cannot be made to the Valuation Officer under section 55A, where the value of the concerned asset as on 1.4.1981 adopted by the assessee is more than the fair market value.

**Question 8. (c)** Many candidates have wrongly taken loan for purchase of shares as a deduction when shares themselves do

not fall within the definition of asset under section 2(ea) and hence, are not chargeable to wealth-tax. They have wrongly considered that since the loan was taken by pledging jewellery, which is an asset chargeable to wealth-tax, the same is allowable as deduction.

**PAPER – 8 : INDIRECT TAXES**

**Question 1. (a) (i)** Many students were not aware of the provision relating to return of goods to supplier under Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001. Whereas some of them have wrongly explained the provisions of rule 16 of the Central Excise Rules, 2007 with regard to return of duty paid goods to the factory for being re-made, refined etc., others have wrongly explained the provisions of reversal of CENVAT credit when inputs are removed as such.

**(b) (i)** Instead of mentioning the time limits prescribed for filing of Annual Installed Capacity Statement, many students have wrongly mentioned the due date for filing of Annual Information Return.

**(ii)** Hardly any student was aware of the time limit prescribed for return of seized records that have not been relied upon by the Department. They have wrongly explained certain provisions of seizure of documentations etc.

**(c)** A large number of students got confused between the registration requirement under service tax vis-a-vis central excise and thus wrongly explained the provisions of centralized registration under service tax. None of the students were aware that in the case of textiles and compressed natural gas, a single registration can be obtained in respect of more than one premises. Also, some students instead of explaining the provision of registration in case of more than one premises explained the provisions relating to registration of a new premises, which was not asked for.

**(e) (ii)** Rule 6(3) of the CENVAT Credit Rules, 2004 gave an option to the manufacturer opting not to maintain separate accounts to pay an amount equal to 10% of the price of the exempted goods. With effect from 07.07.2009, rule 6(3) was amended vide *Notification No. 16/2009 CE (NT) dated 07.07.2009* so as to reduce the said percentage of **10 points of the price of the goods to 5 points of the value of the goods**. The question required the students to state whether the statement, “Rule 6(3) of the CENVAT Credit Rules, 2004 gives an option to the manufacturer opting not to maintain separate accounts to pay an amount equal to **5% of the price** of the exempted goods”, is correct. Almost all the students wrongly concluded that the statement is correct without noticing the subtle difference between **price** and **value**.

**Question 2. (c)** Few students wrongly provided CENVAT credit in respect of electrical lamps for lighting the manufacturing area under the misconception that such lighting directly helps the manufacturing process. Few students mistook the raw steel as capital goods and did not provide CENVAT credit on the same.

**(d)** Though most of the students correctly computed the excise duty liability, they failed to explain the treatment in respect of availment of CENVAT credit as they were not aware of the specific exclusion relating to watches under SSI Notification.

**Question 3.(a)** Most of the students have not understand the principles of classification. Though many of them have reproduced the classification rules and referred the case law, they failed to apply the principle to the case in hand.

**(b)** Some students wrongly concluded that the process of addition of stabilizing agents etc. for deriving liquid mosquito destroyer amounts to manufacture since the characteristics of the finished

goods is different from the inputs. Further, some of them instead of discussing the possibility of emergence/non-emergence of a new product, wrongly referred to marketability test.

**(c)** Very few students were able to enlist the purposes for which the Consumer Welfare Fund is utilized. Most of them explained the concept of unjust enrichment, which was not asked for.

**Question 4. (b)** This question required the students to explain the methodology for calculation of export duty after the introduction of the ‘transaction value’ concept under section 14 of the Customs Act, 1962. A large number of students wrongly explained the provisions relating to transaction value and explained how transaction value is determined under different circumstances.

**(c)** Majority of the students failed to distinguish between the functioning of Inland Container Depots (ICD) and Container Fright Stations (CFS) and wrote very general answers explaining un-necessary details.

**(d)** In this question, students were required to examine whether the statement, “Interest under section 47 is chargeable only after the expiry of warehousing period specified under section 61(1) of the Customs Act, 1962” is correct. However, many students wrongly explained the procedure of recovery of interest, in the event of default.

**(e)** Some students could not explain the term ‘export’ for the purpose of duty draw back.

**Question 5. (a)** Overall performance of the students for this question was good, though only a few of them provided adequate working notes.

**(b)** Though many of the students were aware of the case of Sony India Ltd., they could not apply the ratio of the decision to the given situation.

**(c)** Most of the students wrongly explained that the exporter who has been held guilty of exporting “prohibited goods” is entitled to an option to pay fine in lieu of confiscation.

**Question 6. (a) (iii)** Many students have wrongly concluded that services provided to any person by Government Railways in relation to transportation of goods by rail is chargeable to service tax. It may be noted that for May 2010 examinations, notifications issued till 31.10.2009 were relevant and *Notification No. 33/2009 ST* issued on 01.09.2009 exempted the service provided or to be provided by Government Railways in relation to transport of goods by rail, whether in container or otherwise.

**(b)** Students performed poorly in this question. Most of the students wrongly answered that the Commissioner of Central Excise is empowered to **revise or review** the orders relating to service tax passed by any adjudicating authority subordinate to him, thereby failing to distinguish between the power to revise and review.

**(c) (i)** Very few students were aware of the specific provisions relating to Rule 5 of the Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 and explained a lot of un-necessary and irrelevant details.

**(ii)** Instead of explaining the provisions relating to payment of interest, many students have wrongly narrated the provisions relating to penalty for late filling of returns.

**(d)** Students were found lacking in the knowledge of procedures relating to refund.

# NOTIFICATION

## TO BE PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA

26<sup>th</sup> July, 2010

No.13-CA (EXAM)/CPT/December/2010: - In pursuance of Regulation 22 of the Chartered Accountants Regulations, 1988, the Council of the Institute of Chartered Accountants of India is pleased to notify that the **Common Proficiency Test (Paper- Pencil Mode)** will be held on **Sunday, 19<sup>th</sup> December, 2010** in two sessions as below, at the following centres provided that sufficient number of candidates offer themselves to appear from each centre.

[As per provisions of Regulation 25 D (3) of the Chartered Accountants Regulations, 1988 and the syllabus as published in the pages 291-293 of the Journal 'The Chartered Accountant' August 2006 issue and pages 12-13 of Chartered Accountants Students' Newsletter August 2006 issue.]

**First Session (i.e. Morning Session) 10.30 AM to 12.30 PM (IST)** Section - A Fundamentals of Accounting Section - B Mercantile Laws

**Second Session (i.e. Afternoon Session) 2.00 PM to 4.00 PM (IST)** Section - C General Economics Section - D Quantitative Aptitude

### EXAMINATION CENTRES( IN INDIA):

1 AGRA	2 AHMEDABAD
3 AHMEDNAGAR	4 AJMER
5 AKOLA	6 ALAPPUZHA
7 ALIGARH	8 ALLAHABAD
9 ALWAR	10 AMBALA
11 AMRAVATI	12 AMRITSAR
13 ANAND	14 ASANSOL
15 AURANGABAD	16 BANGALORE
17 BAREILLY	18 BATHINDA
19 BEAWAR	20 BELGAUM
21 BELLARY	22 BERHAMPORE
23 BHAGALPUR	24 BHARAUCH
25 BHAVNAGAR	26 BHILWARA
27 BHOPAL	28 BHUBANESWAR
29 BHUJ	30 BIKANER

31 BILASPUR	32 CHANDIGARH
33 CHENNAI	34 COIMBATORE
35 CUTTACK	36 DEHRADUN
37 DELHI/NEW DELHI	38 DHANBAD
39 DUNDLOD	40 DURG
41 ERNAKULAM	42 ERODE
43 FARIDABAD	44 GANDHIDHAM
45 GHAZIABAD	46 GOA
47 GORAKHPUR	48 GUNTUR
49 GURGAON	50 GUWAHATI
51 GWALIOR	52 HISAR
53 HUBLI	54 HYDERABAD
55 INDORE	56 JABALPUR
57 JAIPUR	58 JALANDHAR
59 JALGAON	60 JAMMU
61 JAMNAGAR	62 JAMSHEDPUR
63 JODHPUR	64 KANPUR
65 KARNAL	66 KOLLAM
67 KOLHAPUR	68 KOLKATA
69 KOTA	70 KOTTAYAM
71 KOZHICODE	72 KUMBAKONAM
73 LATUR	74 LUCKNOW
75 LUDHIANA	76 MADURAI
77 MANGALORE	78 MATHURA
79 MEERUT	80 MORADABAD
81 MUMBAI	
82 MUZAFFARNAGAR	83 <i>MYSORE</i>
84 NAGPUR	
85 NANDED	86 NASHIK
87 NELLORE	88 NOIDA
89 PALGHAT	90 PALI MARWAR
91 PANIPAT	92 PANVEL
93 PATNA	94 PATIALA
95 PIMPRI-CHINCHWAD	
96 PONDICHERY	97 PUNE
98 RAIPUR	

## NOTIFICATION

99 RAJAMAHENDRAVARAM	
100 RAJKOT	101 RANCHI
102 RATLAM	103 REWARI
104 ROHTAK	105 ROURKELA
106 SAHARANPUR	107 SALEM
108 SAMBALPUR	109 SANGLI
110 SATARA	111 SHIMLA
112 SIKAR	113 SILIGURI
114 SOLAPUR	115 SONEPAT
116 SRI GANGANAGAR	
117 SURAT	118 THANE
119 THIRUVANANTHAPURAM	
120 THRISSUR	121 TINSUKIA
122 TIRUCHIRAPALLI	123 TIRUPATI
124 TIRUPUR	125 TUTICORIN
126 UDAIPUR	127 UDUPI
128 UJJAIN	129 VADODARA
130 VAPI	131 VARANASI
132 VELLORE	133 VIJAYAWADA
134 VISAKHAPATNAM	135 YAMUNA NAGAR

**Overseas Centres :-** (1) ABU DHABI (2) DUBAI (3) BAHRAIN (4) DOHA (5) KATHMANDU

The Council reserves the right to withdraw any centre at any stage without assigning any reason.

Applications for admission to Common Proficiency Test is required to be made in the relevant prescribed form as contained in the Information Brochure, which may be obtained from the **Additional Secretary (Examinations)**, The Institute of Chartered Accountants of India, ICAI Bhawan, Indraprastha Marg, New Delhi – 110 002 on payment of ₹ 600/- (₹500/- towards examination fee and ₹ 100/- towards cost of application form and Information brochure) per application form. The fee for candidates opting for Abu Dhabi , Dubai, Doha and Bahrain centres will be US \$160 ( US \$ 150 towards examination fee and US \$ 10 towards cost of application form and information brochure) or its equivalent Indian Currency. The fee for the candidates opting for Kathmandu centre are required to remit INR.950/- ( INR 850/- towards examination fee and INR 100/- towards the cost of application form

and information brochure) or its equivalent foreign Currency. Since the cost of Information brochure containing Common Proficiency Test application form includes the examination fee , no separate fee is required to be remitted at the time of submitting the filled in application form. The Information brochure containing Common Proficiency Test application form will also be available in the Regional and Branch Offices of the Institute and can be obtained there from on cash payment on or from **6<sup>th</sup> October, 2010**.

Common Proficiency Test application forms duly filled in may be sent so as to reach the Additional Secretary (Examinations) at New Delhi not later than **27<sup>th</sup> October, 2010** . Applications received after **27<sup>th</sup> October, 2010** shall not be entertained under any circumstances. Applications duly filled in will be received by hand delivery at the offices of Institute at New Delhi and at the Decentralised Offices of the Institute at Mumbai, Chennai, Kolkata, Kanpur, Ahmedabad, Bangalore, Hyderabad, Jaipur and Pune upto **27<sup>th</sup> October, 2010**. Candidates residing in these cities are advised to take advantage of this facility. **It may be noted that there is no provision for acceptance of application forms after 27<sup>th</sup> October, 2010 with late fee.**

Alternatively the candidate may fill up the examination application form online at <http://icaiaexam.icaai.org> from **6<sup>th</sup> October, 2010 ( 10:00 hrs)** to **27<sup>th</sup> October, 2010 (17:30hrs)** and remit the fee online by using credit card, either VISA or Master Card.

Common Proficiency Test (CPT) is open only to those students who are already registered with the Institute of Chartered Accountants of India for the said course on or before **1<sup>st</sup> October, 2010** and fulfill the requisite eligibility conditions.

### QUESTION PAPER BOOKLET LANGUAGE:

Common Proficiency Test will be an objective type multiple choice questions based examination. Candidates will be allowed to opt for Hindi medium Question Paper Booklet for answering the questions. Detailed information will be found given in the Information brochure.

**(G. SOMASEKHAR)  
ADDITIONAL SECRETARY (EXAMS.)**



CA. Vinod Jain, Chief Guest and Chairman, Board of Studies, inaugurating the National Convention for CA Students at Kanpur on 2-07-2010. Also seen in the picture (L to R) CA. Ankush Golechha, Member, CIRC, CA. Kemisha Soni, Chairperson, CIRC, CA. Manu Agarwal, Treasurer, CIRC, CA. Anuj Goel, Central Council Member and CA. Vivek Khanna, Chairman, CICASA.



A view of the Dias at the National Convention of CA Students at Kanpur. Seen in picture (L-R) CA. Manu Agarwal, Treasurer, CIRC, CA. Kemisha Soni, Chairperson, CIRC, CA. Vinod Jain, Chairman, Board of Studies, CA. Anuj Goel, Central Council Member and CA. Ankush Golechha, Member, CIRC.

## Rank holders of CA Examinations

### Integrated Professional Competence Examination May, 2010



**Ankit Bajranglal Somani**  
Surat  
First Rank



**R. Gayathri Dhevi**  
Chennai  
Second Rank



**Namita Vijay Shah**  
Mumbai  
Third Rank

### Professional Competence Examination May, 2010



**Shruti Sodhani**  
Bangalore  
First Rank



**Prachi Jain**  
New Delhi  
First Rank

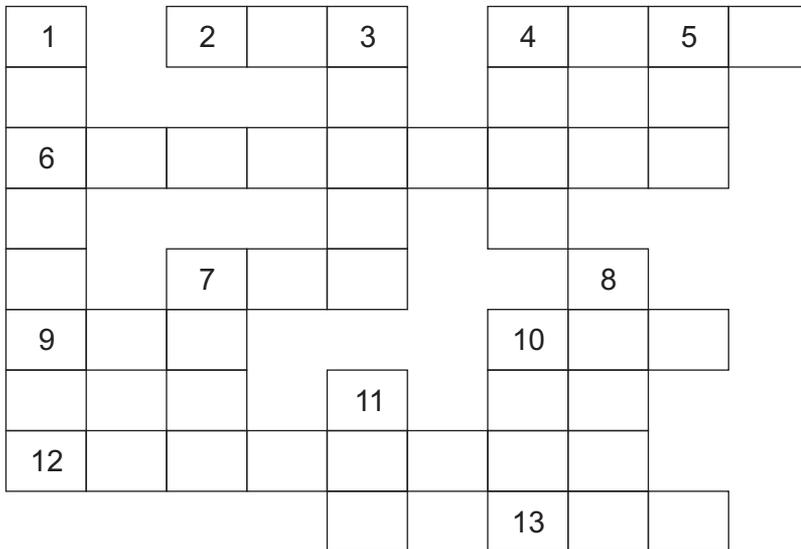


**Aekta Narendra Gupta**  
Pune  
Second Rank



**Keval Bharat Vikam**  
Thane  
Third Rank

## ◀ CROSSWORD



### ACROSS

2. The soft lending arm of the World Bank.
4. ----- refers to groups of information that represent the qualitative or quantitative attributes of a variable or set of variables.
6. Present liability of uncertain amount which can be measured reliably is known as \_\_\_\_\_
7. ----- relates to solutions allowing an enterprise to share customer, product, competitor and market information to accomplish customer satisfaction and increased revenues.
9. Brain of the computer.
10. Bottom line figure
12. ----- horse is a malicious security breaking programme named after a Greek legend.
13. A crossing between partnership and company form of business.

### DOWN

1. The cost of factors owned by the entrepreneur himself and employed in his own business are called \_\_\_\_\_ costs.
3. A self evident statement -----
4. All designated partners of the proposed LLP shall obtain \_\_\_\_\_ by filing an application individually online in Form -7.
5. The ceiling limit of the amount of Gratuity payable is----- lacs
7. Continental currency ---
8. A company is a ----- entity.
11. Alternate tax payable by company