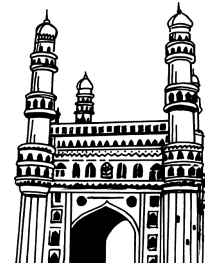


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BUSINESS AND CORPORATE TAXATION

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BUSINESS AND CORPORATE TAXATION

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ASSESSMENT OF COMPANIES - I :

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Important Questions

UNIT - I

1. What are the Conditions for Assessment as a firm U/S 184?

Ans :

Refer Unit-I, Q.No. 4

2. Explain the Treatment of interest and remuneration paid to partners U/S 40(b).

Ans :

Refer Unit-I, Q.No. 5

3. Explain the Computation of Total Income of a firm.

Ans :

Refer Unit-I, Q.No. 6

4. A, B and C are partners in a firm assessed as firm sharing profits and losses in the proportion of 3:2: 1. The firm's Profit and Loss Account for the year ended 31st March, 2022 showed a net profit of ₹ 1,17,360 after debiting inter-alia the following amounts:

- (i) Salary of ₹ 4,000 paid to C.
- (ii) Rent of ₹ 9,000 paid to A for the portion of building owned by A in which the firm's office was situated.
- (iii) Interest on capital @ 10% is ₹ 1,000 ; ₹ 2,000 and ₹ 3,000 to A, B and C respectively.
- (iv) Commission on sale to B, ₹ 1,000.
- (v) Expenses on current repairs of the business premises belonging to partner A. ₹ 1,000. The rent agreement does not contain any provision regarding repairs by the firm.
- (vi) Donation to Shri Sai Baba Sansthan Trust Shirdi (approved), ₹ 5,000.

The net profit of ₹ 1,17,360 included ₹ 10,400 from interest on Government securities. Compute firm's total income for the assessment year 2022-23. The deed was submitted along with return and it provides for salary to C ₹ 4,000 p.a. and interest on capital to partners @ 10% p.a. Also compute partner's income chargeable to tax under the head "Profits and Gains".

Sol :

Refer Unit-I, Prob. 5

5. What are the provisions of income tax act regarding the Assessment of a partnership firm U/S 185?

Ans :

Refer Unit-I, Q.No. 7

6. How do you assess the share of profits for the partners of firm? Explain.

Ans :

Refer Unit-I, Q.No. 8

7. Explain the allocation of AOPs total income.

Ans :

Refer Unit-I, Q.No. 15

8. Explain the treatment of Treatment of share of income received by member of AOP.

Ans :

Refer Unit-I, Q.No. 16

UNIT - II

1. Define Company. Explain the features of a company.

Ans :

Refer Unit-II, Q.No. 1

2. Explain the various tax rates for companies for the assessment year 2022-23.

Ans :

Refer Unit-II, Q.No. 6

3. What are the Special Provisions for Payment of Income Tax by Certain Companies.

Ans :

Refer Unit-II, Q.No. 8

4. What are the statutory Additions and Deletions While Calculating Book Profits for Mat?

Ans :

Refer Unit-II, Q.No. 9

5. The following are the particulars of income/loss of Mr. A. You are required to set-off losses and carry forward and set-off where necessary.

Particulars	Assessment Year 2021-22 、	Assessment Year 2022-23 、
Income from salary (computed)	15,000	15,000
Income from Interest on Securities (Gross)	5,000	5,000
Loss from business	53,000	15,000
Short-term capital gain	8,000	—
Long-term capital gain (Land)	21,000	—

Ans :

Refer Unit-II, Prob. 3

6. What is Dividend Tax ? Explain the provisions Relating to Tax on Distributed Profits of Companies.

Ans :

Refer Unit-II, Q.No. 11

7. Explain about tax procedure for venture capital companies.

Ans :

Refer Unit-II, Q.No. 13

UNIT - III

1. What are the deductions out of gross total income U/S 80 applicable to a company?

Ans :

Refer Unit-III, Q.No. 1

2. The Statement of Profit and Loss of Bharat Ltd. a domestic Co. disclosed a net profit of ₹ 15,75,000 for the financial year 2021-22. The summarised statement is as follows.

Items Charged	₹	Items Credited	₹
Opening stock	40,000	Sales	70,00,000
Purchases	18,35,000	Closing stock	1,00,000
Direct wages	8,00,000	Dividend from Indian Company	5,000
Freight inward	10,000	Bad debts recovered	2,000
Salaries	5,00,000		
General Exp.	3,00,000		
Sales Exp.	2,00,000		
M.D Remuneration	5,00,000		
Director's sitting fees	50,000		
Income tax	3,00,000		
GST Penalty	1,10,000		
Proposed dividend	4,00,000		
Provision for losses of subsidiary	3,00,000		
Depreciation	1,00,000		
Excise duty	80,000		

Additional Informations :

1. General expenses includes.
 - (a) Festival celebration expenses ₹ 5,000
 - (b) Diwali Poojan expenses ₹ 5,000

- (c) Donation to P.M. National relief fund ` 10,000
2. Sales expenses include 1,000 diaries distributed to dealers involving an expenditure of 50,000.
 3. Excise duty related to previous year 2020-21 ` 10,000 was paid during current year.
 4. Bad debt recovered during the year relates to previous year 2020-21 and were claimed as deduction in the same period.
 5. Brought forward Business losses and depreciation

	As per Books	For tax purchase
B/F Business loss	1,50,000	3,00,000
Unabsorbed depreciation	1,00,000	2,00,000

Calculate :

- A. Total income and tax liability as per normal provision of IT Act for Assessment Year 2022-23.
- B. Book profits and tax liabilities under 115JB.
- C. Ultimate Tax liability for the Company.

Sol.:

Refer Unit-III, Prob. 1

3. Gamson Ltd. is engaged in the manufacture and export of leather shoes. The Statement of Profit and Loss of the Company for Assessment Year 2022-23 showed a net profit of ` 10,00,000.

Items Charged	`	Incomes	`
Raw material consumed	14,75,000	Sales	
Wages and Salaries	10,25,000	Local	10,00,000
Administration expenses	7,70,000	Export	<u>35,17,500</u>
Depreciation	1,07,500		45,17,500
Other indirect expenses	5,00,000	Excise duty draw back	5,00,000
Provision for contingent liability	40,000	Cash subsidy	1,00,000
Proposed dividend	2,00,000		

Other Information :

- (i) Depreciation under Income Tax Act. amount to ` 1,20,000.
- (ii) Payment against one bill of ` 50,000 was made to supplier in cash.
- (iii) Indirect expenses include custom penalty of ` 12,000.
- (iv) Convertible foreign exchange brought into India ` 34,50,000.

	As per Books	As per Tax Act
(v) Brought forward business loss	2,00,000	3,50,000
Brought forward unabsorbed depreciation	50,000	1,25,000

Calculate :

- (i) Total income tax liability of the Company as per normal provisions of Income tax Act.
- (ii) Tax liability under MAT.
- (iii) Tax liability for Assessment Year 2022-23.

Sol :

Refer Unit-III, Prob. 3

-
- 4. Define Security Transaction Tax. Explain the scope, computation of STT.**

Ans :

Refer Unit-III, Q.No. 3

-
- 5. What are the features of securities transaction tax?**

Ans :

Refer Unit-III, Q.No. 4

-
- 6. What is meant by tonnage tax? Explain the provisions of tonnage tax scheme in detail.**

Ans :

Refer Unit-III, Q.No. 7

-
- 7. What are the core activities are excluded from tonnage tax ?**

Ans :

Refer Unit-III, Q.No. 9

-
- 8. Explain about Avoidance of Tax and Exclusion of Tax Under Tonnage tax scheme.**

Ans :

Refer Unit-III, Q.No. 13

UNIT - IV

- 1. What are the features of Cooperative organizations?**

Ans :

Refer Unit-IV, Q.No. 2

-
- 2. Explain various deductions of co-operative societies u/s 80(p).**

Ans :

Refer Unit-IV, Q.No. 4

-
- 3. Explain about other deductions U/S80 P?**

Ans :

Refer Unit-IV, Q.No. 5

4. The Ludhiana Co-operative Marketing Society is a society registered under the Co-operative Societies Act, 1912 and is engaged in the business of purchase of agricultural implements and seeds for the purpose of supplying them to its members. From this business it earned an income of ₹ 50,000.

In May 1981 it opened a consumer's store for selling groceries and this venture netted a profit of ₹ 65,000 during the year 2021-22. Compute the total income of society and tax payable by it for the assessment year 2022-23. If—

(A) it does not opt to be taxed u/s 115BAD.

(B) it opts to be taxed u/s 115BAD.

Sol :

Refer Unit-IV, Prob. 2

5. The Government College Co-operative society Ltd. has the following incomes during the year :

(a) Income from College Canteen & Mess	20,000
(b) Income from College Book Shop	8,000
(c) Interest on Securities (Gross)	8,000
(d) Income from House Property (computed)	5,000
(e) Dividend on shares of another Co-operative Society	13,000

Compute the total income of society.

Sol :

Refer Unit-IV, Q.No. 3

6. What are the pre requisites for registration of a trusts.

Ans :

Refer Unit-IV, Q.No. 9

7. What are the different types trusts?

Ans :

Refer Unit-IV, Q.No. 10

8. Explain in detail about the eligibility for exemptions of a trust and explain the provisions related to taxation of trust.

Ans :

Refer Unit-IV, Q.No. 11

9. Explain about the exempted incomes of trust.

Ans :

Refer Unit-IV, Q.No. 12

10. Explain about unexempted incomes of trust U/S 11 to 12.

Ans :

Refer Unit-IV, Q.No. 14

11. Explain the assessment procedure of trusts.

Ans :

Refer Unit-IV, Q.No. 15

UNIT - V

1. Explain the procedure for registration for GST.

Ans :

Refer Unit-V, Q.No. 4

2. What is Intra State Supply of Goods ? How do you enter in Tally ERP 9 ?

Ans :

Refer Unit-V, Q.No. 8

3. What are the differences between Goods and Services?

Ans :

Refer Unit-V, Q.No. 9

4. What are the Exemptions from GST?

Ans :

Refer Unit-V, Q.No. 11

5. Write a brief note on Customs Act 1962.

Ans :

Refer Unit-V, Q.No. 19

6. What are the different types of custom duties?

Ans :

Refer Unit-V, Q.No. 20

7. Describe the exemptions of customs duty.

Ans :

Refer Unit-V, Q.No. 21

UNIT I

ASSESSMENT OF PARTNERSHIP FIRMS & AOP:

Meaning of Partnership Firm - Conditions for Assessment as a firm U/S 184 and 185 - Treatment of interest and remuneration paid to partners U/S 40(b) - Computation of Total Income - Assessment of Partners of Firm - Change in constitution of Firm Succession of one firm by another firm - Assessment of dissolved or discontinued firm - Partnership Firm Assessed as Association of Persons (AFAOP) - Computation of Total Income - Treatment of share of income received by partners of PFAOP.

1.1 MEANING OF PARTNERSHIP FIRM

Q1. Define Partnership.

Ans :

Meaning

Section 4 of the Indian Partnership Act has defined the word 'Partnership' as "the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all".

From this definition, the following points emerge :

- (a) That partnership is an association of two or more persons.
- (b) There must be an agreement entered into by all persons.
- (c) The agreement is to carry on some business or profession.
- (d) The business to be carried on by all or by any one of them acting on behalf of all and for the benefit of all.
- (e) The agreement is to share the profits and losses of business or profession.

The term 'partner' is defined as any person who has entered into partnership. Partners entering into a contract with one another are called individually as partners and collectively 'a firm' and the name under which their business is carried on is called the firm's name. The word 'partner' shall also include any person who, being a minor has been admitted to the benefits of partnership.

The term 'firm' means the entity which comes into existence as a result of partnership agreement.

Q2. What are the features of partnership firm?

Ans :

The following are the features of partnership firm are :

1. Two or More Persons

At least two persons must pool resources to start a partnership firm. The Partnership Act, 1932 does not specify any maximum limit on the number of partners. However, the Companies Act, 1956 lays down that any partnership or association of more than 10 persons in case of banking business and 20 persons in other types of business is illegal unless registered as a joint stock company.

2. Agreement

A partnership comes into being through an agreement between persons who are competent to enter into a contract (e.g. Minors, lunatics, insolvents etc. not eligible). The agreement may be oral, written or implied. It is, however, to put everything in black and white and clear the fog surrounding all knotty issues.

3. Lawful Business

The partners can take up only legally blessed activities. Any illegal activity carried out by partners does not enjoy the legal sanction.

4. Registration

Under the Act, registration of a firm is not compulsory. (In most states in India, registration is voluntary). However, if the firm is not registered, certain legal benefits cannot

be obtained. The effects of non-registration are- (i) the firm cannot take any action in a court of law against any other parties for settlement of claims and (ii) in case of a dispute among partners, it is not possible to settle the disputes through a court of law.

5. Profit Sharing

The partnership agreement must specify the manner of sharing profits and losses among partners. A charitable hospital, educational institution run jointly by like-minded persons is not to be viewed as partnership since there is no sharing of profits or losses. However, mere sharing of profits is not a conclusive proof of partnership. In this sense, employees or creditors who share profits cannot be called partners unless there is an agreement between the partners.

6. Agency Relationship

Generally speaking, every partner is considered to be an agent of the firm as well as other partners. Partners have an agency relationship among themselves. The business can be carried out jointly run by one nominated partner on behalf of all. Any acts done by a nominated partner in good faith and on behalf of the firm are binding on other partners as well as the firm.

7. Unlimited Liability

All partners are jointly and severally responsible for all activities carried out by the partnership. In other words in all cases where the assets of the firm are not sufficient to meet the obligations of creditors of the firm, the private assets of the partners can also be attached. The creditors can get hold one any one partner—who is financially sound-and get their claims satisfied.

8. Not a Separate Legal Entity

The firm does not have a personality of its own. The business gets terminated in case of death, bankruptcy or lunacy of any one of the partners.

Q3. State the advantages and disadvantages of partnership firm.

Ans :

Advantages

The following are the advantages of partnership firm :

1. Easy to form

A partnership firm can be formed without any legal formalities and expenses. Even if the firm is to be registered, the expenses are not much compared to company form of organization.

2. Access to more capital

A firm consists of more than one person. Therefore it can secure more capital from combined resources.

3. Skill and talent

Talented persons may be taken as partners. More skill and talent will be available..

4. Division of labor

Division of labor can be introduced which increases the efficiency in the management. One partner may take care of purchases, another sales, a third accounts and so on.

5. Contact with customers

All the partners in a firm may take part in the management of the business. So, they get in touch with the customers during the course of the business. It enables them to study the tastes and needs of the customers.

6. Borrowing capacity

The creditors will lend Loans not only on the basis of the firm's assets but also based on the personal properties of the partners. So the borrowing capacity of a firm is more.

7. Incentive to work hard

Every partner is liable for the debts of the firm. Also every partner has a share in the profits. This makes them to work hard for the success of the business.

8. Expansion of business

Due to the availability of sufficient finance and skill the business can be expanded very easily.

9. Wise decisions

In partnership, decisions are taken with the consultation of all the partners. So naturally the decisions are wiser and more beneficial.

10. Co-operation between partners

The partnership enables partners to provide mutual help to each other. Partners behave as members in a joint family.

11. Flexibility

Changes in the business can be adopted easily. There are no legal restrictions.

12. Economy in operation

If there is co-operation among the partners the firm can be run efficiently. A good number of economies in management can be derived.

13. Division of risks

All losses and risks of the business are shared by all the partners. So risky ventures can also be taken up.

14. Maintenance of secrets

Business secrets can be maintained easily if the number of partners in a firm are limited.

15. Incidence of tax

Compared with company form of organization the tax payable on the incomes of the partners will be less.

Disadvantages

The following are the disadvantages of a partnership firm :

1. Division of responsibility

In a partnership the management is divided. As such responsibilities are also divided. Every partner might try to shift the burden on to the shoulders of others; finally none takes the responsibility properly.

2. Delay in decisions

Sometimes the partners may not agree with one another in taking decisions. As a result partners will not be in a position to take quick decisions.

3. Lack of continuity

A partnership gets dissolved on the death, insolvency, insanity or retirement of any partner. So, there is no guarantee for the continuity of the firm.

4. No transferability of share

In a firm the partner cannot transfer his share of interest to others without the consent of the other partners.

5. Lack of secrecy

It may not be possible to maintain secrecy in partnership because of the number of partners.

6. Unlimited liability

The creditors of a firm can recover their loan amounts from the personal properties of the partners when the firm's sources are not enough. Therefore the personal properties of the partners are not safe..

7. Joint and several liability

Every partner is jointly and separately liable for the firm's debts. In case of insolvency of partners, the solvent partners have to pay the debts of the insolvent partners also.

1.1.1 Conditions for Assessment as a firm U/S 184**Q4. What are the Conditions for Assessment as a firm U/S 184?**

Ans : (Imp.)

A. A firm/LLP which fulfills conditions prescribed u/s 184 i.e.

- (i) It has submitted its partnership deed (Instrument of partnership) ;
- (ii) Such deed must show the respective share of each partner ;
- (iii) It is duly signed by all partners except a minor partner
- (iv) It is submitted along with its return for the assessment year 1993-94. In case of firms coming into existence after 1-4-93 it is to be submitted along with their first return.

(v) In case there is any change in the profit sharing ratio a revised deed must be submitted.

(vi) The firm should not have been assessed to tax u/s 144 i.e. best judgment assessment.

B. A firm/LLP, which does not fulfill the conditions prescribed u/s 184

As given above or it is firm which fulfills conditions given u/s 184 but has been assessed to tax u/s 144

Instrument of partnership

It is the written partnership agreement entered into by partners. It has to be signed and certified by all the existing partners (except minors). In case firm has been dissolved before filing of return of income, it should be signed by all those persons who were partners in the firm immediately before its dissolution and in case partner has died the instrument must be signed by his legal representatives immediately before its dissolution as in case partner has died the instrument must be signed by his legal representative. For a limited liability partnership the instrument of partnership is known as incorporation document filed with the registrar.

Change in Constitution

When a firm is assessed as firm for any assessment year it shall be assessed in same capacity for every subsequent year unless there is change in the constitution of firm or in the share of partners as evidenced by the instrument of partnership submitted along with return for first assessment. [Section 184(3)]

In case any change has taken place during the previous year the firm shall furnish a certified copy for the previous year in which such change takes place. In such case the firm will continue to be assessed as firm. [Section 184(4)]

Effect of best judgment assessment

Where in respect of an assessment year there is on the part of a firm any such failure as is mentioned in section 144 and such firm is subjected to best judgment assessment, the firm shall be

assessed in the same manner as given below for firms which fail to fulfill conditions prescribed u/s 184. [Section 184(5)]

Treatment [Section 185]

In case a firm does not comply with the provisions of Section 184 for any assessment year, the firm shall be assessed in the same manner as given above but

- (a) It shall not be allowed to deduct remuneration as allowed u/s 40(b) ;
- (b) Full amount of interest on capital paid to partners is disallowed.
- (c) The amount of remuneration and interest shall not be added in the individual income of partners.
- (d) The firm shall pay tax in the same manner as in case of firm, which fulfils conditions prescribed u/s 184.

1.1.2 Treatment of interest and remuneration paid to partners U/S 40(b)

Q5. Explain the Treatment of interest and remuneration paid to partners U/S 40(b).

Ans :

(Imp.)

- (a) While calculating firm's business profit, the provisions as given under section 28 to 44 are applicable.
- (b) Section 40(b) lays down following rules regarding payment of salary, commission, or remuneration to working partners and interest on capital to all partners. These rules are
 - (i) Any payment of salary, commission or remuneration paid to a partner who is not a working partner, is disallowed.
 - (ii) Any remuneration paid to a working partner, who is not authorised by or which is not in accordance with terms of partnership deed (instrument of partnership) is disallowed.
 - (iii) Any interest paid to partners according to terms of partnership deed is allowed provided rate of interest does not exceed 12%. Excess is disallowed.

- (iv) Any interest paid to partner, who is not authorised by or is not in accordance with partnership deed is disallowed.
- (v) In case interest or remuneration is paid to a partner and is authorised by partnership deed but relates to the period prior to the date of such deed and it was also not authorised by any earlier deed, it shall be disallowed.

In case any payment for remuneration is made to one or more working partners during the previous year, it is allowed up to limits given below. Excess is disallowed.

Limits on Payment of Remuneration to Working Partners

- (a) On the first ₹ 3,00,000 of the book profit or in case of loss ₹ 1,50,000 or 90% of the book-profit, whichever is more
- (b) On the balance of the book-profit 60% of book profit

Allowable remuneration to working partners in case of loss to a firm

In case there is a loss to a firm or book profit is less and actual remuneration given to working partners is more than ₹ 1,50,000, then a maximum of ₹ 1,50,000 shall be allowed to be deducted out of book profit.

PROBLEMS

1. Calculate remuneration of partners.

Book profit	30,000
Remuneration to working partners	1,80,000

Sol :

Particulars	
Book profit	30,000
Less remuneration allowable to working partners :	
Least of following two amounts is allowed	
(i) Actual remuneration given to working partners = 1,80,000] w.e. is less
OR	
(ii) 90% of 30,000 = 27,000	
OR	
Statutory limit = 1,50,000] w.e. is higher
w.e. is higher	
1,50,000	
Book Loss	(-) 1,20,000

Note: In case of a loss to a firm, remuneration given to working partners shall be allowed to a maximum of ₹ 1,50,000.

2. Calculate remuneration of partners.

Book loss	30,000
Remuneration to working partners	1,80,000

Sol.:

Book loss		(-) 30,000
Less remuneration allowable to working partners :		
Least of following two amounts is allowed :		
(i) Actual remuneration given to working partners =	1,80,000] which ever is less
OR		
(ii) Statutory amount allowed	1,50,000	
	Firm's loss	(-) 1,80,000

Note : Since there is a loss, so 90% of book profit is not considered.

1.1.3 Computation of Total Income

Q6. Explain the Computation of Total Income of a firm.

*Ans.:***(Imp.)**

1. Income is computed headwise. Firm cannot have salary income.
2. It cannot have self-occupied house. Income from let out house property is computed in same manner as already studied under the head 'house property'.
3. Profits and gains—same as per above.
4. Income under the head capital gains is computed in same manner but with no exemption u/s 54, 54B and 54F.
5. Income from other sources is computed in same manner.
6. Carry forward and set off of losses is done in the same manner.
7. Deductions out of Gross total income : A firm can claim following deductions

u/s 80 G	For donations
u/s 80 GGA	For contribution to certain funds
u/s 80 GGC	For donation to political parties
u/s 80 IA	For infrastructure projects
u/s 80 IAB	For setting up Special Economic Zones
u/s 80 IB	For new industrial undertaking
u/s 80 IBA	Profits and gains from housing projects
u/s 80 IC	For setting up industry in backward states
u/s 80 ID	For setting up hotel or convention centre
u/s 80 IE	For undertakings in North-Eastern State
u/s 80 JJA	For use of bio waste, and
u/s 80 JJAA	For employment of new employees

Firm is not allowed any other deduction.

Tax Rates Applicable to Firm (including LLP) for Assessment Year 2022-23

- (a) It pays tax at flat rate of 30% with no exemption limit.
- (b) On long term capital gain—rate of tax is 20%.
- (c) On long term capital gain on sale of shares, units of mutual funds and units of a business trust (S.T.T. paid) — as per section 112A — 10% on amount exceeding ₹ 1,00,000.
- (d) On short term capital gain on securities covered under S.T.T.—rate of tax is 15%
- (e) On winnings from lotteries, crossword puzzle, races, card games, gambling and betting— rate of tax is 30%.
- (f) Tax so calculated shall be increased by surcharge @ 12% of tax if total income of the firm/ LLP exceeds ₹ 1 crore.
- (g) It is further increased by Health and Education cess @ 4% of tax plus surcharge, if any.

Treatment of Share of Income from firm/LLP

It is fully exempted from tax u/s 10(2A) and as such is not added in individual income of partners.

Treatment of remuneration and interest received from firm/LLP

Following amounts shall be added in the individual income of partners under the head Profits and gains :

- (a) Interest paid by firm to partners shall not be added in individual income of partners if it has been disallowed to firm as it was paid without its being mentioned in deed. Interest paid by firm to partners shall be fully added in individual income of partners if it has been fully allowed to firm and it was paid as it was mentioned in deed and rate of interest was up to 12%. Interest paid by firm to partners shall be added in individual income of partners up to 12% p.a. if it has been allowed to firm @ 12% p.a. if mentioned in deed.

This means that if partnership deed allows interest to partners @ 12% or less, then it is allowed to be debited to P & L A/c of the firm and while calculating individual income of the partners it is added in the individual income of partners. So by debiting this amount of interest to P&L A/c, the profit of the firm is reduced whereas the same amount of interest is added in the individual income of partners and thus partners would pay tax on such interest. In case partnership deed allows interest which is more than 12%, then only 12% is allowed and excess will be added back in the profit of the firm if already debited to the P&L A/c. This simply means that only 12% is allowed to be debited to P&L A/c of the firm and only the same amount is treated as individual income of partners.

- (b) Remuneration paid to partners and allowed to firm shall be added in individual income of partners in following manner
 - (i) If it is fully allowed it shall be fully added in partner's individual income.
 - (ii) If it was allowed up to restricted amount as per above, amount to be added shall be

$$\text{Restricted remuneration X} = \frac{\text{Actual Remuneration of a Partner}}{\text{Total Remuneration of all Partners}}$$

PROBLEMS

3. The Profit and Loss Account of a firm in which the partners X, Y and Z share profits and losses in the ratio of 5 :4:1 respectively discloses profit of ₹ 80,525 for accounting year ending 31st March 2022.

Debits	₹	Credits	₹
Donation to National Defence Fund	11,000	Capital gain on sale of scrap machinery	5,000
Salary to Partners		Interest on debentures after deduction of tax at source ₹ 2,500	22,500
X ₹ 15,000		Interest on Securities (Gross)	3,500
Y ₹ 19,000			
Z ₹ 22,000			
	56,000		
Commission to X	6,000		
Office Rent (Paid to Y)	12,000		

Compute the total income of the firm for the assessment year 2022-23. The firm has submitted certified copy of instrument of partnership along with return and it provides for payment of salary, commission to working partners X, Y and Z as per above.

Sol :

Computation of Business Profit of the Firm for the Assessment Year 2022-23

Particulars	₹	₹
Net Profit as per P & L A/c		80,525
Add: Inadmissible expenses		
Donation to NDF	11,000	
Salary to partners	56,000	
Commission to X	6,000	
		73,000
		1,53,525
Less: Incomes not taxable under this head		
Profit on sale of scrap (STC Gain)	5,000	
Interest on debentures	22,500	
Interest on Securities	3,500	
		31,000
Book Profits		1,22,525

Computation of Firm's total Income

Rounded off to ` 83,030.

- | Particulars | ₹ | ₹ |
|--|----------|----------|
| Net Profit as per P & L A/c (after debiting the following) | | 1,20,000 |
| Salary to A | 1,60,000 | |
| Salary to B | 1,40,000 | |
| Commission to A | 1,20,000 | |
| Interest on Capital @ 15% | | |
| to A | 30,000 | |
| to B | 15,000 | |

The payments to partners A & B (who are working partners) have been made in accordance with partnership deed whose certified copy has been submitted along with return of income for the assessment year 2022-23. Also compute the individual income of partner A & B which is taxable under the head Profits & Gains.

Sol.:

Particulars		
Computation of Business Income of Firm		
Net Profit as per P & L A/c		1,20,000
Add: Inadmissible expenses		
Salary to A	1,60,000	
Salary to B	1,40,000	
Commission to A	1,20,000	
(i) Interest on Capital (Excess over 12%) (45,000 × 3/15)	9,000	4,29,000
Book Profits		5,49,000
Less: Remuneration allowed u/s 40(b)		
Salary to working partners A & B (₹ 1,60,000 + ₹ 1,40,000)	3,00,000	
Commission to partner A	1,20,000	
Actual Total	4,20,000	
OR		
[90% of 3,00,000 + 60% of 2,49,000 = 2,70,000 + 1,49,400]	4,19,400	
whichever is less		4,19,400
Taxable Business Profits of firm		1,29,600

Individual income of partners

- (i) Share of income from this firm will not be included in the individual income of partners as it is exempted u/s 10(2A).
- (ii) Salary and Commission received by A & B will be taxable income under the head Profit & Gains.

Remuneration taxable in the hands of partners under the head 'Profits and Gains'**Partner A**

Remuneration – Salary	[1,60,000 × 4,19,400/4,20,000]	1,59,771
Commission	[1,20,000 × 4,19,400/4,20,000]	1,19,829
Interest @ 12%	[30,000 × 12/15]	24,000
		<u>3,03,600</u>

Partner B

Remuneration Salary	[1,40,000 × 4,19,400/4,20,000]	1,39,800
Interest @ 12%	[15,000 × 12/15]	12,000
		<u>1,51,800</u>

5. A, B and C are partners in a firm assessed as firm sharing profits and losses in the proportion of 3:2: 1. The firm's Profit and Loss Account for the year ended 31st March, 2022 showed a net profit of ₹ 1,17,360 after debiting inter-alia the following amounts:

- (i) Salary of ₹ 4,000 paid to C.
- (ii) Rent of ₹ 9,000 paid to A for the portion of building owned by A in which the firm's office was situated.
- (iii) Interest on capital @ 10% is ₹ 1,000 ; ₹ 2,000 and ₹ 3,000 to A, B and C respectively.
- (iv) Commission on sale to B, ₹ 1,000.
- (v) Expenses on current repairs of the business premises belonging to partner A. ₹ 1,000. The rent agreement does not contain any provision regarding repairs by the firm.
- (vi) Donation to Shri Sai Baba Sansthan Trust Shirdi (approved), ₹ 5,000.

The net profit of ₹ 1,17,360 included ₹ 10,400 from interest on Government securities. Compute firm's total income for the assessment year 2022-23. The deed was submitted along with return and it provides for salary to C ₹ 4,000 p.a. and interest on capital to partners @ 10% p.a. Also compute partner's income chargeable to tax under the head "Profits and Gains".

Sol.:

(Imp.)

Particulars	₹	₹
Computation of Business Income of Firm		
Profits as per given in the P & L A/c		1,17,360
Add: Inadmissible expenses :		
Salary to C	4,000	
Commission to B	1,000	
Expenses on repairs	1,000	
Donations	5,000	11,000
		1,28,360
Less: Income not taxable under this head		
Interest on Govt. Securities		10,400
Less: Allowable remuneration u/s 40(b)		1,17,960
Actual Salary to C = 4,000		
Or		
90% of 1,17,960 or ₹ 1,50,000 w.e. is higher 1,50,000		
whichever is less		4,000
Firm's Business Profit		1,13,960

Computation of Total Income of Firm

Particulars	₹	₹
Income from business		1,13,960
Income from other sources: Interest on Govt. Securities		10,400
Gross Total Income		1,24,360
Deduction u/s 80G : Donations ₹ 5,000 [within 10% of Gross Taxable Income]		
∴ Q.A. = 5,000 (Rate 50%)		2,500
Total Income of firm		1,21,860
Computation of Firm's Tax		
Total Income ₹ 1,21,860		
Tax @ 30% of ₹ 1,21,860	36,558	
(+) Health and Education Cess @ 4% of ₹ 36,558	1,462	
		38,020

Partners' Income under the head Profits and Gains

A's income (Interest)		1,000
B's income (Interest)		2,000
C's income (Interest)	₹ 3,000	
Salary	₹ 4,000	7,000

Note:

- Commission paid to B has been disallowed as it is not authorised by deed.
 - Share of partners from firm is fully exempted u/s 10(2A).
6. **Kannu and Roohi are equal working partners of a firm assessed u/s 184. The following is the profit and loss account of the firm for the year ending 31-3-2022.**

Profit and Loss A/c

Particulars	₹	Particulars	₹
Office expenses	22,00,000	Gross profit	30,00,000
Sunday expenses	3,00,000	Interest on securities (gross)	3,00,000
Rent of business premises	1,00,000	LTCG on sale of plot	2,00,000
Commission to Roohi	2,00,000	Net Loss c/d :	
Salary to Kannu	6,00,000	Kannu 90,000	
Interest on capital @ 16% p.a.		Roohi 90,000	
Kannu 1,60,000			1,80,000
Roohi 3,20,000			
	4,80,000		
	38,80,000		38,80,000

Additional Information :

- Office expenses include :
 - ₹ 1,00,000 as donation to IIT Kanpur for approved scientific research programme.
 - Donation to Mata Mansa Devi Trust (notified u/s 80G) ₹ 50,000.
 - Expenses incurred on obtaining a loan for business ₹ 5,000 from a public financial institution.
 - Outstanding interest on above loan ₹ 25,000.
 - Salary, commission and interest on capital to partners have been paid as per deed.
- Calculate : (A) Total Income and Tax liability of the firm, (B) Business Income of the partners.

*Sol.:***A. Calculation of Total Income and Tax Liability**

Particulars	₹	₹
Calculation of Business Income of firm		
Net loss an per P & L A/c earlier		(-) 1,80,000
Add: Disallowed expenses charged to P & L A/c		
Commission to Roohi	2,00,000	
Salary to Kannu	6,00,000	
Donation to Mata Mansa Devi trust	50,000	
Outstanding Interest on loan from PFI	25,000	
Interest on capital – 12% p.a.	8,15,000	
Kannu–1,60,000 × 4/16	40,000	
Roohi–3, 20,000 × 4/16	80,000	
	<u>1,20,000</u>	9,95,000
		8,15,000
Less: Allowable business expenses not charged earlier		
Donation to IIT for scientific research under charged allowed u/s 35		
Actual donation = ₹ 1,00,000		
Deduction allowable = 150% of 1,00,000 =	1,50,000	
Deduction claimed earlier =	<u>1,00,000</u>	
∴ Allowable deduction	<u>= ₹ 50,000</u>	50,000
		7,65,000
Less: Non business Incomes/Exempted incomes credited to P & L A/c		
Interest on Securities (Other sources)	3,00,000	
LTCG on plot (Capital gains)	<u>2,00,000</u>	
		5,00,000
Book Profits		<u>2,65,000</u>

Less: Allowable remuneration to working partners		
(i) Actual paid as per deed 8,00,000 (Roohi ` 2,00,000 + Kannu ` 6,00,000)	which ever is less	2,38,500
OR		
(ii) Maximum remuneration as per Sec. 40(b) 2,38,500 (WN-1)		
Business Income		<u>26,500</u>

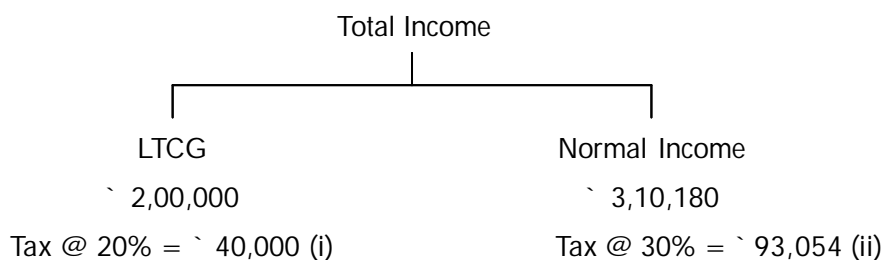
Working Notes-1:

Particulars	`
Remuneration allowable to working partners U/s 40(b)	
90% of book profit of ` 2,65,000	= 2,38,500
OR	
Statutory amount allowable	= 1,50,000
whichever is higher is allowed	

Statement of Total Income of firm

Particulars	`
Income U/H House property	NIL
Income U/H Business	26,500
Income U/H Capital gain (Given LTCG)	2,00,000
Income U/H other source (given)	<u>3,00,000</u>
Gross Total Income	<u>5,26,500</u>
Less: Deductions U/s 80	
U/s 80 G : Donation to Mata Mansa Devi Trust with limit (50%)	
Max limit = 10% [G.T.I. - LTCG]	
= 10% [5,26,500 - 2,00,000]	
= 32,650	
Actual donation = 50,000	
∴ Qualifying amount = Actual or Max. Limit, whichever is less	
= 32,650	
Rate of deduction = 50%	
∴ Amount of deduction total income	5,26,500
	<u>16,325</u>
Total Income	<u>5,10,175</u>

Rounded off to ` 5,10,180.

Calculation of Tax Liability

Total Tax (i) + (ii) = 1,33,054

Add: Health and Education Cess @ 4% of tax = 5,322

Tax liability 1,38,376

Rounded off to ₹ 1,38,380.

B. Calculation of Business Income of Partners**Calculation of Business Income of Kannu**

Particulars	₹
(i) Salary from firm (to the extent deduction is allowed to firm)	
$\frac{6,00,000}{8,00,000} \times 2,38,500$	1,78,875
(ii) Interest on capital (to the extent deduction is allowed to firm)	
$\frac{1,60,000}{16\%} \times 12\%$	1,20,000
(iii) Share of profit from firm	Exempt
Business Income	<u>2,98,875</u>

Calculation of Business Income of Roohi

Particulars	₹
(i) Commission from firm (to the extent deduction is allowed to firm)	
$\frac{2,00,000}{8,00,000} \times 2,38,500$	59,625
(ii) Interest on capital (to the extent deduction is allowed to firm)	
$\frac{3,20,000}{16\%} \times 12\%$	2,40,000
(iii) Share of profit from firm	Exempt
Business Income	<u>2,99,625</u>

1.2 CONDITIONS FOR ASSESSMENT AS A FIRM U/S 185

Q7. What are the provisions of income tax act regarding the Assessment of a partnership firm U/S 185?

Ans :

(Imp.)

When a partnership firm has not submitted a copy of its partnership deed duly signed by all partners it is assessed u/s 185 in following manner :

I. Computation of business income

- (i) It is computed in the same manner as under the head 'Profits and Gains'.
- (ii) Any payment to a partner under whatsoever name it is disallowed.
- (iii) Rent paid to a partner for the premises used by firm is allowed.
- (iv) Partnership deed expenses are disallowed.
- (v) In case interest on capital is paid to partners it is fully disallowed. Any interest on drawings received from partners is deemed as income of the firm and is fully taxable.
- (vi) Remuneration paid to partners u/s 40(b) is not allowed.

II. Computation of total income

- (i) Income is to be calculated headwise.
- (ii) Firm cannot have any income under the head 'salaries'.
- (iii) Firm can have house property, which is let out but not a self occupied one. For let out house property income is to be computed in the same manner as is given under the head Income from House Property.
- (iv) Profits and Gain from business or profession are to be computed in the same manner as given earlier in this chapter.
- (v) Capital Gains are to be computed in the same manner as given under the head "Capital Gains" but exemptions u/s 54, 54B and 54F are not allowed.
- (vi) Income from other sources is to be computed in the same manner as is given under the head "Income from other sources".
- (vii) (a) Set off of losses is to be done as per rules given u/s 70 and 71 of the Act. The carry forward of losses is also to be done in accordance with rules given u/s 72, 73 and 74.
(b) Where a change has occurred in the constitution of a firm, the proportionate share of loss of retired or deceased partner can be set off or carried forward to be set off only up to his share of income in that firm in respect of that previous year. [Section 78(1)]
(c) To avail the benefit of carry forward of loss it is essential to file return of loss as required u/s 139(3).
- (viii) Deductions out of Gross total income : A firm can claim following deductions :
 - u/s 80 G For donations
 - u/s 80 GGA For contribution to certain funds
 - u/s 80 GGB For donation to political parties
 - u/s 80 IA For infrastructure projects

u/s 80 IAB	For setting up industry in Special Economic Zones
u/s 80 IB	For new industrial undertaking
u/s 80 IBA	Profits and gains from housing projects
u/s 80 IC	For setting up industry in backward states
u/s 80 ID	For setting up hotel or convention centre
u/s 80 IE	For undertakings in North-Eastern State
u/s 80 JJA	For use of bio waste
u/s 80 JJAA	For employment of new employees

Firm is not allowed any other deduction.

III. Tax rates for Firms Assessed u/s 185 (including LLP) for Assessment Year 2022-23

- It pays tax at flat rate of 30% with no exemption limit.
- On long term capital gain rate of tax is 20%.
- On long term capital gain on sale of shares, units of mutual funds and units of business trust (S.T.T. paid)—as per section 112A—10% on amount exceeding ₹ 1,00,000.
- On short term capital gain on securities covered under STT rate of tax is 15%.
- On winnings from lotteries, crossword puzzle, races, card games, gambling and betting rate of tax is 30%.
- Add surcharge @ 12% of tax if the total income exceeds ₹ 1 crore.
- It is further increased by Health and Education cess @ 4% of tax plus surcharge, if any.

IV. Treatment of Share of Income from firm/LLP

It is fully exempted from tax u/s 10(2A) and as such is not added in individual income of partners.

V. Treatment of Remuneration and Interest Received from firm /LLP

It is not added in individual income of partners.

PROBLEMS

7. A, B and C are partners in a firm assessed u/s 185 sharing profits and losses equally. The following is the profit and loss account of the firm :

Particulars	₹	Particulars	₹
To Manufacturing Expenses	9,000	By Gross Sales	50,000
" Establishment Expenses	6,000	" Interest on Securities (Gross)	3,000
" Depreciation	3,000		
" Sundry Expenses	4,000		
" Salary to A	6,000		
" Commission to B	4,000		
Interest on Capital			
A 1,000			
B 2,000			
C 3,000	6,000		

To Net Profit	A 5,000		
	B 5,000		
	C 5,000		
	<u>15,000</u>		
	<u>53,000</u>		<u>53,000</u>

Sol.:

Computation of Firm's Business Income

ParticularsP	`	`
Profit as given in the Profit and Loss Account		15,000
Add: Inadmissible expenses		
Salary to A	6,000	
Commission to B	4,000	
Interest on Capital		
A	1,000	
B	2,000	
C	3,000	
	<u>16,000</u>	
		31,000
Less: Incomes to be treated under separate heads :		
Income from interest on securities		3,000
Firm's business Income		<u>28,000</u>
Computation of Firm's Total Income		
Income from business		28,000
Income from other sources : Interest on Securities		3,000
Firm's total income		<u>31,000</u>
Firm's Tax liability :		
Tax @ 30% of ` 31,000		9,300
Add: Health and Education Cess @ 4% of tax		372
Tax payable		<u>9,672</u>

Tax payable rounded off ` 9,670.

Treatment of Share of Income and Remuneration

Share of income, remuneration and interest received by partners from above firm is fully exempted.

8. A, B and C are members of firm assessed u/s 185 sharing profits and losses in the proportion of 2:2:1 respectively. Profit and Loss Account for the year ending 31-3-2022 is given below :

ParticularsP	₹	ParticularsP	₹
Salaries and Wages	16,000	Gross Profit	50,700
Marketing charges	175	Profit on sale of Motor car	800
Advertising	325	Profit on sale of Jewellery	400
General charges	11,700		
Legal expenses	2,500		
Travelling expenses	1,400		
Interest on Bank loan	150		
Discount	75		
Reserve for Bad Debts	125		
Bad debts written off	80		
Payment to retiring partner	1,000		
Interest on capital			
A ₹ 300			
B ₹ 400			
C ₹ 800	1,500		
Net Profit	16,870		
	<u>51,900</u>		<u>51,900</u>

Compute the taxable income of the firm and its tax liability for the assessment year 2022-23.

- (a) Salaries and wages include a partnership salary of ₹ 500 per month to B ;
 (b) General charges include a sum of ₹ 3,000 paid to save business reputation ; and
 (c) Motor car was used wholly for business purposes. At the time of sale the written down value of the car was ₹ 25,000 while it was sold for ₹ 25,800.

Sol :

Computation of Firm's Business Income for the assessment year 2022-23

Particulars	₹	₹
Net profit as per Profit and Loss Account		16,870
Add: Inadmissible expenses		
Reserve for bad debts	125	
Payment to a retiring member	1,000	
Interest on capital :		
A 300		
B 400		
C 800		

	1,500	
Salary to B ` @ 500 p.m.	6,000	8,625
Less: Income to be treated separately		25,495
Capital Gain (800 + 400)		1,200
Firm's business income		24,295

Computation of Firm's Total Income

Particulars	`	`
Profits & Gains : Business Profit		24,295
Capital Gains		
STC Gains on car	800	
LTC Gain on Jewellery	400	1,200
Total Income		25,495
Rounded off to ` 25,500		
Firm's Tax Liability :		
Tax on LTCG of ` 400 @ 20%		80
Tax @ 30% of [` 25,500 – 400]		7,530
Total		7,610
Add: Health and Education Cess @ 4% of tax		304
Tax payable		7,914
Tax payable rounded off ` 7,910		

Treatment of Share of Income and Remuneration

Share of income, remuneration and interest received by partners from above firm is fully exempted.

1.3 ASSESSMENT OF PARTNERS OF FIRM

Q8. How do you assess the share of profits for the partners of firm? Explain.

Ans :

(Imp.)

The partner's share in the total income of the firm is not to be included in his total income since it is exempt from tax [Sec. 10(2A)]. Such share is computed in the following manner [under Explanation Sec. 10(2A)].

Total income of the firm x share of partner in the profit of the firm as per partnership deed

Total Profits of the Firm

Remuneration by way of salary, bonus, commission and interest payable to a partner of firm is taxable as his business income to the extent it is deducted in computing firm's profits [Sec. 28 (iv)]. It may be calculated in the following manner:

Particulars	Partners		
	I Rs.	II Rs.	III Rs.
(a) Remuneration paid			
Salary	X	X	X
Bonus	X	X	X
Commission	X	X	X
Total	X	X	X
Less: Disallowance under Sec. 40(b): Disallowance may be of two types			
(i) Individual disallowance: It has to be deducted against the remuneration payable to concerned partner.			
(ii) Common disallowance: Where, actual remuneration exceeds the statutory limit, such excess is allocated in the ratio of remuneration of the partners. The income-tax law is silent on this point.	(-) XX	(-) XX	(-) XX
Taxable remuneration as business income	XX	XX	XX
(b) Interest paid	XX	XX	XX
Less: Disallowance under [Sec. 40(b)]	(-) XX	(-) XX	(-) XX
Interest taxable as business income	XX	XX	XX
Taxable business income:			
Add:			
(i) Taxable remuneration	XX	XX	XX
(ii) Taxable interest	XX	XX	XX
Business income [Sec. 28(v)]	XX	XX	XX

Note: Where a partner has borrowed money to invest in the firm, he cannot claim deduction of such interest.

1.3.1 Change in constitution of Firm Succession of one firm by another firm

Q9. Explain about Change in Constitution of Firm Succession of one firm by another firm.

Ans :

As, per Section 187(2), there is a change in the constitution of the firm.

- If one or more of the partners cease to be partners or one or more new partners are admitted, in such circumstances that one or more of the persons who were partners in the firm before the change continue as partner or partners after the change; or
- Where all the partners continue with a change in their respective shares or in the shares of some of them.

Change in the constitution of the firm can be explained as under –

- (i) Some of the partners of the firm have left (may be due to death or retirement) or some new partners have been admitted in the partnership but some of the old partners (i.e., partners who were there before the reconstitution) continue to remain as partners after the reconstitution of the firm.
- (ii) Neither any old partner has left nor any new partner has been admitted in the partnership but with their mutual consent there is a change in the respective shares of one or some of the partners.

1.4 ASSESSMENT OF DISSOLVED OR DISCONTINUED FIRM

Q10. Explain about procedure of assessment during dissolved or discontinued firm.

Ans : (Imp.)

Where any business or profession, carried on by a firm has been discontinued or where a firm is dissolved, the Assessing Officer is required to make an assessment of the total income of the firm as if no such discontinuance or dissolution had taken place. Thus, the notice may be issued and assessment may be made in the name of dissolved firm. All the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, are equally applicable to any such assessment [Sec. 189(1)]. Thus, penalty proceedings may be initiated and penalty may be imposed on a firm even after its dissolution.

In case during the proceedings before Assessing Officer, or the Commissioner (Appeals) the firm is found guilty of any acts as given u/s 271 to 275 the penalty can be imposed on such firms. [Section 189(2)].

Every person who was at the time of such discontinuance or dissolution a partner of the firm, and the legal representative of any such person who is deceased, are jointly and severally liable for the amount of tax, penalty or any other sum payable.

Thus, the entire tax due by the firm may be recovered from one partner. The tax payable means the tax payable by the firm [Sec. 189(3)].

Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced the proceedings may be continued for the persons referred above from the stage at which they stood at the time of such dissolution or discontinuance. [Section 189(4)]

It may be noted that the liability of the legal representative of a deceased partner is limited to the extent to which the estate of the deceased partner is capable of meeting such liability [Sec. 159(6)].

1.5 PARTNERSHIP FIRM ASSESSED AS ASSOCIATION OF PERSONS (AFAOP)

Q11. What is an Association of Persons?

Ans : (Imp.)

An association of persons (AOP) or a body of individuals (BOI) is a separate person under the Income-tax Act 1961. An AOP or BOI is a combination of persons (Individuals, HUF, Firms or companies) formed with the object of earning income. An AOP may have Individuals, FIUF, Firms or companies as its members whereas a BOI may have only individuals as its members. An AOP or BOI is such a combination which is neither a HUF nor a firm nor a company and nor a local authority. The persons must combine together to earn income which may either be received by the AOP/BOI or by any member thereof. A family other than HUF carrying on a joint business shall be treated as an AOP.

An AOP or BOI can be of following types and shall be assessed in the following manner :

1. Co-operative society
2. Society registered under the societies registration Act, 1860.
3. Mutual association
4. Private Trust
5. Charitable trust
6. Oral trust
7. Other AOP BOI

Q12. What are the steps regarding computation of business income of AOP?*Ans :*

While calculating the business income of AOP the provisions as given u/s 28 to 44 are applicable. Section 40 (b) lays down following rules disallowing payment of interest, salary, bonus, commission or remuneration by what ever name called.

- (i) In case any AOP makes payment to its members of any interest, salary, bonus, commission or remuneration by whatever name called, such payments are fully disallowed.
- (ii) In case interest is paid to a member of AOP and some amount of interest is received from such member, only difference is disallowed.

For example, an AOP paid interest on capital of ₹ 20,000 to its member named Sunil. It also charged interest on drawings amounting to ₹ 5,000 from Sunil. In such a case, while calculating business income of AOP, net amount of interest paid i.e., ₹ 20,000 – 5,000 = ₹ 15,000 shall be disallowed.

However, if the amount of interest paid to member is less than interest charged on drawings from the same member then nothing shall be disallowed.

However, the excess amount of interest received in such a case shall be treated as business income of AOP.

Note, (a) It is important to note that the above adjustment requiring the disallowance of net interest is applicable where the interest is paid or received from same member. Thus, if interest is paid by AOP to member A ₹ 10,000 and received ₹ 5,000 from member B, mutual adjustments of these two amounts of interest shall not be done. Hence ₹ 10,000 shall be disallowed while calculating business income of AOP and ₹ 5,000 shall be taxable as business income of AOP. (b) Thus, if an AOP only charges interest on drawings from members but does pay interest to any member on capital/loan, such interest received shall be treated as business income of AOP.

- (iii) In case an individual is a member (member in representative capacity) of AOP on behalf of or for the benefit of any other person (person so represented) :
 - (a) Interest paid by AOP to such individual or by such individual to AOP otherwise than in representative capacity, the above clauses (i) and (ii) shall not be applicable.
 - (b) Interest paid by AOP to such individual or by such individual to AOP in representative capacity classes (i) and (ii) shall be applicable.
- (iv) In case an individual is member of an AOP on behalf of another person but not in representative capacity, interest paid to him will not come under the classes (i) and (ii) above.

1.6 COMPUTATION OF TOTAL INCOME**Q13. What are the steps regarding computation of total income of AOP?***Ans :*

- (i) Income of AOP is calculated head wise. It cannot have any income under the head "Salaries".
- (ii) In case of house property rules given under the head "Income from House Property" are applicable. It cannot have self-occupied house.
- (iii) Profits and gains of business or profession are to be computed in the same manner as given under the head Profits and gains of Business or Profession.
- (iv) Income under the head "Capital Gains" is to be computed in the same manner as per provisions of Capital Gains but exemptions u/s 54, 54B and 54F are not allowed.
- (v) Set off and carry forward of losses is to be done as per provisions of section 70 to 74 of the Act.
- (vi) Deductions out of Gross total income : AOP can claim following deductions.

1. Deduction in respect of donations (Sec. 80(G))

Section 80G grants deduction in respect of amounts given as charitable donations.

(i) Eligible Assesseees

It is allowed to all assesseees (corporate as well as non-corporate assesseees i.e. individual HUF, Firm, AOP, BOI etc.).

(ii) Conditions

- (i) Donation must be of a sum of money and must not be given in kind.
- (ii) Donation must be given to the specified funds or organisations as stated above.
- (iii) Donation should not be given to a particular person.
- (iv) If the amount of any donation exceeds ₹ 2,000 [₹ 10,000 upto A.Y.2017-18], the donation must be made by any mode other than cash.
- (v) Donations are not given for the benefit of any particular religion, class, creed, community etc. However, donations given for the benefit of women and children, Scheduled Caste, Backward Classes or Scheduled Tribes etc. do not come in this category.
- (vi) From 1-10-91, the benefit of section 80G can only be claimed if the Institution or Fmfl seeking donations has been approved by the Principal commissioner/commission;- if Income-tax. Provided that any approval shall have effect for such assessment year or years as can be specified in the approval but not exceeding three assessment years.
- (vii) Donation may be made out of taxable income of the assessee or out of income exempt from tax or even out of earlier years income. Thus, if any contribution is made out of non-taxable income, deduction will be allowed for such donation.

(viii) Donation should not be given to a political party.

In connection with donations "Charitable Purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature.

Donation given to the sports association for promotion of sports and games in India also qualify for deduction under section 80G in the same manner as donations made to institutions or firms established in India for charitable purposes.

(iii) Eligible Donations

The sums paid to the following as donations during the previous year qualify under the section:

80G(20) : (a) any sums paid by the assessee in the previous year as donations to :

- (i) The National Defence Fund set up by the Central Government ; or
- (ii) The Jawaharlal Nehru Memorial Fund referred to in the Deed of declaration or Trust adopted by the National Committee at its meeting held on the 17th day of August. 1964 : or
- (iii) The Prime Minister's Drought Relief Fund ; or
- (iiia) The Prime Minister's National Relief Fund ; or
- (iiiaa) The Prime Minister's Armenia Earthquake Relief Fund ; or
- (iiiab) The Africa (Public Contributions) India Fund ; or
- (iiib) The National Children Fund ; or
- (iiic) The Indira Gandhi Memorial Trust ; or (Hid) The Rajiv Gandhi Foundation ; or
- (iiie) The National Foundation for Communal Harmony ; or
- (iiif) A University or any educational institution of national eminence as may be approved if the prescribed authority ;

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| <p>(iiig) The Chief Minister's Earthquake Relief Fund Maharashtra</p> <p>(iiiga) Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of Earthquake in Gujarat.</p> <p>(iiih) The Zila Saksharta Samiti</p> <p>(iiha) The National Blood Transfusion Council or to any State Blood Transfusion Council which has its sole object of control, supervision, regulation or encouragement in India of the services related to operation and requirement of blood banks.</p> <p>"National Blood Transfusion Council" means a society registered under the Societies Registration Act 1860 and whose Chairman is a person who is not below the rank of Secretary to the Government of India dealing with AIDS Control Project. "State Blood Transfusion Council" means a society registered under the above mentioned Act and whose Chairman is Secretary to the State Government dealing with the Department of Health;</p> <p>(iihb) Any fund set up by a State Government to provide medical relief to the poor ;</p> <p>(iihc) Army Central Welfare Fund, the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the union for the welfare of past and present members of such forces or their dependants ;</p> <p>(iihd) The Andhra Pradesh Chief Minister's Cyclone Relief Fund ;</p> <p>(iihe) The National Illness Assistance Fund ;</p> <p>(iihf) The Chief Minister's Relief Fund ; or Lieutenant Governor's Relief Fund.</p> <p>(iihg) National Sports Fund to be set up by the Central Govt.</p> | <p>(iihh) National Cultural Fund to be set up by the Central Govt.</p> <p>(iihi) Technology Development and Application Fund to be set up by the Central Govt.</p> <p>(iihf) The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under sub-section (1) of section 3 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.</p> <p>(iihk) Swachh Bharat Kosh set-up by the Central Government.</p> <p>(iihl) Clean Ganga Fund set-up by the Central Government.</p> <p>(iihm) National Fund for Control of Drug Abuse.</p> <p>(iv) Any other fund or any institution which satisfies the conditions mentioned in section 80G(5).</p> <p>(v) The Government or any local authority, to be utilised for any charitable purpose other than the purpose of promoting family planning ;</p> <p>(vi) Any authority referred to in clause (20A) of a section 10, for the purpose of satisfying the need for housing accommodation or planning, development of cities, towns or villages or both ; or</p> <p>(via) Any corporation referred to u/s 10(26BB) i.e. a Corporation set up to promote the interests of minorities.</p> <p>(vii) The Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government to be utilised for the purpose of the previous year as donation for the renovation or repair promoting family planning.</p> |
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2. Deduction in respect of Political Parties (Sec. 80(GGC))

In computing the total income of an assessee, being any person, except local authority and every artificial juridical person wholly or partly funded by the Government, there shall be allowed a deduction of an amount of contribution made by him, in the previous year, to a political party and an Electoral Trust.

No deduction shall be allowed in case donation is given in cash.

The term "political party" means a political party registered under section 29A of the Representation of the People Act, 1951.

3. Deduction in respect of Infrastructure (Sec. 80(IA))

Rationale and purpose of deduction : Infrastructure facilities are the backbone of any economy. The existence of these facilities is very essential for industrial growth and economic development of economy. Recognising the need of establishing and developing infrastructure facilities, the Govt, has provided tax incentives for undertakings engaged in the business of infrastructure development.

Section 80(IA) of the Income Tax Act, provides tax holiday for a certain period to an industrial undertaking or enterprises carrying on the business of developing, maintaining and operating any infrastructure facility etc.

Various Provisions: Where the Gross total income of assessee includes any profit and gains derived by an undertaking or an enterprise any eligible business; a deduction of an amount equal to stated percentage of profits and gains derived from such business, shall be allowed for stated consecutive assessment years. [Section 80IA(1)]

Eligible Business [80IA(4)]

The deduction is allowed to undertakings engaged in

Category I : [Section 80IA (4) (i)]

Carrying on the business of

- (a) developing;
- (b) operating and maintaining, or
- (c) developing, operating and maintaining any infrastructure facility. [Simply stated "infrastructure facility"]

Category II : [Section 80IA (4) (ii)]

Providing telecommunications services (whether basic or cellular), radio, paging, domestic satellite services and internet services etc. [Simply stated telecommunication services]

Category III : [Section 80IA (4) (iii)]

Developing, operating or maintaining an industrial Park or special economic zone (SEZ) notified by the Central Govt. [Simply stated Industrial Park]

Category IV : [Section 80IA (4) (iv)]

- (a) Generation.
- (b) Generation and Distribution of power.
- (c) Laying of new transmission lines for power distribution.
- (d) Undertakes substantial renovation and modernisation of the existing transmission or distribution lines. [Simply stated "Power Generation"]

Category V : [Section 80IA(4) (v)]

Undertaking set up for reconstruction or revival of power generating plant.

Conditions to be Fulfilled for Claiming Deduction under Section 801A

These conditions can be classified as :

- (i) **Specific Conditions:** These conditions are such which are attached to a particular type/ category of eligible business. For example conditions attached to undertaking engaged in infrastructure facility only; or conditions attached to power sector undertakings only and so on. These conditions have been discussed in details given for each category.
- (ii) **General Conditions:** These are those conditions which are not related to any particular category of eligible business but are

related to all the 4 categories of eligible businesses mentioned under section 801 A(4) i.e. infrastructure facility, telecommunication services, industrial park and power sector.

These conditions are :

1. Determination of amount of profits and gains eligible for deduction [Section 80IA (5)]: Profits and gains eligible for deduction under section 80 IA shall be computed as if such 'eligible business' was the only source of income of the assessee during the previous year relevant to initial assessment year and to every subsequent assessment year and including the assessment year for which determination is to be made.

2. Audit of accounts and submission of audit report [Section 80IA(7)]: The undertaking claiming deduction under section 80IA is required to get its accounts audited by a chartered accountant. W.e.f. 1.4.2020, the duly signed and verified audit report in prescribed form No. 10 CCB is to be filed atleast 1 month before the due date of furnishing the return of Income.

3. Transfer of goods or services [Section 80IA (8)]: Where any goods or services held for the purposes of the eligible business are transferred to any other business of assessee or vice-versa, the consideration, if any, shall be recorded in the books of eligible business at market value of such goods or services on the date of transfer.

Meaning of Market Value [Explanation to Sec. 80IA (8)]: "Market Value" in relation to any goods or service means the price that such goods or services would ordinarily fetch in the open market.

4. Duplication of deduction not permissible [Section 80IA (9)]: Where any amount of profits and gains of eligible business is claimed and

allowed as deduction under section 80IA. the same shall not be allowed as deduction under any other section of Chapter VI A i.e., deductions under section 80.

4. Deduction in respect of Setting of Industry in Special Economic Zone (Sec. 80(IAB))

With effect from assessment year 2006-07 this new deduction has been introduced. Previously deduction could be claimed only under section 801A but now it is allowed under section 801AB.

(i) Eligibility: Thus deduction shall be allowed only if following conditions are fulfilled :

- (a) This deduction is available only to those undertaking who are engaged in the business of developing Special Economic Zones;
- (b) The Special Economic Zone is notified on after 1-4-2005 but before 1-4-2017.
- (c) The undertaking must have some income from Special Economic Zones which is taxable under the head "Profits and gains of Business or Profession".
- (d) The accounts of undertaking must be audited.
- (e) It must fulfill any other condition which may be notified.

(ii) Rate of deduction: This deduction is allowed @ 100% of profits from Special Economic Zones as are included in the GTI of such undertakings.

(iii) Period of deduction: The undertaking can claim this deduction for a total period of 10 consecutive assessment years out of first 15 assessment years beginning with the year in which such Special Economic Zone is notified at the convenience of the assessee.

(iv) **Deduction in case of transfer of Special Economic Zone:** Where an undertaking, being a developer who develops a 'Special Economic Zone' on or after 1.4.05, transfers the operation and maintenance of such 'Special Economic Zone' to another Developer, the deduction under this section shall be allowed to such transfer Developer for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee developer.

(v) **Other Conditions:** The conditions which are prescribed under section 80IA (5) and 80IA (7) to 80IA (12), for claim of deduction shall remain applicable under this section also.

B-3. Grant of deduction to eligible start ups (company or LLP) from specified business. [Insertion of new section 80-IAC]

A deduction of 100% of the profits and gains shall be allowed to an eligible start-up from a business involving innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property.

- (i) The deduction shall be allowed for three consecutive assessment years out of ten years beginning from the year in which such eligible start-up is incorporated, at the option of the assessee, subject to incorporation on or after 1-4-2016 but before 1-4-2022.
- (ii) The deduction under the said section shall be available to an eligible start-up if the total turnover of its business does not exceed ` 100 crore in any of the previous years beginning from the year in which it is incorporated.

5. Deduction in respect of Setting up New Undertakings (Sec. 80(IB))

Undertaking	When set up Company	Rate		Period
		Company	Others	
I. Industrial Under [Section 80IB (2)] Industry set up in industrial backward state	1-04-93 to 31-03-2004	100% 30%	100% 25%	For first 5 years For next 5 years (7 years for co- operative society)
Industry set up in Jammu and Kashmir	1-04-93 to 31-03-2012	100% 30%	100% 25%	For first 5 years For next 5 years (7 years for co- operative society)
Industry set-up				
A. Category backward districts	1-10-94 to 31-03-2004	100% 30%	100% 25%	For first 5 years For next 5 years (7 years for co- operative society)
B. Category backward districts	1-10-94 to 31-03-2004	100% 30%	100% 25%	For first 3 years For next 5 years (9 years for co- operative society)

Other Industries				
In small sector	1-04-91 to 31-03-2002	30%	25%	12 years for co-op. for others 10 years
11(a) Production of mineral oil in North Eastern region or any where in India	1-04-1997 onwards	100%	100%	For first 7 years
(b) Production of minerals any where in India	1-04-1997 to 31-3-2017	100%	100%	For first 7 years
(c) Refining of mineral oil any where in India	on or after 1-10-1998 but upto 31-3-2012	100%	100%	For first 7 years
(d) Commercial production of natural gas in licensed blocks under NELP VIII or under IVth round.	on or after 1-4-2009 but not later than 31-3-2017	100%	100%	For first 7 years
III. Construction and development of housing project of residential units whose area does not exceed 1,000 sq. ft/1,500 sq. ft.	If approved between 1.4.98 to 31.3.2008 Project approved before 1.4.2004 must be completed by 31.3.2008 otherwise must be completed within 4 years.	100%	100%	
IV. Undertaking engaged in the integrated business of handling storage and transportation of food grains, meat, poultry or dairy products.	1.4.2001 onwards	100% 30%	100% 25%	For first 5 years For next 5 years
V. Setting up of hospital any where in India other than excluded area	1.4.08 to 31.3.2013	100%	100%	For first 5 years

Q14. Explain the rates of tax for association of persons for the assessment year 2022-23.

Ans. :

A. Where shares of members of AOP are not known or are indeterminate [Section 167B(1)]

1. In case AOP (excluding a company, a co-operative society or a society registered under Societies Act 1860) where shares of its members are not known or are indeterminate and it does not have any such member whose income is taxable at a rate higher than MMR (Maximum Marginal Rate)-the total income of such AOP shall be taxable at MMR i.e. 30%.
2. In the above case if AOP has any member (such as Company or Firm) whose individual income is taxable at a rate higher than MMR an amount equal to the share of income of such member shall be taxable at such higher rate and balance total income of AOP/BOI shall be taxable at MMR.

Nature of AOP/BOI	STCG Shares (STT)	LTCG	Casual Incomes	Balance total income
(i) In case AOP/BOI has no such member whose income is chargeable to tax at a rate higher than MMR.	15%	20%	30%	MMR i.e. 30% income
(ii) In case AOP/BOI has any member whose income is chargeable to tax at a rate higher than MMR. [For example, foreign company is a member which is liable to tax @ 40%]	15%	20%	30%	At a rate higher than MMR.

Surcharge : @ 10% of tax if total income exceeds ₹ 50 lakhs but does not exceed ₹ 1 crore and @ 15% of tax if total income exceeds ₹ 1 crore but does not exceed ₹ 2 crore. Surcharge @ 25% if income is between ₹ 2 to 5 crore and @ 37% if total income exceeds ₹ 5 crore.

Health and Education Cess : 4% of tax and surcharge, if any.

B. Where shares of members of AOP are known or are determinate [Sec. 167B(2)]

- In case total income [excluding share from AOP] of any member of AOP does not exceed the exempted limit i.e. ₹ 2,50,000 for individuals both males and females, ₹ 3,00,000 for resident senior citizens of 60 years or more but less than 80 years, ₹ 5,00,000 for resident super senior citizen of 80 years or more the total income of such AOP shall be assessed to tax at same rates as are applicable to an individual.
- In case total income (excluding share from AOP) of any member of AOP exceeds the exempted limit – the total income of such AOP shall be assessed at MMR.
- In case AOP has any member whose total income (in case of foreign companies only) is taxable at a rate higher than MMR, the total income of such AOP shall be split up in two parts:
 - the share of income of the member whose income is assessable at a rate higher than MMR, this part of total income of AOP shall be taxable at such higher rate.
 - and balance total income of AOP/BOI shall be assessed to tax at MMR.

Nature of AOP/BOI	STCG Shares (STT)	LTCG	Casual Incomes	Balance total income
A. Which has at least one member whose individual total income (excluding share from AOP) exceeds exempted limit.	15%	20%	30%	MMR i.e. 30% of income, (No exempted limit)
B. Which does not have any such member whose individual total income (excluding share from AOP) exceeds exempted limit.	15%	20%	30%	Rates applicable for an individual.

Surcharge: @ 10% of tax if total income exceeds ₹ 50 lakhs but does not exceed 1 crore and @ 15% of tax if total income exceeds ₹ 1 crore but does not exceed ₹ 2 crore. Surcharge @ 25% if income is between ₹ 2 to 5 crore and @ 37% if total income exceeds ₹ 5 crore.

Health and Education Cess : 4% of tax and surcharge, if any.

Q15. Explain the allocation of AOPs total income.

Ans :

(Imp.)

1. (a) Any interest, salary, commission or other remuneration paid to any member in respect of the previous year shall be deducted from the total income of the AOP/BOI and the balance so ascertained is apportioned amongst the members in the profit sharing ratio. It has been observed by the Supreme Court in case CIT v. Chidambaram Pilai (1977) 106 ITR 292 that any salary received by a member from the AOP/BOI in which he is a member cannot be regarded in any way as having a source different from that of his share in the profits of the AOP/BOI he receives.
- (b) In case any interest on capital is paid to partners and interest on drawings is received from partners, only difference of these two is to be allocated.
- (c) Where the amount apportioned to the member is a profit, any salary, interest, commission or other remuneration paid to the member by the AOP/BOI shall be added to that amount (profit apportioned) and the total of all these amounts shall be treated as that member's share in the income of the AOP/BOI.
- (d) Where the amount apportioned comes to be a loss, any salary, interest, commission or other remuneration paid to the members of the AOP/BOI shall be adjusted against the amount of loss so apportioned. If after the adjustment

the result is positive, it shall be treated as the member's share in the income of the AOP/BOI

- (e) AOP/BOIs tax is not to be deducted out of total income for allocation purposes.
2. The share of a member whether income or loss as computed under sub-section (1) shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the AOP/BOI has been determined under each head of income.
3. Any interest paid by a member on capital borrowed by him for the purpose of investment in the AOP/BOI, shall be deducted from the share of his income computed under the head 'Profits and Gains' of business or profession.

1.6.1 Treatment of Share of Income Received by Partners of PFAOP

Q16. Explain the treatment of Treatment of share of income received by member of AOP.

Ans :

(Imp.)

The share of income received by a member from an AOP/BOI shall be treated as under :

1. In case AOP/BOI is chargeable to tax on its total income at maximum marginal rate or any other higher rate, the share of income of its members from such AOP shall not be included in their individual income. It happens only when shares of members are unknown or indeterminate.
2. In case share of members of AOP/BOI are known or can be determined, the share received by members from such AOP/BOI shall be fully added in their individual income.
3. In case no income-tax is payable on AOP's total income, the share of income of members of such AOP/BOI shall be fully added in their individual income.

Rebate of Tax u/s 86

1. In case total income of AOP/BOI is not taxable at MMR or any other rate higher than MMR

the share of income of a member of AOP/BOI shall be added in his individual total income and shall be eligible for rebate of tax at average rate on such share.

2. In case total income of AOP/BOI is taxable at MMR or a higher rate the share of income of a member from such AOP/BOI shall not be included in the individual total income of such member.
3. In case total income of AOP/BOI (which does not have any member whose individual income exceeds exempted limit) is not taxable at all the share of income of a member from such AOP/BOI shall be fully added in the individual income of such members and is fully taxable. No rebate of tax in this case.
4. The term average rate of income-tax means the rate computed in following manner [Section 2(10)]:

$$\text{Average Rate} = \frac{\text{Total Tax} \times 100}{\text{Total Income.}}$$

Q17. Explain the applicability of alternate minimum tax on AOP.

Ans :

The Finance Act, 2011, introduced the concept of 'alternate minimum tax' on limited liability partnership. However, the Finance Act, 2012 has extended the system of 'alternate minimum tax' on all persons other than a company subject to certain conditions. Thus, w.e.f. assessment year 2013-14, 'alternate minimum tax' is also applicable on AOPs/BOIs also.

AOPs/BOIs covered under AMT [Section 115JEE(1)]

The provisions of 'alternate minimum tax' shall apply to an AOP/BOI :

- (1) Which has claimed any deduction under :
 - (i) Section 35AD
 - (ii) Any section (other than section 80P) included in Chapter VI-A under the heading "C-Deductions in respect of certain incomes." [i.e., under Section 80IA to Section 80JJAA], or

(iii) Section 10AA (SEZ); and

- (2) Whose adjusted total income exceeds ₹ 20,00,000.

AOPs/BOIs not covered under AMT [Section 115JEE(2)]

The provisions of 'alternate minimum tax' shall not apply to an AOP/BOI whose 'adjusted total income' does not exceed ₹ 20,00,000.

Non-applicability of 'Alternate Minimum Tax' (AMT) on AOPs/BOIs opting to pay tax u/s 115BAC [Section 115JD(7)] [W.e.f. A.Y. 2021-22]

W.e.f. A.Y. 2021-22, the provisions of this section shall not apply to an AOP/BOI which has exercised the option of reduced tax slab rates prescribed u/s 115BAC.

Scheme of AMT [Section 115JC(1)]

Where the regular income-tax payable by an AOP/BOI for a particular previous year is less than the 'alternate minimum tax' payable for such previous year, the 'adjusted total income' shall be deemed to be the total income of such AOP/BOI for such previous year and it shall be liable to pay income-tax on such total income @ 18.5 per cent.

Thus, AMT is an alternate amount of tax which an AOP/BOI has to pay if the regular income tax for any previous year is less than 18.5% of its adjusted total income as defined for this purpose. Section 115JC is an overriding section and provides a specific tax rate on a specific figure for certain AOPs/BOIs. It provides a new concept of 'adjusted total income' (for an AOPs/BOIs), which is to be treated as total income of the AOP/BOI and on this total income, tax is required to be calculated @ 18.5%. This tax is called 'alternate minimum tax'. AMT has brought into tax net those AOPs/BOIs which were earning profits but were not paying any income tax due to various deductions or exemptions available to them under the Income Tax Act, 1961.

Ultimate Tax Liability of AOP/BOI

- (i) Regular income tax payable as per normal provisions of IT Act; or
- (ii) Tax @ 18.5% on adjusted total income, whichever is higher.

Note: In the case of a unit located in an International Financial Services Centre (IFSC) which derives its income solely in convertible foreign exchange, AMT shall be charged at a concessional rate of 9%.

Surcharge: Surcharge on AMT for the assessment year 2022-23 shall be as under–

(i) If adjusted total income does not exceed ₹ 50 lakhs	NIL
(ii) If adjusted total income exceeds ₹ 50 lakhs but does not exceed ₹ 1 crore	10%
(iii) If adjusted total income exceeds ₹ 1 crore but does not exceed ₹ 2 crore	15%
(iv) If adjusted total income exceeds ₹ 2 crore but does not exceed ₹ 5 crore	25%
(v) If adjusted total income exceeds ₹ 5 crore	37%

Note: Incomes, which are taxable under section 111A and 112A – Surcharge shall be only @ 15% of tax.

Meaning of 'Adjusted Total Income' [Section 115JC(2)]

'Adjusted total income' means the total income before giving effect to this newly inserted Chapter XII BA as increased by :

- (i) deductions claimed under any section or sections included in Chapter VI-A under the heading "C–i.e., Deductions in respect of certain incomes" and
- (ii) deduction claimed, if any, u/s 10AA.
- (iii) deduction claimed u/s 35AD less depreciation allowable u/s 32 on cost of that asset.

It is important to note that part C of Chapter VI-A covers various deductions u/s 80 in respect of certain incomes. These deductions (for AOPs/BOIs) are as follows :

- (i) Deduction U/s 80IA
- (ii) Deduction U/s 80I-AB
- (iii) Deduction U/s 80IB
- (iv) Deduction U/s 80IBA
- (v) Deduction U/s 80IC
- (vi) Deduction U/s 80ID
- (vii) Deduction U/s 80IE
- (viii) Deduction U/s 80JJA
- (ix) Deduction U/s 80JJAA

In other words, 'adjusted total income' for the purposes of Section 115JC(1) shall be calculated as follows :

Total income as per normal provisions of I.T. Act		x x x x
Add: Deductions in respect of certain incomes [Section 80IA to 80JJAA]		x x
Add: Deduction U/s 10AA		x x
Add: Deduction allowable U/s 35AD	x x	
Less: Depreciation allowable U/s 32	<u>x x</u>	
		x x
Adjusted total income		<u><u>x x x x</u></u>

Q17. Explain the tax credit for AMP.*Ans :*

- (1) The credit for tax paid by an AOP/BOI u/s 115JC shall be allowed in accordance with the provisions of this section. [Section 115JD(1)]
- (2) Computation of amount of Tax Credit [Section 115JD(2)]. The tax credit of an assessment year shall be the excess of alternate minimum tax paid over the regular income tax payable for that year. In other words

$$\text{Amount of Tax credit} = \left[\begin{array}{c} \text{Alternate} \\ \text{minimum tax} \end{array} \right] - \left[\begin{array}{c} \text{Tax pay able on total income computed as} \\ \text{per normal provisions of Income tax Act} \end{array} \right]$$

- (3) Time Limit to Carry Forward Tax Credit [Section 115JD(4)]. The tax credit for any assessment year can be carried forward upto the fifteenth assessment year immediately succeeding the assessment year for which tax credit becomes allowable u/s 115JC(1).
- (4) Set off of Tax Credit [Section 115JD(5)]. Tax credit shall be allowed in any assessment year, in which the regular income tax exceeds the alternate minimum tax. Such set off shall be allowed to the extent of the excess of regular income tax over the alternate minimum tax and the balance of the tax credit, if any, shall be carried forward.

Note: No interest shall be payable on tax credit allowed [Section 115JD(3)]

Increase/Decrease of Tax Credit [Section 115JD(6)]

If the amount of regular income tax or the alternate minimum tax is reduced or increased as a result of any order passed under this Act, the amount of tax credit allowed under this section shall also be adjusted/varied accordingly.

PROBLEMS

9. The total income of an AOP/BOI (liable to tax at the rates applicable to individuals), computed under the normal provisions of Income Tax Act is ` 10,00,000. However, the 'adjusted total income' of the AOP/BOI [computed as per Section 115JC(2)] amounted to ` 30,00,000. Calculate the Final Tax Liability of the AOP/BOI for Assessment Year 2022-23.

Sol/ :

Particulars	₹
(1) Tax liability as per normal provisions of IT Act	
Total income (given) = ` 10,00,000	
Tax on ` 10,00,000 as per slabs	1,12,500
Add : Surcharge	NIL
	<hr/> 1,12,500
Add : Health and Education cess @ 4% of tax	4,500
Tax Liability	<hr/> 1,17,000

(2) Tax Liability under A.M.T. [i.e., u/s 115JC]	
Adjusted total income (given) = ₹ 30,00,000	
A.M.T. @ 18.5% of ₹ 30,00,000	5,55,000
Add : Surcharge	NIL
	<u>5,55,000</u>
Add : Health and Education cess @ 4% of tax	22,200
Tax Liability	<u>5,77,200</u>
Final Tax Liability of AOP	
Tax under Point (1), i.e., 1,17,000 or	} whichever is higher.
Tax under Point (2), i.e., 5,77,200	
Tax liability = 5,77,200.	

10. The following is the P & L Account of an AOP of Mohan, Sohan and Ramesh :

Particulars	Rs.	Particulars	Rs.
To General Expenses	10,000	By Gross Profit	52,000
To Bad debts	1,000	By Interest on Securities (Gross)	6,000
To Establishment Expenses	6,000	By Rent from Property	9,000
To Municipal Taxes (for property let)	250	By Interest on drawings	
To Salary to Sohan	6,000	Mohan	1,000
To Commission to Ramesh	6,000	Sohan	1,500
To Interest on Capital Ramesh			2,000
Mohan	4,000		<u>4,500</u>
Sohan	4,500		
Ramesh	5,000		
To Depreciation	2,400		
To Bad Debts Reserve	1,000		
To Net Profit : Mohan	10,140		
Sohan	10,140		
Ramesh	5,070		
	<u>71,500</u>		<u>71,500</u>

Partners are sharing the profit and loss in the ratio of 2 : 2 : 1 respectively. Calculate the total income of the AOP and allocate it amongst its members.

*Sol.:***Computation of AOP's Business income**

Particulars	₹	₹
Profit as per Profit and Loss A/c		25,350
Add : Inadmissible expenses		
Salary to partner Sohan	6,000	
Interest on Capital less interest on drawings		
Mohan (4,000 - 1,000)	3,000	
Sohan (4,500 - 1,500)	3,000	
Ramesh (5,000 - 2,000)	3,000	
Commission to Ramesh	6,000	
Bad debts reserve	1,000	
Municipal Taxes related to house property	250	22,250
		47,600
Less : Incomes to be treated under separate heads		
Income from Interest on Securities	6,000	
Income from House Property	9,000	15,000
Firm's Business Income		32,600
Computation of AOP's total income		
Income from House Property		
Rental value	9,000	
Less : Municipal Taxes	250	
Net annual value	8,750	
Less : Deductions u/s 24		
Standard Deduction : 30% of NAV	2,625	6,125
Income from Business		32,600
Income from other sources : Interest on securities		6,000
Total Income		44,725

Head wise Allocation of AOP's Total income [Ratio of 2 : 2 : 1]

Income		Mohan		Sohan		Ramesh
		₹		₹		₹
Income from House Property [₹ 6,125]		2,450		2,450		1,225
Income from Business :						
Salary to Sohan			6,000			

Interest on Capital less interest on drawings						
Mohan (4,000 - 1,000)	3,000					
Sohan (4,500 - 1,500)		3,000				
Ramesh (5,000 - 2,000)				3,000		
Commission to Ramesh				6,000		
Share of Profit						
[32,600 - 6,000 - 3,000 - 3,000 - 3000 - 6000]						
= 11,600	<u>4,640</u>	7,640	<u>4,640</u>	13,640	<u>2,320</u>	11,320
Income from other sources : Interest on securities :		2,400		2,400		1,200
Share of income from AOP		<u>12,490</u>		<u>18,490</u>		<u>13,745</u>

11. Mr. R, Mrs. X and Mr. Z are members of an AOP sharing profits and losses equally. During the year ending 31.3.2020 total income of AOP was ₹ 3,30,000. The details of individual incomes of its members are given below :

Particulars	₹
Mr. R :	
Rent from House property :	60,000
Interest on fixed deposits with HDFC	86,000
Short term capital gain	90,000
Mrs. X	
Bank Interest on fixed deposits :	1,70,000
Dividend from a Co-operative Society	30,000
Mr. Z (Age 67 years)	
Pension from Govt.	1,90,000
Interest accrued on NSC VIII issue	10,600
Interest on Govt, securities	16,000
Compute tax liability of AOP and its members.	

Sol :

A) Computation of tax liability of AOP

AOP shall pay tax at the rates applicable to an individual as total income of any of its members without adding share from AOP as calculated below does not exceed the exempted limit.

Particulars	₹
Tax on ₹ 3,30,000 :	
Tax on ₹ 2,50,000	NIL
Tax on balance ₹ 80,000 @ 5%	4,000
	<u>4,000</u>
Add : Health and Education cess @ 4% of tax	160
Total tax payable	<u>4,160</u>

B) Computation of total income and tax liability of members of AOP**Mr. R**

Particulars	₹	₹
Income from House Property ARV	60,000	
Less : Municipal Taxes	NIL	
Annual Value	60,000	
Less : Standard Deduction 30%	18,000	
Income from house		42,000
Capital gain Short term capital gain		90,000
Income from other sources : Interest on deposits with HDFC and other banks		86,000
Gross Total Income		2,18,000
Less : Deductions u/s 80C to 80U :		NIL
Total Income		2,18,000
Add : 1/3rd share from AOP, i.e., 1/3 of ₹ 3,30,000		1,10,000
		3,28,000
Tax liability : On ₹ 2,50,000		NIL
On balance ₹ 78,000 @ 5%	3,900	3,900
Less : Rebate u/s 87A [i.e., 3900 (or) 12500 which ever is less]		3,900
Tax payable		NIL

Mrs. X (a female)

Particulars	₹	₹
Income from other sources : Bank Interest		1,70,000
Dividend from a Co-operative Society		30,000
Gross Total Income		2,00,000
Less : Deductions u/s 80C to 80U		NIL
Total Income		2,00,000
Add : 1/3rd share from AOP, i.e., 1/3 of ₹ 3,30,000		1,10,000
		3,10,000
Tax liability : On ₹ 2,50,000		NIL
On balance ₹ 60,000 @ 5%		3,000
Less : Rebate u/s 87A		3,000
Tax Payable		NIL

Mr. Z (a senior citizen as age is above 60 years but below 80 years)

Particulars	₹	₹
Income from salary Pension from Govt.		1,90,000
Income from other sources : Interest accrued on NSC VIII issue	10,600	
Interest on Govt, securities	16,000	26,600
Gross Total Income		2,16,600
Less : Deduction u/s 80C to 80U : u/s 80C : NSC interest (accrued)		10,600
Total Income		2,06,000
Add : 1/3 rd share from AOP		1,10,000
		3,16,000
Tax liability : On ₹ 3,00,000	NIL	
On balance ₹ 16,000 @ 5%	800	
		800
Less : Rebate u/s 87A		800
Tax Payable		NIL

Note :

The exempted limit for Mr. R and for Mrs. X is ₹ 2,50,000 and for Mr, Z a senior citizen is ₹ 3,00,000.

Short Question and Answers

1. Define Partnership.

Ans :

Meaning

Section 4 of the Indian Partnership Act has defined the word 'Partnership' as "the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all".

From this definition, the following points emerge :

- (a) That partnership is an association of two or more persons.
- (b) There must be an agreement entered into by all persons.
- (c) The agreement is to carry on some business or profession.
- (d) The business to be carried on by all or by any one of them acting on behalf of all and for the benefit of all.
- (e) The agreement is to share the profits and losses of business or profession.

2. Disadvantages of a Partnership Firm

Ans :

1. Division of responsibility

In a partnership the management is divided. As such responsibilities are also divided. Every partner might try to shift the burden on to the shoulders of others; finally none takes the responsibility properly.

2. Delay in decisions

Sometimes the partners may not agree with one another in taking decisions. As a result partners will not be in a position to take quick decisions.

3. Lack of continuity

A partnership gets dissolved on the death, insolvency, insanity or retirement of any partner. So, there is no guarantee for the continuity of the firm.

4. No transferability of share

In a firm the partner cannot transfer his share of interest to others without the consent of the other partners.

5. Lack of secrecy

It may not be possible to maintain secrecy in partnership because of the number of partners.

6. Unlimited liability

The creditors of a firm can recover their loan amounts from the personal properties of the partners when the firm's sources are not enough. Therefore the personal properties of the partners are not safe..

7. Joint and several liability

Every partner is jointly and separately liable for the firm's debts. In case of insolvency of partners, the solvent partners have to pay the debts of the insolvent partners also.

3. Advantages of Partnership Firm

Ans :

1. Easy to form

A partnership firm can be formed without any legal formalities and expenses. Even if the firm is to be registered, the expenses are not much compared to company form of organization.

2. Access to more capital

A firm consists of more than one person. Therefore it can secure more capital from combined resources.

3. Skill and talent

Talented persons may be taken as partners. More skill and talent will be available..

4. Division of labor

Division of labor can be introduced which increases the efficiency in the management. One partner may take care of purchases, another sales, a third accounts and so on.

5. Contact with customers

All the partners in a firm may take part in the management of the business. So, they get in touch with the customers during the course of the business. It enables them to study the tastes and needs of the customers.

4. Assessment during Dissolved or Discontinued Firm.

Ans :

Where any business or profession, carried on by a firm has been discontinued or where a firm is dissolved, the Assessing Officer is required to make an assessment of the total income of the firm as if no such discontinuance or dissolution had taken place. Thus, the notice may be issued and assessment may be made in the name of dissolved firm. All the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, are equally applicable to any such assessment [Sec. 189(1)]. Thus, penalty proceedings may be initiated and penalty may be imposed on a firm even after its dissolution.

In case during the proceedings before Assessing Officer, or the Commissioner (Appeals) the firm is found guilty of any acts as given u/s 271 to 275 the penalty can be imposed on such firms. [Section 189(2)].

5. Allocation of AOPs Total Income

Ans :

1. (a) Any interest, salary, commission or other remuneration paid to any member in respect of the previous year shall be deducted from the total income of the AOP/BOI and the balance so ascertained is apportioned amongst the members in the profit sharing ratio. It has been observed by the Supreme Court in case CIT v. Chidambaram Pilai (1977) 106 ITR 292 that any salary received by a member from the AOP/BOI in which he is a member cannot be regarded in any way as having a source different from that of his share in the profits of the AOP/BOI he receives.

- (b) In case any interest on capital is paid to partners and interest on drawings is received from partners, only difference of these two is to be allocated.
- (c) Where the amount apportioned to the member is a profit, any salary, interest, commission or other remuneration paid to the member by the AOP/BOI shall be added to that amount (profit apportioned) and the total of all these amounts shall be treated as that member's share in the income of the AOP/BOI.
- (d) Where the amount apportioned comes to be a loss, any salary, interest, commission or other remuneration paid to the members of the AOP/BOI shall be adjusted against the amount of loss so apportioned. If after the adjustment the result is positive, it shall be treated as the member's share in the income of the AOP/BOI.
- (e) AOP/BOIs tax is not to be deducted out of total income for allocation purposes.

2. The share of a member whether income or loss as computed under sub-section (1) shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the AOP/BOI has been determined under each head of income.

6. Tax Credit for AMP

Ans :

- (1) The credit for tax paid by an AOP/BOI u/s 115JC shall be allowed in accordance with the provisions of this section. [Section 115JD(1)]
- (2) Computation of amount of Tax Credit [Section 115JD(2). The tax credit of an assessment year shall be the excess of alternate minimum tax paid over the regular income tax payable for that year. In other words

$$\text{Amount of Tax credit} = \left[\begin{array}{c} \text{Alternate} \\ \text{minimum tax} \end{array} \right] - \left[\begin{array}{c} \text{Tax pay able on total income computed as} \\ \text{per normal provisions of Income tax Act} \end{array} \right]$$

- (3) Time Limit to Carry Forward Tax Credit [Section 115JD(4)]. The tax credit for any assessment year can be carried forward upto the fifteenth assessment year immediately succeeding the assessment year for which tax credit becomes allowable u/s 115JC(1).
- (4) Set off of Tax Credit [Section 115JD(5)]. Tax credit shall be allowed in any assessment year, in which the regular income tax exceeds the alternate minimum tax. Such set off shall be allowed to the extent of the excess of regular income tax over the alternate minimum tax and the balance of the tax credit, if any, shall be carried forward.

Note: No interest shall be payable on tax credit allowed [Section 115JD(3)]

7. Features of Partnership Firm

Ans :

1. Two or More Persons

At least two persons must pool resources to start a partnership firm. The Partnership Act, 1932 does not specify any maximum limit on the number of partners. However, the Companies Act, 1956 lays down that any partnership or association of more than 10 persons in case of banking business and 20 persons in other types of business is illegal unless registered as a joint stock company.

2. Agreement

A partnership comes into being through an agreement between persons who are competent to enter into a contract (e.g. Minors, lunatics, insolvents etc. not eligible). The agreement may be oral, written or implied. It is, however, to put everything in black and white and clear the fog surrounding all knotty issues.

3. Lawful Business

The partners can take up only legally blessed activities. Any illegal activity carried out by partners does not enjoy the legal sanction.

Choose the Correct Answer

1. Person is defined U/S _____ of income tax act. [a]
(a) 2(31) (b) 2(32)
(c) 2(33) (d) 2(34)
2. Conditions prescribed for assessment of firm in U/S _____. [c]
(a) 184 (b) 185
(c) 184 (d) 187
3. Remuneration allowed to _____. [b]
(a) All partners (b) Working partners
(c) Sleeping partner (d) None
4. Allowable maximum remuneration to working partners in case of loss is _____. [b]
(a) Rs. 1,00,000 (b) Rs. 1,50,000
(c) Rs. 2,00,000 (d) None
5. Firm is taxed under _____. [a]
(a) Flat system (b) Slab system
(c) Both a and b (d) None
6. Tax rate is applicable to partnership firm is _____. [c]
(a) 20% (b) 25%
(c) 30% (d) None
7. Long term capital gain is charged at a rate of _____. [b]
(a) 15 % (b) 20 %
(c) 30 % (d) None
8. Change in constitution is defined U/S _____. [c]
(a) 185 (b) 186
(c) 187 (d) None
9. Assessment of discontinued firm is defined U/S _____. [a]
(a) 189 (b) 187
(c) 188 (d) None
10. Partnership Act introduced in year _____. [b]
(a) 1931 (b) 1932
(c) 1933 (d) 1934

Fill in the blanks

1. Firm is defined U/S _____ of income tax act.
2. Partner is defined U/S _____ of income tax act.
3. Partnership defined U/S _____ of Income tax act.
4. LLP stands for _____.
5. Book profits is compute after _____ deductions.
6. Rate of Interest allowed to partners is _____.
7. AOP stands for _____.
8. Surcharge is charged if total income is exceeds of Rs. _____.
9. Short term capital gain is taxed at a rate of _____.
10. Change of constitution means _____.

ANSWERS

1. 2(23) (i)
2. 2(23) (ii)
3. 2(23) (iii)
4. Limited liability partnership
5. Allowable
6. Maximum
7. Association of persons
8. 1 crore
9. 15%
10. Alteration in the setup of the firm

UNIT II

ASSESSMENT OF COMPANIES-I:

Meaning of Company - Types of Companies - Computation Procedure - Taxable income - Deductions - Tax Liability - MAT - Carry Forward and set off of losses - Tax on Distributed Profits - Tax on income distributed to Unit holders- Tax on income receipt from venture capital companies and funds.

2.1 MEANING OF COMPANY

Q1. Define Company. Explain the features of a company.

Ans :

(Imp.)

Meaning

A company is a body corporate or an incorporated business organization registered under the companies act. It can be a limited or an unlimited company, private or a public company, company limited by guarantee or a company having a share capital, or a community interest company.

The Companies Act 2013 of India defines a company as:

A registered association which is an artificial legal person, having an independent legal entity with a perpetual succession, a common seal for its signatures, a common capital comprised of transferable shares and carrying limited liability.

A more precise, global and modern definition of a company could be:

A business entity which acts as an artificial legal person, formed by a legal person or a group of legal persons to engage in or carry on a business or industrial enterprise.

Features

(i) Incorporated association

A company comes into existence when it is registered under the Companies Act (or other equivalent act under the law). A company has to fulfil requirements in terms of documents (MOA, AOA), shareholders, directors, and share capital to be deemed as a legal association.

(ii) Artificial Legal Person

In the eyes of the law, A company is an artificial legal person which has the rights to acquire or dispose of any property, to enter into contracts in its own name, and to sue and be sued by others.

(iii) Separate Legal Entity

A company has a distinct entity and is independent of its members or people controlling it. A separate legal entity means that only the company is responsible to repay creditors and to get sued for its deeds. The individual members cannot be sued for actions performed by the company. Similarly, the company is not liable to pay personal debts of the members.

(iv) Perpetual Existence

Unlike other non-registered business entities, a company is a stable business organization. Its life doesn't depend on the life of its shareholders, directors, or employees. Members may come and go but the company goes on forever.

(v) Common Seal

A company being an artificial legal person, uses its common seal (with the name of the company engraved on it) as a substitute for its signature. Any document bearing the common seal of the company will be legally binding on the company.

(vi) Limited Liability

A company may be limited by guarantee or limited by shares. In a company limited by shares, the liability of the shareholders is

limited to the unpaid value of their shares. In a company limited by guarantee, the liability of the members is limited to the amount they had agreed upon to contribute to the assets of the company in the event of it being wound up.

2.1.1 Types of Companies

Q2. Explain in detail about the different types of companies under income tax Act.

Ans :

1. Indian Company [Section 2(26)]

"Indian Company" means a company formed and registered under the Companies Act, 1956 and includes :

- (i) A company formed and registered under any law relating to companies formerly in force in any part of India other than the State of Jammu and Kashmir or and the specified Union Territories ; [Sec. 2 (26) (i)]
- (ii) A corporation established by or under Central, State or provincial Act : [Sec. 2(26) (ia)].
- (iii) Any institution, association or body which is declared by the Board to be a company : [Sec. 2 (26) (ii)]
- (iv) In the case of Jammu & Kashmir, a company formed and registered under any law for the time being in force in that State ; [Sec. 2 (26) (ii)]
- (v) In the case of any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu. and Pondicherry, a company formed and registered under any law for the time being in force in that Union Territory. [Sec. 2 (26) (iii)]

In all the above cases, the Principal office of the company, corporation, institution, association or body must be situated in India.

2. Company in which public are substantially interested [Section 2(18)]

A company is said to be a company in which public are substantially interested, if :

- (i) It is a company owned by the Central or State government or the Reserve Bank of India [Section 2(18)(i)] or
- (ii) At least 40% of its shares (by monetary value) are held (singly or jointly by the Govt, or the Reserve Bank of India or a corporation owned by that Bank (Section 2 (18) (a)] or
- (iii) It is a company which is registered under section 25 of the Companies Act, 1956 (Sec. 2 (18)(aa)] ; or
- (iv) It is a company having no share capital and if, having regard to its objects, the nature & composition of the membership and other relevant considerations, it is declared by order of the Board to be a company in which the public are substantially interested provided that such order shall hold good for only such assessment year or years specified in the declaration [Section 2(18)(ib) ; or
- (v) **Mutual benefit finance company:** It is a company, which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government under section 620 A of the Companies Act, 1956 to be a Nidhi or Mutual Benefit Society, [Section 2(18)(ic) or
- (vi) **Society participating company :** It is a company wherein shares (not being shares entitled to a fixed rate of dividend) carrying at least 50% of the voting power have been held by one or more cooperative society, throughout the relevant previous year ; [Section 2(18)(ad)] ; or
- (vii) **Listed company :** It is a company which is not a private company (as defined in the Companies Act, 1956) fulfilling any one of the following two conditions namely [Section 2(18)(b)]
 - (a) Its equity shares were, as on last day of relevant previous year listed in recognized Stock Exchange in India.

- (b) Its equity shares carrying not less than 50% of voting power (40% in case of Indian industrial company) have been allocated unconditionally to or acquired unconditionally by and were held throughout the relevant previous year beneficially by :
- (i) The Government, or
 - (ii) Corporation established by a Central State or Provincial Act, or any company in which public are substantially interested or its 100% Subsidiary company.
- (viii) Indian Industrial Company :** It means an Indian company whose business consists wholly of the construction of ships or in the manufacture or processing of goods or in the mining or in the generation or distribution of electricity or any other form of power.
- The income attributable to any or more of the aforesaid activities included in the total income of the previous year is not less than 51% of such total income.
- 3. Widely Held Company**
A company in which the public are substantially interested is known as Widely held company.
 - 4. Closely held Company**
A company in which the public are not substantially interested is referred to as a Closely held company.
 - 5. Domestic Company [Section 2(22A)]**
Domestic company means an Indian company, or any other company, which, in respect of its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India of the dividends (including dividends on preference shares) payable out of such income.
 - 6. Foreign Company [Section 2(23A)]**
A company which is not a domestic company.
 - 7. Investment Company [Section 109(ii)(i)]**
Investment company is a company whose gross total income consists mainly of income chargeable to tax under the heads 'Income from House Property, Capital Gains' and 'Income from Other Sources'.
 - 8. Consultancy Service Company**
Means an Indian Company whose business consists wholly of the provision of technical know-how or in rendering of services in connection with the provision of technical know-how, to other persons.
 - 9. Trading Company [Section 109(ia)]**
It means it company whose business consists wholly or mainly in dealing with goods or merchandise manufactured, produced or processed by a person other than that company and whose income attributable to such business included in its gross total income is not less than 51% of the amount of such gross total income.
 - 10. Banking Company**
Banking company means a company to which the Banking Company Regulation Act, 1949 applies and includes any Bank or banking institution referred to in Section 51 of that Act.
 - 11. A person having substantial interest in the company [Section 2(32)]**
A person is deemed to have substantial interest in the affairs of the company if he is the beneficial owner of equity shares, carrying not less than 20% of the voting power.
 - 12. Principal Officer [Section 2(35)]**
"Principal Officer" means :
 - (i) The secretary, treasurer, manager or agent of the company, or
 - (ii) Any person connected with the management or administration of the company upon whom the Assessing officer has served a notice of his intention of treating him as the Principal Officer thereof.

Q3. Explain about Residential Status of Company.*Ans :*

Determination of total income of a company depends upon its residential status during the relevant previous year. The residential status of the company is determined either

- (i) On the basis of its incorporation (Registration) ; or
- (ii) on the basis of its place of effective management of its affairs.

On the basis of residential status, companies can be classified in to two categories :

- (a) Resident Companies ;
- (b) Non Resident Companies.

(a) Resident Companies [Section 6(3)]

A company is said to be resident in India in any previous year

- (i) It is an Indian Company ; or
- (ii) Its place of effective management in that year, is in India.

The expression 'place of effective management' shall mean a place where key management and commercial decisions that are necessary for the conduct of the business of an enterprise as a whole are made.

Observations :

1. An Indian company is always a resident company for income tax purpose even if its place of effective management is situated outside India.
2. A non-Indian company or a foreign company will be treated as resident of India for any previous year if its place of effective management, during the relevant previous year, is situated in India.

For example :

- (i) A company is incorporated in India but has head office in Dacca,

- (ii) A company is incorporated in Bangladesh but has head office in Kolkata ;

In first case it is incorporated in India and situation of its head office is immaterial, as such it is resident company. In second case though it is incorporated outside India but its place of effective management is situated in India and hence it is resident company.

(b) Non Resident [Section 2(30)]

A company shall be 'non-resident' if it is not resident in India during the relevant previous year. It means a foreign company whose place of effective management is not situated in India will be a non-resident company.

Incidence Of Tax-scope Of Total Income**(a) Resident**

U/s 5(1) the total income of a resident shall include :

- (i) Any income, which is received or is deemed to be received in India during relevant previous year ;
- (ii) Any income, which accrues or arises or is deemed to accrue or arise in India during relevant previous year ;
- (iii) Any income, which accrues and is received outside India during relevant previous year.

(b) Non Resident

U/s 5(2) the total income of a non-resident shall include :

- (i) Any income, which is received or is deemed to be received in India during relevant previous year ;
- (ii) Any income, which accrues or arises or is deemed to accrue or arise in India during relevant previous year.

Types of incomes**1. Income received in India**

The source of income may be situated anywhere in the world but if its first receipt is in India, it is taxable for all. Income may be

received by the assessee himself or by his agent on his behalf or is actually received by him or it might be credited to his account.

2. Deemed to be received in India

These incomes are actually not received by assessee instead these are credited to his account to be paid at a later date or are appropriated against future liability e.g.

- (a) Employer's contribution to provident fund.
- (b) Interest accrued on provident fund balance.
- (c) Interest accrued on N.S.C. VIII issue.
- (d) Tax deducted at source.

3. Income accruing or arising in India

The terms accrue or arise have the same meaning i.e. to grow, to originate. Income accrues where source is situated. Salary accrues where service is rendered. Rent accrues where house property is located. Business Profit or professional gain arises where business is carried on or profession is set up. Capital gain accrues where asset is located. Dividend, Bank interest etc. accrue where investment is made. If source of any of these incomes is situated in India then income from these sources will be accruing in India.

4. Income deemed to accrue or arise in India

These incomes actually accrue outside India but u/s 9 these are deemed to accrue in India. These incomes are :

- (a) Salary paid by govt, to its employees posted abroad,
- (b) Pension paid outside India but for services rendered in India,
- (c) Income from a capital asset located in India although transaction has taken place outside India,
- (d) Dividend paid by Indian company outside India,

(e) Apportionment of profits : In case a part of transaction takes place in India and the other part outside India, proportionate profits from such transaction relating to Indian part shall be deemed to accrue in India.

(f) Income from shooting of a film in India by a non-resident shall not be deemed to accrue in India, hence taxable only for residents.

5. Any income accruing and received outside India

It shall be taxable for Resident only.

6. Past Untaxed Income

Any income, which was exempted earlier but is brought to India in current P/Y shall be exempted for all.

2.2 COMPUTATION PROCEDURE

2.2.1 Taxable Income

Q4. Explain the process of calculation of gross total income of a company.

Ans :

1. Head wise calculation

The income of a company is to be computed under following five heads of income under various provisions of the Income Tax Act, 1961. These heads of income are as follows :

- (a) Income under the head "House Property" (as per section 22 to 27)
- (b) Income under the head "Profits and Gains of Business or Profession" (as per section 28 to 44DB) ;
- (c) Income under the head "Capital Gains" (as per section 45 to 55).
- (d) Income under the head "Income from Other Sources" (as per section 56 to 59)

2. Agricultural Income of a Company

Agricultural income of a company is totally exempt under Section 10(1). Even there is

no integration of agricultural income with non-agricultural income for companies. But companies having composite income i.e. both agricultural income and non-agricultural income, tax is charged only on non-agricultural income.

SPLITTING UP OF COMPOSITE INCOME IN CERTAIN SPECIFIED CASES

Crop	Rule	Agricultural Business Income	Non-agricultural Income
(i) Growing and manufacture of tea	8	60%	40%
(ii) Rubber manufacturing business	7A	65%	35%
(iii) Coffee grown and cured by seller	7B(i)	75%	25%
(iv) Coffee grown, cured, roasted and grounded by the seller in India with or without mixing chicory or other flavouring ingredients	7B(iA)	60%	40%

However in other cases where agricultural crop is used as raw material (like sugar manufactured from sugarcane grown in own fields), the business income shall be computed in following manner:

Sale proceeds of Agricultural Product (Sugar)	xxxxx
Less: Market value of agricultural produce brought from own farms and consumed in the above process	xxxxx
Business income	xxxxx

Set off and Carry Forward of Losses of Companies

1. Inter-source set off of losses (within head)

Loss from one source of income can be, set off from income of another source within the same head of income except :

- Speculation loss : It can be set off only from speculation gain and not from any other income. But loss from any other source/head can be set off from speculation gain, if any.
- Expenses on maintenance of horses for race purposes can be set off only from income of such activity or race winnings from horses. It cannot be set off from any other income.
- Loss under the head capital gains.

2. Inter-head set off (Outside head)

A loss which could not be set off within the same head of income shall be allowed to be set off out of income of any other head in the same assessment year but subject to certain exceptions.

- Speculation Loss.
- Expenses on maintenance of horses for race purposes.
- Loss under the head capital gains.
- Loss from house property can be set-off from Income under any other head upto ` 2,00,000.

3. Loss under the head Capital Gains

- Short term capital loss can be set off from either short term or from long term capital gain.

- (b) Long term capital loss can be set off only from long term capital gains and not from any other income.
- (c) Loss from any other head can be set off from income from capital gains, if any.

Carry Forward of Losses

1. House Property

Loss under this head can be carried forward for 8 succeeding previous years to be set off from income under 6th head "House property" only.

2. Profits and Gains of Business or Profession

- (a) Business loss can be carried forward for 8 succeeding previous years to be set off only out of income under the head Profits and Gains.
- (b) Speculation loss can be carried forward for 4 succeeding previous years to be set off only out of speculation gain of future years.
- (c) **Unabsorbed Depreciation.** When total depreciation is more than available profits, the excess is called unabsorbed depreciation. It can be adjusted from any other income of the year.

Depreciation which remains unadjusted as there is no income in the relevant previous year, it can be carried forward till it is fully adjusted from any income during the succeeding previous year. It shall be treated as depreciation of the succeeding previous year.

- (d) Unabsorbed capital expenditure on scientific research can be carried forward in the same manner as in case of unabsorbed depreciation.

Order of preference :

- Current depreciation
- Current capital expenditure on scientific research
- Current business loss
- B/F business loss (FIFO)

- B/F unabsorbed depreciation
- B/F capital expenditure on scientific research

3. Loss under the head capital gains

- (a) Short term capital loss can be c/f for 8 succeeding previous years to be set off from either short term or from long term capital gain.
- (b) Long term capital loss can be c/f for 8 succeeding previous years to be set off only long term capital gains and not from any other income.

4. Other Sources

Loss due to maintenance of horses for race purposes can be carried forward for 4 succeeding previous years to be set off only from similar type of income. In case a person is having securities as stock-in-trade and has any B/F loss under the head P & G, such loss can be adjusted from interest on securities.

2.2.2 Deductions

Q5. Explain the Deductions of gross total income?

Ans : (Imp.)

Company assesseees are entitled to claim following deductions u/s 80 out of gross total income:

- (i) Deduction u/s 80G for donations
- (ii) Deduction u/s 80GGA for certain payments
- (iii) Deduction u/s 80GGB for donation to political parties
- (iv) Profits from new infrastructure undertakings u/s 80IA
- (v) Profits from developing of Special Economic Zones u/s 80IAB
- (vi) Profits from new Industrial undertaking u/s 80IB
- (vii) Profits from housing projects u/s 80IBA
- (viii) Deduction for setting up undertakings in special states u/s 80IC

- (ix) Business of Hotels and convention Centres oot special area [Sec.80-ID]
- (x) Deduction to certain undertakings set-up in North Eastern States [Sec. 80-IE]
- (xi) Profits from processing of bio-degradable waste u/s 80JJA
- (xii) Deduction in respect of employment of new employees u/s 80JJAA
- (xiii) Deduction for income of offshore funds u/s 80LA
- (xiv) Deduction u/s 80M in respect of certain inter-corporate dividends
- (xv) Deduction for farm producer companies [Section 80PA]

Q6. Explain the various tax rates for companies for the assessment year 2022-23.

(OR)

How do you compute the taxable income of companies?

Ans :

(Imp.)

Particulars	Rate of Tax
(A) In case of domestic company	
Income	
(i) On short-term capital gain on shares covered under STT	15%
(ii) On long-term capital gain	20%
(iii) On income from units purchased in foreign exchange or capital gain from their transfer (section 115AB)	10%
(iv) On winnings from lotteries, races, crossword puzzles, card games and other games of any sort, gambling, or betting of any form or nature [Section 30 115BB]	30%
(v) On dividend received from specified foreign subsidiary company	15%
(vi) On any other income	
(a) Where its total turnover or the gross receipts in the previous year 2019-20 does not exceed ` 400 crores	25%
(b) For certain domestic compapnies set up on or after 1-03-2016 [As referred to in section 115BA]	25%
(c) For a company which has opted for section 115BAA	22%
(d) For a company which has opted for section 115BAB	15%
(e) Other than that referred to in cases (a) to (d)	30%
(vii) On income from transfer of carbon credits	10%
(viii) On profits declared, paid or distributed as dividend u/s 1150.	15%
(B) In case of non-domestic company [Foreign Company]	
(i) On short-term capital gain on shares covered under STT	15%
(ii) On long-term capital gain	20%
(iii) On income from units purchased in foreign exchange or capital gain from their transfer [Section 115AB]	10%

(iv) On income from bonds or GDR's purchased in foreign currency Or capital gain arising on their transfer [Section 115 AC]	10%
(v) On income of Foreign institutional investors from securities or capital gain arising from their transfer [Section 115 AD]	10%
(vi) On winnings from lotteries, races, crossword puzzles, card games and other games of any sort, gambling, or betting of any form or nature [Section 115BB]	30%
(vii) On Royalty and Technical Services fees [Section 115A]	25%
(viii) On income from transfer of carbon credits as specified u/s 115BBG	10%
(ix) On any other income.	40%

Surcharge: Surcharge is to be imposed only if total income of the company exceeds 1 crore. If total income of the company exceeds 1 crore, surcharge shall be as follows :

Particulars	Domestic Company	Foreign Company
(i) If total income of a company exceeds ` 1 crore but does not exceed ` 10 crores	7% of tax	2% of tax
(ii) If total income of a company exceeds ` 10 crore	12% of tax	5% of tax

Health and Education Cess : 4% of tax plus surcharge, if any.

2.2.3 Tax Liability

Q7. Explain the computation of tax liability of the company.

Ans :

Step 1:

Total Income - Compute total income of the company as per the provisions of Income Tax Act, 1961

Step 2:

Regular Tax Liability - Regular tax rates 25% (The total turnover of the company for the previous year does not exceed 400 crores)

Step 3:

Book Profit - as per Section 115JB

Step 4:

MAT Liability - tax @ 15% on Book Profit + Surcharge (Total Income/Book Profit does not exceed 1 crore) + (Health and Education Cess @ 4%)

Step 5: Calculation of final tax liability:

(a) Tax liability as per Normal Provisions

(or)

(b) Tax liability as per MAT

Which ever is higher

2.3 MINIMUM ALTERNATIVE TAX [MAT]

Q8. Explain about the Applicability of MAT.

(OR)

What are the Special Provisions for Payment of Income Tax by Certain Companies.

(OR)

Explain About Applicability of Section 115JB

(OR)

Discuss in detail provisions of minimum alternate tax U/S 115JB.

Ans : (Imp.)

Sec. 115JB is applicable on companies (Including foreign companies) with effect from Assessment year 2001-02.

Non-applicability of MAT on certain assessees

1. Life insurance companies [Section 115JB(5A)]

The provisions of MAT as provided under section 115JB shall not be applicable in respect of any income accruing or arising to a company from life insurance business referred to in section 115B.

2. Tonnage income of a shipping company calculated as per sections 115V to 115VZC

w.e.f. A.Y. 2001-02 deemed tonnage income computed under tonnage scheme shall not be subject to MAT. While calculating Book Profits u/s 115JB, such income shall be reduced from net profit.

3. Foreign companies in certain cases [Explanation 4 to Section 115JB(2)]

The provisions of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, if—

- (i) the assessee is a resident of a country or a specified territory with which India has

an agreement referred to in sub-section (1) of Section 90 or the Central Government has adopted any agreement under sub-section (1) of Section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such agreement; or

- (ii) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) and the assessee is not required to seek registration under any law for the time being in force relating to companies.

4. Foreign companies deriving income from specified businesses

MAT provisions shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, where its total income comprises solely of profits and gains from business referred to in section 44B or section 44BB or section 44BBA or section 44BBB and such income has been offered to tax at the rates specified in the said sections.

5. Companies opting for section 115BAA and 115BAB

Such companies opting to pay tax at lower rate of 22%, 15% on income computed without claiming certain deductions and set off of losses are also exempted from MAT.

Scheme of MAT. In case of an assessee, being a company, if the income tax payable on the total income computed under this Act (normal provisions) is less than 15% (plus surcharge if total income exceeds ` 1 crore and Health and Education cess) (18.5% upto A.Y. 2019-20) of its Book Profits, the tax payable for the relevant previous year shall be deemed to be 15% (plus surcharge and education cess) of such book Profits [Section 115JB (1)].

As we all know that a company is liable to pay income tax on its total income. The total income of company may comprise of :

- (i) Income under the head "House property" (Section 22 to 27)
- (ii) Income under the head "Profits and Gains of Business or Profession" (Section 28 to 44)
- (iii) Income under the head "Capital Gain" (Section 45 to 55)
- (iv) Income under the head "Income from Other Sources" (Section 56 to 59)

The provisions for calculation of income under each head are provided in the sections indicated above. The total of income under all the above four heads, after applying the provisions of set off & carry forward of losses etc. is called Gross total income.

Out of this Gross total income, deductions are allowed under section 80 of Income Tax Act. The amount so arrived at is called Total Income of the company and company is liable to pay tax on the total income at prescribed rates.

Section 115JB (1) is an overriding section and provides a specific tax rate on a specific figure of total income for every Company. It provides a new concept of 'Book profits' which is to be treated as total income of the company and on this figure of Book profits, tax is required to be calculated at 15% plus surcharge and Health and Education cess.

Tax Liability of Company

- (i) Tax on total income of company as computed as per normal provisions of Income Tax Act; or
- (ii) Tax @ 15% on Book profits ; whichever is higher

Surcharge: Surcharge on MAT for Assessment Year 2022-23 shall be as under :

Particulars	Domestic Company	Non-domestic Company
(i) If book profit exceeds ` 1 crore but does not exceed ` 10 crores	7% of tax	2% of tax
(ii) If book profit exceeds ` 10 crore	12% of tax	5% of tax

Q9. Explain the Calculation of Book Profit for the Purpose of MAT.

(OR)

What are the statutory Additions and Deletions While Calculating Book Profits for Mat?

Ans :

(Imp.)

The term Book profit is the key term on which the system of MAT is based. For the purpose of MAT. Book profit means the net profit as shown in the 'Statement of Profit and Loss' for the relevant previous year prepared in accordance with the provisions of Schedule III to the Companies Act, 2013 or governing Acts; and

(A) It shall be increased by the following if debited earlier.

- (a) The amount of income tax paid or payable, and the provision therefore ; or
- (b) The amount carried to any reserves, by whatever name called ; or
- (c) The amount or amounts set aside to make provision for meeting liabilities other than ascertained liabilities. or
- (d) The amount by way of provision for losses of subsidiary companies; or

- | | |
|---|---|
| <p>(e) The amount of dividends paid or proposed; or</p> <p>(f) The amount or amounts of expenditure relatable to any income to which Section 10 [excluding expenditure relating to LTCG exempt u/s 10(38)] or Section 10 A or Section 10 B or section 11 or section 12 apply.</p> <p>(fa) The amount or amounts of expenditure relatable to, income, being share of income of an assessee on which no tax is payable in accordance with the provisions of section 86; [w.e.f. A.Y. 2016-17] or</p> <p>(fb) The amount or amounts of expenditure relatable to income accruing or arising to an assessee, being a foreign company, from,</p> <p style="padding-left: 20px;">(i) The capital gain arising on transactions in securities; or</p> <p style="padding-left: 20px;">(ii) The interest, royalty or fees for technical services chargeable to tax at the rate or rates.</p> <p style="padding-left: 40px;">If the income tax payable thereon in accordance with the provisions of this Act, other than the provisions of this chapter, is at the rate less than the rate specified in sub-section (1); [w.e.f. A.Y. 2016-17] or</p> <p>(fc) The amount representing notional loss on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in section 47(xvii) or the amount representing notional loss resulting from any change in carrying amount of said units or the amount of loss on transfer of units referred to in section 47(xvii); [w.e.f. A.Y. 2016-17] or</p> <p>(fd) The amount or amounts of expenditure relatable to income by way of royalty in respect of patent chargeable to tax under section 115BBF; or</p> <p>(g) The amount of depreciation debited to the profit and loss account; or</p> | <p>(h) The amount of deferred tax and the provision therefore.</p> <p>(i) The amount or amounts set aside as provision for diminution in the value of any asset.</p> <p>(j) The amount standing in revaluation reserve relating to revalued asset on retirement or disposal of such asset if such amount is not credited to the profit and loss account.</p> <p>(k) The amount of gain transfer of units referred to in Section 47(xvii) computed by taking into account the cost of shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit and loss account, as the case may be.</p> <p>(B) It shall be reduced by the following if credited earlier.</p> <p style="padding-left: 20px;">(i) The amount withdrawn from any reserve or provision ;</p> <p style="padding-left: 20px;">(ii) The amount of income to which any of the provision of section 10 [Excluding LTCG covered u/s 10(38)] or 10A or 10B or 11 or Section 12 apply,</p> <p style="padding-left: 20px;">(iia) The amount of depreciation debited to profit and loss account (excluding the depreciation on account of revaluation of assets; or</p> <p style="padding-left: 20px;">(iib) The amount withdrawn from revaluation reserve and credited to the profit and loss account to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred to clause (iia); or</p> <p style="padding-left: 20px;">(iic) The amount of income, being the share of income of an assessee on which no income- tax is payable in accordance with the provisions of section 86, if any such amount is credited to the profit and loss account; [w.e.f. A.Y. 2016-17] or</p> |
|---|---|

(iid) The amount of income accruing or arising to an assessee, being a foreign company, from,—

- (a) The capital gain arising on transactions in securities; or
- (b) The interest, royalty or fees for technical services chargeable to tax at the rate or rates.

If such income is credited to the profit and loss account and the income tax payable there on in accordance with the provision of this Act, other than the provisions of this chapter, is at the rate less than the rate specified in sub-section (1); [w.e.f. A.Y. 2016- 17] or

(iie) The amount representing -

- (a) Notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in Section 47(xvii) or
- (b) Notional gain resulting from any change in carrying amount of said units or
- (c) Gain on transfer of units referred to in section 47(xvii),
if any, credited to the profit and loss account; [w.e.f. A.Y. 2016-17] or

(iif) The amount of loss on transfer of units referred to in section 47(xvii) computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit and loss account, as the case may be [w.e.f. A.Y. 2016-17] or

(iig) The amount of income by way of royalty in respect of patent chargeable to tax under section 115BBF, or

- (iii) The amount of loss brought forward or unabsorbed depreciation which ever is less as per Books of accounts ; (discussed in details on next pages) ; or
- (iv) The amount of profit of such industrial company for the assessment year commencing on and from the assessment year relevant to previous year in which the said company became a sick industrial company and ending with the assessment year during which the entire net-worth of such company becomes equal to or exceed the accumulated losses.
- (v) The amount of profit derived by a tonnage tax company (Section 115 VO)
- (vi) The amount of deferred tax, if any such amount is credited to the profit and loss account.

Applicability of MAT on SEZ developers and units located in SEZ [Section 115JB(6)]

With effect from assessment year 2012-13, the income earned by SEZ developers and units located in SEZ shall be chargeable to MAT. In other words, such income shall be included in 'book profit'.

Book Profit

The Finance Act, 2008 has clarified that in case deferred tax has been debited to the Profit and Loss Account, then the book profit shall be increased by the amount of deferred tax and the provisions thereof. In case the amount of deferred tax has been credited to profit and loss account, then the amount of profit given in profit and loss account shall be reduced by the amount of deferred tax.

The term "Net-worth" shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985.

The above scheme of calculation of "Book Profits" can be summarized as follows :

Take balance [Net Profit or Net Loss] as per 'Statement of Profit and Loss' (+) or

	(-) xxxxx
Add : Statutory Additions (if already debited to P&L A/c) (15 items)	(+) xxxxx
Total	xxxxx
Less : Statutory Deductions (13 items)	(-) xxxxx
Book Profit for MAT	xxxxxx

Explanation of certain items of Statutory Additions :

(a) Income tax paid or payable or any provision thereof

The amount of income tax shall include the following :

- (i) Any tax on distributed profits u/s 115 - O or on distributed income u/s 115R;
- (ii) Any interest charged under this Act;
- (iii) Surcharge, if any, as levied by Central Acts from time to time;
- (iv) Education cess on income tax, if any, as levied by the Central Acts from time to time; and
- (v) Secondary and Higher Education cess on income tax, if any, as levied by the Central Acts from time to time.

Thus, Wealth Tax, Sales tax etc. are not to be added back while calculating 'Book Profit'.

(b) Transfer to any reserve :

Thus following transfers are to be added back if debited :

- (i) Transfer to sinking fund
- (ii) Transfer to General reserve
- (iii) Transfer to Dividend Equalization Reserves and other transfer
- (iv) Transfer to Bad Debt reserve or provision for doubtful debts.

However, if any transfer is made to Shipping reserve specified under section 33 AC, then it is not to be added to Net profit. It was operative for assessment years 2003-04 and 2004-05. The shipping reserve u/s 33AC has been discontinued with effect from assessment year 2005-06.

(c) Provisions for unascertained liabilities

Any provision made for any unascertained liability is also to be added to Net profit while calculating "Book profits".

The Income tax Act does not provide any definition of ascertained liability or unascertained liability. For this, we will have to depend upon the General meaning of the term :

(i) An ascertained liability

A liability is said to be ascertained liability if it is determined or fixed or imposed under some contract, law or other such act : For example, a provision made for compensation payable to the widow of an employee who died in the course of employment, where the said compensation is definitely to be paid as per court order. Similarly, provision made for gratuity payable to a retired employee, is also a provision made for meeting an ascertained liability and hence it is not to be

added to net profits. The provision for payment of Bonus to the employees in accordance with the Payment of Bonus Act is an ascertained liability and it is not to be added back to net profit for calculation of book profits.

- (ii) **An unascertained liability** is that liability, which is not determined /fixed and a provision is created for such anticipated liability then it is to be added to net profit.

It is important to note that the provision for bad and doubtful debts is not a provision for unascertained liability. It is so because, such a provision is made in respect of anticipated fall in the value of an asset (i.e., receivable by the Company) and not for any liability. Therefore, while calculating the amount of book profits, the provision for bad and doubtful debts shall not be added back.

Treatment of Certain Statutory Deductions

- (i) **Withdrawal from any Reserve or Provision** [Section 115JB(2)(i) (explanation)]

"The amount withdrawn from any reserve or provision (excluding a reserve created before the 1st day of April, 1997 otherwise than by way of a debit to the profit and loss account), if any such amount is credited to the profit and loss account.

Provided that where this section is applicable to an assessee in any previous year, the amount withdrawn from reserve created or provision made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 shall not be reduced from the book profit under the book profit of such year has been increased by those reserves or provision (out of which the said amount was withdrawn) under this Explanation or Explanation below second proviso to Section 115JA, as the case be."

The above explanation can be explained in following manner :

Case A. If reserve was created before 1-4-97

- (a) **By debiting to profit and loss A/c**

In such a case if any amount is withdrawn from such reserve and is credited to profit and loss account then such amount is to be reduced from 'Net worth' while calculating 'Book Profits'.

- (b) **Otherwise than by debiting to profit and loss A/c**

In such a case, if any amount is withdrawn from such reserve or provision during any previous year is credited to profit and loss account then it is not to be reduced from net profit of that previous year. For example, assessee company made revaluation of its fixed assets during previous year 2002-03 and the increase in value of fixed assets amounting to ₹ 2,50,000 was credited to a separate reserve called 'Revaluation Reserve'. Now, during previous year 2019 - 20 the company withdrew ₹ 1,50,000 from the revaluation reserve and credit to profit and loss account. In such a case, this amount shall not to be reduced from net profit while calculating 'book profit'.

Case B. (i) If reserve was created on or after 1-4-97

In such a case, any amount withdrawn from such reserve shall be reduced from 'Book profits' only if, in the year of creation of such reserve/provision, the net profit was increased by the amount of reserve created while calculating book profits.

For example : Profit and Loss a/c for previous year 2013 - 14

	Debit ₹	Credit ₹
To transfer to General Reserve	1,00,000	

While calculating 'book profits for the previous year 2013-14, the above ₹ 1,00,000 must have to be added back to net profit. Now, if during previous year 2019-20, any amount is withdrawn from such reserve and is credited to profit and loss account then it shall be reduced from net profits while calculating 'book profits'.

(ii) B/F loss or Unabsorbed depreciation

Section 115JB (2)(iii)(Explanation) provides for a deduction of loss brought forward or unabsorbed depreciation, whichever is less, as per books of accounts.

Important point to be noted is that brought forward loss shall not include brought forward unabsorbed depreciation. In case brought forward loss includes brought forward unabsorbed depreciation then, brought forward unabsorbed depreciation shall be reduced from brought forward loss.

Example :

Brought forward loss ₹ 2,50,000 and it includes ₹ 1,00,000 as brought forward unabsorbed depreciation. Such loss shall be reduced by the brought forward unabsorbed depreciation i.e. ₹ 1,00,000 and balance loss of ₹ 1,50,000 or brought forward unabsorbed depreciation ₹ 1,00,000 whichever is less shall be reduced from book profit.

Relief from MAT for companies under Insolvency Resolution [Amendment to Section 115JB] [w.e.f. A.Y. 2018-19]

Companies under insolvency resolution are allowed to claim deduction of both unabsorbed depreciation and brought forward losses while calculating book profits for the purpose of MAT.

PROBLEMS

1. Compute the tax payable by a company for the Assessment year 2022-23 if :

- (a) its total income is ₹ 4,00,000 and book profit is ₹ 18,50,000 ; or
(b) its total income is ₹ 6,20,000 and book profit is ₹ 12,33,330.

Assume normal tax rate applicable to company 30%.

Sol :

Computation of Tax Liability of the Company for Assessment Year 2022-23

Particulars	₹
Case A	
Tax on total income of ₹ 4,00,000.	
Tax @ 30% of total income	1,20,000
Add : Surcharge	NIL
	1,20,000
Add : Health and Education cess @ 4% of tax	4,800
Total tax	1,24,800
Tax on book profit of ₹ 18.50,000	
Tax @ 15% of book profit	2,77,500
Add : Surcharge	NIL
	2,77,500
Add : Health and Education cess @ 4% of tax	11,100
	2,88,600

Since tax under MAT is more than the tax calculated as per normal rates, hence company will pay tax under MAT, i.e., ₹ 2,88,600.

Particulars	₹
Case B	
Tax on total income of ₹ 6,20,000	
Tax @ 30% of total income	1,86,000
Add : Surcharge [Total income does not exceed ₹ 1 crore]	NIL
	1,86,000
Add : Health and Education cess @ 4% of tax	7,440
Total tax	1,93,440
Tax on book profit of ₹ 12,33,330	
Tax @ 15% of book profit	1,85,000
Add : Surcharge [Book Profit does not exceed ₹ 1 crore]	NIL
	1,85,000
Add : Health and Education cess @ 4% of tax	7,400
Total tax	1,92,400

Since tax under MAT is less, hence the company will pay tax as per normal rates. Tax liability of company in this case shall be ₹ 1,93,440.

2. The total income of XYZ Ltd., a domestic company, computed under the normal provisions of Income Tax Act is ₹ 2,50,000. However, the Book profits of the company (calculated as per section 115JB) amount to ₹ 8,15,000. Calculate the tax liability of company for Assessment year 2022-23, on the assumption that the total turnover of the company for the previous year 2019-20 did not exceed ₹ 400 crores.

Sol :

Computation of Tax Liability of the Company for Assessment Year 2022-23

- (i) Tax on total income at normal rate of tax (including Surcharge and Cess if applicable) ; or
(ii) Tax @ 15% of Book profits (including Surcharge and Cess, if applicable); which ever is higher

1. Tax on total income at normal rate of tax (including Surcharge and Cess)

Total Income	2,50,000
Tax @ 25% of ₹ 2,50,000 (plus Health and Education cess)	65,000

2. Tax under MAT

Book Profit	8,15,000
Tax @ 15% of Book profit (plus Health and Education cess)	1,27,140

Tax under MAT (Section 115JB) is more than normal tax on total income as such tax payable by Co. shall be :

Tax payable under MAT, i.e., $8,15,000 \times 15/100$	1,22,250
Add : Surcharge	NIL
Total	1,22,250
Add : Health and Education Cess @ 4% of tax	4,890
Total tax Liability under MAT	1,27,140
Rounded off to ` 1,27,140.	

2.4 CARRY FORWARD AND SET OFF OF LOSSES

Q10. Explain briefly about Carry Forward and set off of losses

Ans :

(Imp.)

S.No.	Loss	Adjustment
1.	Within the Head (Inter-source set-off)	(i) Loss from one source of income will be set-off from income of another source except speculation loss, long term capital loss and losses under section 56(2) (iii) (Expenses on-maintenance of horses), Loss from specified businesses under section 35AD. (ii) Speculation loss can be set-off from speculation gain, if any. But loss from non-speculation business can be set-off from speculation gain, if any. (iii) Losses under section 56(2) (iii) i.e., expenses on horses for race purposes can be set-off only from race course winnings and not from any other income.
2.	Outside Head (inter-head set-off)	Loss from one head of income can be set-off against income of another head in the same assessment year except ; (i) Speculation loss, (ii) Loss from owning and maintaining race horses. (iii) Loss under the head "Profits & Gains" cannot be set off from income under the head "Salaries". (iv) Loss under head 'House Property' can be set-off against any other head only upto ` 2,00,000. (v) No loss can be set off from casual incomes. (vi) Capital losses (a) Short Term Capital Loss can be set off from short term as well as out of long term capital gains ; (b) Long Term Capital Loss can be set off from long term capital gain only.

Carry-Forward and Set-off

Carrying the loss of one previous year to following previous year/years and adjusting it. There can be no loss under the head 'Salaries'.

1. House Property

Loss under this head can be C/F for 8 succeeding previous years to be set off from income under the head house property only.

2. Business Loss

Can be carried forward for 8 previous years succeeding the relevant previous years to be set-off from any business income. Loss of discontinued business allowed to be carried forward and set-off upto 8 years.

3. Loss from a specified business u/s 35AD

Allowed to be carry forward over indefinite number of years but to be set off out of profit of a specified business only. Return if loss must have been submitted on or before due date.

4. Unabsorbed Depreciation

Depreciation which remains unadjusted as either there is no income or less income in the relevant previous year, it can be carried forward till it is not fully adjusted from any income during the succeeding previous years. It shall be treated as depreciation of the succeeding previous year.

5. Speculation Loss

Can be carried forward for 4 succeeding previous years to be set-off only from speculation gain, if any, during succeeding 4 previous years.

6. Capital Loss

(a) Short term capital loss can be C/F for 8 succeeding previous years to be set off from short term or long term capital gains.

(b) Long term capital loss can be carried forward for 8 succeeding previous years to be set off only from long term capital gains.

7. Expenses incurred on maintenance of horses for race purposes

Can be carried forward for 4 succeeding previous years to be set-off only from income of same activity, if any.

PROBLEMS

3. The following are the particulars of income/loss of Mr. A. You are required to set-off losses and carry forward and set-off where necessary.

Particulars	Assessment Year 2021-22	Assessment Year 2022-23
Income from salary (computed)	15,000	15,000
Income from Interest on Securities (Gross)	5,000	5,000
Loss from business	53,000	15,000
Short-term capital gain	8,000	—
Long-term capital gain (Land)	21,000	—

Sol.:

(Imp.)

Assessment Year 2021-22

Particulars	₹	₹
Salary Income (Computed)		(+) 15,000
Business Loss		(-) 53,000
Capital Gain : Short-term	8,000	
Long-term	21,000	
		(+) 29,000
Other Sources : Interest on Securities		(+) 5,000
Gross Total Income (salary income)		15,000

Note : Business loss of ₹ 53,000 shall be adjusted against income of all other heads except income under the head "Salaries" and business loss to be C/F ₹ 19,000.

Assessment Year 2022-23

Particulars	₹
Salary Income (Computed)	15,000
Business Loss	(-) 15,000
Other Sources : Interest on Securities	5,000
Gross Total Income	15,000

Note : Business loss B/F from assessment year 2021-22 cannot be set-off as assessee has no income under the head Profits and Gains of Business or Profession. Hence he can C/F loss of assessment year 2021-22, i.e., ₹ 19,000. Business loss of assessment year 2022-23 i.e., ₹ 10,000 will also be carried forward as it cannot be set off from salary income.

4. **From the following particulars of income of assessee A, B and C, how the capital losses shall be set-off and carried forward for the previous year ending on 31-3-2022 ?**

Particulars	₹
(A) (i) Business income	15,000
(ii) Short-term capital loss	1,200
(iii) Long-term capital gain (Plot)	7,200
(iv) Long-term capital gain on sale of jewellery	20,000
(B) (i) Business income	30,000
(ii) Short-term capital loss	40,000
(C) (i) Business income	60,000
(ii) Short-term capital gain	20,000
(iii) Long-term capital gain (land)	17,000
(iv) Carry forward loss (short-term capital assets)	50,000

Sol.:

Particulars		₹	₹
(A) (i)	Business income		15,000
(ii)	Long-term capital gain (Plot) 7,200		
	Long term capital gain on sale of jewellery 20,000	27,200	
	Set-off Short-term capital loss	(-) 1,200	
	Net capital gain		26,000
	Gross Total Income		41,000
(B) (i)	Business Income		30,000
(ii)	Short-term capital loss to be C/F ₹ 40,000		—
	Gross Total Income		30,000
(C) (i)	Business income		60,000
(ii)	Long-term capital gain (Land)	17,000	
(iii)	Short-term capital gain	20,000	
		37,000	
	Set-off Short-term capital loss B/F	50,000	
	S.T. Capital loss still to be C/F	13,000	NIL
	G.T.I.		60,000

5. **Mr. Atul, an Indian resident, furnishes the following particulars of his income for the assessment year 2022-23. You are required to deal with set-off and carry forward of losses.**

(i)	Income from securities (Gross)	10,000
(ii)	Income from residential house (computed)	5,000
(iii)	Profits from Rayon business	25,000
(iv)	Income from an agency business	2,000
(v)	Speculation income	2,000
(vi)	Short-term capital gain	4,000
(vii)	Long-term capital gain	9,500

The carry forward items from the assessment year 2021-22 are :

(i)	Loss from Hosiery Business (discontinued in 2019-20)	4,000
(ii)	Loss in agency business	3,000
(iii)	Loss from Rayon business	3,000
(iv)	Speculation loss	4,000
(v)	Short-term capital loss	6,000
(vi)	Long-term capital loss [of previous year 2019-20]	6,500

Current year's depreciation for rayon business is ₹ 500

*Sol.:***Computation of Gross Total Income for the assessment year 2022-23**

Particulars			
(1) Income from House Property			(+) 5,000
(2) Business income :			
(i) Speculation Business :			
Income from speculation business		(+) 2,000	
Set-off brought forward speculation loss		(-) 4,000	
Carry-forward speculation loss		(-) 2,000	
(ii) Rayon Business :			
Income from Rayon business		25,000	
Less : Current depreciation		500	
		24,500	
Set-off brought forward business			
Loss of Rayon business	3,000		
Hosiery Business	4,000	7,000	
		17,500	
(iii) Income from agency business	(+) 2,000		
Set-off Loss B/F	(-) 3,000	(-) 1,000	
Income under the head "Profit and Gains"			16,500
(3) Capital Gains :			
Long Term Capital Gain	9,500		
Set off B/F long term capital loss	6,500		
		3,000	
Short term capital gains	4,000		
Set off B/F short term capital loss	6,000		
		(-) 2,000	
Taxable Long Term Capital Gain			1,000
(4) Other Sources : Interest on Securities			10,000
Gross Total Income			32,500

Notes :

1. Loss of a discontinued business can be set-off against the income of a continued business.
2. Speculation business loss will be carried forward because the speculation loss cannot be set-off against non-speculation business income.

6. The following are the particulars of income of an assessee as determined by the Assessing officer for the assessment year 2022-23. Compute his total income.

Assessment Year 2021-22	
Silver speculation loss (Discontinued)	10,000
Hosiery business loss	6,000
Rolling Steel Mill profit (before charging of depreciation of ₹ 10,000)	8,000
Profit from another business	5,000
Income from house property	2,000
Assessment Year 2022-23	
Gold speculation profit	20,000
Hosiery business loss	2,000
Rolling Steel Mill profit (before charging depreciation of ₹ 10,000)	6,000
Profit from another business	16,000
Income from house property	2,000

Sol.:

Computation of Total Income of an Assessee Assessment Year 2021-22

Particulars	₹	₹
(1) Income from house property		(+) 2,000
(2) (i) Business profit		
Rolling Steel Mill profit	8,000	
Less : Depreciation	(-) 10,000	
Unabsorbed depreciation is	(-) 2,000	
(ii) Income from another business	(+) 5,000	
(iii) Hosiery business	(-) 6,000	
(Set it off against other income)	(-) 1,000	
(iv) Silver speculation loss to be C/F 10,000	NIL	
		(-) 1,000
Available Income		(+) 1,000
Set-off unabsorbed depreciation ₹ 2,000 upto available income		(-) 1,000
Gross Total Income		NIL

Unabsorbed depreciation of ₹ 1,000 and speculation loss of ₹ 10,000 are to be carried forward.

Computation of Total Income of an assess for the Assessment Year 2022-23

Particulars	₹	₹
1. Income from House Property		2,000
2. Profit and Gains		
(i) Rolling Steel Mill	(+) 6,000	
Depreciation	(-) 10,000	
Unabsorbed depreciation	(-) 4,000	
(ii) Income from another business	(+) 16,000	
(iii) Speculation Gain	₹ 20,000	
Set-off B/F speculation Loss	₹ 10,000	
	(+) 10,000	
	22,000	
Less : Current Hosiery Business Loss	(-) 2,000	
	20,000	
Less : B/F Depreciation	(-) 1,000	19,000
Gross Total Income		21,000

7. From the following particulars, compute the gross total income of Mr. A for the previous year 2021-22.

Income from House Property (Computed)	36,000
Profit from business (before claiming following deductions)	2,80,000
Current year's expenditure on Scientific research	
Amount given to a National Laboratory	40,000
Current year's depreciation allowance	50,000
B/F Unabsorbed business losses	
2009-10	40,000
2015-16	15,000
2019-20	20,000
B/F unabsorbed depreciation allowance	
2009-10	24,000
2015-16	20,000
2019-20	60,000
Interest on securities	50,000

*Sol :***Computation of Gross Total Income of Mr. A for the Assessment Year 2022-23**

Income from house property (computed)			36,000
Income from other sources : Interest on securities			50,000
Income under Business head			
Profit (given)		2,80,000	
Less : Current year's expenditure on research (Contribution to National Laboratory)-Eligible for deduction @ 100%		40,000	
		2,40,000	
Less : Current year's depreciation allowance		50,000	
		1,90,000	
Less : B/F business loss of past previous years :			
2015-16	15,000		
2019-20	20,000		
2009-10	NIL		
		35,000	
		1,55,000	
Less : B/F unabsorbed depreciation of past previous years :			
2009-10	24,000		
2015-16	20,000		
2019-20	60,000		
Total			
Allowed upto available profit		1,04,000	
			51,000
Gross Total Income			1,37,000

Notes :

- Any sum given to a National Laboratory is eligible for a deduction @ 100%.
- Unabsorbed B/F business loss beyond 8 years (i.e. loss of previous year 2009-10) cannot be set-off.

2.5 TAX ON DISTRIBUTED PROFITS

Q11. What are the special provisions Relating to tax on Distributed Profits of Domestic Companies

(OR)

What is Dividend Tax ? Explain the provisions Relating to Tax on Distributed Profits of Companies.

Ans :

(Imp.)

1. Tax on distributed profits of companies [Section 115 - O(1)]

Through this provision an effort has been made to tax dividend in the hands of dividend paying companies rather than dividend receiving shareholders. When dividend paying company is paying tax on distributed or declared dividend then the dividend shall be exempted u/s 10 in the hands of the recipient of dividend.

In addition to income tax chargeable on the total income of a domestic company, where such a company has declared, distributed or paid some amount by way of dividends [whether interim or final] on or after 1-6-1997 but before 1-4-2002 and again from 1-4-2003 onwards Whether out of current or accumulated profits, it had to pay additional income tax on the amount of dividend so declared. Distributed or paid. Such tax shall be known as tax on distributed profits.

2. Dividend covered u/s 115 - O

All dividends including dividend covered u/s 2(22)(e).

Note : Upto assessment year 2018-19 dividend distribution tax (DDT) was applicable on dividends covered under section 2(23) (a) to 2(22) (d). However, w.e.f. assessment year 2019-20, dividend covered u/s 2(22)(e) is also subject to dividend distribution tax.

3. Treatment of dividend received by a domestic company from its subsidiary company [Section 115-O (1A)(i)(a)]

Any dividend received by a domestic company from its subsidiary company shall be reduced from the amount of dividend declared, distributed or paid by such domestic company during the year, if :

- (a) Such dividend is received from its subsidiary
- (b) The subsidiary company has paid the tax which is payable under this section 115 - O of such dividend.

In other words,

Dividend subject to 'Dividend Distribution Tax'	=	Dividend declared distributed or paid during the financial year	-	Dividend received by domestic company from its subsidiary during the financial year
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- (i) The same amount of dividend shall not be taken into account for reduction more than once.
- (ii) For the purpose of Section 115 - O (1A), a company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company.
- (iii) With effect from assessment year 2013-14, for the purpose of computing tax on distributed profits and dividend received by a domestic holding company itself is a subsidiary of another company or not.

There is no change in the manner or rate of deduction of Dividend Distribution Tax. However, in case the Dividend received by any shareholder (by an individuals or HUF) is more than ₹ 10 lakhs then such dividend will be chargeable to tax @ 10%.

4. Treatment of dividend received by Indian Company from Foreign Subsidiary (w.e.f. 1-6-2013) [Section 115 - O (1A)(i)(b)]

Where Indian holding company has paid tax on dividend received from the foreign subsidiary u/s 115 BBD, any dividend distributed by the holding company in the same year, to the extent of such dividend, shall not be subject to 'Dividend Distribution Tax u/s 115-O'.

5. Treatment of dividend paid under New Pension System Trust [Section 115-O (1A)(ii)]

Any dividend paid by a domestic company to any person for, or on behalf of, the New Pension System Trust referred to in Section 10(44) shall also be reduced from the amount of dividend declared, distributed or paid by such domestic company during the previous year. In other words, w.e.f. assessment year 2010-11, any dividend paid under New Pension System Trust shall be exempt from 'Corporate Dividend Tax.'

6. Rates of Tax u/s 115 - O [Dividend covered u/s 2(22)(a) to (e)]

S.No	Period (of declaration, distribution etc. of dividend)	Rate on Dividend paid	Surcharge Tax	Education Cess	Total
(i)	From 1-6-1997 to 31-5-2000	10%	NIL	–	= 10%
(ii)	From 1-6-2000 to 31-3-2001	20%	10%	–	= 22%
(iii)	From 1-4-2001 to 31-5-2001	20%	2%	–	= 22.4%
(iv)	From 1-6-2001 to 31-3-2002	10%	2%	–	= 10.2%
(v)	From 1-4-2002 to 31-3-2003 (No dividend tax during this period)	NIL	NIL	–	–
(vi)	From 1-4-2003 to 31-3-2004	12.5%	2.5%	–	= 12.8125 %
(vii)	From 1-4-2004 to 31-3-2005	12.5%	2.5%	2%	= 13.06875 %
(viii)	From 1-4-2005 to 31-3-2007	12.5%	10%	2%	= 14.025 %
(ix)	From 1-4-2007 to 31-3-2010	15%	10%	3%**	= 16.995 %
(x)	From 1-4-2010 to 31-3-2011	15%	7.5%	3%	= 16.609 %
(xi)	From 1-4-2011 to 31-3-2013	15%	5%	3%	= 16.223%
(xii)	From 1-4-2013 to 30-9-2014	15%	10%	3%	= 17.995%
(xiii)	From 1-10-2014 to 31-3-2015	$(15 / 85) \times 100$ = 17.64706%	10%	3%	= 19.99412%
(xiv)	From 1-4-2015	17.64706%	12%	3%	= 20.35765%

- For the purpose of Corporate Dividend Tax, surcharge is applicable whether the income of the company exceeds ` one crore or not.

Assessment Year	Rate of Surcharge
Upto Assessment Year 2010-11	10%
For Assessment year 2011-12	7.5%
For Assessment year 2012-13 and 2013-14	5%
For Assessment year 2014-15 and 2015-16	10%
For Assessment year 2016-17 and 2017-18 and 2018-19	12%

➤ **Education cess of 3% includes :**

- (a) Education cess @ 2% of tax and surcharge.
- (b) Secondary and Higher Education Cess (SHEC) @ 1% of tax and surcharge.

7. Deemed dividend as referred to in section 2(22)(e) covered under Dividend Distribution Tax' [Proviso to Section 115-O] [w.e.f. A.Y. 2019-20]

Tax @ 30% shall be charged on the distributed profits in the nature of dividend under section 2(22)(e). Also, the amount of dividend under section 2(22)(e) shall be excluded from the applicability of grossing up provisions of the said sub-section.

8. Tax on distributed profit of a domestic company to be levied on 'gross dividend' (w.e.f. 1.10.2014) [Section 115-O(1B)]

Tax on distributed profit of a domestic company shall be levied on gross amount of dividend not on net amount of dividend distributed. The new methodology is complex. To put it simply, w.e.f. 1-04-2015, the DDT rate with regards to dividend distributed shall be 20.35765%.

9. Dividend tax payable even if no income-tax is payable by a domestic company [Section 115-O(2)]

The tax on distributed profits under section 115-O(1) shall be payable by domestic company even if no income-tax is payable by such a company on its total income computed in accordance with the provisions of this Act.

10. Responsibility to deposit tax [Section 115-O(3)]

The principal officer of such domestic company shall be liable to deposit tax on distributed Profits to the credit of Central Government within 14 days of the date of declaration of dividend.

11. Final payment [Section 115-O(4)]

The amount of tax on distributed profits deposited as per above shall be considered

as final and no further credit shall be claimed by such domestic company or any other person.

12. No deduction [Section 115-O(5)]

The company or any shareholder of such company shall not have any right to claim any deduction for the amount of tax paid under this section.

13. Applicability of dividend distribution tax on SEZ developers [Section 115-O(6), w.e.f. Assessment Year 2012-13]

With effect from assessment year 2012-13, SEZ developers shall be liable to pay 'Dividend Distribution Tax' on the amount of dividend declared, distributed or paid on or after 1-6-2011.

14. No 'Dividend tax' on dividend distributed by a specified domestic company to a business trust [Section 115-O (7)] [w.e.f. 1-06-2016]

No tax on distributed profits shall be chargeable under this section in respect of any amount declared, distributed or paid by the specified domestic company by way of dividends (whether interim or otherwise) to a business trust out of its current income on or after the specified date.

However, this sub section shall not apply in respect of any amount declared, distributed or paid, at any time, by the specified domestic company by way of dividends (whether interim or otherwise) out of its accumulated profits and current profits up to the specified date.

(a) Meaning of specified domestic company

"Specified domestic company" means a domestic company in which a business trust has become the holder of whole of the nominal value of equity share capital of the company (excluding the equity share capital required to be held mandatorily by any other person in accordance with any law for the time being in force or any directions of

Government or any regulatory authority, or equity share capital held by any Government or Government body).

(b) Meaning of specified date

"Specified date" means the date of acquisition by the business trust of such holding as is referred to in clause (a).

15. No Dividend Tax' on dividend distributed by a unit of an International Financial Services Centre deriving income solely in convertible foreign exchange [Section 115-O(8)] [w.e.f. 1-04-2017]

No tax on distributed profit shall be chargeable in respect of the total income of a company, being a unit of an International Financial Services Centre, deriving' income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1-04-2017, out of its current income, either in the hands of the company or the person receiving such dividend.

(a) Meaning of International Financial Services Centre

"International Financial Sendees Centre" shall have the same meaning as assigned to it in section 2(q) of the Special Economic Zones Act, 2005.

(b) Meaning of Unit

"Unit" means a unit established in an International Financial Services Centre, on or after the 1-04-2016.

(c) Meaning of convertible foreign exchange

"Convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 and the rules made thereunder.

16. Interest payable for non-payment of tax by domestic companies [Section 115P]

If the Principal Officer of the company or the company fails to pay the tax under the above provisions, such person or company shall have to pay interest @ 1% p.m. of the tax due for the period from the last date on which tax was payable till the date of final payment.

17. Assessee in default [Section 115Q]

In case the Principal Officer of the company or the company fails to pay the tax under the above provisions such person or company shall be deemed as an assessee in default and the provisions relating to the recovery of tax shall become applicable.

18. Penalty for non payment of 'dividend distribution tax' [Section 271C]

If any person fails to pay 'dividend distribution tax' as required as per section 115-O(2), he shall be liable to pay as penalty a sum equal to the amount to tax which such person has failed to pay. However, no penalty shall be levied if the assessee proves that there was reasonable cause for failure.

19. Prosecution for non payment of 'dividend distribution tax' [Section 276 B]

If a person fails to pay to the credit of the central government the tax payable by him as per section 115-O(2), he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years with fine. However, no prosecution proceeding shall be undertaken if the assessee proves that there was reasonable cause for failure.

20. Dividend covered u/s 115-O not taxable for recipient [Section 10(34)]

Any dividend distributed by a domestic company which is subject to dividend distribution tax' shall be exempt in the hands of the recipient under section 10(34).

2.6 TAX ON INCOME DISTRIBUTED TO UNIT HOLDERS

Q12. What are the provision relating to tax on unit holders?

Ans :

(Imp.)

Sub-section (2) provides that any amount of income distributed by the specified company or a Mutual Fund to its unit holder shall be charged to additional income-tax at the rate of twenty-five per cent., where the income is distributed to any person being an individual or a Hindu undivided family, and at the rate of thirty per cent, on income distributed to any person other than an individual or a Hindu undivided family. It is further provided that an additional tax at the rate of five per cent, shall be levied in case of income distributed by a Mutual Fund under an Infrastructure Debt Fund Scheme to a person who is nonresident.

Tax on Income Distributed by a Specified Company or a Mutual Fund (Secs. 115R, 115S and 115T)

1. Rate of Tax: Where the Specified Company or a Mutual Fund distributes income to its unit holders it shall pay tax on the gross amount distributed at the following rates :

During financial year 2016-17 :

(A) Income distributed by a money market mutual fund or a liquid fund:

(a) To an individual or Hindu undivided family :

Income tax @ 25%, Surcharge 12% and Education cess and SHEC @3%.

(b) To any other person :

Income tax 30%, Surcharge 12% and Education cess and SHEC @3%.

(B) Income distributed by a fund other than a money market mutual fund or a liquid fund :

(a) To an individual or Hindu undivided family :

Income tax 25%, Surcharge 12% and Education cess and SHEC @3%.

(b) To any other person :

Income tax 30%, Surcharge 12% and Education cess and SHEC @3%.

Where any income is distributed by a mutual fund under an infrastructure debt fund scheme to a non-resident or a foreign company, the mutual fund shall be liable to pay additional tax as under :

Income tax @ 5%, Surcharge @ 12%, Education cess and SHEC @ 3%.

However, the tax shall not be chargeable in respect of income distributed (a) by the Administrator of the specified undertaking to the unitholders; or (b) to a unit holder of equity oriented fund.

Gross amount means the income distributed to unit holders plus the tax payable to the Government.

2. Payment of Tax: The person responsible for making the payment of income or the Specified Company or the Mutual Fund shall be liable to pay the amount of tax to the credit of the Central Government within fourteen days from the date of distribution or payment of income, whichever is earlier, to the unitholders.

3. Payment of Interest: If the person responsible for making the payment of income or the Specified Company or the Mutual Fund fail to pay the tax, he or it shall be liable to pay simple interest @ 1% every month or part thereof on the amount of tax which he/it failed to pay. Such person who failed to pay the tax within fourteen days shall be deemed to be an assessee in default.

4. No deduction for Income Distributed: No deduction under any other provisions of this Act shall be allowed to the Specified Company or to a Mutual Fund in respect of income which has been charged to tax under (1).

Explanation

- (a) 'Mutual fund' means a Mutual Fund specified in Sec. 10(23D).
- (b) 'Equity oriented fund' means :
- the Unit Scheme, 1964 of the U.T.I., and
 - such fund where the investible funds are invested by way of equity shares in domestic companies to the extent of more than sixty-five percent of the total proceeds of such fund.
- The percentage of equity shareholding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.
- (c) 'Money market mutual fund' means a money market mutual fund as defined in clause 2(p) of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.
- (d) 'Liquid Fund' means a scheme or plan of a mutual fund which is classified by the Securities and Exchange Board of India as a liquid fund in accordance with the guidelines issued by it in this behalf under the Securities and Exchange Board of India Act, 1992 or regulations made thereunder.

2.7 TAX ON INCOME RECEIPT FROM VENTURE CAPITAL COMPANIES AND FUNDS (SEE 10(23FB))

Q13. Explain about tax procedure for venture capital companies.

Ans. :

(Imp.)

Any income of VCC or VCF from investment in venture capital undertaking (VCU) is exempt.

Explanation

- (A) "venture capital company" means a company which :
- Has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Securities and Exchange Board of India (Venture

Capital Funds) Regulations, 1996 (hereinafter referred to as the Venture Capital Funds Regulations) made under the Securities and Exchange Board of India Act, 1992; or

- Has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (hereinafter referred to as the Alternative Investment Funds Regulations) made under the Securities and Exchange Board of India Act, 1992, and which fulfills the following conditions, namely :
 - it is not listed on a recognized stock exchange;
 - it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking; and
 - it has not invested in any venture capital undertaking in which its director or a substantial shareholder (being a beneficial owner of equity shares exceeding ten per cent of its equity share capital) holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking;

(B) "venture capital fund" means a fund :

- operating under a trust deed registered under the provisions of the Registration Act, 1908, which :
 - has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Venture Capital Funds Regulations; or

- (ii) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund under the Alternative Investment Funds Regulations and which fulfils the following conditions, namely :
- it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking;
 - it has not invested in any venture capital undertaking in which its trustee or the settler holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking; and
 - the units, if any, issued by it are not listed in any recognized stock exchange; or
 - operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963;
- (C) "venture capital undertaking" means :
- a venture capital undertaking as defined in clause (n) of regulation 2 of the Venture Capital Funds Regulations; or
 - a venture capital undertaking as defined in clause (aa) of sub-regulation (1) of regulation 2 of the Alternative Investment Funds Regulations.
- Tax on income received from VCC (or) VCF [Sec. 115U]**
- In this connection the main provisions are :
- Any income accruing or arising to or received by a person (investor) out of investment made in VCC or VCF shall be chargeable to income tax in the same manner as if it were the income received by the investor had he made investment directly in VCU.
It means the investor shall be liable to pay tax on his share of income instead of VCC or VCF.
 - The person responsible for crediting or making payment of income to investor on behalf of VCC or VCF, shall furnish statement in Form No. 64 to :
 - the investor; and (b) the jurisdictional Chief Commissioner or Commissioner of Income Tax.
 - The statement shall be verified by C. A.
 - It shall be furnished electronically under digital signature upto 30th November of the financial year following the relevant previous year.
 - It shall contain the sources of income of VCC or VCF (LTCG, STCG, Dividends, Interest etc.) and out of such incomes amount paid to investor showing his share in each source of income.
 - The following provisions shall not apply to VCC or VCF:
 - Tax on dividends distribution tax (sections 115-O, 115-P and 115-Q).
 - Tax on income distributed to unit holders (Sections 115-R, 115S and 115-T).
 - Tax deduction at source (Sections 192 to 206AA).
 - The income of investor shall be assessed on accrual basis (whether received or not) in the previous year to which it relates.
However, such income shall not included in the previous year in which it is actually received by the investor.

- (5) If income accrues or arises to, or received by an investor from investment made in VCC or VCF, being an investment fund specified in section 115UB, shall not be liable to tax under this section.

PROBLEMS

8. **X Ltd., a domestic company in which public are substantially interested, is engaged in the manufacture and sale of cement. Its audited accounts for the year ended 31.3.2022 show a profit of ₹ 35,00,000. Examination of the accounts reveals that the above profit was arrived at after taking into account the following items of income and expenditure:**

Particulars	₹	₹
(i) Dividend received from M Ltd, a domestic company registered in April, 1980 and engaged exclusively in the manufacture of paints. The assessee company has declared dividend of ₹ 30,000		50,000
(ii) Expenditure incurred in connection with issue of additional share capital in the year	20,000	
(ii) Interest of ₹ 3,50,000 debited to the Profit & Loss account is made up as under:		
(a) Interest payable to debenture holders	30,000	
(b) Interest payable to XYZ Ltd.	40,000	
(c) Interest on fixed deposits received from the members of the public	60,000	
(d) Interest to Bank in respect of overdraft	2,20,000	3,50,000
(iv) Penal interest paid to State Government for delay in payment of cess		12,000
(v) Expenditure on maintenance of guest house		35,000
(vi) Legal charges include payment made to lawyer for conducting the income-tax proceedings before the AO		8,000
(vii) Depreciation debited to Profit & Loss Account (Depreciation allowable under the Income tax Act ₹ 7,45,000)		8,95,000
(viii) Payment made to consultants for furnishing a feasibility report regarding the setting up of a new unit in another State.		15,000
(ix) Expenditure incurred on stamp duty etc. in connection with issue of debentures in the year.		14,000
(x) Donation to Prime Minister's National Relief Fund		25,000

Compute the taxable income of the company for the assessment year 2022-23 giving reasons briefly for the various adjustments you may wish to make to the profit shown in the audited accounts.

*Sol.:***Computation of tax Income for the assessment year 2022-23**

Particulars	₹	₹
Profit as per statement of Profit and Loss		35,00,000
Add: 1) Expenses on issue of shares	20,000	
2) Depreciation in excess of allowable under Income-tax	1,50,000	
3) Expenses of feasibility report	15,000	
4) Donations	25,000	2,10,000
		<u>37,10,000</u>
Less: Dividend		50,000
Income from Business (GTI)		<u>36,60,000</u>
Income from other sources:		36,60,000
Dividend		Exempt
Deduction Under section 80G -PM NRF - 100%		25,000
Total Income		<u>36,35,000</u>

9. X Ltd. gives the following information for the year ended 31.3.2021:

- Net Profit as per Profit and Loss Account for the financial year 2021-22 ₹ 33,00,000 was included in General Reserve.
- On 1.8.2021, the company issues its redeemable bonus shares to its preference shareholder for ₹ 9,09,000.
- A shareholder holding 10% equity shares of the company borrowed ₹ 3,00,000 from the company @ 18% p.a. on 31.7.2021.
- The company declared dividend of ₹ 14,00,000 at its annual general meeting held on 30.9.2021. But the dividend remained unpaid up to 31.3.2021.

Compute the tax liability of the company under section 115-O (tax on distributed profits) for the A.Y. 2022-23.

Also give reasons for treatment of each item.

*Sol.:***Computation of tax liability of X Ltd. under section 115-O for the A.Y. 2022-23**

Particulars	₹
Issue of Bonus Shares to preference shareholder	9,09,000
Dividend declared at AGM	14,00,000
Taxable Dividend	23,09,000
Tax payable on distributed profits under section 115-O [23,09,000 × 20.35765%]	4,70,058

Note :

Money borrowed even at interest by a shareholder holding 10% equity shares of the company is deemed dividend under section 2(22)(e), unless this loan is given by the company in the ordinary course of its business. Hence, such money borrowed shall be taxable in the hands of shareholder during the P.Y. 2021-22 but, the company is not liable to pay any tax on it.

Short Question and Answers

1. Applicability of MAT.

Ans :

1. Life insurance companies [Section 115JB(5A)]

The provisions of MAT as provided under section 115JB shall not be applicable in respect of any income accruing or arising to a company from life insurance business referred to in section 115B.

2. Tonnage income of a shipping company calculated as per sections 115V to 115VZC

w.e.f. A.Y. 2001-02 deemed tonnage income computed under tonnage scheme shall not be subject to MAT. While calculating Book Profits u/s 115JB, such income shall be reduced from net profit.

3. Foreign companies in certain cases [Explanation 4 to Section 115JB(2)]

The provisions of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, if—

- (i) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of Section 90 or the Central Government has adopted any agreement under sub-section (1) of Section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such agreement; or
- (ii) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) and the assessee is not required to seek registration under any law for the time being in force relating to companies.

4. Foreign companies deriving income from specified businesses

MAT provisions shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, where its total income comprises solely of profits and gains from business referred to in section 44B or section 44BB or section 44BBA or section 44BBB and such income has been offered to tax at the rates specified in the said sections.

2. Explain the features of a company.

Ans :

(i) Incorporated association

A company comes into existence when it is registered under the Companies Act (or other equivalent act under the law). A company has to fulfil requirements in terms of documents (MOA, AOA), shareholders, directors, and share capital to be deemed as a legal association.

(ii) Artificial Legal Person

In the eyes of the law, A company is an artificial legal person which has the rights to acquire or dispose of any property, to enter into contracts in its own name, and to sue and be sued by others.

(iii) Separate Legal Entity

A company has a distinct entity and is independent of its members or people controlling it. A separate legal entity means that only the company is responsible to repay creditors and to get sued for its deeds. The individual members cannot be sued for actions performed by the company. Similarly, the company is not liable to pay personal debts of the members.

(iv) Perpetual Existence

Unlike other non-registered business entities, a company is a stable business organization. Its life doesn't depend on the life of its shareholders, directors, or employees. Members may come and go but the company goes on forever.

(v) Common Seal

A company being an artificial legal person, uses its common seal (with the name of the company engraved on it) as a substitute for its signature. Any document bearing the common seal of the company will be legally binding on the company.

3. Residential Status of Company.

Ans :

A company is said to be resident in India in any previous year

- (i) It is an Indian Company ; or
- (ii) Its place of effective management in that year, is in India.

The expression 'place of effective management' shall mean a place where key management and commercial decisions that are necessary for the conduct of the business of an enterprise as a whole are made.

Observations :

1. An Indian company is always a resident company for income tax purpose even if its place of effective management is situated outside India.
2. A non-Indian company or a foreign company will be treated as resident of India for any previous year if its place of effective management, during the relevant previous year, is situated in India.

For example :

- (i) A company is incorporated in India but has head office in Dacca,
- (ii) A company is incorporated in Bangladesh but has head office in Kolkata ;

In first case it is incorporated in India and situation of its head office is immaterial, as such it is resident company. In second case though it is incorporated outside India but its place of effective management is situated in India and hence it is resident company.

4. Explain the Deductions of gross total income?

Ans :

Company assessee are entitled to claim following deductions u/s 80 out of gross total income:

- (i) Deduction u/s 80G for donations
- (ii) Deduction u/s 80GGA for certain payments
- (iii) Deduction u/s 80GGB for donation to political parties
- (iv) Profits from new infrastructure undertakings u/s 80IA
- (v) Profits from developing of Special Economic Zones u/s 80IAB
- (vi) Profits from new Industrial undertaking u/s 80IB
- (vii) Profits from housing projects u/s 80IBA
- (viii) Deduction for setting up undertakings in special states u/s 80IC
- (ix) Business of Hotels and convention Centres at special area [Sec.80-ID]
- (x) Deduction to certain undertakings set-up in North Eastern States [Sec. 80-IE]
- (xi) Profits from processing of bio-degradable waste u/s 80JJA
- (xii) Deduction in respect of employment of new employees u/s 80JJAA
- (xiii) Deduction for income of offshore funds u/s 80LA
- (xiv) Deduction u/s 80M in respect of certain inter-corporate dividends
- (xv) Deduction for farm producer companies [Section 80PA]

5. Tax on Distributed Profits*Ans :***1. Tax on distributed profits of companies [Section 115 - O(1)]**

Through this provision an effort has been made to tax dividend in the hands of dividend paying companies rather than dividend receiving shareholders. When dividend paying company is paying tax on distributed or declared dividend then the dividend shall be exempted u/s 10 in the hands of the recipient of dividend.

In addition to income tax chargeable on the total income of a domestic company, where such a company has declared, distributed or paid some amount by way of dividends [whether interim or final] on or after 1-6-1997 but before 1-4-2002 and again from 1-4-2003 onwards Whether out of current or accumulated profits, it had to pay additional income tax on the amount of dividend so declared. Distributed or paid. Such tax shall be known as tax on distributed profits.

2. Dividend covered u/s 115 - O

All dividends including dividend covered u/s 2(22)(e).

Note : Upto assessment year 2018-19 dividend distribution tax (DDT) was applicable on dividends covered under section 2(23) (a) to 2(22) (d). However, w.e.f. assessment year 2019-20, dividend covered u/s 2(22)(e) is also subject to dividend distribution tax.

6. Set off of Losses*Ans :*

S.No.	Loss	Adjustment
1.	Within the Head (Inter-source set-off)	(i) Loss from one source of income will be set-off from income of another source except speculation loss, long term capital loss and losses under section 56(2) (iii) (Expenses on-maintenance of horses), Loss from specified businesses under section 35AD. (ii) Speculation loss can be set-off from speculation gain, if any. But loss from non-speculation business can be set-off from speculation gain, if any. (iii) Losses under section 56(2) (iii) i.e., expenses on horses for race purposes can be set-off only from race course winnings and not from any other income.
2.	Outside Head (inter-head set-off)	Loss from one head of income can be set-off against income of another head in the same assessment year except ; (i) Speculation loss, (ii) Loss from owning and maintaining race horses. (iii) Loss under the head "Profits & Gains" cannot be set off from income under the head "Salaries". (iv) Loss under head 'House Property' can be set-off against any other head only upto ₹ 2,00,000. (v) No loss can be set off from casual incomes. (vi) Capital losses (a) Short Term Capital Loss can be set off from short term as well as out of long term capital gains ; (b) Long Term Capital Loss can be set off from long term capital gain only.

7. Carry-Forward Losses*Ans :*

Carrying the loss of one previous year to following previous year/years and adjusting it. There can be no loss under the head 'Salaries'.

1. House Property

Loss under this head can be C/F for 8 succeeding previous years to be set off from income under the head house property only.

2. Business Loss

Can be carried forward for 8 previous years succeeding the relevant previous years to be set-off from any business income. Loss of discontinued business allowed to be carried forward and set-off upto 8 years.

3. Loss from a specified business u/s 35AD

Allowed to be carry forward over indefinite number of years but to be set off out of profit of a specified business only. Return if loss must have been submitted on or before due date.

4. Unabsorbed Depreciation

Depreciation which remains unadjusted as either there is no income or less income in the relevant previous year, it can be carried forward till it is not fully adjusted from any income during the succeeding previous years. It shall be treated as depreciation of the succeeding previous year.

5. Speculation Loss

Can be carried forward for 4 succeeding previous years to be set-off only from speculation gain, if any, during succeeding 4 previous years.

6. Capital Loss

- (a) Short term capital loss can be C/F for 8 succeeding previous years to be set off from short term or long term capital gains.
- (b) Long term capital loss can be carried forward for 8 succeeding previous years to be set off only from long term capital gains.

7. Expenses incurred on maintenance of horses for race purposes

Can be carried forward for 4 succeeding previous years to be set-off only from income of same activity, if any.

8. Types of Companies*Ans :***1. Indian Company [Section 2(26)]**

"Indian Company" means a company formed and registered under the Companies Act, 1956 and includes :

- (i) A company formed and registered under any law relating to companies formerly in force in any part of India other than the State of Jammu and Kashmir or and the specified Union Territories ; [Sec. 2 (26) (i)]
- (ii) A corporation established by or under Central, State or provincial Act : [Sec. 2(26) (ia)].

3. Widely Held Company

A company in which the public are substantially interested is known as Widely held company.

4. Closely held Company

A company in which the public are not substantially interested is referred to as a Closely held company.

5. Domestic Company [Section 2(22A)]

Domestic company means an Indian company, or any other company, which, in respect of its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India of the dividends (including dividends on preference shares) payable out of such income.

6. Foreign Company [Section 2(23A)]

A company which is not a domestic company.

7. Investment Company [Section 109(ii)(i)]

Investment company is a company whose gross total income consists mainly of income chargeable to tax under the heads 'Income from House Property, Capital Gains' and 'Income from Other Sources'.

8. Consultancy Service Company

Means an Indian Company whose business consists wholly of the provision of technical know-how or in rendering of services in connection with the provision of technical know-how, to other persons.

9. Tax liability of the company.

Ans :

Step 1:

Total Income - Compute total income of the company as per the provisions of Income Tax Act, 1961

Step 2:

Regular Tax Liability - Regular tax rates 25% (The total turnover of the company for the previous year does not exceed 400 crores)

Step 3:

Book Profit - as per Section 115JB

Step 4:

MAT Liability - tax @ 15% on Book Profit + Surcharge (Total Income/Book Profit does not exceed 1 crore) + (Health and Education Cess @ 4%)

Step 5: Calculation of final tax liability:

- (a) Tax liability as per Normal Provisions
- (or)
- (b) Tax liability as per MAT
- Which ever is higher

10. Tax Procedure for Venture Capital Companies.

Ans :

- (A) "venture capital company" means a company which :

- (a) Has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 (hereinafter referred to as the Venture Capital Funds Regulations) made under the Securities and Exchange Board of India Act, 1992; or

- (b) Has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (hereinafter referred to as the Alternative Investment Funds Regulations) made under the Securities and Exchange Board of India Act, 1992, and which fulfills the following conditions, namely :

- (i) it is not listed on a recognized stock exchange;
- (ii) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking; and
- (iii) it has not invested in any venture capital undertaking in which its director or a substantial shareholder (being a beneficial owner of equity shares exceeding ten per cent of its equity share capital) holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking;

- (B) "venture capital fund" means a fund :

- (a) operating under a trust deed registered under the provisions of the Registration Act, 1908, which :

- (i) has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Venture Capital Funds Regulations; or
- (ii) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund under the Alternative Investment Funds Regulations and which fulfils the following conditions, namely :
 - (a) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking;
 - (b) it has not invested in any venture capital undertaking in which its trustee or the settler holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking; and
 - (c) the units, if any, issued by it are not listed in any recognized stock exchange; or
 - (d) operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963;

Choose the Correct Answers

1. Company defined as per Income Tax Act U/S _____. [a]
(a) 2(17) (b) 2(18)
(c) 2(16) (d) None
2. Company defined as per companies act 2013 U/S _____. [c]
(a) 2(18) (b) 2(19)
(c) 2(20) (d) None
3. Domestic companies defined companies act 2013 U/S _____. [b]
(a) 2(22 B) (b) 2(22 A)
(c) 2(22 C) (d) None
4. Residential status of company defined companies act U/S _____. [a]
(a) 6 (4) (b) 6(5)
(c) 6 (3) (d) None
5. MAT is applicable to _____ companies. [c]
(a) Domestic (b) Foreign
(c) Both a and b (d) None
6. Tax is levied on company book profits is _____. [b]
(a) 19% (b) 18.5%
(c) 20% (d) None
7. Resident company means _____. [a]
(a) Register and effective place of management from India
(b) Register and effective place of management from foreign country
(c) Register in India, but effective place of management from foreign
(d) None
8. MAT stands for _____. [b]
(a) Maximum Alternate Tax (b) Minimum Alternate Tax
(c) Both a and b (d) None
9. The tax collected from companies is called _____. [b]
(a) Corporate Tax (b) Company Tax
(c) Both (d) None
10. _____ means an Indian Company (or any other company which is liable to be taxed [c]
in respect of total income
(a) Indian Company (b) Foreign Company
(c) Domestic Company (d) None of the above

Fill in the Blanks

1. Corporate tax means _____.
2. Agriculture income of a company is _____ tax.
3. Tax on winnings from latter in and cross word puzzles is defined U/S _____.
4. Surcharge is taxed for domestic company is _____.
5. Rate of surcharge is taxed for foreign company if total income exceeds of Rs. 1, crores, but below Rs. 10 crores is _____.
6. Rate of surcharge applicable to domestic company if total income is exceeds of Rs. 10 crores _____.
7. Minimum alternative tax is applicable to U/S _____.
8. Accumulated loss means _____.
9. Venture capital companies defined U/S _____.
10. Statutory company means _____.

ANSWERS

1. Tax collecting from companies
2. fully exempted
3. 115 BB
4. Exceeds of Rs. 1 crore
5. 2%
6. 12%
7. 115.JB
8. Loss of the amalgamating company
9. 10 (23 FB)
10. Established by central or state provincial act

UNIT III

ASSESSMENT OF COMPANIES – II & OTHER TAXES:

Companies: Computation of total income of companies - Determination of Tax Liability (Problems). Other Taxes: Security Transaction Tax - Tonnage Tax.

3.1 COMPANIES: COMPUTATION OF TOTAL INCOME OF COMPANIES

Q1. How do you compute the total income of companies? Explain.

(OR)

What are the deductions out of gross total income U/S 80 applicable to a company?

Ans :

(Imp.)

Computation of Total Income

The total income of a company is also computed in the manner in which income of any other assessee is computed. The first and the foremost step in this direction is to ascertain Gross Total Income. Income computed under four heads (salary head is not applicable), is aggregated. While aggregating the income, section 60 and 61 shall be applicable. Further, effect to set off of losses and adjustment for brought forward losses will also be done. From the gross total income so computed, the following deductions of Chapter VI A should be allowed.

1. U/S 80 G Donations to certain funds/charitable institutions, etc.
2. U/S 80GGA Certain donations for scientific research or rural development.
3. U/S 80GGB Contributions given by companies to political parties.
4. U/S 80-IA Profits and gains of new industrial undertakings or enterprises engaged in infrastructural development etc.
5. U/S 80-IAC Deduction in respect of profits and gains derived from eligible business if certain conditions are satisfied. [W.e.f.A.Y.2017-18]
6. U/S 80-IAB Deductions in respect of profits and gains by an undertaking or enterprises engaged in development of Special Economic Zone.
7. U/S 80-IB Profits gains from certain industrial undertakings other than infrastructure development undertakings.
8. U/S 80-IBA Deduction in respect of profits and gains from housing projects provided the project fulfils certain conditions.
9. U/S 80-IC Deduction in respect of certain undertaking or enterprises in certain special category states.
10. U/S 80-ID Deduction in respect of profits and gains from business of hotels and convention centres in specified area.

11. U/S 80-IE Special provisions in respect of certain undertakings in North-Eastern States
12. U/S 80JJA Deduction in respect of profits and gains from business of collecting and processing of biodegradable waste.
13. U/S 80JJAA Deduction in respect of employment of new workmen.
14. U/S 80-LA Deduction in respect of certain incomes of Offshore Banking Units and International Financial Services Centre.

From the above whatever the balance is left, it is called or treat as the total income.

PROBLEMS

1. **The Statement of Profit and Loss of Bharat Ltd. a domestic Co. disclosed a net profit of ₹ 15,75,000 for the financial year 2021-22. The summarised statement is as follows.**

Items Charged	₹	Items Credited	₹
Opening stock	40,000	Sales	70,00,000
Purchases	18,35,000	Closing stock	1,00,000
Direct wages	8,00,000	Dividend from Indian Company	5,000
Freight inward	10,000	Bad debts recovered	2,000
Salaries	5,00,000		
General Exp.	3,00,000		
Sales Exp.	2,00,000		
M.D Remuneration	5,00,000		
Director's sitting fees	50,000		
Income tax	3,00,000		
GST Penalty	1,10,000		
Proposed dividend	4,00,000		
Provision for losses of subsidiary	3,00,000		
Depreciation	1,00,000		
Excise duty	80,000		

Additional Informations :

1. General expenses includes.
 - (a) Festival celebration expenses ₹ 5,000
 - (b) Diwali Poojan expenses ₹ 5,000
 - (c) Donation to P.M. National relief fund ₹ 10,000
2. Sales expenses include 1,000 diaries distributed to dealers involving an expenditure of 50,000.
3. Excise duty related to previous year 2020-21 ₹ 10,000 was paid during current year.
4. Bad debt recovered during the year relates to previous year 2020-21 and were claimed as deduction in the same period.

5. Brought forward Business losses and depreciation

	As per Books	For tax purpose
B/F Business loss	1,50,000	3,00,000
Unabsorbed depreciation	1,00,000	2,00,000

Calculate :

- Total income and tax liability as per normal provision of IT Act for Assessment Year 2022-23.
- Book profits and tax liabilities under 115JB.
- Ultimate Tax liability for the Company.

*Sol :***(Imp.)****(A) Calculation of Total Income and Tax Liability****Calculation of Total Income for Assessment Year 2022-23**

Particulars		
Income under the head business and Profession		
Net profit as per Statement of Profit and Loss		15,75,000
Add : Disallowed items already debited		
Provision for losses of subsidiary	3,00,000	
Proposed dividend	4,00,000	
GST penalty	1,10,000	
Income tax	3,00,000	
Donation to P.M. National Relief Fund	10,000	11,20,000
		<u>26,95,000</u>
Less : Income credited but chargeable under other heads/Exempted incomes		
Dividend from Indian Co. [(Taxable u/h Other Sources) 5,000]		<u>5,000</u>
Income under head Business and Profession		26,90,000
Any other Income [Income u/h Other Sources (Dividend)]		<u>5,000</u>
		<u>26,95,000</u>
Less : (i) Unabsorbed depreciation	2,00,000	
Brought forward losses	3,00,000	<u>5,00,000</u>
Gross Total Income		<u>21,95,000</u>
Less : (i) Deduction under section 80G		
Donation to Prime Minister Relief Fund (without limit 100%)	10,000	
(ii) U/s 80M (Inter-corporate dividend)	<u>NIL</u>	
[∴ No dividend distributed by the company]		10,000

Taxable Income/Total Income		<u>21,85,000</u>
Tax liability as per normal provision		
25% of X 21,85,000		5,46,250
Add: Surcharge		NIL
(∴ Total Income does not exceed ` 1 crore)		
Tax and surcharge		<u>5,46,250</u>
Add : Health and Education Cess @ 4% of Tax		21,850
Tax liability		<u>5,68,100</u>

(B) Calculation of Book profits and Tax Liability under MAT**Calculation of Book Profits**

Particulars	₹	₹
Net profits as per Statement of Profit and Loss		15,75,000
Add: Statutory Additions		
Income tax paid or payable debited to P and L A/c	3,00,000	
Proposed dividend	4,00,000	
Provision for losses of subsidiary	3,00,000	
Depreciation	1,00,000	
Provision for liabilities (other than ascertained liabilities)	NIL	
		<u>11,00,000</u>
		26,75,000
Less: Statutory Deductions		
Amt. withdrawn from reserves	NIL	
B/F losses or unabsorbed depreciation as per books of Account (whichever is less)	1,00,000	
Depreciation (Excluding depreciation on revaluation of assets)	<u>1,00,000</u>	
		<u>2,00,000</u>
Book profits		<u>24,75,000</u>
Tax Liability		
15% of Book Profits (15% of 24,75,000)		3,71,250
Add: Surcharge		NIL
(∴ Total income/book profits does not exceed ` 1 crore)		
Tax and surcharge		<u>3,71,250</u>
Add: Health and Education Cess @ 4% of tax		14,850
Tax liability under MAT		<u>3,86,100</u>

(C) Calculation of Final Tax Liability for Assessment Year 2022-23

(a) Tax liability as per normal provision ₹ 5,68,100

(b) Tax liability as per MAT ₹ 3,86,100

Final tax (a) or (b) which ever is higher i.e., ₹ 5,68,100.

2. Following is the Statement of Profit and Loss of YZ, an Indian company for the assessment year 2022-23 which showed a net profit of ₹ 8,10,000.

Items Debited	₹	Items Credited	₹
Material consumed	22,50,000	Sales	90,00,000
Salaries	37,50,000		
Advertisement	3,75,000		
Provision for doubtful debts	37,500		
Insurance	52,500		
Audit fees	1,20,000		
Depreciation	1,05,000		
Provision for Income Tax	75,000		
Provision for contingent liabilities	30,000		
Transfer to general Reserve	1,50,000		
Proposed dividend	3,00,000		
Office expenses	4,50,000		
Losses of subsidiary Co.	3,00,000		
Legal fees	1,12,500		
Repair to Plant and Machinery	82,500		

Additional Informations :

- Provision for doubtful debts includes Bad debt ₹ 20,000.
- The company has various depreciable assets. During the year, a block of plant and machinery (15%) was revalued at the start of current previous year from 2 lacs to 3 lacs. However, depreciation as per sec 32 of Income Tax Act is ₹ 1,00,000.
- Provision for Income tax includes advance Income tax for Assessment Year 2022-23 ₹ 25,000.
- B/F losses and unabsorbed depreciation.

	As per Books	As per Income
B/F business	2,20,000	2,70,000
Unabsorbed dep.	62,500	2,00,000

Calculate for the Assessment Year 2022-23 :

- Total Income as per normal provisions of IT Act.
- Book profits under MAT.
- Final Tax liability.
- Tax credit allowable to Co. under Sec 115JAA.

*Sol.:***(A) Computation of Total Income as per Income Tax Act**

Particulars		
(i) Calculation of Business Income		
Net Profit as per Statement of Profit and Loss		8,10,000
Add: Disallowed expenses		
Losses of subsidiary Company	3,00,000	
Proposed dividend	3,00,000	
Provision for contingent liabilities	30,000	
Provision for Income Tax	75,000	
Provision for doubtful debts	17,500	
Depreciation	1,05,000	
Transfer to General Res.	1,50,000	
		<u>9,77,500</u>
		17,87,500
Less: Allowable expenses :		
Allowed depreciation		1,00,000
Business Income		<u>16,87,500</u>
(ii) Statement of Total Income		
Business Income		16,87,500
Any other Income		<u>NIL</u>
		16,87,500
Less: B/F Business Loss	2,70,000	
B/F unabsorbed dep.	<u>2,00,000</u>	
		<u>4,70,000</u>
Gross Total Income		12,17,500
Less: Deductions under section 80		<u>NIL</u>
Total Income		<u>12,17,500</u>
(B) Calculation of Book Profit under section 115JB		
Net profit as per Statement of Profit and Loss		8,10,000
Add: Statutory Additions		
Losses of Subsidiary co.	3,00,000	
Proposed dividend	3,00,000	

Transfer to general Reserve	1,50,000	
Provision for contingent liabilities	30,000	
Provision for Income tax	75,000	
Depreciation	1,05,000	9,60,000
		<u>17,70,000</u>
Less: Statutory Deductions		
Depreciation (Excluding dep. on revaluation of Assets) (1,05,000 – 15,000)	90,000	
Any withdrawn from reserve	NIL	
Exempted Income (if any)	NIL	
B/F loss or unabsorbed depreciation (as per a/cs)	62,500	1,52,500
Book profits		<u>16,17,500</u>
(C) Computation of Tax Liability under Normal Provisions		
Tax on 12,17,500 @ 25%*		3,04,375
Add: Surcharge		NIL
[∴ Total Income does not exceed ` 1 crore]		
Tax and surcharge		<u>3,04,375</u>
Add: Health and Education Cess @ 4% of Tax		12,175
Total tax under normal provisions		<u>3,16,550</u>
Tax Liability under section 115JB		
15% on ` 16,17,500		2,42,625
Add: Surcharge		NIL
[∴ Total income/book profits does not exceed ` one crore]		
Tax and surcharge		<u>2,42,625</u>
Add: Health and Education Cess @ 4% of Tax and surcharge		9,705
Total Tax as per MAT provisions		<u>2,52,330</u>
Final Tax Liability		
Tax as per Normal Provisions		3,16,550
OR		
Tax as per MAT		<u>2,52,330</u>
Whichever is Higher		
Total Tax liability = 3,16,550.		

- (D) As the company is not required to pay tax under MAT, therefore, no tax credit is allowable to company in the future years.

3. Gamson Ltd. is engaged in the manufacture and export of leather shoes. The Statement of Profit and Loss of the Company for Assessment Year 2022-23 showed a net profit of ₹ 10,00,000.

Items Charged	₹	Incomes	₹
Raw material consumed	14,75,000	Sales	
Wages and Salaries	10,25,000	Local	10,00,000
Administration expenses	7,70,000	Export	<u>35,17,500</u>
Depreciation	1,07,500		45,17,500
Other indirect expenses	5,00,000	Excise duty draw back	5,00,000
Provision for contingent liability	40,000	Cash subsidy	1,00,000
Proposed dividend	2,00,000		

Other Information :

- (i) Depreciation under Income Tax Act. amount to ₹ 1,20,000.
- (ii) Payment against one bill of ₹ 50,000 was made to supplier in cash.
- (iii) Indirect expenses include custom penalty of ₹ 12,000.
- (iv) Convertible foreign exchange brought into India ₹ 34,50,000.

	As per Books	As per Tax Act
(v) Brought forward business loss	2,00,000	3,50,000
Brought forward unabsorbed depreciation	50,000	1,25,000

Calculate :

- (i) Total income tax liability of the Company as per normal provisions of Income tax Act.
- (ii) Tax liability under MAT.
- (iii) Tax liability for Assessment Year 2022-23.

Sol.:

(Imp.)

- (i) **Deduction under Section 80 HHC not allowed for Assessment Year 2022-23**
- (ii) Calculation of Business income as per Normal Provisions

Particulars	₹	₹
Net profits as per Statement of Profit and Loss		10,00,000
(+) Disallowed expenses,		
(-) Indirect expenses	12,000	
(-) Payment in cash (50,000 × 100%)	50,000	
(-) Provision for contingent liability	40,000	
(-) Proposed Dividend	<u>2,00,000</u>	
		<u>3,02,000</u>
		13,02,000
(-) Allowable Depreciation (1,20,000 – 1,07,500)		<u>12,500</u>
Income from Business		<u>12,89,500</u>

(i) Calculation of Total Income		
Income from Business		12,89,500
(-) B/F unabsorbed depreciation	1,25,000	
(-) B/F Business loss	3,50,000	
		<u>4,75,000</u>
Gross Total Income		8,14,500
(-) Deductions under section 80		NIL
Total Income		<u>8,14,500</u>
(ii) Tax Liability for Assessment Year 2022-23		
Tax on 8,14,500 @ 25%		2,03,625
Add: Surcharge		NIL
(∴ Total Income does not exceed ` 1 crore)		
Tax and surcharge		<u>2,03,625</u>
Add: Health and Education Cess @ 4% of tax and surcharge		8,145
Total tax as per the normal provisions		<u>2,11,770</u>
(iii) Calculation of Book Profit under MAT and Tax Liability under MAT		
Net profits as per profit and loss A/c		10,00,000
Add: Statutory Additions		
Provision for contingent liability	40,000	
Proposed Dividend	2,00,000	
Depreciation	1,07,500	
		<u>3,47,500</u>
		13,47,500
Less: Statutory Deductions		
(i) B/F Loss of unabsorbed depreciation as per books of account whichever is less	50,000	
(ii) Depreciation (excluding depreciation on revaluation of assets)	1,07,500	
		<u>1,57,500</u>
Book Profits		<u>11,90,000</u>
Tax Liability under section 115JB		
15% on 11,90,000		1,78,500
Add: Surcharge		NIL
(∴ Total income/book profit does not exceed ` 1 crore)		
Tax and surcharge		<u>1,78,500</u>
Add: Health and Education Cess @ 4% of tax and surcharge		7,140
Tax liability under MAT		<u>1,85,640</u>

Final Tax Liability

As per Normal Provisions ₹ 2,11,770

OR

As per MAT ₹ 1,85,640

which ever is higher

Total Tax = ₹ 2,11,770

4. **An Indian company carries on business in Motor Transportation. Its Profits and Loss Account for the previous year 2021-22 shows a net profit of ₹ 5,61,300. Find out Total Income and tax liability of the company after taking into consideration the following particulars.**

- (i) The Statement of Profit and Loss was charged with following expenses :

₹ 4,50,000 as depreciation.

₹ 56,250 as Bad Debt reserve.

₹ 15,000 spent to obtain a new licence and the company was able to get it.

The engine of a very old bus was replaced by a new one by spending ₹ 75,000.

Mr. X a retiring director, was paid ₹ 80,000 as gratuity in appreciation of his services. In the past, the company never paid such a gratuity to any of its retiring directors and even the service conditions did not provide for the payment of such gratuity.

- (ii) The Statement of Profit and Loss was found credited with following incomes.

Agricultural receipts of ₹ 75,000

₹ 12,000 as interest from an Indian Co. on its debentures. (Gross)

- (iii) Capital gain on sale of Motor Car ₹ 25,000 (Short Term).

- (iv) As per the rates applicable in the current year, the amount of depreciation comes to ₹ 3,00,000.

- (v) The book profit of the company under section 115JB ₹ 24,00,000.

Sol :

Total Income and Tax Liability of the Company (Normal Provisions)

for the assessment year 2022-23

Particulars	₹	₹
Business Income		
Net profit as per Statement of Profit and Loss		5,61,300
Add: Disallowed Expenses		
Bad debts Reserve	56,250	
Depreciation	4,50,000	
New licence	15,000	
Engine of old bus	75,000	
		<u>5,96,250</u>

		11,57,550
Less: Income credited but chargeable under other heads		
Capital gain	25,000	
Agricultural Receipt	75,000	
Interest on debentures	12,000	
		<u>1,12,000</u>
		10,45,550
Less: Allowed Expenses but Not debited to Statement of Profit and Loss		
Depreciation		3,00,000
Business Income		7,45,550
Capital gains (STCG)		25,000
Income from other sources		
Interest on debentures		12,000
Gross Total Income		<u>7,82,550</u>
Less: Deductions under section 80		NIL
Total Income		<u>7,82,550</u>
Calculation of Tax Liability (Normal Provisions)		
Particulars		
Tax @ 25% on 7,82,550		1,95,638
Add: Surcharge		NIL
[∴ Income does not exceed ` 1 crore]		
		<u>1,95,638</u>
Add: Health and Education Cess @ 4% of Tax and Surcharge		7,826
Tax liability as per Normal Provisions		<u>2,03,464</u>
Calculation of Tax Liability under MAT		
Particulars		
Book Profits 24,00,000		
Tax @ 15% of 24,00,000		3,60,000
Add: Surcharge		NIL
[∴ Total Income/book profit does not exceed ` 1 crore]		
		<u>3,60,000</u>
Add: Health and Education Cess @ 4% of Tax and Surcharge		14,400
Tax as per MAT Scheme		<u>3,74,400</u>

Final Tax Liability

(a) Tax Liability at Normal Provisions ₹ 2,03,464

(b) Tax as per MAT scheme ₹ 3,74,400

Final Tax Liability (a) or (b) whichever is Higher

Hence, Tax Liability = ₹ 3,74,400.

5. 'Deeka' Ltd, a public company set up industrial unit for manufacture of chemicals in notified backward area ('A' class district) during Previous Year 2002-03 by fulfilling conditions under section 80IB. The Statement of Profit and Loss of the Co. for the year ending 31-3-2022 showed a net profit of ₹ 1,03,000.

Items Charged	₹	Incomes Included	₹
Material consumed	5,10,000	Sales	16,00,000
GST payable	42,000	Transfer from	
Direct wages	2,50,000	Contingency Reserve	15,000
Salaries	2,00,000	LTCG on sale of land	90,000
Depreciation	80,000		
Provision for income tax	45,000		
Other Expenses	1,05,000		
Provision for loss of subsidiary	1,30,000		
Dividend (Interim) paid	2,40,000		

Additional Information :

(1) Depreciation as per Income tax Act amount to ₹ 1,10,000

(2) B/F losses and depreciation

	As per Books	For tax Purposes
B/F business loss	1,00,000	1,25,000
B/F depreciation	15,000	90,000

(3) Contingency Reserve was created during 2015-16 by debiting to P. and L. Account.

(4) The company intends to claim deduction under section 80IB.

(5) The LTCG on sale of land is in respect of industrial land acquired by State Govt, and the company received compensation during previous year 2021-22. The Company acquired new industrial land on 28-03-2022 at a cost of ₹ 12,00,000.

Calculate :

- Total income as per normal provision of income tax Act.
- Book profit under section 115JB.
- Tax liability for Assessment Year 2022-23.

*Sol :***Assessment Year 2022-23**

Particulars		
(1) Calculation of Total Income as per Normal Provision of Income Tax Act		1,03,000
(i) Calculation of Income under head Business		
Net Profit as per Statement of Profit and Loss		
Add : Disallowed Expenses		
(i) GST payable	42,000	
(ii) Provision for income tax	45,000	
(iii) Provision for losses of subsidiary	1,30,000	
(iv) Dividend paid	2,40,000	4,57,000
		<u>5,60,000</u>
Less : (i) Transfer from Reserve	15,000	
(ii) LTCG	90,000	1,05,000
		<u>4,55,000</u>
Less : Depreciation under charged earlier		30,000
Business Income		<u>4,25,000</u>
(ii) Statement of Total Income		
Business income		4,25,000
Income under head Capital Gain		
LTCG on Land	90,000	
Less : Exemption under section 54D	90,000	
		<u>NIL</u>
		4,25,000
Less : (i) B/F business loss	1,25,000	
(ii) B/F depreciation	90,000	
		<u>2,15,000</u>
Gross Total income		2,10,000
Less : Deduction under section 80 IB [Period of 10 years expired in assessment year 2012-13]		<u>NIL</u>
Total income		<u>2,10,000</u>
(2) Calculation of Book Profit under section 115JB		
Net Profit as per Statement of Profit and Loss		1,03,000
Add : Statutory Additions		
(i) Provision for income tax	45,000	
(ii) Provision for loss of subsidiary	1,30,000	
(iii) Dividend paid	2,40,000	
(iv) Depreciation	80,000	4,95,000
		<u>5,98,000</u>

Less : Statutory Deductions		
(i) Transfer from Reserve	15,000	
(ii) Brought forward loss or unabsorbed depreciation which ever is less (as per books)	15,000	
(iii) Depreciation (excluding depreciation on revaluation of assets)	80,000	1,10,000
Book Profits		<u>4,88,000</u>
(3) Tax Liability of the Co. for Assessment Year 2022-23		
(i) Tax as per Normal Provisions		
25% of ₹ 2,10,000	52,500	
Add : Surcharge	NIL	
[∴ Total Income does not exceed ₹ 1 crore]		
Tax and surcharge	<u>52,500</u>	
Add : Health and Education Cess @ 4% of Tax and surcharge	2,100	
Tax Liability (Normal Provisions)	<u>54,600</u>	...(A)
(ii) Tax under section 115JB		
15% of Book Profits 4,88,000	73,200	
Add : Surcharge	NIL	
(∴ Total Income/Book Profit does not exceed ₹ 1 crore)		
Tax and surcharge	<u>73,200</u>	
Add : Health and Education Cess @ 4% of Tax and surcharge	2,928	
Tax Liability under MAT	<u>76,128</u>	.. (B)
(iii) Final Tax A or B which ever is higher. Tax liability ₹ 76,128, rounded off to ₹ 76,130.		

6. Poly Ltd. is an industrial undertaking set up in notified B category backward district as per section 80 IB of the Income Tax Act. 1961. The undertaking commenced its operations w.e.f. 1-4-2003. The Statement of Profit and Loss of the company for the year ending 31.3.2022 showed a net profit of ₹ 23,70,000.

Items Charged	₹	Incomes	₹
Purchases	2,45,00,000	Sales	5,05,00,000
Manufacturing cost	2,22,00,000		
Administrative Expenses	5,50,000		
Depreciation	1,50,000		
M.D. remuneration	3,00,000		
Income Tax	3,00,000		
Provision for a pending court case for damages	50,000		
Penalty (Pollution Board)	75,000		
Railway demurrage	5,000		

Additional Informations :

- (i) The depreciation allowable as per I. Tax rules is ₹ 2,00,000.
- (ii) Administrative expenses include a donation to national children fund of an amount of ₹ 20,000.
- (iii) The company distributed a dividend of ₹ 10,00,000 during the previous year on November 15, 2021.
- (iv) While charging depreciation in the P and L Account, the company revalued a plant item to a higher figure which resulted in an increase in depreciation by ₹ 10,000.
- (v) The total turnover of the company for the P.Y. 2019-20 was not more than ₹ 400 crores.

Calculate

- I. Total Income of the company as per normal provision of I Tax Act. (Tax rate 25%)
- II. Book Profit under section 115JB.
- III. Final Tax liability (including dividend tax).
- IV. Tax credit available in future years under section 115JAA

Sol.:

Particulars	₹	₹
I. Calculation of Income under head Business and Profession		
Net profit as per Statement of Profit and Loss		23,70,000
Add : Disallowed Expense but charged		
Penalty charged by Pollution Board	75,000	
Provision for pending court case	50,000	
Income tax	3,00,000	
Depreciation	1,50,000	
Donation to National children fund	20,000	
		<u>5,95,000</u>
		29,65,000
Less : Allowed Expenses but not charged to Statement of Profit and Loss		
Depreciation		<u>2,00,000</u>
Income from Business and Profession		27,65,000
Any other income		<u>NIL</u>
Gross Total Income		27,65,000
Less : Deductions :		
(a) Under Section 80G donation to National Children Fund (without limit 100% of 20,000)	20,000	
(b) Under Section 80IB	<u>NIL</u>	
		20,000
Total Income		<u>27,45,000</u>

II. Calculation of Book Profits under section 115JB		
Net profit as per Profit and Loss A/c		23,70,000
Add : Statutory Additions : Provision for pending court case	50,000	
Income tax	3,00,000	
Depreciation	1,50,000	5,00,000
		<u>28,70,000</u>
Less : Statutory Deductions		
Depreciation [Excluding depreciation on revaluation of Assets] [1,50,000 – 10,000]	1,40,000	1,40,000
Book Profits		<u>27,30,000</u>
III. Final Tax Liability (including dividend tax)		
(a) Tax Calculations under Normal Provisions of Income Tax Act		
25% of Total Income ` 27,45,000		6,86,250
Add : Surcharge		NIL
[∴ Total Income does not exceed ` 1 crore]		
Tax and Surcharge		<u>6,86,250</u>
Add : Health and Education Cess @ 4% of Tax and Surcharge		27,450
Total Tax payable		<u>7,13,700</u>
(b) Tax on Book Profits under section 115JB		
15% of Book Profits of 27,30,000		4,09,500
Add : Surcharge		NIL
[∴ Total Income/Book Profits does not exceed ` 1 crore]		
Tax and Surcharge		<u>4,09,500</u>
Add : Health and Education Cess @ 4% of Tax and Surcharge		16,380
Total Tax under MAT Provisions		<u>4,25,880</u>
(c) Calculation of Tax Liability [Excluding Dividend Tax]		
(a) Tax liability as per Normal Provision		7,16,300
(b) Tax liability as per MAT		4,25,880
Final Tax (a) and (b) whichever is Higher i.e., ` 7,16,300		
(d) Calculation of Corporate Dividend Tax [under section 115-0]		
Note: No corporate dividend tax on dividend after 31.3.2020.		
Tax liability of Company including Corporate Dividend Tax		
III (c) Tax liability		7,16,300
III (d) Corporation Dividend Tax		NIL
Total Tax Liability		<u>7,16,300</u>
Rounded off to ` 7,16,300.		

IV. Tax Credit available to Company under section 115JAA

Not tax credit is available to company as, it paid tax as per Normal Provisions of I. Tax Act.

7. R.S. Traders Limited is a company in which the public are substantially interested. It closes its accounts on 31st March every year. During the current year, it has derived the following incomes.

(a) Profit from the manufacturing unit at Lucknow	4,80,000
(b) Profit from trading activities at Lucknow	1,20,000
(c) Interest on debentures issued by another company which is a domestic company producing cement (gross)	32,000
(d) Dividend from a foreign company	12,000
(e) Profit from an approved hotel started in May, 2013 at Agra (World Heritage Site)	2,45,500
Capital employed being ₹ 15,00,000 and Normal depreciation ₹ 70,000 has not been charged in the calculation of above profit	
(f) The company passed on a certain formula for manufacturing tiles to another company in Uganda and received royalty there from	2,35,000
(g) Brought forward unabsorbed depreciation	2,14,500
(h) Book Profits of the company as per sec. 115JB ₹ 23,50,000	

You are required to calculate total income and tax liability of the company.

Sol:

Calculation of Total Income of R.S. Traders for Assessment Year 2022-23

Particulars			
Income from Business and Profession			
Income from Manufacturing unit		4,80,000	
Profit from trading unit		1,20,000	
Profit from Approved Hotel	2,45,500		
Less: Allowed depreciation	70,000		
		1,75,500	775500
Income from other sources			
Dividend from foreign company		12,000	
Interest on debenture		32,000	
Royalty		2,35,000	
			2,79,000
			10,54,500

Less: Unabsorbed depreciation	2,14,500
Gross Total Income	8,40,000
Less : Deduction under section 80-ID [Available for 5 A.Ys. only i.e., upto A.Y. 2018-19]	NIL
Total Income	8,40,000
Calculation of Tax Liability as per Normal Provisions	
Tax on 8,40,000 @ 25%*	2,10,000
Add : Surcharge (∴ Total Income/Book Profit does not exceed ` 1 crore)	NIL
Tax and Surcharge	2,10,000
Add : Health and Education Cess @ 2% of Tax and Surcharge	8,400
Total Tax Liability	2,18,400
Tax Liability under MAT	
Book Profits ` 23,50,000	
Tax @ 15% on 23,50,000	3,52,500
Add : Surcharge	NIL
[∴ Total Income/Book Profit does not exceed ` 1 crore]	
	3,52,500
Add : Health and Education Cess @ 4% of Tax and Surcharge	14,100
Tax as per MAT Provisions	3,66,600

Final Tax Liability

(a) Tax as per Normal Provisions	` 2,18,400
(b) Tax as per MAT scheme	` 3,66,600
Final Tax Liability (a) or (b) whichever is higher	
Hence, Tax Liability = ` 3,66,600.	

3.2 DETERMINATION OF TAX LIABILITY**Q2. Explain the Determination of Tax Liability of a company.***Ans :*

- (i) Tax on total income of company as computed as per normal provisions of Income Tax Act
OR
- (ii) Tax @ 15% on Book profits;
whichever is higher

Surcharge: Surcharge on MAT for Assessment Year 2022-23 shall be as under :

Particulars	Domestic Company	Non-domestic Company
(i) If book profit exceeds ` 1 crore but does not exceed ` 10 crores	7% of tax	2% of tax
(ii) If book profit exceeds ` 10 crore If book	12% of tax	5% of tax

3.3 SECURITY TRANSACTION TAX

Q3. Define Security Transaction Tax. Explain the scope, computation of STT.

(OR)

Explain security transaction tax.

Ans :

(Imp.)

Definition

Securities Transaction Tax (STT) is a type of turnover tax where the investor is obliged to pay a tax on the total sum received or paid in a transaction done through an exchange. STT is not applicable for commodities and currency transactions and on transactions outside of the exchange. It is applicable to securities like shares, debentures, bonds, mutual funds, government equity securities, derivatives, etc. The STT rates are different for delivery-based equity transactions and intra-day transactions. The rates are also different when buying security and when selling one. It was announced in 2004 by the then finance minister P Chidambaram with a view to decrease evasion of capital gains tax.

Scope B

According to the Securities Contracts (Regulation) Act, 1956, STT would be applicable to the following securities:

- Shares, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporates
- Derivatives
- Units or any other instrument issued by any collective investment scheme to the investors in such schemes
- Security receipt as defined in section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
- Government securities of equity nature
- Rights or interest in securities
- Equity-oriented mutual funds

STT is not applicable for any off-market transaction.

As per the Finance Act 2004, and modified by Finance Act 2008 (18 of 2008) STT on the transactions executed on the Exchange shall be as under:

Computation of Securities Transaction Tax

Sr. No.	Taxable securities transaction	New rate as of March 2020	Payable by
1.	Sale of an option in securities	0.017 per cent	Seller
2.	Sale of an option in securities, where the option is exercised	0.125 per cent	Purchaser
3.	Sale of a future in securities	0.01 percent	Seller

STT and Income-tax**➤ Tax on capital gains**

When STT levy was introduced in 2004, simultaneously new Section 10(38) was introduced to benefit taxpayers who would incur STT. As per Income-tax Law, for transactions undertaken until 31 March 2018, any capital gain on sale of shares or equity oriented mutual fund units (EOMF) which are subject to STT is taxed at beneficial/Nil rate.

While long term capital gain (if shares or EOMF are held for > 12 months) are exempt from tax, short term capital gain on such securities are taxed at concessional rate of 15%. However, in order to prevent abuse of exemption provisions by certain persons for declaring their unaccounted income as exempt long-term capital gains by entering into sham transactions, Finance budget 2018 proposed to withdraw the exemption on long term capital gain and tax long term capital gains on equity shares and EOMF at concessional rate of 10% with respect to transfer effected on or after 1 April 2018.

However, gains accrued till 31 January 2018 are grandfathered i.e., in case of transfers upto 31 January 2018, cost of acquisition of shares or EOMF acquired before 1 February 2018 will be replaced by fair market value as on 31st January 2018.

In case of person who is trading in securities and offering income/loss from such trading as business income, STT paid is allowed to be deducted as business expense.

Q4. What are the features of securities transaction tax?

Ans :

(Imp.)

Securities transaction tax is a type of tax levied on gains from securities. This includes mainly equities and futures and options. The rate of taxation is different for different types of securities. STT can basically be understood as a type of tax levied on transactions done in the domestic stock exchange. Securities transaction tax is a direct tax and is levied and collected by the central government of India.

The most prominent point about securities transaction tax is that STT is applicable only on share transactions made through a recognized stock exchange in the country. Off-market share transactions are not covered under STT.

Features

STT is a simple direct tax and is not very complicated to calculate or levy. Some of the most distinguishing features of STT are as listed below.

- STT is levied on all sell transactions for both options as well as futures.
- For purpose of STT calculation, each future trade is valued at the actual traded price while each option trade is valued at premium.
- The amount STT that a clearing member has to pay is the sum total of all the STT taxes of trading members under him.

Securities on which STT is Applicable

Securities transaction tax is levied on various types of transactions made on the domestic stock exchanges in India. According to the Securities Contract Act, 1956, following are the transactions covered under the same.

- Shares, bonds, debentures or any such marketable security which is traded at the stock market
- Derivatives traded in the market

- Units issued by any collective investment scheme to customers
- Government securities that are of the nature of equity
- Rights or interests in securities
- Mutual funds that are based on equity trading

Example

Suppose a trader buys 500 shares worth Rs.10000 at Rs.20 each and sells it at Rs.30 each. If the trader sells the shares the same day then intraday STT rate will apply which is 0.025%.

$$\text{So, STT} = 0.025 \times 30 \times 500 = \text{Rs.375}$$

Similarly, for futures and options, STT applicable is 0.01%. Suppose a trader buys 5 lots of Nifty futures at Rs.5000 and sells it at Rs.5010, The lots size of nifty is 50 then STT is calculated as,

$$\text{STT} = 0.01 \times 5010 \times 50 \times 5 = \text{Rs.125.25}$$

Q5. What are the tax rates applicable for security transactions ? Explain.

Ans :

Charge of securities transaction tax. [Sec.98]

This tax is charged in respect of the taxable securities transaction at the prescribed rate and it is payable by the purchaser or the seller (as the case may be) as given in the table.

S.No. (1)	Taxable Securities transaction (2)	Rate (3)	Payable by (4)
1.	Purchase of an equity share in a company or a unit of a business trust, where : (a) The transaction of such purchase is entered into in a recognised stock exchange; and (b) The contract for the purchase of such share or unit is settled by the actual delivery or transfer of such share or unit.	0.1%	Purchaser
2.	Sale of an equity share in a company or a unit of a business trust where : (a) The transaction of such sale is entered into in a recognised stock exchange; and (b) The contract for the sale of such share or unit is settled by the actual delivery or transfer of such share or unit.	0.1%	Seller
2A.	Sale of a unit of an equity oriented fund or a unit of a business trust where : (a) The transaction of such sale is entered into in a recognised stock exchange; and (b) The contract for the sale of such unit is settled by the actual delivery or transfer of such unit.	0.001%	Seller

3.	Sale of an equity share in a company or a unit of an equity oriented fund, where : (a) The transaction of such sale is entered into in a recognised stock exchange; and (b) The contract for the sale of such share or unit is settled otherwise than by the actual delivery or transfer of such share or unit.	0.025%	Seller
4.	(a) Sale of an option in securities	0.05%	Seller
	(b) Sale of an option in securities, where option is exercised	0.125%	Purchaser
	(c) Sale of a futures in securities	0.01%	Seller
5.	Sale of unit of an equity oriented fund to the Mutual Fund.	0.001	Seller
6.	Sale of unlisted equity shares under an offer for Sale to the public included in an initial public offer and where such shares are subsequently listed on a recognised stock exchange	0.2%	Seller
7.	Sale of unlisted units of a business trusts by holder of such units which were acquired in consideration of shares of special purpose vehicle [Sec. 47 (xvii) of the I. T. act] under an offer for sale to the public included in initial offer and where such units are subsequently listed on a recognised stock exchange.	0.2%	Seller

Q6. What is equity oriented fund?*Ans :***It means a Fund Consists**

- (i) Where the investible funds are invested by way of equity shares in domestic companies to the extent of more than sixty per cent of the total proceeds of such fund; and
- (ii) Which has been set up under a scheme of a Mutual Fund.

The percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.

Exceptions (Sec. 113A). The tax shall not be charged if taxable securities transactions are entered into by,

- (a) any person for, or on behalf of, the New Pension System Trust (referred to in clause (44) of section 10 of the Income-tax Act, 1961) or
- (b) any person on a recognised stock exchange located in an International Financial Services Centre where the consideration for such transaction is paid or payable in foreign currency.

Collection of Securities Transaction Tax [Sec. 100(1)(2)(2A)]

- (1) Every recognised stock exchange shall collect the securities transaction tax from every person, being a purchaser or a seller, (as the case may be) who enters into a taxable securities transaction in that stock exchange.

- (2) The prescribed person in the case of every Mutual Fund shall collect the securities transaction tax from every person who sells a unit to that Mutual Fund.
- (3) The lead merchant banker appointed by the company in respect of an initial public offer shall collect the securities transaction tax.

Deposit of Tax [Sec. 100(3)(4)]- The tax collected during a calender month shall be credited to the Central Government by the seventh day of the following month.

If the collector of the tax fails to collect the tax, he shall be liable to pay it as aforesaid.

Assessment (Sec. 102)

- (1) The A. O. may serve a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts or documents or other evidence as the A. O. may require.
- (2) The A. O., after considering such documents etc. and other relevant material which he has gathered, determine the STT payable or refundable on the basis of such assessment.
However, no assessment shall be made after the expiry of two years from the end of the relevant financial year.
- (3) If any amount is refunded to the assessee he shall refund such amount to the person from whom the amount was collected.

Rectification of Mistake (Sec. 103)

- (1) The A. O. may amend the order to rectify any mistake apparent from the record, within one year from the end of the financial year in which the order sought to be amended was passed.
- (2) The A. O. may make amendment of his own or if any mistake is brought to his notice by the assessee.
- (3) If the rectification enhances the liability of the assessee or reduces the refund, the A. O. shall give notice to the assessee of its intention so to do and shall give him a reasonable opportunity of being heard before such are order is passed.

Where any such rectification has the effect of reducing the assessment the Assessing Officer shall make any refund which may be due to such assessee.

Interest

If an assessee fails to deposits the amount of STT (within the period specified in Sec. 100(3) × (4)] he shall be liable to pay simple interest @1% p.m. or part of a month for the delayed period.

Penalty

- (1) Fails to collect whole or part of STT-A sum equal to the amount of STT not collected.
- (2) After collecting STT failed to deposit it within prescribed time ` 1000 per day during which failure continues. However, the penalty shall not exceed the amount of STT not paid.
- (3) Every appeal shall be filed within sixty days of the date on which the order sought to be appealed against is received by the assessee, or by the Commissioner of Income-tax, as the case may be.
- (4) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner and in the case of an appeal filed by the assessee shall be accompanied by a fee of one thousand rupees.
- (5) Where an appeal has been filed before the Appellate Tribunal, the provisions of section 252 to 255 of the Income-tax Act, 1961; shall, as-far-as may be, apply.

3.4 TONNAGE TAX

Q7. What is Tonnage tax? Explain in detail the computation procedure of Tonnage tax.

(OR)

What is meant by tonnage tax? Explain the provisions of tonnage tax scheme in detail.

Ans :

(Imp.)

Tonnage tax is a taxation method which can be applied to shipping companies. In this method the tax is determined by the Net tonnage of the entire fleet of vessels under operation or use by a company. Many assesses have doubt about tonnage tax and hence I am writing this article for better understanding of this method of taxation. In this article I will cover qualification criteria for companies, ships and manner of computation of tax under tonnage taxation scheme, Period for which tonnage tax option remain in force, etc.

Qualifying Company - Section 115VC

- (a) It is a Indian company;
- (b) The place of effective management of the company is in India;
- (c) Its own at least one qualifying ship; and
- (d) The main object of the company is to carry on the business of operating ships.

Qualifying Ships- Section 115VD

- (1) Sea going ship/vessel of Net **tonnage** Equal or more than 15 .
- (2) Ship registered under Merchant shipping Act or Licensed obtained from DGS.

Exclusion from the definition of Qualifying Ships-

- (1) A sea going ship or vessel if the main purpose for which it is used is the provisions of goods or services of a kind normally provided on land;
- (2) Fishing vessel;
- (3) Factory Ship- the ship providing processing services in respect of fishing produce;

- (4) Pleasure craft- the ship whose primary use is for the purpose of sport and recreation;
- (5) Harbour and river ferries;
- (6) Offshore installations;
- (7) A qualifying ship used as a fishing vessel for a period of more than thirty days during a previous year.

Manner of Computation of Income under Tonnage Tax Scheme- Section 115 YE

- (1) The business of operating qualifying ships shall be considered as separate business distinct from all other activities or business carried on by the company.
- (iv) In computing the depreciation allowances under section 32, the written down value of any assets used for the purpose of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant previous years.

Exclusion of Loss - Section 115VM

Section 72 shall apply in respect of any losses that have accrued to a company before its opting for tonnage tax scheme and which are attributable to its tonnage tax business, as if such losses had been set off against the relevant shipping income in any previous year when company is under the tonnage tax scheme.

Exclusion from provision of - Section 115JB

The book profit or loss derived from the activities of a tonnage tax company, from the qualifying ships, shall be excluded from the book profit of the company for the purpose of the section 115JB.

Period for which tonnage tax option remain in force - Section 115VO

- (i) An option for tonnage tax scheme, after it has been approved shall remain in force for a period of ten years from the date on which such option has been exercised and shall be taken into account from the assessment year relevant to the previous year in which such option is exercised.

- (ii) An option for tonnage scheme shall cease to have effect from the assessment year relevant to the previous year in which-
- (a) The qualifying company cease to be qualifying company;
- (b) A default is made in complying with the provision regarding transfer of profit to Tonnage Tax Reserve Account and minimum training requirement for tonnage company;
- (c) The qualifying company furnishes to the Assessing officer, a declaration in writing to the effect that the provision of this chapter may not be applicable to it;
- (d) The tonnage tax company is excluded from the tonnage tax scheme under section 115VZC.

And the profit and gain of the company from the business of operating qualifying ships shall be computed in accordance with the other provision of this Act.

Transfer of profit to Tonnage Tax Reserve Account- Section 115VT

An amount not less than 20% (percent) of the book profit derived from the business of qualifying ships shall be credited to the Tonnage Tax Reserve Account.

Further, please note that, the amount credited to the Tonnage Tax Reserve Account shall be utilized by the company before the expiry of a period of eight years next following the previous year in which the amount was credited

- (a) For acquiring a new ship for the purposes of the business of the company; and
- (b) Until the acquisition of a new ship, for the purposes of the business of operating qualifying ships other than for distribution by way of dividends dt profits or for remittance outside India as profits or for the creation of any asset outside India.

Q8. What are the core activities of a tonnage tax company ?

Ans :

The following activities of tonnage tax company constitute its "core activities"

- 1. Its activities from operating qualifying ships; and
- 2. Other ship-related activities mentioned as under
 - (A) Shipping contracts in respect of
 - (i) Earning from pooling arrangements
 - (ii) Contracts of affreightment.
 - (B) Specific shipping trades, being,
 - (i) On-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on board;
 - (ii) Slot charters, space charters, joint charters, feeder services, container box leasing of container shipping.

No Deduction/Set-off Permissible from Total Tonnage Income [Sec. 115VL]

Taxable income of a tonnage tax company from operating qualifying ships is computed in accordance with the following provisions, superseding other provisions of this Act:

- (i) Deductions deemed to have been allowed: Deductions allowable under Secs. 30 to 43B are deemed to have been allowed for that previous year. Thus, no such deduction is allowed from presumptive profits.
- (ii) Set-off and carry forward of losses for the period covered under Tax Tonnage Scheme not allowed: No loss relating to the business of operating qualifying ships (whether loss from business or capital loss) is allowed to be carried forward or set-off during the previous years the option under Tax Tonnage Scheme remains in force. Similarly, any accumulated loss or depreciation under the scheme of amalgamation or demerger is not allowed to be carried forward and set-off.
- (iii) Deductions permissible from gross total income are not to be allowed under Tax Tonnage Scheme: Deductions permissible under Sec. 80C to 80U are not be allowed from the presumptive profits under tax tonnage scheme.

- (iv) Depreciation deemed to have been allowed: In computing depreciation allowance under Sec. 32, the written down value of any asset used for the purposes of the tonnage tax business is computed, as if the company has claimed depreciation, and as if it has been allowed the deduction in respect of depreciation for the relevant previous years during which the option under tax tonnage scheme remain valid.

Losses Relating to the Period Prior to Exercising the Option under TT Scheme Allowed to be Carried Forward and Set-off [Sec. 115VM]

Any carried forward losses [under Sec. 72(1)] which have accrued to a company before its option for tonnage tax scheme and which are attributable to its tonnage business, are allowed to be set-off against relevant shipping income in any previous year when the company is under the Tonnage Tax Scheme. Such losses cannot be set-off against any income, other than relevant shipping income in any previous year beginning on or after the company exercises its option under Sec. 115VP. Any apportionment necessary to determine to losses is made on a reasonable basis.

Q9. What are the core activities are excluded from tonnage tax ?

Ans :

(Imp.)

The Central Government may, by notification, exclude any core activity relating to ship related activities, listed under "shipping contracts" or "specific shipping trades" for the purposes of computing relevant shipping income of a tonnage tax company. Such notification, after it is issued, is required to be laid down before both the Houses of Parliament for 30 days for their approval. The parliament has the power to approve, reject or modify such notification. However, any action taken under notification prior to its approval remains valid.

Incidental Activities [Sec. 115-VI(5)]

These are the activities which are incidental to core activities and which may be prescribed for the purpose.

The following activities have been notified under Rule 11R for this purpose:

- (i) Maritime consultancy charges;
- (ii) Income from loading or unloading cargo;
- (iii) Ship management fees or remuneration received from managed vessels; and
- (iv) Maritime education or recruitment fees.

Computation of Income from Non-qualifying Ship [Sec. 115-VI(6)]

Where a tonnage tax company (TT company) operates any ship which is not a qualifying ship the income attributable to non-qualifying ship is to be computed in accordance with the other provisions of this Act.

Computation of Relevant Income from Intra-business Transfers [Sec. 115-VI(7)]

Where any goods or services held for the purposes of tonnage tax business are transferred to any other business carried on by a tax tonnage company or vice versa and in either case the consideration for such transfer does not correspond to the market value of such goods or services on the date of transfer, the relevant shipping income is computed as if the transfer in either case had been made at the market value of such goods or services as on that date.

However, if the computation of relevant shipping income presents exceptional difficulties in this manner, the Assessing Officer may compute such income on such reasonable basis as he may deem fit.

"Market value" in relation to any goods or services, means the price that such goods services would ordinarily fetch on sale in the open market.

Loss to be Ignored [Explanation to Sec. 115-VI]

Where in such cases, the relevant shipping income of a tonnage tax company is a loss, such loss is ignored for the purposes of computing tonnage income.

Allocation of Common Costs [Sec. 115VJ]

Where a tonnage tax company also carries on any business or activity other than the tonnage tax business, common costs attributable to the tonnage tax business is determined on a reasonable basis.

Allocation of Common Depreciation [Sec. 115VK]

Where any asset, other than a qualifying ship, is not exclusively used for the tonnage tax business by the tonnage tax company, depreciation on such asset is allocated between its tonnage tax business and other business on a fair proportion to be determined by the Assessing Officer, having regard to the use of such asset for the purposes of the tonnage tax business and for the other business.

Bifurcation of WDV

Presumptive profits under Tax Tonnage Scheme is taxed without allowing any deduction, which are otherwise permissible under the provisions of this Act under Secs. 30 to 36. However, while taxing presumptive profits it is deemed that all such deductions had been allowed. Accordingly, depreciation is also deemed to have been allowed. Though depreciation is not allowed, it is necessary to bifurcate the written-down value of qualifying ships and non-qualifying ships at the time a company joins the Tax Tonnage Scheme. Section 115VK lay down the method for allocating the written-down value amongst qualifying and non-qualifying ships in the following manner:

- (a) Determine the "book" written-down value of each qualifying ship (which forms part of block of assets) and non-qualifying ship as on the last day of the preceding year.
 "Book" written-down value means the written-down value as appearing in the account books.
- (b) Aggregate the "book" written-down value of all qualifying ships and non-qualifying ships.
- (c) The ratio of the aggregate written-down value of the qualifying assets to the aggregate book written-down value of the other non-qualifying assets is determined.

Where an asset forming part of a qualifying assets begins to be used for purposes other than the tonnage tax business, an appropriate portion of the written-down value allocable to such asset is reduced from the written-down value of that block and is added to the block of other assets.

The appropriate portion of the written-down value allocable to the asset which begins to be used for the purposes other than the tax tonnage business is an amount which bears the same proportion to the written-down value of the block of qualifying assets as on the first day of the previous year, as the book written-down value of the asset beginning to be used for purposes other than tonnage tax business bears to the book written-down value of all the assets forming part of the block of qualifying assets.

Q10. What is the procedure for opting Tonnage Tax Scheme, time limit and Grantig Approval?*Ans :***(Imp.)**

A company is required to opt for the Tonnage Tax Scheme. Unless it applies for the option to the competent authority within the prescribed time-limit and unless its option is approved by that authority, Tonnage Tax Scheme does not apply to it. The procedure to opt for Tax Tonnage Scheme is now explained.

Time-limit for Opting Tonnage Tax Scheme [Sec. 115VP(1)(2)]

A qualifying company is required to make an application to the Joint Commissioner having jurisdiction over the company in the prescribed form and manner as may be prescribed for such scheme. Any existing qualifying company may make an application at any time after 30 September 2004 but before 1 January 2005. However, the time-limit has been relaxed in case of a company incorporated after the initial period or company incorporated before the initial period but which become qualifying company for the first time after the initial period. Such company may apply within 3 months of the date of its incorporation or the date on which it became a qualifying company, as the case may be.

Procedure for Granting Approval [Sec. 115VP(3)(4)(5)]

On receipt of the application for the option for Tonnage Tax Scheme, the Joint Commissioner may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company.

If the Joint Commissioner is satisfied about the eligibility of the company to make such option for Tonnage Tax Scheme, he is required to pass an order in writing, approving the option for Tonnage Tax Scheme.

Such order is required to be passed within 1 month from the end of the month in which the application was received. A copy of such order is sent to the applicant. If he is not so satisfied, he may pass an order in writing, refusing to approve the option for Tonnage Tax Scheme. A copy of the order is sent to the applicant. However, no such order is passed unless the applicant is given an opportunity of being heard. Where an order granting the approval is passed, Tonnage Tax Scheme applies from the assessment year, relevant to the previous year in such option is exercised by the company.

Option Once Exercised Remains Valid for 10 Years [Sec. 115VQ]

Where the company exercises the option to remain in Tonnage Tax Scheme, the option remains valid for a period of 10 years from the date on which such option has been exercised and it comes into force from the assessment year relevant to the previous year in which such option is exercised.

Q11. Explain about Tonnage Tax Reserve Account.

Ans :

A tonnage tax company has to transfer 20% (or at its option a higher percentage) of its book-profit (as defined under Sec. 115 JB), derived from the core and incidental activities in each previous year to the credit of Tonnage Tax Reserve Account.

Where the company has book-profits from the business of operating qualifying ships and the book loss from any other sources and consequently it is not possible to create the full or any part of the reserve, the company has to create the reserve to the extent possible in the previous year and the shortfall, be added to the reserve required to be created for the following year.

However, if the shortfall continues in respect of the second consecutive year also, no such reserve is required to be created.

Utilization of Reserve [Sec. 115VT(3)]

The amount of reserve, credited to the Tonnage Tax Reserve Account should be utilized for acquiring a new ship for its business within a period of 8 years next following the year in which the amount was credited to the Tonnage Tax Reserve Account.

“New ship” includes a qualifying ship, which, before the date of acquisition by the qualifying company was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India [Explanation to Sec. 115 VT],

During the intervening period, such reserve may be utilised for other business purposes but not for distribution of dividend or for remittance of profits outside India or for the creation of any assets outside India.

Consequence of Non-utilizations of Reserve or Utilizations of Reserve for Prohibited Purposes [Sec. 115VT(4)]

Where the amount credited to the Tonnage Tax Reserve Account is utilised for prohibited purposes like declaring dividends, etc., proportionate relevant shipping income of the year in which such reserve was created, in proportion the reserve so utilised bears the total reserve credited during that year is taxable under other provisions of this Act in the year in which the amount is so utilized.

An amount which bears the same proportion to the total relevant shipping income of the year in which ‘such reserve was created, as the amount out of such reserve so utilised or not utilised bears to the total reserve created during that year under sub-section (1) shall be taxable under the other provisions of this Act.

- (i) In a case referred to in clause (a), in the year in which the amount was so utilised; or
- (ii) In a case referred to in clause (b), in the year immediately following the period of eight years next following the previous year in which the amount was credited; or
- (iii) In a case referred to in clause (c), in the year in which the sale or transfer took place.

The income so taxable in all these three situations under the other provisions of this Act shall however, be reduced by the proportionate tonnage income charged to tax in the year of creation of such reserves.

The taxable amount shall be = Shipping income of the year in which reserve was created \times

$\frac{\text{Reserve misutilised}}{\text{Total reserve created in that year}}$ proportionate tonnage income charged to tax in the year of creation of such scheme.

Consequences of Shortfall in Minimum Statutory Percentage of Reserve [Sec. 115VT(5)]

In spite of any other provision to the contrary, where the statutory reserve to be created is below 20% of the book-profits, derived from the core and incidental activities, proportionate relevant shipping income of that year in proportion the amount of shortfall bears to the minimum reserve to be created, is taxable under other provisions of the Act.

Consequence of Non-creation of Minimum Statutory Percentage of Reserve [Sec. 115VT(6)]

Where minimum statutory reserve of 20% of book-profits derived from the core and incidental activities is not created for two consecutive years, the option of the company for Tonnage Tax Scheme ceases to have effect from the beginning of the previous year following the second consecutive previous year in which the failure to create such reserve had occurred.

However, this clause has no operation in cases where the shortfall in the statutory percentage of 20% is on account of losses from other sources [Sec. 115 VT.(2)]

Minimum Training Requirement for Tonnage Tax Company [Sec. 115VU]

Where option of a tonnage tax company has been approved by the Joint Commissioner, the company has to comply with the minimum training requirement in respect of trainee officers in accordance with the guidelines framed by the Director- General of Shipping and notified in the Official Gazette by the Central Government.

The tonnage tax company should furnish a copy of the certificate, issued by the Director-General of shipping .doing with the return of income to the effect that such company has complied with the minimum training requirement in accordance with the guidelines for the previous year.

If the minimum training requirement is not complied with for any five consecutive previous years the option of the company for Tonnage Tax Scheme ceases to have effect from the beginning of the previous year following the fifth consecutive previous year in which the failure to comply with the minimum training requirement had occurred.

Q12. How do you determine the tonnage ?

Ans :

'For the purposes of this chapter, the tonnage of a ship should be determined in accordance to a valid certificate, indicating its tonnage.

Valid certificate in case of ships registered in India: The issuing authority of the certificate is classified on the basis of the length of the ship as follows:

- (a) **Ships having a length of less than 24 :** The valid certificate means a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules 1987 made under the Merchant Shipping Act, 1958.

(b) Ships having a length of 24 m or more:

The valid certificate means an international tonnage certificate issued under the provisions of the convention on Tonnage Measurement of Ships, 1969 as specified in the Merchant Shipping (Tonnage Measurement of Ships) Rules 1987 made under the Merchant Shipping Act, 1958.

Valid certificate in case of a ship registered outside India: Valid certificate means a licence issued by the Director-General of Shipping under Sec. 406 or Sec. 407 of the Merchant Shipping Act, 1958 specifying the net tonnage on the basis of Tonnage Certificate issued by the flag State Administration where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship-owner seeking permission for chartering in the ship.

Q13. Explain about Avoidance of Tax and Exclusion of Tax Under Tonnage tax scheme.

Ans :

(Imp.)

(A) Avoidance of Tonnage Tax [Sec. 115VZB]:

Tonnage Tax Scheme does not apply to a tonnage tax company which is a party to any transaction or arrangement which seeks a tax advantage to a person other than a tonnage tax company or which seeks tax advantage in respect of its non-tonnage activities.

“Tax advantage” includes:

- (i) The determination of allowance for any expense or interest or determination of any cost or expense, allocated or apportioned or which has the effect of reducing the income or increasing the loss from the activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of accounts in respect of the previous year in which the transaction was entered into; or
- (ii) A transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage activities.

(B) Exclusion from Tonnage Scheme [Sec. 115VZC]:

Where a tonnage tax company is a party to any transaction or arrangement, which has the effect of tax avoidance, the Assessing Officer is required to pass an order in writing to exclude such company from the Tonnage Tax Scheme.

However, no such order can be passed without giving an opportunity of being heard to such company and without obtaining the approval of the Chief Commissioner.

No such order can be passed where the company shows to the satisfaction of the Assessing Officer that the transaction or arrangement was a bona fide commercial transaction and had not been entered into for the purposes of obtaining tax advantage.

Where an order has been passed excluding a company from the Tonnage Tax Scheme, the option for Tax Tonnage Scheme ceases to remain in force from the first day of the previous year in which the transaction or the arrangement was entered into.

Short Question & Answers

1. Security Transaction Tax.

Ans :

Securities Transaction Tax (STT) is a type of turnover tax where the investor is obliged to pay a tax on the total sum received or paid in a transaction done through an exchange. STT is not applicable for commodities and currency transactions and on transactions outside of the exchange. It is applicable to securities like shares, debentures, bonds, mutual funds, government equity securities, derivatives, etc. The STT rates are different for delivery-based equity transactions and intra-day transactions. The rates are also different when buying security and when selling one. It was announced in 2004 by the then finance minister P Chidambaram with a view to decrease evasion of capital gains tax.

2. Features of Securities Transaction Tax

Ans :

STT is a simple direct tax and is not very complicated to calculate or levy. Some of the most distinguishing features of STT are as listed below.

- STT is levied on all sell transactions for both options as well as futures.
- For purpose of STT calculation, each future trade is valued at the actual traded price while each option trade is valued at premium.
- The amount STT that a clearing member has to pay is the sum total of all the STT taxes of trading members under him.

3. What is equity oriented fund?

Ans :

- (i) Where the investible funds are invested by way of equity shares in domestic companies to the extent of more than sixty per cent of the total proceeds of such fund; and
- (ii) Which has been set up under a scheme of a Mutual Fund.

The percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.

Exceptions (Sec. 113A). The tax shall not be charged if taxable securities transactions are entered into by,

- (a) any person for, or on behalf of, the New Pension System Trust (referred to in clause (44) of section 10 of the Income-tax Act, 1961) or
- (b) any person on a recognised stock exchange located in an International Financial Services Centre where the consideration for such transaction is paid or payable in foreign currency.

4. What is Tonnage tax?

Ans :

Tonnage tax is a taxation method which can be applied to shipping companies. In this method the tax is determined by the Net tonnage of the entire fleet of vessels under operation or use by a company. Many assesses have doubt about tonnage tax and hence I am writing this article for better understanding of this method of taxation. In this article I will cover qualification criteria for companies, ships and manner of computation of tax under tonnage taxation scheme, Period for which tonnage tax option remain in force, etc.

5. Explain about Tonnage Tax Reserve Account.

Ans :

A tonnage tax company has to transfer 20% (or at its option a higher percentage) of its book-profit (as defined under Sec. 115 JB), derived from the core and incidental activities in each previous year to the credit of Tonnage Tax Reserve Account.

Where the company has book-profits from the business of operating qualifying ships and the book loss from any other sources and consequently it is not possible to create the full or any part of the reserve, the company has to create the reserve to the extent possible in the previous year and the shortfall, be added to the reserve required to be created for the following year.

However, if the shortfall continues in respect of the second consecutive year also, no such reserve is required to be created.

6. How do you determine the tonnage ?

Ans :

For the purposes of this chapter, the tonnage of a ship should be determined in accordance to a valid certificate, indicating its tonnage.

Valid certificate in case of ships registered in India: The issuing authority of the certificate is classified on the basis of the length of the ship as follows:

- (a) **Ships having a length of less than 24 :**
The valid certificate means a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules 1987 made under the Merchant Shipping Act, 1958.
- (b) **Ships having a length of 24 m or more:**
The valid certificate means an international tonnage certificate issued under the provisions of the convention on Tonnage Measurement of Ships, 1969 as specified in the Merchant Shipping (Tonnage Measurement of Ships) Rules 1987 made under the Merchant Shipping Act, 1958.

Valid certificate in case of a ship registered outside India: Valid certificate means a licence issued by the Director-General of Shipping under Sec. 406 or Sec. 407 of the Merchant Shipping Act, 1958 specifying the net tonnage on the basis of Tonnage Certificate issued by the flag State Administration where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship-owner seeking permission for chartering in the ship.

7. Exclusion from Tonnage Scheme

Ans :

Where a tonnage tax company is a party to any transaction or arrangement, which has the effect of tax avoidance, the Assessing Officer is required to pass an order in writing to exclude such company from the Tonnage Tax Scheme.

However, no such order can be passed without giving an opportunity of being heard to such company and without obtaining the approval of the Chief Commissioner.

No such order can be passed where the company shows to the satisfaction of the Assessing Officer that the transaction or arrangement was a bona fide commercial transaction and had not been entered into for the purposes of obtaining tax advantage.

Where an order has been passed excluding a company from the Tonnage Tax Scheme, the option for Tax Tonnage Scheme ceases to remain in force from the first day of the previous year in which the transaction or the arrangement was entered into.

8. Avoidance of Tonnage Tax

Ans :

Tonnage Tax Scheme does not apply to a tonnage tax company which is a party to any transaction or arrangement which seeks a tax advantage to a person other than a tonnage tax company or which seeks tax advantage in respect of its non-tonnage activities.

"Tax advantage" includes:

- (i) The determination of allowance for any expense or interest or determination of any cost or expense, allocated or apportioned or which has the effect of reducing the income or increasing the loss from the activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of accounts in respect of the previous year in which the transaction was entered into; or
- (ii) A transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage activities.

Choose the Correct Answer

1. While computing Gross Total Income of company, the following Income is not consider [a]
(a) Income from salaries (b) Income from house property
(c) Income from capital gains (d) None
2. Due date of filling the return is _____ of the assessment year [a]
(a) 30th September (b) 31st October
(c) 30th November (d) None
3. Tax on casual Income charge to companies at a rate of _____ [b]
(a) 30% (b) 20%
(c) 15% (d) None
4. Foreign Companies Income Taxed at a rate of _____ [c]
(a) 30% (b) 40%
(c) 25% (d) None
5. Security Transaction Tax is defined U/S _____ [b]
(a) 97 (b) 98
(c) 96 (d) None
6. Security transaction Tax levied on [a]
(a) domestic stock exchange activities (b) Foreign stock exchange activities
(c) Both a & b (d) None
7. Tonnage Tax Scheme is to compute U/S _____ [b]
(a) 115 (V) (b) 115 V(M)
(c) 115 VC (d) None
8. Tonnage Tax Scheme is valid for _____ [c]
(a) 7 years (b) 6 years
(c) 8 years (d) None
9. Companies is Taxable under _____ [a]
(a) Flat rate system (b) slab rate system
(c) either A or B (d) None
10. STT stands for [a]
(a) Securities transaction tax (b) Securities total tax
(c) Security total trading (d) None of the above

Fill in the blanks

1. Security Transaction Tax is levied on _____
2. Securities include _____
3. Security Transaction Tax is applicable transactions made through _____
4. Tonnage Tax Company is defined U/S _____
5. Tonnage Tax is levied on _____
6. Qualifying slip means _____
7. Tax rate levied on Income from carbon credits are _____
8. The books profits are excluded from provision of _____
9. Core activities are defined U/S _____

ANSWERS

1. Gains from securities
2. Equities, options and futures
3. Recognised stock exchanges
4. 115. V(1)
5. Income generation on qualifying
6. Sea - going ship or vessel
7. 15%
8. MAT
9. 115 V(2)

UNIT IV

ASSESSMENT OF CO-OPERATIVES AND TRUSTS:

Cooperative Societies: Meaning - Deduction u/s 80(p) - Other deductions - Computation of Tax (Theory and problems). Trusts: Definition - Creation - Registration - Types of Trusts - Tax Exemptions - Accumulation of income - Income not exempted - Assessment of Trust.

4.1 COOPERATIVE SOCIETIES

4.1.1 Meaning

Q1. Define Cooperative Society. Explain different types of Cooperative Society.

Ans :

Meaning

"Co-operative society" means a society registered under the co-operative Societies Act, 1912 or under any other law for the time being in force in any State for the registration of co-operative societies.

Types

- (i) **Urban Consumer's Co-operative Society.** Under Section 80P(2) (explanation), such a society has been defined as "a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town, area or cantonment".
- (ii) **"Co-operative bank" and "primary agricultural credit society"** shall have the same meaning as assigned to them in Banking Regulation Act, 1949.
- (iii) **"Primary Co-operative agricultural and rural development bank"** means a society having its area of operation confined to a taluk and the primary object of which is to provide for long term credit for agricultural and rural development activities.
- (iv) **'Consumer's Co-operative Society'** means a society for the benefit of consumers.

Q2. What are the features of Cooperative organizations?

Ans :

(Imp.)

Features

Fundamental features of a co-operative organization are as follows:

- (i) **Registration:** A co-operative society must be registered under the Co-operative Societies Act, 1912 or under a State Co-operative Societies Act. On registration, the society becomes a body corporate, having a separate legal entity of its own, with perpetual succession and limited liability of its members.
- (ii) **Voluntary Association:** A co-operative organisation is a voluntary association of persons. Everyone having a common interest is free to join a co-operative society; irrespective of caste, creed, religion or political affiliation. No person can be forced to become the member of a co-operative society or continue as a member.

A member after giving proper notice can leave the society; and will get back his capital according to the rules of the co-operative. But no member can transfer his shares to another person.
- (iii) **Minimum Ten Persons Needed:** A minimum of ten adult persons are needed to form a co-operative organisation. Maximum number of members is 100, in a co-operative credit society; with no such limit in non-credit co-operative societies.

- (iv) **Service-Motive:** The primary aim of a co-operative society is to provide some service or benefit to its members (or even general public's) by fighting against some social evil.
- (v) **Finance:** The capital of a co-operative is raised from members through issue of shares. A co-operative can also obtain loans from the Central or State Co-operative Banks.
- (vi) **Limited Liability:** The liability of each member of a co-operative is limited to the extent of the value of shares held by him, in the share capital of the co-operative.
- (vii) **Democratic Management:** Business of a co-operative society is managed by a managing committee; which is elected by the members. The members lay down the broad policy guidelines within which the managing committee manages the affairs of the co-operative society.
- The managing committee usually consists of the following office-bearers:
1. President
 2. Vice-president.
 3. Secretary
 4. Joint Secretary, if any
 5. Treasurer.
- (viii) **'One-Man One-Vote' Rule:** Every member in a co-operative has one vote; irrespective of the number of shares held by him. 'One-man one vote rule', as such conveys the idea of equality of status for all members of the society.
- (ix) **Limited Return on Capital and Disposal of Surplus:** A limited interest up-to 10% is paid to members on their capital contribution-as an incentive to invest money in the co-operative society. However, interest is paid only out of profits. Profits are distributed not in form of dividend but in form of a bonus which depends on the volume of business done by a member with the co-operative.
- For example, in a consumer co-operative this bonus depends on the amount of purchases

made by a member from the co-operative, during the year; and similar other bases in case of other types of co-operatives.

- (x) **State Control: Government** exercises control over co-operatives to protect the interests of members of co-operatives; who, otherwise, are economically quite weak. Every co-operative society must furnish annual accounts and reports to the Registrar of Co-operatives. Further, accounts of all co-operatives are subject to compulsory audit.

Q3. What are the advantages and disadvantages of co-operative society?

Ans :

Advantages

The cooperative form of organization offers the following advantages:

1. Easy to Form

A cooperative society is a voluntary association and may be formed with a minimum of ten adult members. Its registration is very simple and can be done without much legal formalities.

2. Open Membership

Membership in a cooperative organisation is open to all people having a common interest. A person can become a member at any time he likes and can leave the society at any time by returning his shares, without affecting its continuity.

3. Democratic Management

A cooperative society is managed in a democratic manner. It is based on the principle of 'one man one vote'. All members have equal rights and can have a voice in its management.

4. Limited Liability

The liability of the members of a co-operative society is limited to the extent of capital contributed by them. They do not have to bear personal liability for the debts of the society.

5. Stability

A co-operative society has a separate legal existence. It is not affected by the death, insolvency, lunacy or permanent incapacity of any of its members. It has a fairly stable life and continues to exist for a long period.

6. Economical Operations

The operation of a cooperative society is quite economical due to elimination of middlemen and the voluntary services provided by its members.

7. Government Patronage

Government gives all kinds of help to co-operatives, such as loans at lower rates of interest and relief in taxation

8. Low Management Cost

Some of the expenses of the management are saved by the voluntary services rendered by the members. They take active interest in the working of the society. So, the society is not required to spend large amount on managerial personnel.

9. Mutual Co-Operation

Cooperative societies promote the spirit of mutual understanding, self-help and self-govern-ment. They save weaker sections of the society from exploitation by the rich. The underlying principle of co-operation is "self-help through mutual help."

10. No Speculation

The share is always open to new members. The shares of co-operative society are not sold at the rates higher than their par values. Hence, it is free from evils of speculation in share values.

Disadvantages**1. Limited Capital**

Cooperatives are usually at a disadvantage in raising capital because of the low rate of return on capital invested by the members.

2. Inefficient Management

The manage-ment of a co-operative society is generally inefficient because the managing

committee consists of part-time and inexperienced people. Qualified managers are not attracted towards a cooperative on account of its limited capacity to pay adequate remuneration.

3. Absence of Motivation

A cooperative society is formed for mutual benefit and the interest of individual members is not fully satisfied. There is no direct link between effort and reward. Hence, members are not inclined to put their best efforts in a co-operative society.

4. Differences and Factionalism among Members

Once the initial enthusiasm about the co-operative ideal is exhausted, differences and group conflicts arise among members. Then, it becomes difficult to get full co-operation from the members. The selfish motives of members begin to dominate and service motive is sometimes forgotten.

5. Rigid Rules and Regulations

Excessive Government regulation and control over co-operatives affect their functioning. For example, a co-operative society is required to get its accounts audited by the auditors of the co-operative department and to submit its accounts regularly to the Registrar. These regulations and control may adversely affect the flexibility of operations and the efficiency of management in a co-operative society.

6. Lack of Competition

Cooperatives, generally, do not face any stiff competition. Markets for their goods and services are more or less ready and assured. Hence, there is possibility of slackening of efforts.

7. Cash Trading

The members of the societies are generally from poor sections of the society. These persons need credit facilities. On the other hand, private traders extend credit facilities to the consumers. Though the societies sell goods at lower prices but absence of credit facilities compel them to go to private traders for meeting their requirements.

8. Lack of Secrecy

The affairs of a co-operative society are openly discussed in the meetings of the members. Every member is free to inspect the books and records of the society. Therefore, it becomes difficult to keep the secrets of business.

4.1.2 Deduction u/s 80(p)**Q4. Explain various deductions of co-operative societies u/s 80(p).**

Ans : **(Imp.)**

Section 80P of the Act provides certain deductions which are to be allowed out of Gross Total Income of the society. Under the provisions of this section certain incomes which form part of Gross Total Income are to be deducted because Income-tax is not payable by the Co-operative Society in respect of these incomes.

Society 80P(1) provides that out of Gross Total Income of a co-operative society the incomes described in sub-clause (2) of this section shall be deducted.

Section 80P(2) provides that following incomes shall be deducted out of Gross Total Income:

- (a) Income of a co-operative society engaged in following activities, shall be deducted :
- (i) carrying on the business of banking or providing credit facilities to its members; or
 - (ii) a cottage industry; or
 - (iii) the marketing of the agricultural produce of its members; or
 - (iv) the purchase of agricultural implements, seeds, livestock, or other articles intended for agriculture for the purpose of supplying them to its members; or
 - (v) the processing (without the aid of power) of the agricultural produce of its members; or
 - (vi) the collective disposal of the labour to its members; or

- (vii) fishing or allied activities, i.e., the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying to its members.

For sub-clauses (vi) & (vii), 80P (2) further provides that the rules and by-laws of the society must restrict the voting right to the following classes of its members;

- (i) the individuals who contribute their labour, or as the case may be, carry on the fishing or allied activities;
 - (ii) the co-operative credit societies which provide financial assistance to the society; {iit) the State Government.
- (b) The whole of amount of profits and gains from the business of supplying milk, oil seeds, fruits or vegetables by the members of primary co-operative society to a federal milk co-operative society, or the Government or local authorities or a Government Company.
- (c) A deduction of Rupees 50,000 (` 1,00,000 in case of a consumer co-operative society) shall be allowed to all other Co-operative Societies which are engaged in any business which is not specified in clause (a) and (b) above.
- (d) Whole of the income from dividend or interest or investments of one co-operative society with any other co-operative society will be allowed as deduction.
- (e) Whole of the income of a co-operative society derived from the letting of godowns or by warehouses for storage, processing or facilitating the marketing of commodities shall be allowed as deduction.
- (f) The whole amount of interest on securities or income from house property of a co-operative society provided;
- (i) the gross total income of the society does not exceed ` 20,000.

- (ii) it is not a housing co-operative society, or an urban consumer society or a society carrying on transport business.
- (iii) it is not a society engaged in the performance of any manufacturing operations with the aid of power.

Concession u/s 27(iii) : Co-operative Housing Society

If a house is allotted or leased out by a Co-operative Society to its member but the ownership remains with co-operative society the income from such house property shall form a part of the total income of the individual.

4.1.3 Other Deductions

Q5. Explain about other deductions U/S 80 P?

Ans : (Imp.)

Section 80P of the Act provides certain deduction which are to be allowed out of Gross Total Income of the society. Under the provisions of this section certain incomes which form part of Gross Total Income are to be deducted because Income tax is not payable by the Co-operative Society in respect of these incomes.

Society 80P(1) provides that out of Gross Total Income of a co-operative society the incomes described in sub-clause (2) of this section shall be deducted.

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Income of a co-operative society engaged in following activities, shall be deducted.

- (i) Carrying on the business of banking or providing credit facilities to its members; or
- (ii) A cottage industry; or
- (iii) The marketing of the agricultural produce of its members or
- (iv) The purchase of agricultural implements, seeds, livestock, or other articles intended for agriculture for the purpose of supplying them to its members; or
- (v) The processing (without the aid of power) of the agricultural produce of its members; or

- (vi) The collective disposal of the labour to its members, or

- (vii) Fishing or allied activities, i.e., the catching, curing processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection there with for the purpose of supplying to its members.

- (a) For sub-clauses (vi) & (vii), 80P(2) further provides that the rules and by-laws of the society must restrict the voting right to the following classes of its members.

- (i) The individuals who contribute their labour, or as the case may be, carry on the fishing or allied activities.

- (ii) The co-operative credit societies which provide financial assistance to the society.

- (iii) The State Government.

- (b) The whole of amount of profit and gains from the business of supplying milk, oil seeds, fruits or vegetables by the members of primary co-operative society to a federal milk co-operative society, or the Government or local authorities or a Government Company.

- (c) A deduction of Rupees 50,000 (` 1,00,000 in case of a consumer co-operative society) shall be allowed to all other Co-operative societies which are engaged in any business which is not specified in clause (a) and (b) above.

- (d) Whole of the income from dividend or interest or investments of on co-operative society will be allowed as deduction.

- (e) Whole of the income of a co-operative society derived from the letting of godowns or by warehouses for storage, processing or facilitating the marketing of commodities shall be allowed as deduction.

- (f) The whole amount of interest on securities or income from house property of a co-operative society provided.

- (i) The gross total income of the society does not exceed ₹ 20,000.
- (ii) It is not a housing co-operative society, or an urban consumer society or a society carrying on transport business.
- (iii) It is not society engaged in the performance of any manufacturing operations with the aid of power.

4.2 COMPUTATION OF TAX

Q6. What is AMT. Explain about applicability of AMT on co-operative society.

Ans :

The Finance Act, 2011, introduced the concept of 'alternate minimum tax' on limited liability partnership. However, the Finance Act, 2012 has extended the system of 'alternate minimum tax' on all persons other than a company subject to certain conditions. Thus, w.e.f. 2013-14, alternate minimum tax' is also applicable on a cooperative society.

Cooperative Society covered under AMT [Section 115JEE(1)]

The provisions of 'alternate minimum tax' shall apply to a cooperative society :

- (1) Who has claimed any deduction under :
 - (i) Any section (other than section 80P) included in Chapter VI-A under the heading "C-Deductions in respect of certain incomes." [i.e., Section 80IA to Section 80JJAA], or
 - (ii) Section 10AA (SEZ)
 - (iii) Section 35AD
- (2) Whose adjusted total income exceeds ₹ 20,00,000.

Cooperative Society not covered under AMT [Section 115JEE(2)]

The provisions of 'alternate minimum tax' shall not apply to a cooperative society whose 'adjusted total income' does not exceed ₹ 20,00,000.

Scheme of AMT [Section 115JC(1)]

Where the regular income-tax payable by a cooperative society for a particular previous year is less than the 'alternate minimum tax' payable for such previous year, the 'adjusted total income' shall be deemed to be the total income of such cooperative society for such previous year and it shall be liable to pay income-tax on such total income @ 18.5 per cent.

Thus, AMT is an alternate amount of tax which a cooperative society has to pay if the regular income tax for any previous year is less than 18.5% of its adjusted total income as defined for this purpose. Section 115JC is an overriding section and provides a specific tax rate on a specific figure for certain cooperative societies. It provides a new concept of 'adjusted total income' (for cooperative societies), which is to be treated as total income of the cooperative society and on this total income, tax is required to be calculated @ 18.5%. This tax is called 'alternate minimum tax'. AMT has brought into tax net those cooperative societies which were earning profits but were not paying any income tax due to various deductions or exemptions available to them under the Income Tax Act, 1961.

Ultimate Tax Liability of Cooperative Society

- (i) Regular income tax payable as per normal provisions of IT Act; or
- (ii) Tax @ 18.5% on adjusted total income.

Note: In the case of a unit located in IFSC which derives its income solely in convertible foreign exchange, AMT shall be charged at a concessional rate of 9%.

Surcharge: Surcharge on AMT for the Assessment Year 2022-23 shall be as under :

- (i) If adjusted total income does not exceed ₹ 1 crore NIL
- (ii) If adjusted total income exceeds ₹ 1 crore 12% of tax whichever is higher.

Important Note

Health and Education cess @ 4% of tax (+ Surcharge, if any) is also to be taken into account while calculating regular income tax as well as alternate minimum tax.

Meaning of 'Adjusted Total Income' [Section 115JC(2)]

'Adjusted total income' means the total income before giving effect to this newly inserted Chapter XII BA as increased by :

- (i) Deductions claimed under any sections included in Chapter VI-A under the heading "C— i.e., Deductions in respect of certain incomes"; and
- (ii) Deduction claimed, if any, u/s 10AA.
- (iii) Deduction claimed u/s 35AD less depreciation allowable u/s 32 on the cost of that asset.

It is important to note that part C of Chapter VI-A covers various deductions u/s 80 in respect of certain incomes. These deductions (for cooperative societies) are as follows :

- (i) Deduction U/s 80IA
- (ii) Deduction U/s 801-AB
- (iii) Deduction U/s 80IB
- (iv) Deduction U/s 80IBA
- (v) Deduction U/s 80IC
- (vi) Deduction U/s 80ID
- (vii) Deduction U/s 80IE
- (viii) Deduction U/s 80JJA
- (ix) Deduction U/s 80JJAA
- (x) Deduction U/s 80P

In other words, 'adjusted total income' for the purposes of Section 115JC(1) shall be calculated as follows :

Particulars		
Total income as per normal provisions of I.T. Act		X X X X
Add: Deductions in respect of certain incomes [Section 80IA to 80LA] [Other than deduction u/s 80P]		X X
Add: Deduction U/s 10AA		X X
Add: Deduction claimed U/s 35AD	X X	
Less: Deduction allowable U/s 32	X X	
		X X
Adjusted total income		X X X X

PROBLEMS

- The total income of a cooperative society computed under the normal provisions of Income Tax Act is ₹ 3,00,000. However, the 'adjusted total income' of the cooperative society [computed as per Section 115JC(2)] amounted to ₹ 30,00,000. Calculate the Final Tax Liability of the cooperative society for Assessment Year 2022-23.

*Sol.:***Tax Liability of Cooperative Society for the Assessment Year 2022-23**

Particulars		
(1) Tax Liability as per Normal Provisions of IT Act		
Total income (given) = ₹ 3,00,000		
Tax ₹ 3,00,000 (as per slabs)		
On first 10,000 → 10%	1,000	
On next 10,000 → 20%	2,000	
On balance 2,80,000 30%	84,000	
		87,000
Add : Surcharge		NIL
		87,000
Add : Health and Education Cess @ 4% of tax and surcharge		3,480
Tax Liability		90,480
(2) Tax Liability under A.M.T. [i.e., u/s 115JC]		
Adjusted total income (given) = ₹ 30,00,000		
A.M.T. @ 18.5% of ₹ 30,00,000		5,55,000
Add: Surcharge		NIL
		5,55,000
Add: Health and Education Cess @ 4% of tax and surcharge		22,200
Tax Liability		5,77,200

Final Tax Liability of Cooperative Society

Tax under Point (1), i.e., 90,480 or }
 Tax under Point (2), i.e., 5,77,200 } whichever is higher.

∴ Tax liability = 5,77,200.

2. The Ludhiana Co-operative Marketing Society is a society registered under the Co-operative Societies Act, 1912 and is engaged in the business of purchase of agricultural implements and seeds for the purpose of supplying them to its members. From this business it earned an income of ₹ 50,000.

In May 1981 it opened a consumer's store for selling groceries and this venture netted a profit of ₹ 65,000 during the year 2021-22. Compute the total income of society and tax payable by it for the assessment year 2022-23. If—

- (A) it does not opt to be taxed u/s 115BAD.
 (B) it opts to be taxed u/s 115BAD.

Sol.:

(Imp.)

- (A) **Computation of Total Income and Tax Liability if Section 115BAD is not opted for**

1. Whole of income from the business of purchase of agricultural implements and seeds to its members is allowed as deduction under section 80 P (2) sub-clause (a) (iv).

- | Particulars | ₹ | ₹ |
|--|--------|----------|
| Income from supplying of Agricultural Implements | | 50,000 |
| Income from Business of Consumers' Store | | 65,000 |
| Gross Total Income | | 1,15,000 |
| Less : Deduction U/s 80 P: | | |
| Whole of income from agricultural implements | 50,000 | |
| Profits from Consumers' Store [80 P(2) (c)] | 50,000 | |
| | | 1,00,000 |
| Total Income | | 15,000 |
| Thus the total taxable income of society is only ₹ 15,000. | | |
| Computation of Tax | | |
| Income-tax on ₹ 15,000 = First 10,000 @ 10% | | 1,000 |
| Next 5,000 @ 20% | | 1,000 |
| Tax | | 2,000 |
| Add : Health and Education Cess @ 4% of tax and surcharge | | 80 |
| Tax Payable | | 2,080 |

Particulars	₹	₹
(i) Business Income		
Income from supplying of Agricultural Implements	50,000	
Income from Business of Consumers' Store	<u>65,000</u>	1,15,000
(ii) Any Other Income		
Gross Total Income		<u>NIL</u>
Less : Deductions u/s 80		1,15,000
U/s 80P (not allowed if section 115BAD is opted for)		<u>NIL</u>
Total Income		<u>1,15,000</u>
Tax Liability U/s 115BAD		
22% of ₹ 1,15,000		25,300
Add : Health & Education Cess @ 4%		<u>1,012</u>
Tax Liability		<u>26,312</u>
Rounded off to ₹ 26,310		

3. The Government College Co-operative society Ltd. has the following incomes during the year :

(a) Income from College Canteen & Mess	20,000
(b) Income from College Book Shop	8,000
(c) Interest on Securities (Gross)	8,000
(d) Income from House Property (computed)	5,000
(e) Dividend on shares of another Co-operative Society	13,000

Compute the total income of society.

Sol.: Computation of Income from the society for the assessment year 2022-23

Particulars	Amount	Amount
1. Income from House Property (computed)		5,000
2. Profit from Business :		
(i) from Canteen Mess	20,000	
(ii) from Book Shop	<u>8,000</u>	
		28,000
3. Income from Other Sources :		
Dividend from Co-operative Society	13,000	
Int. on Securities (Gross)	<u>8,000</u>	
		<u>21,000</u>
Gross Total Income		<u>54,000</u>
Deduction u/s 80 P		
u/s 80 P (2) (c) Business Income	28,000	
u/s 80 P (2) (d) Dividend from another Co-operative Society	<u>13,000</u>	
		<u>41,000</u>
Total Income		<u>13,000</u>

Note : As the gross total income of the society exceeds ` 20,000 so the deduction of interest on securities and house property u/s 80 P (2) (f) shall not be allowed.

4. The Chandigarh Urban Consumer's Co-operative Society Ltd., derived the following incomes in the year ending 31st March.

1. Income from Business	21,000
2. Dividend on shares in Oswal Woollen Mills Ltd.	6,000
3. Interest on fixed deposits with :	
(i) Central Consumer's Co-operative Society, Chandigarh	2,000
(ii) Indian Bank	3,000

4. Rent from 1/3 of building let out to an outsider; 2,000
2/3 being used by the society for its own business

Expenses for the building :

- (i) Municipal Taxes 600
(ii) Ground Rent 150
(iii) Insurance 300

Compute the total income of the Society.

Sol :

**Computation of the Total Income of the Co-operative Society
for the assessment year 2022-23**

Particulars			
1. Income from House Property			
Rental Value—1/3 of building	2,000		
Less: Taxes 1/3 of 600	200		
Annual Value		1,800	
Standard Deduction : 30% of NAV		540	1,260
2. Income from Business		21,000	
Less: Expenses on house being used for the business of society			
2/3rd of Ground rent	100		
2/3rd of Insurance Premium	200		
		300	20,700
3. Income from other sources			
(i) Dividend [Exempted u/s 10(33)]	NIL		
(ii) Interest on fixed deposits :			
(a) with Co-operative Society	2,000		
(b) with Indian Bank	3,000		5,000
Gross Total Income			26,960
Deductions u/s 80 P			
Business Profits u/s 80 P (2) (c)	20,700		
Interest on Deposit with Co-operative Society u/s 80 P (2) (d)	2,000		22,700
Total Income			4,260

4.3 TRUSTS

4.3.1 Definition

Q7. Define Trusts.

(OR)

What is Trusts?

(OR)

Explain the meaning of trusts.

Ans : (Imp.)

Meaning

A trust is an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another and the owner [Sec. 3 of the Indian Trust Act, 1882], The person who reposes or declares the confidence is called author of the trust.

The person who accepts the confidence is called the trustee.

The person for whose benefit the confidence is accepted is called the beneficiary. The subject-matter of the trust is called trust property or trust money. The instrument, if any, by which the trust is declared is called the instrument of trust.

For the purpose of taxation, a trust includes any other legal obligation (Explanation 1 to Sec. 13) such as Muslim Wakfs and Hindu endowments, maths, monasteries, chamber of commerce, bar council, and so on.

4.3.2 Creation

Q8. Explain the creation of trusts.

Ans : (Imp.)

As a general rule, any person, who has power of disposition over a property, has capacity to create a trust over such property.

As regards, 'power of disposition over property', according to section 7 of the Transfer of Property Act, 1882, a person who is competent to contract and entitled to transferable property or authorised to dispose of transferable property not his own, is competent to transfer such property either wholly or in part and either absolutely or conditionally.

Thus, two basic things are required for being capable of forming a trust:

- (i) Power of disposition over property; and
- (ii) Competence to contract.

It may be recalled that the Indian Trust Act does not apply to public trusts which can be created by any person under general law. Under the Hindu law, any Hindu can create a Hindu endowment and under the Muslim law, any Muslim can create a public WAKF But public trusts, whether endowment or wakfs, which are essentially of charitable or religious nature, can be constituted by any person without any distinction of caste or creed.

Besides individuals, a body of individuals or an artificial person such as an association of persons, an institution, a limited company, all Hindu Undivided Family through its Karta, can also form a trust.

4.3.3 Registration

Q9. Explain in detail about registration and cancellation of trust.

(OR)

What are the different types of registrations associated with trusts.

(OR)

What are the pre requisites for registration of a trusts.

Ans : (Imp.)

1. **Need for Registration of A "Charitable and Religious Trust":** For a public trust, whether in relation to a movable property or an immovable property the registration is optional but always desirable. From the practical point of view, it is always advisable for charitable trusts to have a proper registered trust deed.
2. **Types of Registrations of A "Charitable and Religious Trust":** Registration of a Trust is mainly required from two angles:
 - Registration under State Act
 - Registration under Income Tax Act

Other types of registrations associated with a trust, required in certain situations, may be briefly stated as under:

- (A) Registration under the Indian Registration Act;
- (B) Registration under Public Trusts Act;
- (C) Registration under Income Tax Act.
- (D) Registration under the Foreign Contribution (Regulation) Act.

(A) Registration under the Indian Registration Act

As regards registration under the Indian Registration Act, it may be noted that it is the trust deed and not the trust which is required to be registered. Thus, for this purpose, a trust deed has to be framed incorporating the necessary provisions for management of the affairs and objects of the trust. This deed has to be registered with the Sub-Registrar of the Registration Department of the respective State Government. Besides, a trust created by a will may also be registered under the said Act by registering the will itself.

A trust-deed should be presented for registration within four months of its execution (Sec.23), in the office of the Sub-Registrar within whose sub- district the whole or some portion of the property is situate. (Sec. 28). If a document cannot be presented for registration within the aforesaid period owing to urgent necessity or unavoidable accident, it may be presented for registration within a further period of four months along with a line which shall not exceed ten times the amount of registration fee (Sec. 25.). Registration fees, as prescribed by the state Government, is payable on presentation of the document. (Sec.78).

A trust deed relating to immovable property must, for the purposes of registration, contain a description of such property, sufficient to identify the same. (Sec.21 & 22). If there are any interlineations, blanks, erasures or alterations in a deed, the same must be duly attested by the person(s) executing the deed (Sec.20).

When the Registering Officer is satisfied that the provisions of the Act as applicable to the

document presented for registration have been complied with, he shall endorse thereon a certificate containing the word "registered", together with the number and page of the book in which the document has been copied. Such certificate shall be signed, sealed and dated by the Registering Officer, and shall then be the conclusive evidence that the document has been duly registered. (Sec.60).

(B) Registration under Public Trust Act.

It may be noted that a charitable or religious trust. Whether public or private, is not required to obtain registration under the Indian Registration Act. In certain states like Maharashtra and Gujarat there is a Public Trusts Act, which obliges such institutions' trusts to get registered as such under the said Act.

For example, according to the Bombay Public Trusts Act, 1950, all charitable and religious institutions are to be registered as Public Trusts and will come under the supervision of the Charity Commissioner of the State.

For details, the relevant state law on trusts, if any, should be consulted.

(C) Registration under Income Tax Act

Charitable or religious trusts and societies, claiming exemption under section 11 and 12 of the Income-tax Act are required to obtain registration under the Act. Private family trusts are neither allowed such exemption nor. Thus., required to seek registration under the Income-tax Act. However, private trusts partly for charitable or religious purposes, are also eligible and should, thus, obtain registration.

(D) Registration under Foreign Contribution (Regulation) Act. 1976

Any society, trust or charitable company carrying on educational, charitable, religious, economic, cultural or social welfare activities and desirous of receiving any foreign contribution from a foreign source, is required to obtain registration under section 6(1) of the Act. Any such association which is not registered or which has been denied registration, can receive foreign contribution only after obtaining prior permission from the Central Government under section 6(1 A) of the Act.

3. Procedure for Registration of Trust or Institution [Section 12AA]

- (i) Steps to be taken by the Principal Commissioner or Commissioner towards Registration of a Trust or Institution [Section 12AA(1)]

The Principal Commissioner or Commissioner, on receipt of an application for registration of a trust or institution made under section 12A(l)(aa) or (ab), shall

- (a) Call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and
- (b) After satisfying himself about the objects of the trust or institution and the genuineness of its activities, he
 - i) Shall pass an order in writing registering the trust or institution;
 - ii) Shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution, and a copy of such order shall be sent to the applicant:

However, no order refusing to register the trust shall be passed unless the applicant has been given a reasonable opportunity of being heard.

- (ii) Order Granting or Refusing Registration should be passed within Six Months [Section 12AA(2)]

Every order granting or refusing registration shall be passed before the expiry of six months from the end of the month in which the application was received under section 12A(l)(aa) or (ab).

- (iii) Commissioner empowered to Cancel Registration of Charitable and Religious Trusts under. Where a trust or an institution has been granted registration under section 12AA(l)(b) or has obtained registration at any time under section 12A as it stood before the

amendment by the Finance (No. 2) Act, 1996, the Principal Commissioner or the Commissioner of Income-tax can cancel the registration under the following two sub-sections:

1. Sub-section (3) of section 12AA if certain conditions mentioned therein are satisfied.
2. Sub-section (4) of section 12AA if benefit of exemption under sections 11 and 12 is not available due to the operation of section 13(1).

(1) Cancellation of Registration of a Trust or Institution under Section 12AA(3)

As per section 12AA, the registration once granted to a trust or institution shall remain in force till it is cancelled by the Principal Commissioner or Commissioner.

Consequently, the Principal Commissioner or Commissioner can after giving reasonable opportunity of being heard to the concerned trust or institution, pass an order under section 12AA(3) in writing cancelling the registration under the following two circumstances:

- (a) the activities of a trust or institution are not genuine, or;
- (b) the activities are not being carried out in accordance with the objects of the trust or institution.

Only if either or both the above conditions are met, would the Principal Commissioner/Commissioner be empowered to cancel the registration, and not otherwise.

However, no order under section 12AA(3) shall be passed unless such trust or institution has been given a reasonable opportunity of being heard

(2) Cancellation of Registration of a Trust or Institution under Section 12AA(4)

The powers of Principal Commissioner/Commissioner to cancel registration under section 12AA(3) are severely restricted. There have been cases where trusts, particularly in the year in which they have substantial income claimed to be exempt under other provisions of the Income Tax Act,

deliberately violate provisions of section 13 by investing in prohibited mode etc. Similarly, there have been cases where the income is not properly applied for charitable purposes or has been diverted for benefit of certain interested persons. Due to restrictive interpretation of the powers of the Principal Commissioner/ Commissioner under section 12AA, registration of such trusts or institutions continues to be in force and these institutions continue to enjoy the beneficial regime of exemption.

Whereas under section 10(23C), which also allows similar benefits of exemption to a fund, Institution, University etc, the power of withdrawal of approval is vested with the prescribed authority if such authority is satisfied that such entity has not applied income or made investment in accordance with provisions of section 10(23C) or the activities of such entity are not genuine or are not being carried out in accordance with all or any of the conditions

Therefore, in order to rationalise the provisions relating to cancellation of registration of a trust, section 12AA(4) was inserted to provide that where a trust or an institution has been granted registration, and subsequently it is noticed that section 13(1) is applicable as its activities are being carried out in such a manner that,

- i) Its income does not enure for the benefit of general public;
- ii) It is for benefit of any particular religious community or caste (in case it is established after commencement of the Income-tax Act);
- iii) Any income or property of the trust is applied for benefit of specified persons like author of trust, trustees, etc.; or
- iv) Its funds are invested in prohibited modes, then the Principal Commissioner or the Commissioner may by an order in writing cancel the registration of such trust or institution.

However, registration shall not be cancelled under section 12AA(4) if such trust or institution proves at there was a reasonable cause for the activities to be carried out in the above manner.

4.3.4 Types of Trusts

**Q10. What are the different types trusts?
(OR)**

State the various types of trusts.

Ans : (Imp.)

The following are the different types of trusts are :

I. **Absolute and Discretionary Trust**

A trust to apply the income of property for the benefit of a person or object in a special manner or in such a manner as the trustees think fit, is an absolute trust for that person or object. A trust to apply the whole or part of the income for a special purpose for the benefit of a person, however, a trust for him of only so much as is necessary for that purpose.

If the trustees in such a case are given a discretion as to the amount to be applied they are at liberty to exercise that discretion by limiting the amount, the trust is discretionary.

(i) Public Trust: A public trust may be of charitable or religious nature and tends to promote the benefit of the public. Thus, public are always the beneficiary under a public trust.

(ii) Private Trust: A private trust tends to promote the welfare of specified persons and hence the beneficiaries are always specified individuals. Sometimes, the shares of the beneficiaries are defined by the author of the trust or may even be indeterminate or unknown. Trust where the trustee is vested with the power to determine the mode of distribution of the trust income among the beneficiaries is also called a discretionary trust.

2. **Public-cum Private Trusts**

Religious trusts often present a pattern of public-cum-private trust. So far as the property of the trust is concerned, it may be of the nature of a public trust. But there may be income from public offerings, etc. Wherefrom a part may be applied towards

public purposes and a part may go to a private person or persons in charge of the place. Such trust in respect of the portion of income going to such private person or persons, is assessable as private trust.

3. Oral Trust

A trust which is not declared by a duly executed instrument in writing is known as oral trust.

Where the trustee receives or entitles to receive any income on behalf or for the benefit of any person under an oral trust, tax shall be charged on such income at the maximum marginal rate (Sec. 164 A).

4. Trust for the benefit of spouse or son's wife

If an individual transfers, to any person or association of persons assets directly or indirectly income from which is for the immediate or deferred benefit of spouse or son's wife, such income shall be included in the income of the individual Sec. 64(1) (vii) and (viii)]

5. Electoral Trust

Any voluntary contributions received by an electoral trust shall not be included in total income of the previous year of the trust, if:

- (i) It distributes to any registered political party during the previous year, 95% of the aggregate donations received by it during the previous year along with the surplus, if any brought forward from any earlier previous year; and
- (ii) It functions in accordance with the rules made by the Central Government. (Sec. 13B)

6. Charitable Purpose Defined [Sec. 2(15)]

Charitable purpose includes (i) relief to the poor, (ii) education, medical relief (iii) preservation of environment including watersheds, forests and wildlife, (iv) preservation of monuments or places or objects of artistic or historic interest and (v) the advancement of any other object of general public utility [Sec. 2(15)].

Formation of a charitable organisation

A charitable organisation is ordinarily formed by way of a trust or a company limited by guarantee under section 25 of the Companies Act, 1956 or a society under the Societies Registration Act, 1860 (Central) or under a State Act in case there is one. As far as the tax angle is concerned, it makes no difference whether the charitable organisation is formed by way of trust, a company or a society.

A trust can be oral but for recognition as a charitable institution, it should be in writing and should have three certainties:

1. certainty as regards property which is the object of the trust;
2. the object themselves; and
3. the beneficiaries for whom they are intended.

4.3.5 Tax Exemptions

Q11. Explain in detail about the eligibility for exemptions of a trust and explain the provisions related to taxation of trust.

Ans : (Imp.)

Charitable Trusts - Taxability and Tax Return Filing Eligibility for Exemption

The Income Tax Act exempts the income of a charitable trust from the scope of Income Tax. However, the exemption will be granted on the fulfillment of the specified conditions. The specified conditions are the following:

- The trust should be registered with the Commissioner of Income Tax as a Charitable Trust which is eligible for exemption under the Act. The registration shall be made in accordance with the guidelines available in Section 12A of the Act.
- The property of the trust should be bound by a trust deed or another similar legal obligation.
- The purpose of holding the property should be a charitable or religious purpose.
- The trust should not have been created for the benefit of any particular religious community or caste group.

- The income of the trust should not be applied for the benefit of the settlor or any person who can be considered as a close relative of the settlor.
- An exemption will be available exclusively for the portion of the income which is applied towards charitable or religious purposes.
- In case the income of the trust exceeds the basic exemption limit, the trust should mandatorily submit the books of accounts for audit. Assessors may note that in this context, income refers to the earnings of the trust prior to allowing the exemption offered by the Act to charitable trusts.
- The trust should submit the return of income if the income of the trust exceeds the basic exemption limit. The due date for filing the return varies depending on the circumstances of the trust.
- The trust may earn income which is accumulated towards application in the future. In such cases, the income which is accumulated towards future application should be invested separately. The mode of investment should comply with the provisions of the Act.

Taxation of Trusts

To the extent that the income of the trust is not covered by an exemption, the income will be taxed in a manner similar to an Association of Persons (AoP). Hence, for an income of up to Rs. 2.5 lakh rupees, there will be no need to pay tax. However, it should be noted that the AoP tax-rates will be applicable only for income which is not covered by the exemption offered under the Act to charitable trusts. The trust may violate any of the conditions relevant to which it was granted registration under the Act. In such circumstances, the income of the trust which has forfeited the exemption will be taxable at the maximum marginal rate (MMR). The provisions relating to taxability of trusts has been summarised in the following table

S.No.	Nature	Tax Rate
1	The trust earns income for which an exemption is not available under the Act.	<p>The income is taxed using the following slab-rate:</p> <p>Income-Tax:</p> <ul style="list-style-type: none"> ➤ Upto Rs.2.5 lakh rupees- No tax is required to be paid. ➤ Rs.2.5 lakh to Rs.5 lakh- 5% of (taxable income less Rs.2.5 lakh) ➤ Rs.5 lakh to Rs.10 lakh- Rs.12500 plus 20% of (taxable income less Rs.5 lakh) ➤ Above Rs.10 lakh- Rs.112500 plus 30% of (taxable income less Rs.10 lakh) <p>Surcharge:</p> <ul style="list-style-type: none"> ➤ 10% of Income Tax, in case taxable income is above ₹ 50 lakhs. ➤ 15% of Income Tax, in case taxable income is above ₹ 1 crore. ➤ 25% of Income Tax, in case taxable income is above ₹ 2 crore. ➤ 37% of Income Tax, in case taxable income is above ₹ 5 crore. <p>Cess:</p> <p>4% of (Income Tax + Surcharge)</p>

2	The trust has forfeited its status as a charitable trust on account of violating the conditions prescribed by the Act.	The trust should pay tax on the maximum marginal rate. For Assessment rate is 42.744%. The rate is applicable only on that component of the income attributed to forfeiture of the charitable status. For the remaining portion AOP tax-rates (mentioned in the preceding entry) should be used.
3.	The trust has converted itself into a non-charitable liabilities.	The maximum marginal rate of 42.744% should be applied on Accreted Income refers to the amount of aggregate fair market value of total assets. This tax will be in addition to the regular Income Tax paid by the trust.

Income Tax Return Filing for Trust

Any Trust with a gross total income of more than the basic exemption limit is required to file income tax returns mandatorily. Also, the following types of trusts are required to file an income tax return mandatorily, irrespective of gross total income:

- Research Association
- News agency
- Association or institution.
- Fund or institution
- University or other educational institution
- Mutual Fund
- Securitisation trust
- Investor Protection Fund
- Core Settlement Guarantee Fund
- Venture capital company or venture capital fund
- Trade union
- Body or authority or Board or Trust or Commission
- Infrastructure debt fund
- Business trust

Due Date for Filing Trust Tax Return

The due date for income tax filing for Trusts are as follows:

- September 30 if the Trust is required to get its accounts audited under the Income Tax Act or under any other law.
- November 30 if the Trust is required to file Form No. 3CEB. Form 3CEB will be required if the trust has entered into certain types of related party transactions.
- July 31 if the Trust does not need to get its accounts audited.

Q12. Explain about the exempted incomes of trust.

(OR)

Explain the different tax exemptions of trust?

Ans :

(Imp.)

Exempted Incomes of Charitable or Religious Trust (Section 11)

- A) Income from Property held under Trust wholly for Charitable or Religious Purposes [Section II(l)(a)]:
- B) Income from Property held under Trust which is applied in Part only for Charitable or Religious Purposes [Section II(l)(b)]:
- C) Income from Property held under Trust which is applied for Charitable Purposes Outside India [Section II(l)(c)]:
- D) Voluntary Contributions forming part of Corpus [Section II(l)(d)]:
 - Summarised Table of Exempt income in case of Charitable or Religious Trust
 - How to find out Exemption of Income in case of Charitable or Religious Trust under Section 11.
 - How to find out Exemption of Income in case of Charitable or Religious Trust under Section 11

Subject to the provisions of sections 60 to 63, the following incomes of a religious or charitable trust or institution are not included in its total income.

(A) Income from Property held under Trust wholly for Charitable or Religious Purposes [Section II(l)(a)]:

Income derived from property held under trust, wholly for charitable and religious purposes, shall be exempt:

1. To the extent such income is applied in India for such purposes; and
2. Where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of 15% of the income from such property.

(B) Income from Property held under Trust which is applied in Part only for Charitable or Religious Purposes [Section II(l)(b)]:

Income derived from property held under trust in part only for such purpose, shall be exempt:

1. To the extent such income is applied in India for such purposes, provided, the trust in question is created before the commencement of Income-tax Act, 1961 i.e. before 1.4.1962; and
2. Where any such income is finally set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of 15% of the income from such property.

(C) Income from Property held under Trust which is applied for Charitable Purposes Outside India [Section II(l)(c)]:

1. Income derived from property held under trust, created on or after 1.4.1952 for charitable purpose which tends to promote international welfare in which India is interested, shall be exempt to the extent to which such income is applied to such purpose outside India. Religious trusts are not covered here.

2. Income derived from property held under a trust for charitable or religious purposes, created before 1.4.1952, shall be exempt to the extent to which such income is applied to such purposes outside India. In the above two cases, it is necessary that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income.

(D) Voluntary Contributions forming part of Corpus [Section 11(I)(d)]

Income in the form of voluntary contributions made with a specific direction, that they shall form part of the corpus of the trust or institution, shall be fully exempt. The condition that at least 85% of the income should be applied during the previous year in which it is earned is not applicable in this case.

It is not sufficient that the property is indirectly responsible for the income; it is necessary that the income must directly and substantially arise from the property held under trust. The property must be the effective source from which the income arises.

Summarised Table of Exempt income in case of Charitable or Religious Trust

Sl.No.	Nature of income	To what extent exemption allowed	Conditions applicable	Relevant provisions	Remarks if any
(a)	Income derived from property held under trust wholly for charitable or religious purposes	To the extent such income is applied in India for such purposes	Accumulation allowed upto 15% of such income Accumulation in excess of 15% allowed subject to certain conditions being satisfied	Section 11(1)(a) Section 11(2)	Accumulation treated as applied for such purposes
(b)	Income derived from property held under trust which is applied <i>in part</i> only for charitable or religious purposes	To the extent such income is applied in India for such purposes -	Accumulation allowed upto 15% of such income Accumulation in excess of 15% allowed subject to certain conditions being satisfied Trust should have been created before 1.4.1962	Section 11(1)(b)	Accumulation treated as applied for such purposes
(c)	Income derived from property held under trust Created on or after 1.4.1952 for	To the extent such income is applied to such purposes outside India	The purpose of the trust is to promote international welfare in which India is interested. Further General or	Section 11(1)(c)(i)	Accumulation not exempt

	charitable purposes to be used for charitable purposes outside India (Religious trust not covered) Created before 1.4.1952 for charitable or religious purpose to be used for such purposes outside India		special order of Board for exemption is necessary No accumulation allowed No condition applicable but General or special order of Board for exemption is necessary	Section 11(1)(c)(ii)	Accumulation not exempt
(d)	Voluntary contribution forming part of corpus	100% exempt with no condition of application or accumulation	There should be specific direction that such contribution to from part of corpus of the trust or institution	Section 11(1)(d)	

Any voluntary contribution received by a trust institution created wholly for charitable or religious purposes (not being contribution made with a specific direction that they shall form part of corpus) shall for the purpose of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes [Section 12].

4.3.6 Accumulation of income

Q13. Write about accumulation of Income.

Ans :

It is not necessary that the entire income derived in a particular year should be utilised for charitable or religious purposes in the same year. Even if 85% of the income is so applied during the relevant accounting year and not more than 15% is accumulated for such utilisation in future, the exemption from tax will still be available.

If more than 15% of the income is accumulated for such use in future, the excess over 15% should be invested or deposited as under [u/s 11(5)] to get full exemption :

- (i) Investment in Savings Certificates and any other securities or certificates issued by the Central Government under the Small Savings Scheme.

Notes : (a) Investments in 'Kisan Vikas Patra' are eligible under this clause.

- (ii) Deposit in any account with the Post Office Savings Bank.

Note : W.e.f. 13.5.2005 a charitable institution cannot deposit in Post Office Savings' Bank Account or invest in National Savings Certificates VIII Issue.

- (iii) Deposit in any account with a Scheduled Bank or a Co-operative Society engaged in carrying on the business of banking.
- (iv) Investment in units of the Unit Trust of India.

- (v) Investment in any security issued by the Central Government or any State Government.
- (vi) Investment in debentures issued by any company or corporation both the principal and interest where as fully guaranteed by the Central or State Governments.
- (vii) Investment or deposits in any Public Sector Company.
- (viii) Deposit with or investment in any bonds issued by a Financial Corporation which is engaged in providing long-term finance for industrial development in India, which is eligible for deduction u/s 36(1) (viii).
- (ix) Deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, which is eligible for deduction u/s 36(1) (viii).
- (x) Deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.
- (xi) Investment in immovable property.
- (xii) Deposits with the Industrial Development Bank of India.
- (xiii) Any other form or mode of investment or deposit as may be prescribed.
- (xiv) Investment in Sovereign Gold Bond Scheme has been notified (vide notification dated 23.3.2016).

Thus, all charitable trusts and institutions will have to invest their funds in the aforesaid manner otherwise they will forfeit their right of exemption from income tax.

Note : It is important to note that to claim exemption it is enough to invest or deposit as provided in Sec. 11(5) only that part of the unspent balance which was over and above 15% of the total income derived from the property held under trust.

In addition to the investment or deposit as aforesaid, the trustee or trustees or manager of the trust has to furnish a statement in the prescribed form 10 [on or before the due date prescribed u/s 139(1) for furnishing the return of income] to the Assessing Officer stating the purpose for which the income is being accumulated and also the period for which it is accumulated. The period of accumulation shall not, in any case, exceed 5 years.

Note: If the trust etc. acquired an asset and has claimed the cost of it as an application of income, depreciation shall not be allowed on it. [Sec. 11 (6)]

Exception regarding utilization of accumulations [Sec. 11 (3A)]

If due to circumstances beyond the control of the person who is in receipt of the income, any income of the trust which was accumulated and invested or deposited as required, could not be applied for the purposes for which the accumulation was made, the Assessing Officer is empowered, on the basis of an application made to him specifically for this purpose, to allow the charitable trust or institution to apply its accumulated income for such other charitable or religious purposes in India as are specified in the application made by the trust and are within the scope of the objects of the trust. Thus, the trust is now entitled to retain its exemption from tax while at the same time enabling it to apply its income to charitable purposes other than those for which the accumulation was made.

However, the A.O. shall not allow application of accumulated income by way of payment or credit made to a person mentioned in point (3) under section 11(3) on an application of assessee u/s 11(3A).

Where the trust or institution, which has invested or deposited its income as provided in Sec. 11(5), is dissolved, the A.O. may allow application of income-, as mentioned in point (3) u/s 11(3) in the year in which such trust etc. is dissolved.

4.3.7 Income not exempted

Q14. Explain about unexempted incomes of trust U/S 11 to 12.

Ans : **(Imp.)**

The following incomes of charitable or religious trusts/institutions shall not be eligible for exemption under sections 11 and 12.

1. Any part of the income from the property held under a trust for private religious purposes which does not ensure for the benefit of the public [Section 13(l)(a)].

Section 13(1)(a) shall not be applicable if the element of public benefit has been satisfied. It does not matter where the control lies, if the benefit accrues to public at large but the control is with specific group of persons, then section 13(l)(a) will not be attracted.

2. Any income of trust/institution created/established for charitable purposes on or after 1.4.1962, if such trust or institution is created or established for the benefit of any particular religious community or caste [Section 13(l)(b)]. The exemption is however, available to a charitable trust or institution created or established before 1.4.1962 even if it is for the benefit of any particular religious community or caste.

A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (b) of sub-section (1).

Where assessee-trust had established institution for benefit of all sections of society and religious activities carried out by it were minuscule in comparison to its main activity, Commissioner could not cancel registration of trust on ground of violation of provisions of section 13(l)(b).

3. Any income of charitable or religious trust or institution created or established after 1.4.1962, if under the terms of the trust or rules governing the institution, any part of the income ensures directly or indirectly for the benefit of any person referred to in sub-section 13(3) [Section 13(l)(c)].
4. Any income of a trust for charitable or religious purposes or a charitable or religious institution (whenever created or established) if any part of such income or any property of the trust or the institution during the previous year is used or applied directly or indirectly for the

benefit of any person referred to in section 13(3) [Section 13(l)(c)]. However, exemption is not denied where the trust, etc. is created before 1.4.1962 and such use or application of income is in compliance with a mandatory term of the trust or a mandatory rule governing the institution.

The above restriction is obviously intended to ensure that, despite the ostensibly charitable objects of such trust or institution, its income is not diverted away to benefit persons who are closely connected with the creation, establishment and conduct of the trust or institution.

Charitable Trusts not to lose exemption if educational or medical facilities provided to specified persons [Section 13(6)]: A trust running an educational institution or a medical institution or a hospital shall not lose the benefit of exemption of any income under section 11 other than the value of benefits of educational or medical facilities provided to the specified persons referred to in section 13(3), solely on the ground that such benefits have been provided to such persons.

5. Any income of a trust/institution, if its funds are invested/deposited otherwise than as specified under section 11(5). [Section 13(l)(d)]. However, the provisions of section 13(1)(d) shall not apply to the under mentioned:
 - (i) any asset forming part of the corpus of the trust as on 1.6.1973;
 - (ii) any accretion to the corpus shares by way of bonus shares allotted to the trust;
 - (iii) debentures issued by or on behalf of any company or corporation and acquired by the trust before March 1, 1983;
 - (iv) any asset not covered under section 11(5) where such asset is held for not more than 1 year from the end of the previous year in which such asset is acquired;
 - (v) any fund representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year 1984-85 or any subsequent assessment year. But such

relaxation of the restriction will be denied unless the trust keeps separate accounts for the business. As already noted, subject to certain exceptions, such business profits no longer enjoy exemption under section 11.

4.3.8 Assessment of Trust

Q15. How to compute the tax for trust ? Explain.

(OR)

Explain the assessment procedure of trusts.

Ans :

(Imp.)

Computation of Tax

Where the trust holds property wholly for charitable or religious purposes but the income of which is neither disbursed nor deemed to be disbursed for such purposes is to be charged to tax. The tax shall be computed as if the non-spent portion of the income of the trust were the income of an association of persons. In this case the rates of tax will be the usual slab rates depending on the quantum of the total income.

Where the trust holds property wholly for charitable or religious purposes but utilises part of income for any person or persons mentioned in Sec. 13(3) or deposits or invest its funds otherwise than as provided in Sec. 11(5) tax on such portion of income shall be charged @ 30%. [$<$ Sec.164(2)]

Where property is held under trust in part only for charitable or religious purposes and if any part of the income applicable to non-charitable or non-religious purposes is not specifically receivable on behalf of any one person or the individual shares of the beneficiaries in such income are indeterminate or unknown, the tax payable shall be the higher of the two following sums :

1. The tax on the entire non-exempt incomes, as if it were the total income of an association of persons.
2. The aggregate of :
 - (a) the tax on the income applicable to charitable or religious purposes as is not exempt as if it were total income of an association of persons; and
 - (b) the tax on that part of the income applicable for purposes other than

religious or charitable purposes, in respect of which the shares of the beneficiaries are indeterminate or unknown will be @ 30%.

Tax on Anonymous Donations (Sec. 115BBC)

Where the total income of an assessee, being a person in receipt of income on behalf of :

- (a) Any university or other educational institution [referred to in Sec. 10(23C) (iiiad) or (vi)]; or
- (b) Any hospital or other institution [referred to in Sec. 10(23C) (iii ae) or (vi a)]; or
- (c) Any fund or institution [referred to in Sec. 10(23C)(iv)]; or
- (d) Any trust or institution [referred to in Sec. 10(23C)(v >)]; or
- (e) Any trust or institution [referred to in Sec. 11]. includes any income by way of any anonymous donation, the income tax payable shall be the aggregate of:
 - (i) Tax @ 30% on the aggregate of anonymous donations received in excess of the higher of the following namely :
 - (A) 5% of the total donations received by the assessee, or
 - (B) ` one lakh; and
 - (ii) The tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of anonymous donations received in excess of the amount referred to in (A) or (B), as the case may be.

Exceptions

The aforesaid provision shall not apply to any anonymous donation received by :

- (a) Any trust or institution created or established wholly for religious purposes;
- (b) Any trust or institution created or established wholly for religious and charitable purposes.

"Anonymous donation" means any voluntary contribution, where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the donee and other prescribed particulars.

Short Question & Answers

1. Define Cooperative Society.

Ans :

Meaning

"Co-operative society" means a society registered under the co-operative Societies Act, 1912 or under any other law for the time being in force in any State for the registration of co-operative societies.

Types

- (i) **Urban Consumer's Co-operative Society.** Under Section 80P(2) (explanation), such a society has been defined as "a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town, area or cantonment".
- (ii) **"Co-operative bank" and "primary agricultural credit society"** shall have the same meaning as assigned to them in Banking Regulation Act, 1949.
- (iii) **"Primary Co-operative agricultural and rural development bank"** means a society having its area of operation confined to a taluk and the primary object of which is to provide for long term credit for agricultural and rural development activities.
- (iv) **'Consumer's Co-operative Society'** means a society for the benefit of consumers.

2. Features of Cooperative Organizations.

Ans :

Fundamental features of a co-operative organization are as follows:

- (i) **Registration:** A co-operative society must be registered under the Co-operative Societies Act, 1912 or under a State Co-operative Societies Act. On registration, the society becomes a body corporate, having a separate legal entity of its own, with perpetual succession and limited liability of its members.

- (ii) **Voluntary Association:** A co-operative organisation is a voluntary association of persons. Everyone having a common interest is free to join a co-operative society; irrespective of caste, creed, religion or political affiliation. No person can be forced to become the member of a co-operative society or continue as a member.

A member after giving proper notice can leave the society; and will get back his capital according to the rules of the co-operative. But no member can transfer his shares to another person.

- (iii) **Minimum Ten Persons Needed:** A minimum of ten adult persons are needed to form a co-operative organisation. Maximum number of members is 100, in a co-operative credit society; with no such limit in non-credit co-operative societies.

3. Disadvantages of Co-operative Society?

Ans :

1. Limited Capital

Cooperatives are usually at a disadvantage in raising capital because of the low rate of return on capital invested by the members.

2. Inefficient Management

The management of a co-operative society is generally inefficient because the managing committee consists of part-time and inexperienced people. Qualified managers are not attracted towards a cooperative on account of its limited capacity to pay adequate remuneration.

3. Absence of Motivation

A cooperative society is formed for mutual benefit and the interest of individual members is not fully satisfied. There is no direct link between effort and reward. Hence, members are not inclined to put their best efforts in a co-operative society.

4. Differences and Factionalism among Members

Once the initial enthusiasm about the co-operative ideal is exhausted, differences and group conflicts arise among members. Then, it becomes difficult to get full co-operation from the members. The selfish motives of members begin to dominate and service motive is sometimes forgotten.

5. Rigid Rules and Regulations

Excessive Government regulation and control over co-operatives affect their functioning. For example, a co-operative society is required to get its accounts audited by the auditors of the co-operative department and to submit its accounts regularly to the Registrar. These regulations and control may adversely affect the flexibility of operations and the efficiency of management in a co-operative society.

4. Explain about other deductions U/S80 P?

Ans :

Section 80P of the Act provides certain deduction which are to be allowed out of Gross Total Income of the society. Under the provisions of this section certain incomes which form part of Gross Total Income are to be deducted because Income tax is not payable by the Co-operative Society in respect of these incomes.

Society 80P(1) provides that out of Gross Total Income of a co-operative society the incomes described in sub-clause (2) of this section shall be deducted.

Section 80P(2) provides that following incomes shall be deducted out of Gross Total Income:

Income of a co-operative society engaged in following activities, shall be deducted.

- (i) Carrying on the business of banking or providing credit facilities to its members; or
- (ii) A cottage industry; or
- (iii) The marketing of the agricultural produce of its members or

- (iv) The purchase of agricultural implements, seeds, livestock, or other articles intended for agriculture for the purpose of supplying them to its members; or
- (v) The processing (without the aid of power) of the agricultural produce of its members; or
- (vi) The collective disposal of the labour to its members,

5. Define Trusts.

Ans :

A trust is an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another and the owner [Sec. 3 of the Indian Trust Act, 1882], The person who reposes or declares the confidence is called author of the trust.

The person who accepts the confidence is called the trustee.

The person for whose benefit the confidence is accepted is called the beneficiary. The subject-matter of the trust is called trust property or trust money. The instrument, if any, by which the trust is declared is called the instrument of trust.

6. Explain the creation of trusts.

Ans :

As a general rule, any person, who has power of disposition over a property, has capacity to create a trust over such property.

As regards, 'power of disposition over property', according to section 7 of the Transfer of Property Act, 1882, a person who is competent to contract and entitled to transferable property or authorised to dispose of transferable property not his own, is competent to transfer such property either wholly or in part and either absolutely or conditionally.

Thus, two basic things are required for being capable of forming a trust:

- (i) Power of disposition over property; and
- (ii) Competence to contract.

It may be recalled that the Indian Trust Act does not apply to public trusts which can be created by any person under general law. Under the Hindu law, any Hindu can create a Hindu endowment and under the Muslim law, any Muslim can create a public WAKF. But public trusts, whether endowment or wakfs, which are essentially of charitable or religious nature, can be constituted by any person without any distinction of caste or creed.

7. Types of Trusts

Ans :

The following are the different types of trusts are :

I. Absolute and Discretionary Trust

A trust to apply the income of property for the benefit of a person or object in a special manner or in such a manner as the trustees think fit, is an absolute trust for that person or object. A trust to apply the whole or part of the income for a special purpose for the benefit of a person, however, a trust for him of only so much as is necessary for that purpose.

If the trustees in such a case are given a discretion as to the amount to be applied they are at liberty to exercise that discretion by limiting the amount, the trust is discretionary.

(i) **Public Trust:** A public trust may be of charitable or religious nature and tends to promote the benefit of the public. Thus, public are always the beneficiary under a public trust.

(ii) **Private Trust:** A private trust tends to promote the welfare of specified persons and hence the beneficiaries are always specified individuals. Sometimes, the shares of the beneficiaries are defined by the author of the trust or may even be indeterminate or unknown. Trust where the trustee is vested with the power to determine the mode of distribution of the trust income among the beneficiaries is also called a discretionary trust.

2. Public-cum Private Trusts

Religious trusts often present a pattern of public-cum-private trust. So far as the property of the trust is concerned, it may be of the nature of a public trust. But there may be income from public offerings, etc. Wherefrom a part may be applied towards public purposes and a part may go to a private person or persons in charge of the place. Such trust in respect of the portion of income going to such private person or persons, is assessable as private trust.

3. Oral Trust

A trust which is not declared by a duly executed instrument in writing is known as oral trust.

Where the trustee receives or entitle to receive any income on behalf or for the benefit of any person under an oral trust, tax shall be charged on such income at the maximum marginal rate (Sec.164 A).

4. Trust for the benefit of spouse or son's wife

If an individual transfers, to any person or association of persons assets directly or indirectly income from which is for the immediate or deferred benefit of spouse or son's wife, such income shall be included in the income of the individual [Sec. 64(1) (vii) and (viii)]

5. Electoral Trust

Any voluntary contributions received by an electoral trust shall not be included in total income of the previous year of the trust, if:

- (i) It distributes to any registered political party during the previous year, 95% of the aggregate donations received by it during the previous year along with the surplus, if any brought forward from any earlier previous year; and
- (ii) It functions in accordance with the rules made by the Central Government. (Sec. 13B)

8. Explain about the exempted incomes of trust.*Ans :*

Exempted Incomes of Charitable or Religious Trust (Section 11)

- A) Income from Property held under Trust wholly for Charitable or Religious Purposes [Section 11(l)(a)]:
- B) Income from Property held under Trust which is applied in Part only for Charitable or Religious Purposes [Section 11(l)(b)]:
- C) Income from Property held under Trust which is applied for Charitable Purposes Outside India [Section 11(l)(c)]:
- D) Voluntary Contributions forming part of Corpus [Section 11(l)(d)]:
 - Summarised Table of Exempt income in case of Charitable or Religious Trust
 - How to find out Exemption of Income in case of Charitable or Religious Trust under Section 11.
 - How to find out Exemption of Income in case of Charitable or Religious Trust under Section 11

Subject to the provisions of sections 60 to 63, the following incomes of a religious or charitable trust or institution are not included in its total income.

9. Accumulation of Income*Ans :*

It is not necessary that the entire income derived in a particular year should be utilised for charitable or religious purposes in the same year. Even if 85% of the income is so applied during the relevant accounting year and not more than 15% is accumulated for such utilisation in future, the exemption from tax will still be available.

If more than 15% of the income is accumulated for such use in future, the excess over 15% should be invested or deposited as under [u/s 11(5)] to get full exemption :

- (i) Investment in Savings Certificates and any other securities or certificates issued by the Central Government under the Small Savings Scheme.

Notes : (a) Investments in 'Kisan Vikas Patra' are eligible under this clause.

- (ii) Deposit in any account with the Post Office Savings Bank.

Note : W.e.f. 13.5.2005 a charitable institution cannot deposit in Post Office Savings' Bank Account or invest in National Savings Certificates VIII Issue.

- (iii) Deposit in any account with a Scheduled Bank or a Co-operative Society engaged in carrying on the business of banking.

- (iv) Investment in units of the Unit Trust of India.

10. What is AMT?*Ans :*

The Finance Act, 2011, introduced the concept of 'alternate minimum tax' on limited liability partnership. However, the Finance Act, 2012 has extended the system of 'alternate minimum tax' on all persons other than a company subject to certain conditions. Thus, w.e.f. 2013-14, alternate minimum tax' is also applicable on a cooperative society.

Cooperative Society covered under AMT [Section 115JEE(1)]

The provisions of 'alternate minimum tax' shall apply to a cooperative society :

- (1) Who has claimed any deduction under :
 - (i) Any section (other than section 80P) included in Chapter VI-A under the heading "C-Deductions in respect of certain incomes." [i.e., Section 80IA to Section 80JJAA], or
 - (ii) Section 10AA (SEZ)
 - (iii) Section 35AD
- (2) Whose adjusted total income exceeds ₹ 20,00,000.

Choose the Correct Answer

1. Objective of cooperative societies are providing benefits to [a]
(a) public (b) private persons
(c) Government (d) None
2. Consumer co-operative society is providing benefit to [a]
(a) consumers (b) customers
(c) public (d) None
3. AMT defined U/S [b]
(a) 115-JA (b) 115 JE
(c) 115 JB (d) None
4. AMT is applicable to cooperative societies whose income is not exceeding of ____ [c]
(a) Rs. 30,00,000 (b) Rs. 25,00,000
(c) Rs. 20,00,000 (d) None
5. AMT introduced in the act of ____ [c]
(a) Income Tax Act 1961 (b) Co-operative
(c) Finance Act 2011 (d) None
6. Trusts incorporated under the act of [b]
(a) Income Tax (b) Indian Trust Act
(c) Banking Act (d) None
7. Promote the wordfare of specified persons [b]
(a) Public Trust (b) Private Trust
(c) Both a & b (d) None
8. Total Income of Trust is necessary to make [a]
(a) Audit A/c's (b) Un Audit A/c's
(c) Both (a) & (b) (d) None
9. Accumulated Income is created when ____ % Income is not spent. [b]
(a) 12% (b) 15%
(c) 20% (d) None
10. Anonymous donations is defined U/S ____ [a]
(a) 115 BBC (b) 115 BBA
(c) 115 BBD (d) None

Fill in the blanks

1. Co-operative societies defined U/S _____
2. PACS stands for _____
3. Surcharge is levied on Income exceeds of _____
4. Rate of surcharge applicable to co-operative societies is _____
5. AMT stands for _____
6. Trust is defined U/S _____
7. Object of the Public Trust is _____
8. Anonymous donations define U/S _____
9. Rate of Tax Applicable on Anonymous donations is _____
10. _____ have made a significant contribution in the upliftment of weaker section of society.

ANSWERS

1. 2 (19)
2. Primary Agricultural Credit Society
3. Rs. 1 crore
4. 12%
5. Alternative Minimum Tax
6. 3 of Indian Trust Act
7. Promote benefits of the public
8. 115-BC
9. 30% on Aggregate of donations
10. Co-operative societies

UNIT V

FUNDAMENTALS OF GST & CUSTOMS ACT:

GST Introduction - Registration – Inter & Intra State Acts under GST - Distinction between goods and services - Levy and collection of GST - Exemptions from GST - Place, Time and value of supply input tax credit - Payment of GST. (Theory only).

Customs Act: Meaning- Classification – Types of Customs duty – Exemptions.

5.1 GOODS AND SERVICE TAX (GST)

5.1.1 Introduction

Q1. What is the genesis of GST ?

Ans :

- It has now been more than a decade since the idea of national Goods and Services Tax (GST) was mooted by Kelkar Task Force in 2004. The Task Force strongly recommended fully integrated 'GST' on national basis.
- Subsequently, the then Union Finance Minister, Shri P. Chidambaram, while presenting the Central Budget (2007-2008), announced that GST would be introduced from April 1, 2010. Since then, GST missed several deadlines and continued to be shrouded by the clouds of uncertainty.
- The talks of ushering in GST, however, gained momentum in the year 2014 when the NDA Government tabled the Constitution (122nd Amendment) Bill, 2014 on GST in the Parliament on 19th December, 2014. The Lok Sabha passed the Bill on 6th May, 2015 and Rajya Sabha on 3rd August, 2016. Subsequent to ratification of the Bill by more than 50% of the States, Constitution (122nd Amendment) Bill, 2014 received the assent of the President on 8th September, 2016 and became Constitution (101st Amendment) Act, 2016, which paved the way for introduction of GST in India.
- In the following year, on 27th March, 2017, the Central GST legislations - Central Goods and Services Tax Bill, 2017, Integrated Goods and Services Tax Bill, 2017, Union Territory

Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in Lok Sabha. Lok Sabha passed these bills on 29th March, 2017 and with the receipt of the President's assent on 12th April, 2017, the Bills were enacted. The enactment of the Central Acts was followed by the enactment of the State GST laws by various State Legislatures. Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar were among the first ones to pass their respective State GST laws.

- GST is a path breaking indirect tax reform which will create a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc
- France was the first country to implement GST in the year 1954. Within 62 years of its advent, about 160 countries across the world have adopted GST because this tax has the capacity to raise revenue in the most transparent and neutral manner.

Q2. What is GST?

Ans :

GST is one indirect tax for the whole nation, which will make India one unified common market. The GST intends to subsume most indirect taxes under a single taxation regime. GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Credits of input taxes paid at each stage will be available in the subsequent stages of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the

GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages. This is expected to help broaden the tax base, increase tax compliance, and reduce economic distortions caused by inter- state variations in taxes.

Q3. What are the concepts of GST ?

Ans :

- GST is a value added tax levied on manufacture, sale and consumption of goods and services.
- GST offers comprehensive and continuous chain of tax credits from the producer's point/ service provider's point upto the retailer's level/consumer's level thereby taxing only the value added at each stage of supply chain
- The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.
- Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

Shortcomings of Pre GST Structure

1. Tax Cascading

Current system of multiple levies distributed between Centre & States results into cascading (i.e. tax on tax) effect. *For instance*, no credit of State VAT is allowed against Central Tax. CST credit paid in the originating State is also not allowed in the receiving State. This results in the increase in the overall burden of tax in the hands of end customer and creates distortion in the market.

2. Narrow base

Due to different thresholds under different laws as well as numerous exemptions and

concessions, the current tax base under indirect tax is narrow as compared to other countries.

3. Complexity in determining the nature of transaction-Goods vs. Service

The distinction between goods and services found in the Indian Constitution has become more complex. Today, good and service are being packaged as composite bundles and offered for sale to customers under a variety of supply-chain arrangements. Under the current division of taxation powers in the Constitution, neither the Centre nor the States can apply the tax to such bundles in a seamless manner. Each Government can tax only parts of the bundle, creating overlaps in taxation.

4. Multiple Points of Taxation

Under the current system there are multiple points of taxation. Excise is levied when goods manufactured are cleared from the factor's premises irrespective of the fact that the clearance is on account of sale or otherwise. State VAT is levied on sale of goods. Entry tax is levied on entry of goods in a particular State.

5. Lack of Uniformity in Provisions and Rates

Present VAT structure across the States lacks uniformity which is not restricted only to the rates of tax but also the credit provisions as well as procedures.

6. Multiple Administrations

Under the current system, businessmen are required to visit different tax offices according to the applicable laws to his business. These increases the compliance cost of businesses and breeds unnecessary complexity'.

7. Lack of transparency - Under excise & sendee tax law, currently there is no mechanism to cross verify the claim of CENVAT credit made by the manufacturer/ sendee provider. Even under State VAT laws, all the States in India do not have the mechanism to cross verify the credits.

5.1.2 Registration**Q4. Explain the procedure for registration for GST.***Ans. :***(Imp.)**

1. Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed.
2. Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business. Explanation: Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

A person seeking registration under this Act shall be granted a single registration in a State or Union territory: Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.

3. A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.
4. A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
5. Where a person who has obtained, or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.
6. Every person shall have a Permanent Account Number issued under the Income Tax Act, 1961 in order to be eligible for grant of registration: Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.
7. Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.

Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.

8. Notwithstanding anything contained in sub-section (1), --
 - (a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and

- (b) any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.
9. The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.
10. A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.
11. A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.

Q5. Explain about the persons liable and not liable for registration for GST ?

Ans :

Persons Liable for GST Registration – Section 22 of the CGST Act: from tax or are not liable to pay tax under CGST or under IGST Act.

- (a) **An Agriculturist** : For those supply only which is produced out of cultivation of land.
- (b) **State or UTs** : Every supplier of the goods or services or both needs to register in a State or a Union Territory, if his turnover exceeds Rs.20 lakhs now it is exceeded to 40 lakhs.
- (c) **Special Category States** : In case of special category states namely AP, J&K, Assam, Nagaland, Mizoram, Sikkim, Uttarakhand, etc., the person shall be liable to be registered if his turnover exceeds Rs.10 lakhs.
- (d) **Aggregate Turnover** : Means aggregate value of all taxable supplies, exempt supplies, Exports, and inter-State supplies of persons having the same PAN but excludes taxes.
- (e) **Registration** : Any person who is registered before the appointed day i.e. 1st July 2017 is liable to be registered under the CGST Act.
- (f) **Registration of Transferee or Successor** : If a registered business by a taxable person is transferred to another person, then such a person, be it successor or a transferee, shall be liable to be registered under the Act.
- (g) **Registration in case of amalgamation or demerger** : A transfer due to sanction of a scheme or an arrangement for amalgamation or a demerger takes place of two or more companies in accordance with the order of the High Court or Tribunal, the transferee shall be liable to be registered.

Persons Not Liable to be Registered – Section 23 of the CGST Act:

Following persons are not liable for registration :

- (a) **Exempted Goods or Services** : Any person who is engaged exclusively in supply of those goods or services which are wholly exempted .
- (b) **Notified Person** : Furthermore, the government on the recommendation of the GST council may issue notification & specify special category of persons who are not liable for registration.

Q6. List out the documents required for GST registration ?

Ans :

Documents Required for GST Registration

1	PAN OF THE GST REGISTRATION APPLICANT
2	PROOF OF BUSINESS REGISTRATION OR INCORPORATION CERTIFICATE
3	IDENTITY & ADDRESS PROOF OR PROMOTERS WITH PHOTOGRAPHS
4	ADDRESS PROOF FOR THE PLACE OF BUSINESS
5	BANK ACCOUNT STATEMENT SHOWING NAME, ADDRESS & A FEW TRANSACTIONS
6	CLASS 2 DIGITAL SIGNATURE FOR THE AUTHORISED SIGNATORY

1 (a) Details to be furnished : Before applying for registration process, person has to declare the following :

- PAN
- Mobile number
- E-mail address
- State or UT

In Part A of FORM GST REG-01 on the Common Portal, either directly or through a Facilitation Centre notified by Commissioner.

(b) Reference Number : On successful verification of the PAN, mobile number and e-mail, a temporary reference number shall be generated and communicated to the applicant.

(c) Application : Using the reference number, the applicant shall electronically submit an application in **Part B of FORM GST REG-01**, duly signed or verified through electronic verification code (EVC), along with documents specified in the form.

(d) Specified Documents : The following specified documents are required to be submitted along with the application:

B. Documents required for Private Limited Company, Public Company (limited company)/ One Person Company (OPC):

(i) Company documents

- PAN card of the company
- Registration Certificate of the company
- Memorandum of Association (MOA)/ Articles of Association (AOA)
- Copy of Bank Statement

- Declaration to comply with the provisions
- Copy of Board resolution

(ii) Director related documents

- PAN and ID proof of directors

(iii) Registered Office documents

- Copy of electricity bill/ landline bill, water bill
- No objection certificate of the owner
- Rent agreement (in case premises are rented)

C. Acknowledgment : On the receipt of an application, an acknowledgment shall be issued to the applicant in FORM GST REG

GST registration process will be online through a portal maintained by GSTN (Goods and Services Tax Network). The government will also appoint GSPs (GST Suvidha Providers) to help businesses with the GST registration process.

5.2 INTER STATE SUPPLY OF GOODS UNDER GST

Q7. What do you mean by Inter State Outward Supply ? How do you enter it in Tally ERP 9 ?

Ans :

Generally, all the Sales made by the Company are recorded using Sales Voucher. In certain cases, the user would like to record the Income ledgers also in the Sales Voucher, For example: for recording service incomes like, consultation fee, professional fees etc. the same is possible by enabling the option Allow Income Accounts in Sales Vouchers in F12 configuration [...]

GST is an **indirect tax** levied on **goods and services**. earlier we had to charge VAT on goods and service tax on services. Now after GST implementation a single tax has come into existence which charges on every addition of value during the process of sale. That is from manufacturer to the end retailer charges GST on the value or profit or margin he adds. The below table will explain how GST work on value addition.

Manufacturer
Product sold for Rs 1000+ 18 % GST = 1180
Distributor
Product sold for Rs 1100+ 18 % GST = 1298
Whole Seller
Product sold for Rs 1200+ 18 % GST = 1416
Retailer
Product sold for Rs 1300+ 18 % GST = 1534

In every stage of the supply chain, you see the seller adds his margin on the base value. for example

Distributor Added Rs 100 on base value and sold for 1298 Including 18% GST. Here effectively; The Distributor need to pay GST on Rs 100. That is Rs 18. How ?

When Distributor buying goods from manufacturer he paid Rs 180 as tax. The distributor can deduct this amount when he is paying tax.

Distributor collected GST	=	198
Less GST on purchase from manufacturer	=	180
Net Tax to be paid to department	=	18

Effectively the Distributor added Rs 100 as margin, this the value addition and he paid tax on 18% of 100 = 18

Once you activate GST in your company, you can record the sale of goods and services that attract GST using a sales voucher.

It is the sale of goods and services within the state by a registered user. The sale of goods or services to customers in the same state attract **central tax** and **state tax**. Let's consider the below example of local sale.

Transactions for Interstate Sales voucher entry in Tally under GST

Sale of goods or services to a customer in another state attract **integrated tax**.

To record an interstate sale.

- Follow the steps used for recording a local sales transaction. The only difference is that you have to select the integrated tax ledger instead of central tax and state tax.

Name of Item	Quantity	Rate per	Amount
Haier 1 Ton Split Air Conditioner	17 Nos	21,999.00	3,73,983.00
HP Pavilion All-In-One Computer	80 Nos	29,990.00	23,99,200.00
			27,73,183.00
Integrated Tax			5,36,571.24
			33,09,754.24

Depending on the location of the party, you can record a **local or interstate sales transaction** with the applicable GST rates, and print the invoice.

Same steps are to be followed as we did in Intra State Outward Supply, only difference is Tax Ledger which we are selecting is Integrated Tax.

5.3 INTRA STATE SUPPLY OF GOODS UNDER GST

Q8. What is Intra State Supply of Goods ? How do you enter in Tally ERP 9 ?

Ans :

(Imp.)

Meaning

It refers to the transaction in which supplier and recipient (Receiver) are in the same state or Union Territory. Goods supplied between them is known as Intra State Supply of Goods.

Purchase voucher is the most important voucher of every business. If you are selling something, you must be purchasing something for sure. Let's create a **purchase entry in Tally ERP 9**. This is the basic class of purchase voucher entry for beginners and you will find purchase with GST in our GST category.

- Intra state purchase: it is the movement of goods and services within the same State** is called local Purchase. For local purchase **CGST & SGST** is applicable.
- Interstate Purchase :** It is the movement of goods and services between two states, Which means the buyer and seller exists in two different states of India. This type of purchase attracts IGST only.

Example For GST Local Purchase (Intra State Inward Supply)

V-Traders (Delhi) Purchases 100 Coir Mattress (HSN CODE – 94041000) Bharath Traders (Delhi) @ 150/ Mattress + 18 % GST on 01-08-2017.

Lets enter this local purchase in Tally ERP 9.

Activate GST in Tally ERP 9

To activate GST, Go to

Gateway Of Tally > F11 Features > F3: Statutory & Taxation

Activate the following options :

Enable Goods and Service Tax (GST) : **Yes**

Set/Alter GST Details : **Yes (Do not set rate at this level)**

Enter the details as shown below.

M: E-Mail	O: Upload	S: TallyShop	G: Language	K: Keyboard	K: Control Centre
V-TRADERS					
Company: V-TRADERS					
Statutory and Taxation					
GST Details					
State	: Delhi				
Registration type	: Regular				
GSTIN/UIN	: 07AAACF6600Q1Z5				
Applicable from	: 1-Jul-2017				
Set/alter GST rate details	? No				
Enable GST Classifications	? No				
Provide LUT/Bond details	? <input checked="" type="checkbox"/> No				

Know more About Activation Of GST in Tally.

You can setup GST rate at various level of Tally, at company level ,stock group level, stock item level, ledger group level, ledger level etc. we are setting GST at stock item level.

Go to Gateway of Tally > Inventory Info > Unit of Measure > Create

Unit Creation	
Type	: Simple
Symbol	: No
Formal name	: Number
Unit Quantity Code (UQC)	: NOS-NUMBERS
Number of decimal places	: 0

To do this go to

Enter the details as shown in the below image.

Stock Item Creation		V-TRADERS	
Name	: Coir Mattress		
(alias)	:		
Under	: Primary		
Units	: No		
		<u>Statutory Information</u> GST Applicable : Applicable Set/alter GST Details ? Yes Type of Supply : Goods Rate of Duty (eg 5) :	
Opening Balance	:	Quantity	Rate per Value

Set/alter GST Details : Yes, Press enter GST rate details as shown below.

GST Details		V-TRADERS
GST Details for Stock Item:		
Coir Mattress		
HSN/SAC Details		
Description	: Coir Mattress	
HSN/SAC	: 94041000	
Is non-GST goods	? No	
Tax Details		
Calculation type	: On Value	
Taxability	: Taxable	
Is reverse charge applicable	? No	
Is ineligible for input credit	? No	
Tax Type	Valuation Type	Rate
Integrated Tax	Based on Value	18 %
Central Tax	Based on Value	9 %
State Tax	Based on Value	9 %
Cess	Based on Value	0 %
Opening Balance :		

If all the options shown above are not visible to you Press **F12 :Configure** Button and enable the options you want.

When you add **tax type**, enter integrated tax as **18%** as per our example, the Central tax and state tax will shown automatically.

Press enter to save all the screens o create stock item

Know How to setup GST rates.

Create Purchase Ledger

To create a purchase ledger, you have to go to

Gateway of Tally>Accounts info > Ledger > Create

Let's name this Purchase ledger as **Purchase-GST**, Enter the details as shown below and save the screen to create purchase ledger.

P: Print		E: Export		M: E-Mail		O: Upload		S: TallyShop		G: Language		K: Keyboard		K: Control Centre	
Ledger Creation															
Name : Purchase GST														Total Opening Balance	
(alias) :															
Under : Purchase Accounts														Mailing Details	
Inventory values are affected ? Yes														Name :	
														Address :	
Statutory Information														Provide bank details : No	
Is GST Applicable ? <input checked="" type="checkbox"/> Applicable														Tax Registration Details	
Set/alter GST Details ? No														PAN/IT No. :	
Type of Supply : Goods															
Opening Balance (on 1-Apr-2017) : <input type="text"/>															
Q: Quit		A: Accept		D: Delete											
Tally MAIN --> Gateway of Tally --> Accounts Info. --> Ledgers --> Ledger Creation															

Create GST tax ledger CGST & SGST for Local purchase

Now we need tax ledgers for purchase entry. As mentioned earlier local purchase attracts Central tax (CGST) and State Tax (SGST) You have to create these tax ledgers, to do this go to,

Gateway of Tally> Accounts Info> Ledger> Create

Enter the CGST details as shown below

Name : **CGST**

Under: **Duties&taxes**

Type of duty/tax :**Central Tax**

P: Print		E: Export		M: E-Mail		O: Upload		S: TallyShop		G: Language		K: Keyboard		K: Control Cent	
Ledger Creation														V-TRADERS	
Name : CGST														Total Opening Balance	
(alias) :															
Under : Duties & Taxes (Current Liabilities)														Mailing Details	
Type of duty/tax : GST														Name :	
Tax type : Central Tax														Address :	
Inventory values are affected ? No														Provide bank details : No	
Percentage of calculation ? 0 %														PAN/IT No. :	
Rounding method : J Not Applicable														Tax Registration Details	
Statutory Information															
Opening Balance (on 1-Apr-2017) :															
Q: Quit		A: Accept		D: Delete											

In the same manner create SGST Ledger also

P: Print		E: Export		M: E-Mail		O: Upload		S: TallyShop		G: Language		K: Keyboard		K: Control Cent	
Ledger Creation														V-TRADERS	
Name : SGST														Total Opening Balance	
(alias) :															
Under : Duties & Taxes (Current Liabilities)														Mailing Details	
Type of duty/tax : GST														Name :	
Tax type : State Tax														Address :	
Inventory values are affected ? No														Provide bank details : No	
Percentage of calculation ? 0 %														PAN/IT No. :	
Rounding method : J Not Applicable														Tax Registration Details	
Statutory Information															
Opening Balance (on 1-Apr-2017) :															
Q: Quit		A: Accept		D: Delete											

Create Suppliers (Sundry Creditors) Ledger for Local Purchase (Intra State Inward Supply)

For local purchase the supplier should be in the same state of the buyer, Let's create the supplier ledger Bharath Traders.

Steps :

Go to Gateway of Tally>Accounts Info> Ledger > Create

Enter the details as shown below.

Name : **Bharath Traders**

Under : **Sundry Creditors**

State : **Delhi (This should be accurate for GST purchase entry)**

P: Print		E: Export		M: E-Mail		O: Upload		S: TallyShop		G: Language		K: Keyboard		K: Control Centre	
Ledger Creation															
Name : Bharath Traders (alias) :														Total Opening Balance	
Under : Sundry Creditors (Current Liabilities)															
Maintain balances bill-by-bill ? Yes Default credit period : Check for credit days during voucher entry ? No Inventory values are affected ? No															
Mailing Details Name : Bharath Traders Address : 35, Link Rd, Block A Lajpat Nagar III, New Delhi Country : India State : Delhi Pincode : 110024 (Select the applicable state to calculate GST during voucher entry.) Provide bank details : No															
Tax Registration Details PAN/IT No. : Set/alter GST details ? Yes															
Opening Balance (on 1-Apr.2017) :															
Q: Quit A: Accept D: Delete															

Set/Alter GST details : Yes, press enter key ,the GST Details screen will pop-up

Registration type : select the GST registration type of Supplier whether composition , consumer , Regular or unregistered. let's select it as a regular dealer.

Is a e-commerce operator : No

GSTIN/UIN : GSTIN of the supplier. see below image.

GST Details	
Registration type	: Regular
Is a e-Commerce operator	? No
GSTIN/UIN	: 07AAFCC9316H1Z5
Party Type	: Not Applicable

Press enter and save all screens.

Transaction for Local purchase under GST (Intra State Inward Supply)

As per GST rules a transaction is said to be Local purchase, only when the buyer and seller are in the same state, also the transaction attract state tax and central tax. Let's see how a local purchase transaction is entered.

1. Go to Gateway of Tally > Accounting Vouchers > F9: Purchase.
2. Enter the date by pressing F2 Date button.
3. Enter the supplier invoice number from the purchase bill
4. Select Party account name, here bharath traders
5. Select the purchase ledger we had created.
6. Enter name of item, here coir mattress
7. Enter Quantity & rate, the total amount automatically calculated, **Press enter key twice.**
8. Select the **Central tax** ledger and **State Tax** Ledger. The tax amount will be calculated automatically.

Accounting Voucher Creation

Purchase No. 1
Supplier invoice no.: 15454 Date: 1-Aug-2017
Party A/c name: Bharath Traders
Purchase ledger: Purchase GST

Name of Item	Quantity	Rate per	Amount
Coir Mattress	100 No	150.00 No	15,000.00
SGST			1,350.00
CGST			1,350.00
Total			17,700.00

Narration: 100 No 17,700.00

Buttons: Quit, Accept, Delete, Cancel

Tally MAIN --> Gateway of Tally --> Accounting Voucher Creation (c) Tally Solutions Pvt. Ltd., 1988-2017 Tue, 12 Dec, 2017 15:21:31

You can view the tax details by clicking A: Tax Analysis. Click F1: Detailed to view the tax break-up.

Tax Analysis			
Tax Analysis			
Particulars	Taxable Value	Tax rate	Duty/Tax Value
GST Details			
Purchase Taxable	15,000.00		2,700.00
Coir Mattress (94041000)	15,000.00		2,700.00
Item Value (Purchase Value 15,000.00)	15,000.00		
Central Tax		9%	1,350.00
State Tax		9%	1,350.00

5.4 DISTINCTION BETWEEN GOODS AND SERVICES

Q9. What are the differences between Goods and Services?

(OR)

Compare and contrast Goods and Services.

Ans :

(Imp.)

S.No.	Basis of Comparison	Goods	Services
(i)	Nature	Tangible	Intangible
(ii)	Transfer of Ownership	Possible	Not Possible
(iii)	Separable	Goods can be separated from the seller	Services cannot be separated from the service provider
(iv)	Storage	Goods can be stored	Services cannot be stored
(v)	Perishable	Not all goods are perishable	Services are perishable
(vi)	Production and Consumption	Goods have a significant time gap between production and consumption	Services are produced and consumed together

5.5 LEVY AND COLLECTION OF GST

Q10. Briefly describe the provisions of Levy and Collection Taxes under CGST and IGST Act 2017.

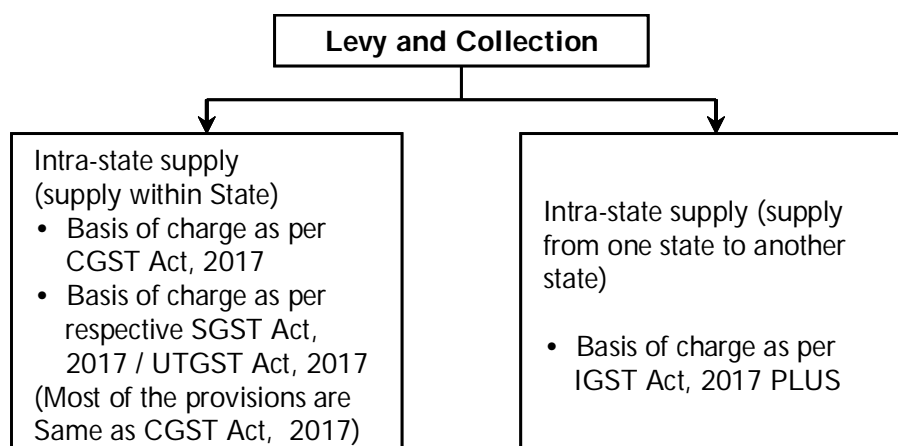
(OR)

How the GST is Levied and Collected?

Ans :

(Imp.)

Levy and collection



1. Levy and collection as per CGST Act, 2017

- (a) U/s 9(1) of CGST Act, 2017 there shall be levied a tax –
- Called the Central Goods and Services Tax (CGST);
 - On all the intra-state supplies of goods or services or both, except on supply of alcoholic liquor for human consumption;
 - On the value determined u/s 15; and
 - At such a rate (maximum 20%,) as notified by the Central Government on recommendation of GST Council; and
 - Collected in such a manner as may be prescribed; and
 - Shall be paid by the taxable person.
- (b) U/s 9(2) of CGST Act 2017, the CGST of following supply shall be levied with the effect from such date as notified by the Central Government on recommendation of GST Council-
- Petroleum crude
 - High speed diesel
 - Motor spirit (commonly known as petrol)
 - Natural gas
 - Aviation turbine fuel
- (c) U/s 9(3), CGST is to be paid on reverse charge basis by the recipient on notified goods/ services or both (liability to pay tax by the recipient of supply of goods / services rather than supplier of goods/ services under forward charge)
- (d) U/s 9(4), CGST on taxable supply of goods/ services to registered supplier from unregistered supplier is to be paid on reverse charge basis by the recipient.

- (e) U/s 9(5), E-Commerce operator is liable to pay CGST on notified intra-state supplies.

2. Levy and collection as per IGST Act, 2017

- (a) U/s 5(1) of IGST Act, 2017 there shall be levied a tax –
- Called the Integrated Goods and Services Tax (IGST);
 - On all the inter-state supplies of goods or services or both, except on supply of alcoholic liquor for human consumption;
 - On the value determined u/s 15 of CGST Act, 2017; and
 - At such a rate (maximum 40%,) as notified by the Central Government on recommendation of GST Council; and
 - Collected in such a manner as may be prescribed; and
 - Shall be paid by the taxable person.

Provided further that IGST will be imposed on goods/ services imported into India.

- (b) U/s 5(2) of IGST Act, 2017, the CGST of following supply shall be levied with the effect from such date as notified by the Central Government on recommendation of GST Council-
- Petroleum crude
 - High speed diesel
 - Motor spirit (commonly known as petrol)
 - Natural gas
 - Aviation turbine fuel
- (c) U/s 5(3), IGST is to be paid on reverse charge basis by the recipient on notified goods/ services or both (liability to pay tax by the recipient of supply of goods / services rather than supplier of goods/ services under forward charge).

- (d) U/s 5(4), IGST on taxable inter-state supply of goods/ services to registered supplier from unregistered supplier (agriculturist) is to be paid on reverse charge basis by the recipient.
- (e) U/s 5(5), E-Commerce operator is liable to pay CGST on notified inter-state supplies.

5.6 EXEMPTIONS FROM GST

Q11. What are the Exemptions from GST?

Ans :

(Imp.)

1. Goods Exempted from Tax

A list of items has been notified as exempted from whole tax. Every day items used by the common man have been included in the list of exempted items. Items like unbranded atta/ mayda/ besan, unpacked food grains, milk, egg, curd, lassi and fresh vegetable are among the items exempted from GST.

2. Services Exempted from Tax

A very detailed notification have been issued under GST law providing exemptions on supply of various services. Here we discuss few of them.

(i) Health Care Sector

- (a) Health care services by a clinical establishment / an authorised medical practitioner.
- (b) Services provided by way of transportation of patient in an ambulance.
- (c) Services by a veterinary clinic for the health of animals or birds.
- (d) Services provided by blood banks

(ii) Amusement/ Entertainment Sector

- (a) Services provided by an artists by way of a performance [not brand ambassador] in the folk or classical art form of music, dance or theatre and consideration charged doesn't exceeds Rs. 1,50,000 per event.

- (b) Services by way of admission to a museum, national park, zoo etc.
- (c) Service by way of right to admission to the following event
 - (i) circus, dance, drama or ballet.
 - (ii) award function, concert, musical performance
 - (iii) sporting event
- where consideration doesn't exceeds Rs. 250 per person.

(iii) Transportation of Passenger

- (a) Services of transportation of passenger by railways [other than first class or AC Coach]
- (b) Services of transportation of passenger through
 - (i) Metro
 - (ii) Monorail
 - (iii) tram
 - (iv) Inland waterways.
 - (v) Public transport
 - (vi) Metered Cab or auto rickshaws [other than Radio Taxi]
 - (vii) Stage carriage other than AC stage carriage.
 - (viii) Non-AC contract carriage

(iv) Transportation of Goods

- (a) Services of transportation of goods by way of road [except the services of Goods Transportation Agency (GTA) or courier Agency] or by way of Inland water ways.
- (b) Services by way of transportation of Goods by rail or a vessel from one place in India to another of following goods
 - (i) Defence of Military equipment

- (ii) Newspaper or magazine
- (iii) agricultural produce
- (iv) milk, salt and food grain including flours, pulses and rice.
- (c) Services provided by a GTA by way of transport in a goods carriage of
 - (i) agricultural produce
 - (ii) Goods where consideration charged in a single carriage not exceeding Rs. 1500
 - (iii) Goods, where consideration charged for transportation of all such goods not exceeding Rs. 750.

(v) Financial / Banking Sector

- (a) Interest charged as a consideration of deposit, loans, or advances [other than interest in credit card] except loan processing charge.

(vi) Sports Sector

- (a) Services provided to a recognised sports body [BCCI, CAB etc.] by
 - (i) Player, referee, coach, umpire team manager
 - (ii) Other recognised sports body

Note : Indian Premier League, Indian Super League are established on the line of Franchisee-system. These franchisees are not recognised sports body.

(vii) Food / Agricultural Sector

- (a) Services relating to cultivations of plants and rearing of all life form of animals (other than horses) by way of
 - (i) agricultural Operation
 - (ii) Supply of farms labour
 - (iii) Processes carried out at agricultural farm (tending, pruning, cutting, drying, clearing, trimming etc.)

- (iv) Relating of Agro-machinery
- (v) Loading, unloading, making, storing of agricultural produce.
- (vi) Agricultural extension services. (eg-farmers educations or training)
- (vii) Services by way of slaughtering of animals.

(viii) Public Convenience Service

- (a) Services by way of public conveniences such as provision of facilities of bathroom, washrooms, toilets etc.
- (b) Services of public libraries
- (c) Services by way of access to a road or bridge on payment of toll charges
- (d) Transmission or distribution of electricity

(ix) Education Sector

- (a) Services provided by an educational institution to its student, faculty and staff
- (b) Services provided by any one to an educational institution by way of
 - (i) Transportation of students, faculty and staff
 - (ii) Security, clearing, house keeping.
 - (iii) Admission, examination
- (c) Services by way of training or coaching in recreational activities relating to arts, or culture or sports by charitable entities.

(x) Services Provided by Specified Person

- (a) Legal services provided by advocates
- (b) Tour operator services to foreign tourist

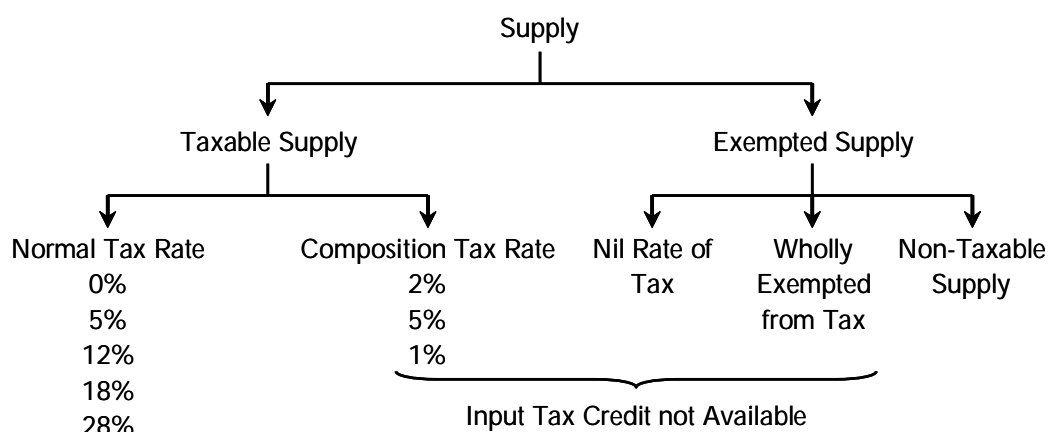
- (c) Services of journalist by way of collecting or providing news
- (d) Services by a person by way of conduct of any religious ceremony.

(xi) Renting of Immovable Property / Motor Vehicles

- (a) Services by way of renting of residential dwelling for use as residence
- (b) Services by a hotel, inn, guest house having declared tariff of a unit of accommodation below Rs. 1000 per day.
- (c) Renting of religious place meant for general public.
- (d) Services by way of giving onhire
 - (i) to state transport undertaking.
 - (ii) to goods transport agency.

(xii) Services related to Government

- (a) Services by RBI
- (b) Services by foreign diplomatic mission
- (c) Services by Central Government/ State Government excluding
 - (i) Services by postal department-Speed post, Parcel post, Life insurance.
 - (ii) Transportation of goods /passenger
 - (iii) Services in relation to an aircraft or a vessel.
 - (iv) any services provided to business entity.



5.7 PLACE, TIME AND VALUE OF SUPPLY

Q12. Briefly describe the provisions for place of supply of goods.

Ans :

(Imp.)

Place of Supply of Services other than Export and Import

Broad principles governing the Place of Supply of services where the location of service supplier (provider) and recipient (Receiver) is in India, are 13 in numbers, out of which 1 is general principle and

12 are specific situation based principles. For the most supplies of services, the places of supply of services are determined by "General Rule". However, some supplies are subject to special rules for fixing the Place of Supply of services, depending upon the nature of services referred in those respective rules.

1. General Rules:

Where both supplier and recipient are located in India, the Place of Supply of service would be:

- (a) When the service supplied or provided to persons registered under the GST the Place of Supply of service is the location of registered person.

Mr. Rahaman is the chartered accountant of West Bengal, provided professional services to ABC Ltd, of Assam. The PoS of the Service is the location of Registered person. Here it is Assam. So Mr. Rahaman will charge IGST for his service as Inter- State Supply.

- (b) When the services are provided to an un-registered person but the address exists on records of the supplier of service, the Place of Supply of service is the location of service recipient of to un-registered persons.

Samanta Furniture of Kolkata is providing services of renting of furniture to Amit of Midnapur. Then the location of supply of services is at West Bengal, hence Intra- States supply. So both CGST and SGST will be levied.

- (c) When the services are provided to an un-registered person but the address doesn't exists on records of the supplier of service, the Place of Supply of service is the location of service supplier or provider.

Infotech Kolkata is providing computer repair services to Rahul of Jharkhand, unregistered person and address is not available in its records. In this situation Place of Supply is location of service provider i.e West Bengal (Intra- State supply)

The general rule has been framed keeping in the view the difference between B to B and B to C supplies. The rule is very well aligned with the overall philosophy of GST Act which is destination based consumption tax.

2. Specific Rules

- (a) Place of Supply of the Services in relation to immovable property is the location of the immovable property without differentiating the B to B and B to C supplies (Availing input tax credit from a state where the service receiver has no place of business may difficult). The rule covers

- Services like architecture, interior decoration, construction or any others similar in nature.
- Services of accommodation for staying in hotel, guest house, lodge, inn etc. or for organising any function or events.

- (b) Place of Supply for the restaurant and catering services personal grooming, health and beauty services etc., is the location of actual performance.

- (c) Place of Supply for services like training and performance appraisal is the

- For Registered service recipient – location of the service recipient (can claim input tax credit)
- For un-registered recipient – place of actual performance (no question of claiming input tax credit)

- (d) Place of Supply for the services provided by way of admission to an event or amusement park or any other place is the location of the event or park without differentiating the B to B and B to C supplies.

- (e) Place of Supply for the services provided by way of organising such events and other ancillary services in this connection is the

- For Registered service recipient – location of the service recipient (can claim input tax credit)
 - For un-registered recipient – location of actual performance. (no question of claiming ITC). If the event is outside India then location of service recipient will be Place of Supply for unregistered person.
- (f) Place of Supply for the services transportation of goods, including mail or courier is the
- For Registered service recipient – location of the service recipient (can claim input tax credit)
 - For un-registered recipient – location where goods are handed over for transportation
- (g) Place of Supply for the services of Passenger transportation is
- For Registered service recipient – location of the service recipient (can claim input tax credit)
 - For un-registered recipient – location where passenger embarks on a conveyance for the continuous journey.
- (h) Place of Supply for the services on the board of conveyance like aircraft, vessel, train, motor vehicles is the first departure point of the conveyance of that journey.
- (i) Place of Supply for the telecommunication services like data transfer, broadcasting, cable and DTH services to any person has been prescribed differently
- For fixed line, leased circuits, cable or dish antenna – place of installation
 - For post paid mobile/ internet connection – location of billing address.

- For pre paid mobile/ internet connection – address of the selling agent or the location of sale in different situation.

This is largely in the line with the provision followed by other developed nations.

- (j) Place of Supply for banking and financial services including services of stock broking firm shall be

- Location of receiver is available in records - the location of service receiver.
- Location of receiver is not available in records – the location of service provider

Such provision is similar to the previous provision in service tax.

- (k) Place of Supply for insurance services shall be the location of the service recipient in case of business or otherwise.

- (l) A special rule is framed for the advertising services provided to the government whether central or state / union territory. Place of Supply is the respective state for which the advertisement is meant for.

After discussing the principles governing PoS for the entire domestic supplies of services, it may be seen that overall objective of the principle is to capture the location of consumption of services and to ascertain the PoS accordingly.

Q13. Briefly describe the provisions for time of supply of goods.

Ans :

(Imp.)

GST is payable on supply of goods or services. A supply consists of elements that can be segregated or separated in respect to time, like purchase order or agreement for sale, provision of services, despatch of goods, delivery of goods. Payment, entry of payment or amount deposited to Bank.

1. Time of Supply of Goods, u/s 12 of CGST Act

Time of Supply of Goods under forward charge

The time of supply of goods shall be

- (a) Date of issue of tax invoice [When invoice is issued within time limit of issue of invoice]
- (b) Last date on which invoice ought to have been issued [When invoice is not issued within time limit]
- (c) Date of receipt of payment
– Earlier of the above three

Note 1 : Time limit for issue of invoice for supply of goods

- (a) Where supply involves movement of goods → at the time or before the removal of goods.
- (b) Where supply doesn't involve movement of goods → at the time or before the delivery of goods.
- (c) In case of continuous supply of goods: → at the time or before the time of issuance of periodical statement.

Note 2 : Date of receipt of payment shall be

- (a) Date on which the payment is recorded in the books of accounts of the supplier
- (b) Date on which the payment is credited to the supplier's Bank A/c

Note 3 : If the payment received is upto Rs. 1000 in excess of the invoice amount, the supplier can choose to take the date of invoice issued with respect to such excess amount as the time of supply of goods for such excess value.

Note 4 : When the payment is received in installments, the time of supply shall be determined separately for each instalment.

2. Time of Supply of Services

Time of supply of services under forward charge

Section 13(2) CGST Act prescribed the manner for determination of time of supply in case of supply of services under forward charge:

Case 1 : Invoice has been issued within time limit u/s 31

The time of supply shall be

- (a) Date of issue of invoice
- (b) Date of receipt of payment

Earlier of the above two.

Case 2 : Invoice has not been issued within time limit u/s 31

The time of supply shall be

- (a) Date of provision of service
- (b) Date of receipt of payment

Earlier of above two

Note 1 : Time limit for issue of invoice

- (a) For Banking and Financial institution- within 45 days from the provision of service
- (b) For other case- within 30 days from the date of provision of service.

Note 2 : Date of receipt of payment shall be

- (a) Date on which the payment is recorded in the books of accounts of the supplier
- (b) Date on which the payment is credited to the supplier's Bank A/c

Note 3 : If the payment received is upto Rs. 1000 in excess of the invoice amount, the supplier can choose to take the date of invoice issued with respect to such excess amount as the time of supply of goods for such excess value.

Note 4 : When the payment is received in installments, the time of supply shall be determined separately for each instalment.

3. Time of Supply of Vouchers

In case of supply of vouchers by a supplier, the time of supply (TOS) shall be

- (a) The date of issue of voucher → If supply is identifiable at the point
- (b) The date of redemption of Voucher → if supply is not identifiable at that point of issue of voucher.

Where it is not possible to determine the time of supply u/s 12, then time of supply shall be

- (a) Date on which periodic return has to be filed
- (b) In other case → the date on which tax is paid.

4. Supply of Goods under Reverse Charge Mechanism (RCM)

Section 12(3) of CGST Act provides that in case of supply of goods under RCM, the time of supply shall be

- (a) Date on which the goods received
- (b) Date of payment earlier of
 - (i) Date of payment by Debiting Bank A/c
 - (ii) Date of Book entry
- (c) Date immediately following 30 days from the date of issue of invoice.

5. Time of Supply of Service under RCM

- (a) Transaction between non-associate enterprises Section 13(3) of CGST Act provides that in case of supply of services taxable under RCM the time of supply shall be
 - (i) Date of payment
 - (ii) Date immediately following 60 days from the date of issue of invoice.

Note : If Time to supply (TOS) can't be determined as above parameters, then the TOS is the date of book entry of services in the Books of recipient.

- (b) Transaction between associated enterprises. TOS shall be earlier of
 - (i) Date of payment
 - (ii) Date of debit entry in the books of accounts of the recipient of services.

Q14. How do you value the supplies for tax purposes?

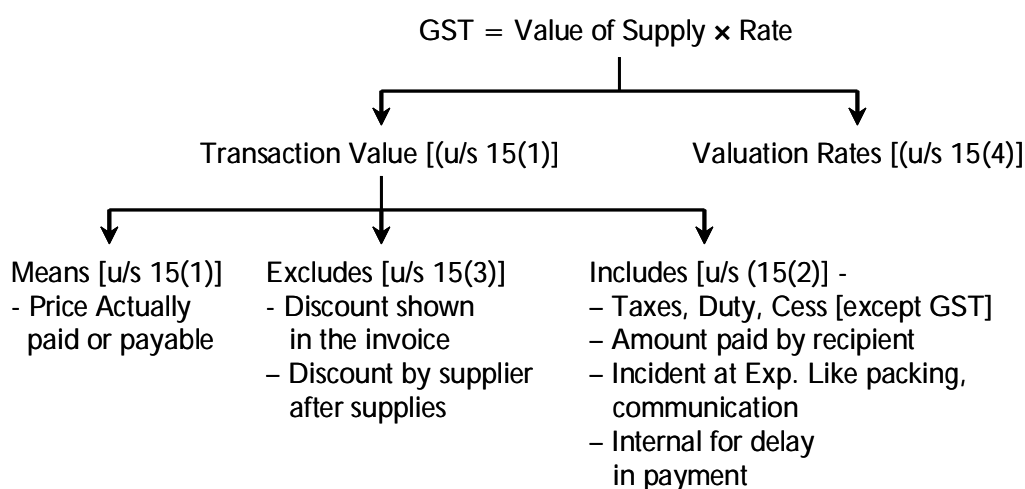
Ans :

GST is payable on supply of goods or services for a consideration in the course or furtherance of business.

$$\text{GST} = \text{Value of Supply} \times \text{Rate of GST}$$

Sections of CGST Act prescribe the mechanism for the determining the value of a supply Provided.

- (a) Supply is made between unrelated persons;
 - (b) Price is the sole consideration for supply.
- Section 15(1) of CGST Act provides that the taxable value of any Supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said Supply of goods or services or both. However, Section 15(1) of CGST can't be adopted where,
- (a) transaction of Supply takes place between two related persons
 - (b) price charged is not the sole consideration
 - (c) supply is made for non-monetary consideration

Value of Supply

- Section 15(2) of CGST Act lists down various items which are to be charged or added with transaction value of a Supply as follows:
- Any types of taxes, cess, duties, fees and charged levied by other laws (irrespective of the fact whether they have charged separately or not) other than GST [SGST, CGST, UTGST, IGST, GST compensation cess].
 - Any amount which is payable by supplier in relation to such supply but paid by recipient of supply and not included in the price of the goods or services or both.
 - Incidental expenses including commission, packing etc. charged by the supplier or anything else done by the supplier in relation to the supply at the time of or before the delivery of goods or supply of services.
 - The value of taxable supply shall include not only the base price but also the charges for delay in payment, like, interest, late fine, penalty etc.
 - Subsidies directly related to the price of supply is the part of taxable value, provided it is not paid by Central Government or State Government.
- Section 15(3) of CGST Act lists down item which are to be excluded while calculating transaction value of supply as follows:
- Discount which are allowed before or at the time of supply are allowed to be deducted from the value of supply if such discount has been shown properly in the invoice.
 - Discount allowed after supply are allowed to be deducted from the value of supply if all the following conditions are satisfied:
 - Such discount is allowed in terms of an agreement that existed at the time of supply.
 - Such discount has been worked out invoice-wise.
 - Input tax credit as is attributed to the discount on the basis of document issue by the supplier has been reversed by the recipient of the supply.

5.8 INPUT TAX CREDIT

Q15. Describe the mechanism of Input Tax Credit under GST.

(OR)

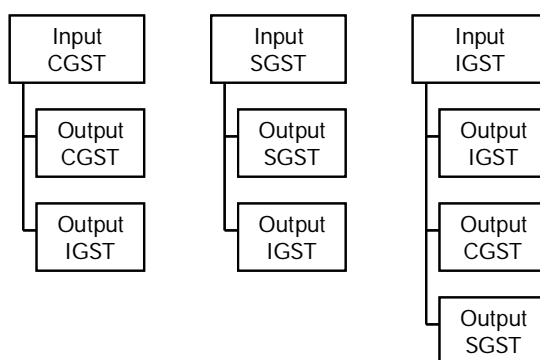
Explain the Provisions Regarding Claiming of Input tax Credit.

Ans :

Indirect tax regime, the credit mechanism for indirect taxes levied by the Union Government was governed by the CENVAT Credit Rules 2004, and the credit mechanism for State-level VAT on sale of goods was governed by the State under their respective VAT legislations. VAT legislation allowed input tax credit of VAT on input and capital goods for transaction within the state, but not on input and capital goods purchased from outside the state on which CST was paid. However, CENVAT credit Rules 2004 allowed availing and utilization of credit of duty. Tax paid on both goods (capital and inputs) and services by the manufacturer and the service providers across the country. This resulted in cascading of taxes leading to increase in cost of goods/services.

Simultaneous introduction of GST at both central and state levels has integrated taxes on goods/ services for the purpose of set off relief and ensured that the cascading effect prevalent under the earlier regime get removed, there by establishing a continuous chain of set off from the original producer's point/ service provider's point upto the retailer's level/ consumer's level.

Input tax credit (ITC) of CGST and SGST/UTGST will be available through the supply chain, but cross utilization of credit will not be possible, i.e. CGST credit can't be utilised for payment of SGST/ UTGST and UTGST/SGST credit can't be utilised for payment of CGST. However cross utilization will be allowed between CGST/SGST/ UTGST and IGST. i.e. credit of IGST can be utilised for payment of CGST/SGST/UTGST and vice versa.



Eligibility for claiming ITC under GST

- (i) A registered person is entitled to claim input tax credit charged on inward supply of goods and/or services if such goods/services are used or intended to be used in course or furtherance of business u/s 16(1).
- (ii) Where goods and/or services are used partly for non-business purpose and partly for business purpose, ITC attributable only to business purpose can be taken by the registered person. [u/s 17(1)]. e.g.-A registered person purchased 5 computer but 1 computer is being used for personal purpose and others for business. ITC will not be available for the computer used for personal purpose.
- (iii) Where goods and/or services are partly used for making exempt supplies for taxable supplies, ITC attributable to taxable supplies and zero-rated supplies can be taken by the registered person.

Example : A registered person purchased 20 containers for the purpose of business, out of which 6 containers are used for goods which are exempted and 2 containers are used for zero rated supply. Hence credit is available for 14 containers.

Condition for availing ITC u/s 16(2)

- (i) Input tax credit can be availed on the basis of possession of tax paying document. (invoice, Debit note, Bill of entry etc.)
- (ii) The person taking credit of taxes paid on procurement of goods and/or services must have received the goods and /or services. It is not necessary that goods have been received actually in the premises of recipient. It includes delivery to others person on the direction of the registered person.
- (iii) In order to claim credit, the supplier should have paid the said amount of tax to appropriate government in cash or by way of utilisation of input tax credit as admissible.
- (iv) The registered person taking input tax credit must have submitted the details of his inward supplies in GSTR-2 by 15th of following month in which the supplies were received.
- (v) A registered person is required to pay the value of goods and/or services to the supplier along with the applicable taxes within 180 days from the date of issue of invoice.
- (vi) The time limit for availment of credit shall be earlier of following two dates
 - (a) Due date of filing return for the month of September of the succeeding financial year (or)
 - (b) Date of filing of the relevant annual return.

5.9 PAYMENT OF GST**Q16. Write about:**

- (i) GST Tax Payment**
- (ii) Timeline for Payment for GST**
- (iii) Modes of Payment.**

Ans :

(i) GST Tax Payment

The GST details such as Tax liability, deposits and input tax of each taxable person and are administered and maintained on a common portal under various accounts like Electronic Cash ledger, Electronic Credit Ledger and Electronic Tax Liability Register.

The various accounts used for maintaining GST details are as follows,

- (a) Electronic Cash Ledger :** An electronic cash ledger is maintained for every registered taxable person on the common portal to credit the deposited amount. This ledger shall be debited to the extent of payment which is made towards interest, tax penalty, fee or any other amount.
- (b) Electronic Credit Ledger :** An electronic credit ledger is maintained for every registered taxable person on the common portal to credit every claim of input tax credit under it. This ledger shall be debited to the extent of utilization of input tax credit for discharging the tax liability and refunding of claims.
- (c) Electronic Tax Liability Register :** An electronic tax liability register is maintained for every registered taxable person on the common portal to debit (add) all the amount payable. It shall be credited to the extent of the payment which is made by depositing the amount in the electronic tax liability register through e-filing or by utilizing the input tax credit.

(ii) Time Line for Payment of GST Tax

The time line for payment of tax under GST tax regime is as follows,

Type of Dealer	Due Data
Regular	20 th of the subsequent month.
Composition Dealer	18 th of the subsequent quarter

iii) Modes of Payment of GST Tax

The Payment of GST Tax can be done either through offline or online mode. Offline payment can be done only for payments up to ` 10,000 per challan per tax period.

Following are the various modes of payment of GST :

Offline Mode

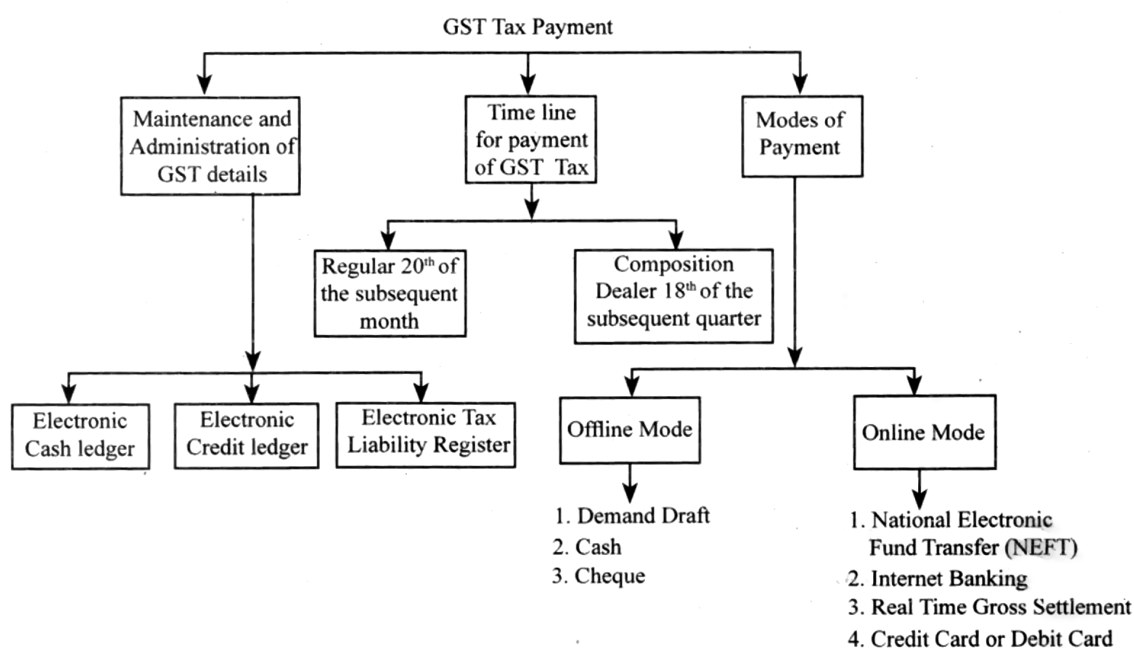
Offline Payment can be done through the following :

1. Demand Draft by depositing through over the counter Payment (OTC) from authorized banks.
2. Cash
3. Cheque

Online Mode

Online payment can be done through the following :

1. National Electronic Fund Transfer (NEFT) from any bank.
2. Interest banking through authorized bank.
3. Real Time Gross Settlement (RTGS) from any bank.
4. Credit Card or Debit Card after registering them in a common portal through the authorized bank.



Q17. Explain accounting of GST tax payment to the department with an example.*Ans :***(June-19)**

Accounting of GST tax payment to the department can be explained with the help of the following example, Example

Universal Traders paid the following taxes to government. Record the GST tax payment transaction in Tally.ERP 9.

Date	Type of Tax	Tax Amount (`)
1-9-2018	Central Tax	5,778
	State Tax	5,778

Note : The Payment date for Regular dealers is 20th of the subsequent month but educational mode of Tally. ERP 9 doesn't allow entries on other dates than 1,2, and last date. Hence the example is created to with 1-9-18 as date.

Solution :

Following are the steps involved in recording GST tax payment to the department,

Step 1 : Go to Gateway of Tally > Accounting Vouchers > Press F5 for Payment Voucher

Step 2 : Press F2 and Enter Date 1 -9-18

Step 3 : Press ALT + S for Stat Payment

A Stat Payment Details screen appears as shown below,

Step 4 : Enter the following details,

Tax Type : GST

Period From : 1 -8-18 to 31 -8-18 Payment Type : Regular V' Press enter to accept.

Step 5: Select Indian Bank in the Account field.

Step 6: Select Central Tax in the Particulars and enter the amount to the extent of available balance i.e., 11,250.

Step 7: Select State Tax and enter the amount to the extent of available balance i.e., 11,250.

Step 8: Set 'Yes' to Provide GST Details. A GST Details sub-screen appears as shown below,

Bank Details	
Mode of payment	Net Banking - (E-Payments)
Name of the Bank	Indian Bank
Common Portal Identification Number(CPIN)	12589634752165
Challan Identification Number(CIN)	
BRN/UTR	
Payment date	1-Sep-2018

Step 9: Enter the following details,

Bank Details

Mode of Payment: Net Banking - (E - Payment)

Name of the Bank : Indian Bank

Common Portal Identification Number (PIN): 12589634752165 Payment date : 1-9-18

Step 10: In the **Bank Allocations** screen as shown below,

- Enter Inst. No : 456238 Inst, date : 1-9-18

Bank Allocations for : Indian Bank		
For: 11,556.00		
Ledger Name	Transaction Type	Amount
Central Tax	Cheque	11,556.00
Cheque range	Not Applicable	
Inst. no.	456238	Inst. date : 1-Sep-2018

Step 11: Save the screen and press **Ctrl + A** to **Accept** the Voucher.

The **Payment Voucher** appears as shown below,

Payment Voucher No: 4		1-Sep-2018
Salary payment for: GST (Payment Type: Regular)		
Account: Indian Bank	Current A/c: 456238	
Particulars		Amount
Central Tax	Current A/c: 456238	11,556.00
State Tax	Current A/c: 456238	11,556.00
Provide GST Details: Yes		
Total		11,556.00

Q18. Explain Challan Reconciliation in Tally. ERP 9.

Ans :

(Imp.)

Challan Reconciliation is the reconciliation of the payment details of GST. The tax payment vouchers which are recorded for payment of GST and other liabilities can be view through a Challan Reconciliation report. The Payment details which were left at the time of recording the payment voucher can be defined in challan reconciliation.

The steps required to reconcile a challan in Tally.ERP 9 are as follows,

Step 1: Go to **Gateway of Tally > Display > Statutory Reports > GST**

Step 2: Select **Challan Reconciliation**

The **Challan Reconciliation** screen appears as shown below,

Challan Reconciliation										
Statutory Reports										
1 Apr 2018 to 1 Sep 2018										
Date	Particulars	Vch Type	Vch No.	Type of Tax Payment	Payment Period		Type of Payment	Mode of payment	Bank Name	Common Portal Identification Number(CPIN)
					From	To				
1-May-2018	Indian Bank	Payment	2	CGST	1-May-2018	31-May-2018		Net Banking - (E-Payments)	Indian Bank	14725836975321
1-Sep-2018	Indian Bank	Payment	4	CGST	1-Aug-2018	31-Aug-2018		Net Banking - (E-Payments)	Indian Bank	14725836975321

Step 3: The period is taken by default from 1-4-18 to 1-9-18. Press F2 to change the period if needed.

Step 4: Press ALT + S to enter Stat Payment Details. A Stat Payment Details sub-screen appears as shown below,

Statutory Payment	
Period From	1-May-2018 To 31-May-2018
Mode of payment	Net Banking - (E-Payments)
Bank Name	Indian Bank
Common Portal Identification Number(CPIN)	14725836975321
Challan Identification Number(CIN)	8521473
BRN/UTR	14728963214
Payment date	31/5/18

Step 5: Enter the payment details which were left while recording the tax payment entry as shown below,

Statutory Payment

Period From : 1 -5-18 to 31 -5-18

Mode of Payment: Net Banking (E- Payments)

Bank Name: Indian Bank

Common Portal Identification Number (PIN): 14725836975321

Challan Identification Number (CIN): 8521473

BRN /UTR: 147528963214

Payment date : 31-5-18

Step 6: Press Ctrl + A to Accept.

Step 7: Follow the same steps to enter Stat Payment Details for other payment vouchers.

The Stat Payment Details sub-screen for Payment voucher dated : 1/9/18 appears as shown below,

- Press Ctrl + A to Accept.

Statutory Payment	
Period From	1-Aug-2018 To 31-Aug-2018
Mode of payment	Net Banking - (E-Payments)
Bank Name	Indian Bank
Common Portal Identification Number(CPIN)	12589634752165
Challan Identification Number(CIN)	1258963
BRN/UTR	125896345675
Payment date	1/9/18

3. Go to GST Reports > GSTR - 2

The GSTR-2 reports appears, it can be observed that no incomplete/mismatch in information to be resolved.

Since there are no exceptions in the reports display correct input tax credit and tax liability.

Step 2 : Set off central tax input credit against central tax liability.

(i) **Go to Gateway of Tally > Accounting vouchers > Press F₇ for Journal Voucher.**

(ii) Press F₂ and enter the date as 31.8.2018

(iii) Press Alt + y for stat adjustment

(iv) Enter the following details :

Type of duty/tax : GST

Nature of adjustment : Decrease of tax liability

Additional Details : Adjustment against credit

(v) Press F₇ journal voucher appears

(vi) Debit the central tax ledger and enter amount as 6,000

(vii) Debit the state tax ledger and enter amount as 6,000

(viii) Credit the central tax ledger for setting off the payable amount against credit available.

Credit the state tax ledger for setting off the payable amount against credit available.

Press Ctrl + A to save

Step 3 : Setoff integrated tax input credit against integrated tax liability.

(i) Go to Gateway of Tally > Accounts Vouchers > Press F₇ for

(ii) Press F₇ and enter Date as 31.8.2018

(iii) Press Alt + J for state adjustment

Enter the following :

Type of duty/Tax : GST

Nature of Adjustment : Decrease in Tax liability

Additional Details : Adjustment Against Credit

- (iv) Press F₇ for Journal voucher
- (v) Debit the integrated tax ledger and enter the amount to the extent of available credit - 12,000
- (vi) Credit the integrated tax ledger for setting off the payable amount against the credit available.

5.10 CUSTOMS ACT**5.10.1 Meaning****Q19. Write a brief note on Customs Act 1962.***Ans :* (Imp.)

There are two Acts, which form part of customs Law in India, namely, the Customs Act, 1962 and the Customs Tariff Act, 1975 :

1. The Customs Act, 1962

The Customs Act, 1962 is the basic Act for levy of customs duty in India. It contains various provisions relating to imports and exports of goods and merchandise as well as baggage of persons arriving in India.

Objects of the Act

The customs act is a consolidation of the provisions relating to sea, land and air customs. The main purpose of Customs Act, 1962 is the prevention of illegal imports and exports of goods. The objects of the Act, as defined in its Preamble are "to consolidate and amend the law relating to customs".

Application of the Act

The Act extends to the whole of India. It was extended to Sikkim vide Notification No. 185/79-Customs, dated 1st September, 1979, w.e.f. 1st October, 1979.

Customs Tariff Act—Indian Tariff Act, 1934 was found to be inadequate to meet the needs of expansion of trade and industry. Tariff Revision

Committee was formed, which recommended adoption of Brussels Trade Nomenclature of Customs Cooperation Council (CCCN), with modifications to suit Indian conditions. Accordingly Customs Tariff Act, 1975 was passed, which came into effect in 1976. The Act provided explanatory, clarificatory and interpretative rules and notes, which enabled proper classification of goods. Later, Customs Cooperation Council developed a new system of nomenclature known as 'Harmonised Commodity Description and Coding System' (HSN) to take into account latest changes in technology and pattern of international trade. On 28th February, 1986, Import schedule to the Customs Tariff Act, 1975 was replaced with a new schedule, based on HSN.

This new schedule is expected to

- (a) reduce classification disputes
- (b) common code for goods in international trade
- (c) facilitate computerisation of customs classification and assessment work.

[Central Excise Tariff was also replaced by a new tariff based on HSN on 28th February, 1986].

Definition

"Manufacture" [Sec. 2(1)] includes any process

- (i) Incidental or ancillary to the completion of a manufactured products; and
- (ii) Which is specified in relation to any goods in the Section or Chapter notes of the [first] schedule to the Central Excise Tariff Act 1958 as amounting to manufacture [or;]
- (iii) [Which is specified in relation to any goods in the central government by notification in the Official Gazette as amounting to manufacture] and the word manufacture shall be considered accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods but also any person who engages in their production or manufacture on his own account.

5.10.2 Classification

Q20. What are the different types of custom duties?

Ans. : (Imp.)

The various types of Customs Duties are :

- (a) Basic Customs Duty;
- (b) Additional Customs Duty;
- (c) Special Customs Duty;
- (d) Protective Duties;
- (e) Safeguard Duty;
- (f) Countervailing Duty;
- (g) Anti-Dumping Duty; and
- (h) Export Duty.
- (i) National Calamities Contingent Duty of Customs

(a) Basic Customs Duty

Basic Customs Duty is levied under section 12 of the Customs Act. The rates at which duties of customs shall be levied under the Customs Act, 1962 are specified in the First and Second Schedules to the Customs Tariff Act, 1975. The first Schedule enlists the goods liable to import duty and the Second Schedule enlists the goods liable to export duties.

There are two types of rates of Basic Customs Duty, namely :

- (i) Standard Rates; and
 - (ii) Preferential Rates.
- (i) Standard Rates of Duty :** Standard rates of duty are applicable at the rate specified in Column 4 of the Tariff Schedule against each item/article specified in Column 3. In absence of any Notification for application of preferential rates of duty based on the country of origin, the standard rates of customs duty are invariably applied.
- (ii) Preferential Rates of Duty :** The Government is empowered under section 25 of the Customs Act to

prescribe by issuing Notification, preferential rate duty in respect of imports from certain preferential areas.

As per section 4(3) of the Customs Tariff Act, "Preferential area" means any country or territory, which the Central Government may, by notification in the Official Gazette, declare to be such area.

(b) Additional Customs Duty;

Section 3 of the Customs Tariff Act empowers the Central Government to levy additional duty equal to excise duty. Accordingly, any article, which is imported into India shall, in addition to standard rate of duty, be liable to an additional duty equal to the excise duty for the time being leviable on a like article, if produced or manufactured in India and if such excise duty on a like article is leviable at any percentage of its value, the additional duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article.

However, in case of any alcoholic liquor for human consumption imported into India, the Central Government may, by notification in the official gazette, specify the rate of additional duty having regard to the excise duty for the time being leviable on a like alcoholic liquor produced or manufactured in different states or if a like alcoholic liquor is not produced or manufactured in any state, then, having regard to excise duty which would be leviable for the time being in different states on the class or description of alcoholic liquor to which such imported alcoholic liquor belongs.

(c) Special Customs Duty;

Special Additional Duty is levied under section 3A of the Customs Tariff Act. Accordingly, any article which is imported into India shall, in addition, be liable to a special additional duty, which shall be levied at a rate to be specified by the Central Government, by notification in the Official Gazette, having regard to the maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India.

However, until such rate is specified by the Central government, the special additional duty shall be levied and collected at the rate of eight per cent of the value of the article imported into India. The duty chargeable under section 3A shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(d) Protective Duties

Section 6 of the Customs Tariff Act empowers the Central Government to levy a protective duty based on a recommendation made by the Tariff Commission established under the Tariff Commission Act 1951.

The Central Government may upon receiving such recommendation, if it is satisfied that circumstances exist warranting to take immediate action to provide for the protection of the interests of any industry established in India, it may impose on any goods imported into India in respect of which the said recommendation is made, a duty of customs of such amount, not exceeding the amount proposed in the said recommendation, as it thinks fit. The duty so imposed on any goods is deemed to have been specified, in the First Schedule as the duty leviable in respect of such goods.

(e) Safeguard Duty

The Agreement on Safeguards has come into existence on 1st January, 1995, which authorises importing countries to provide protection to their domestic producers against serious injury caused or threatened to be caused to them by increased imports. The safeguard measures are intended to be applied only for a short duration with a view to allowing an opportunity to the domestic producers to adjust to the new situation of competition offered by the increased imports.

In India, the Agreement on Safeguards has been implemented recently by introducing a new section 8B in the Customs Tariff Act, 1975 on 1st March, 1997. The Safeguard Duty Rules have been notified on 29th July, 1997.

(f) Countervailing Duty

Countervailing Duty can be imposed under section 9 of the Customs Tariff Act, 1975 to offset any adverse effect of subsidies granted on any goods exported to India.

Section 9 of Customs Tariff Act provides that where any country or territory pays, bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any article including any subsidy on transportation of such article, then, upon the importation of any such article into India, whether the same is imported directly from the country of manufacture, production or otherwise, and whether it is imported in the same condition as when exported from the country of manufacture or production or has been charged in condition by manufacture, production or otherwise, the Central Government may, by notification in the Official Gazette, impose countervailing duty not exceeding the amount of such subsidy. The countervailing duty chargeable under section 9 shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

Conditions for levy of CVD : The countervailing duty shall not be levied unless it is determined that –

- (a) The subsidy relates to export performance;
- (b) The subsidy relates to the use of domestic goods over imported goods in the export article; or
- (c) The subsidy has been conferred on a limited number of persons engaged in manufacturing, producing or exporting the article, unless such a subsidy is for –
 - (i) Research activities conducted by or on behalf of persons engaged in the manufacture, production or export;
 - (ii) Assistance to disadvantaged regions within the territory of the exporting country; or

- (iii) Assistance to promote adaptation of existing facilities to new environmental requirements.

(g) Anti-Dumping Duty

Dumping means export of an article from any country or territory of India at less than its normal value i.e., when the prices at which the goods are exported to India are less than the comparable price for the like product when destined for consumption in the domestic market of the exporting country. Antidumping duty is imposed for offsetting the adverse effects of increased imports, subsidized imports or dumped imports.

The Central Government can impose anti-dumping duty only if the imports of dumped article into India cause and threaten material injury to any established industry in India and materially retards the establishment of any industry in India. If the domestic industry has evidence to show dumping and material injury caused to it by dumped imports, it may make an application to the Director-General (Anti-dumping and Allied duties) in the Ministry of Commerce for an investigation in the matter.

(h) Export Duty

Section 8 of Customs Tariff Act provides for emergency powers to the Central Government to increase or levy export duties. Accordingly, where, in respect of any article, whether included in the Second Schedule or not, the Central Government is satisfied that the export duty leviable thereon should be increased or that an export duty should be levied and that circumstances exist which render it necessary to take immediate action, the Central Government may, by notification in the Official Gazette, direct and amendment of the Second Schedule to be made, so as to provide for an increase in the export duty leviable or as the case may be, for the levy of an export duty on the article.

(i) National Calamities Contingent Duty of Customs

The Finance Act, 2003 provides for levy of national Calamity Contingent Duty of

Customs on goods specified in Schedule VII to the finance Act, 2001 and imported into India by surcharge at the rate specified in the said Schedule VII as amended by Schedule XIII.

5.10.3 Exemptions

Q21. Describe the exemptions of customs duty.

Ans :

(Imp.)

1. Dutiable Goods

- (i) Except as otherwise provided in this act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 [5] or 1975 or any other law for the time being in force, on goods imported into or exported from India.
- (ii) The provisions of sub-section (1) shall apply in respect of all the goods belonging to Government as they apply in respect of goods not belonging to Government.

2. Duty on Pilfered Goods

If any imported goods are pilfered after unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.

Short Question & Answers

1. What is GST?

Ans :

GST is one indirect tax for the whole nation, which will make India one unified common market. The GST intends to subsume most indirect taxes under a single taxation regime. GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Credits of input taxes paid at each stage will be available in the subsequent stages of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages. This is expected to help broaden the tax base, increase tax compliance, and reduce economic distortions caused by inter-state variations in taxes.

2. Interstate Supply

Ans :

Interstate supply of goods refers to the transactions in which location of the supplier of the goods is different from the location of the recipient of goods or the location of supply.

For example, ABC Co. is a trader registered in Telangana. When the company supplies good to a recipient trader in West Bengal then it is said to be Interstate supply of goods. Integrated Tax is applicable in case of interstate supply of goods.

The inter-state supply of goods and services would be divided into two types. They are,

1. Inter-State Inward Supply of Goods and Services.
2. Inter-State Outward Supply of Goods and Services.

The inward and outward supply of goods and services are recorded by using 'Purchase Voucher' and sale of goods and services are recorded by using 'Sales Voucher'.

3. What is Intra State Supply of Goods ? How do you enter in Tally ERP 9 ?

Ans :

Meaning

It refers to the transaction in which supplier and recipient (Receiver) are in the same state or Union Territory. Goods supplied between them is known as Intra State Supply of Goods.

Purchase voucher is the most important voucher of every business. If you are selling something, you must be purchasing something for sure. Let's create a **purchase entry in Tally ERP 9**. This is the basic class of purchase voucher entry for beginners and you will find purchase with GST in our GST category.

1. Intra State Purchase

It is the movement of goods and services within the same State is called local Purchase. For local purchase CGST & SGST is applicable.

2. Interstate Purchase

It is the movement of goods and services between two states, which means the buyer and seller exists in two different states of India. This type of purchase attracts IGST only.

4. Compare and contrast Goods and Services.*Ans :*

S.No.	Basis of Comparison	Goods	Services
(i)	Nature	Tangible	Intangible
(ii)	Transfer of Ownership	Possible	Not Possible
(iii)	Separable	Goods can be separated from the seller	Services cannot be separated from the service provider
(iv)	Storage	Goods can be stored	Services cannot be stored
(v)	Perishable	Not all goods are perishable	Services are perishable
(vi)	Production and Consumption	Goods have a significant time gap between production and consumption	Services are produced and consumed together

5. Exemptions from GST*Ans :***1. Goods Exempted from Tax**

A list of items has been notified as exempted from whole tax. Every day items used by the common man have been included in the list of exempted items. Items like unbranded atta/ mayda/ besan, unpacked food grains, milk, egg, curd, lassi and fresh vegetable are among the items exempted from GST.

2. Services Exempted from Tax

A very detailed notification have been issued under GST law providing exemptions on supply of various services. Here we discuss few of them.

(i) Health Care Sector

- (a) Health care services by a clinical establishment / an authorised medical practitioner.
- (b) Services provided by way of transportation of patient in an ambulance.
- (c) Services by a veterinary clinic for the health of animals or birds.
- (d) Services provided by blood banks

(ii) Amusement/ Entertainment Sector

- (a) Services provided by an artists by way of a performance [not brand ambassador] in the folk or classical art form of music, dance or theatre and consideration charged doesn't exceeds Rs. 1,50,000 per event.
- (b) Services by way of admission to a museum, national park, zoo etc.
- (c) Service by way of right to admission to the following event
 - (i) circus, dance, drama or ballet.
 - (ii) award function, concert, musical performance

(iii) sporting event

– where consideration doesn't exceeds Rs. 250 per person.

(iii) Transportation of Passenger

- (a) Services of transportation of passenger by railways [other than first class or AC Coach]
- (b) Services of transportation of passenger through
 - (i) Metro
 - (ii) Monorail
 - (iii) tram
 - (iv) Inland waterways.
 - (v) Public transport
 - (vi) Metered Cab or auto rickshaws [other than Radio Taxi]
 - (vii) Stage carriage other than AC stage carriage.
 - (vii) Non-AC contract carriage

6. GST Tax Payment

Ans :

The GST details such as Tax liability, deposits and input tax of each taxable person and are administered and maintained on a common portal under various accounts like Electronic Cash ledger, Electronic Credit Ledger and Electronic Tax Liability Register.

The various accounts used for maintaining GST details are as follows,

(a) Electronic Cash Ledger

An electronic cash ledger is maintained for every registered taxable person on the common portal to credit the deposited amount. This ledger shall be debited to the extent of payment which is made towards interest, tax penalty, fee or any other amount.

(b) Electronic Credit Ledger

An electronic credit ledger is maintained for every registered taxable person on the common portal to credit every claim of input tax credit under it. This ledger shall be debited to the extent of utilization of input tax credit for discharging the tax liability and refunding of claims.

(c) Electronic Tax Liability Register

An electronic tax liability register is maintained for every registered taxable person on the common portal to debit (add) all the amount payable. It shall be credited to the extent of the payment which is made by depositing the amount in the electronic tax liability register through e-filing or by utilizing the input tax credit.

7. Customs Act 1962.

Ans :

There are two Acts, which form part of customs Law in India, namely, the Customs Act, 1962 and the Customs Tariff Act, 1975 :

1. The Customs Act, 1962

The Customs Act, 1962 is the basic Act for levy of customs duty in India. It contains various provisions relating to imports and exports of goods and merchandize as well as baggage of persons arriving in India.

Objects of the Act

The customs act is a consolidation of the provisions relating to sea, land and air customs. The main purpose of Customs Act, 1962 is the prevention of illegal imports and exports of goods. The objects of the Act, as defined in its Preamble are "to consolidate and amend the law relating to customs".

Application of the Act

The Act extends to the whole of India. It was extended to Sikkim vide Notification No. 185/79-Customs, dated 1st September, 1979, w.e.f. 1st October, 1979.

8. Describe the exemptions of customs duty.

Ans :

1. Dutiable Goods

- (i) Except as otherwise provided in this act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 [5] or 1975 or any other law for the time being in force, on goods imported into or exported from India.
- (ii) The provisions of sub-section (1) shall apply in respect of all the goods belonging to Government as they apply in respect of goods not belonging to Government.

2. Duty on Pilfered Goods

If any imported goods are pilfered after unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.

9. Place of Supply of Goods.

Ans :

Broad principles governing the Place of Supply of services where the location of service supplier (provider) and recipient (Receiver) is in India, are 13 in numbers, out of which 1 is general principle and 12 are specific situation based principles. For the most supplies of services, the places of supply of services are determined by "General Rule". However, some supplies are subject to special rules for fixing the Place of Supply of services, depending upon the nature of services referred in those respective rules.

10. Provisions for time of Supply of Goods.

Ans :

GST is payable on supply of goods or services. A supply consists of elements that can be segregated or separated in respect to time, like purchase order or agreement for sale, provision of services, despatch of goods, delivery of goods. Payment, entry of payment or amount deposited to Bank.

Time of Supply of Goods, u/s 12 of CGST Act

Time of Supply of Goods under forward charge

The time of supply of goods shall be

- (a) Date of issue of tax invoice [When invoice is issued within time limit of issue of invoice]
 - (b) Last date on which invoice ought to have been issued [When invoice is not issued within time limit]
 - (c) Date of receipt of payment
- Earlier of the above three
-

11. Modes of Payment of GST Tax

Ans :

The Payment of GST Tax can be done either through offline or online mode. Offline payment can be done only for payments up to ` 10,000 per challan per tax period.

Following are the various modes of payment of GST :

Offline Mode

Offline Payment can be done through the following :

1. Demand Draft by depositing through over the counter Payment (OTC) from authorized banks.
2. Cash
3. Cheque

Online Mode

Online payment can be done through the following :

1. National Electronic Fund Transfer (NEFT) from any bank.
2. Interest banking through authorized bank.
3. Real Time Gross Settlement (RTGS) from any bank.
4. Credit Card or Debit Card after registering them in a common portal through the authorized bank.

Choose the Correct Answers

1. _____ of the number of GST council constitute the quorum [a]
(a) 50% (b) 20%
(c) 30% (d) 80%
2. India follow _____ GST [a]
(a) Concurrent (b) Dual
(c) Single (d) None
3. Supply can be made [d]
(a) With consideration (b) Exchange
(c) Without consideration (d) Both
4. GST payments can be made through [d]
(a) Electronic cash ledger (b) Electronic tax liability register
(c) Electronic credit ledger (d) All the above
5. _____ is defined as tax on goods and services which is imposed at every point of sale [a]
(a) GST (b) Input credit
(c) CENVAT Credit (d) Tax
6. The _____ is determined on the basic of transaction value or quality of goods or MRP [c]
(a) VAT tax (b) Service tax
(c) Excise tax (d) None
7. GSTIN is _____ base no [b]
(a) Aadhar (b) PAN
(c) Bill (d) None
8. _____ is the threshold limit for registration for SGT [d]
(a) 20 Lakhs (b) 5 Lakhs
(c) 10 Lakhs (d) 40 Lakhs
9. UTGST is know as [a]
(a) Union Territory GST (b) Union Ten GST
(c) UP Territory GST (d) None
10. DD Means [b]
(a) Display Date (b) Demand draft
(c) Both (d) None

Fill in the Blanks

1. _____ is useful for both central and local sales.
2. _____ is issued by the seller when the value of goods or services supplied by him had been decreased or revised.
3. For verification in GST Registration one gets _____ from department.
4. GST is also known as _____ which was initially developed by german economist.
5. Transportation of goods without issue of Invoice is according to _____.
6. Delivery challan should be prepared in _____ copies.
7. The Part-A of form GST REG-01 is to be filled with the details of _____.
8. Intra state supplies involves _____.
9. GSTIN consists of a unique _____ PAN registration number.
10. Debit note is also known as _____.

ANSWERS

1. Tax Invoice
2. Credit Note
3. OTP
4. HST (Harmonized Sales Tax)
5. Rule 55
6. 3
7. PAN, Mobile No, Email Address
8. CGST & SGST
9. 15 digit
10. Supplementary Invoice

FACULTY OF COMMERCE
M.Com. II Year IV- Semester Examination
Model Paper - I
BUSINESS AND CORPORATE TAXATION

Time : 3 Hours]

[Max. Marks : 80

PART - A (5 × 4 = 20 Marks)

ANSWERS

Note : Answer all the questions in not more than one page each.

- | | |
|--|-------------------|
| 1. Advantages of Partnership Firm | (Unit-I, SQA.3) |
| 2. Applicability of MAT. | (Unit-II, SQA.1) |
| 3. Features of Securities Transaction Tax | (Unit-III, SQA.2) |
| 4. Explain about other deductions U/S80 P? | (Unit-IV, SQA.4) |
| 5. Modes of Payment of GST Tax | (Unit-V, SQA. 11) |

PART - B (5 × 12 = 60 Marks)

Note : Answer all the questions by using internal choice in not exceeding 4 pages each.

6. (a) What are the Conditions for Assessment as a firm U/S 184? (Unit-I, Q.No.4)

OR

- (b) The Profit and Loss Account of a firm in which the partners X, Y and Z share profits and losses in the ratio of 5 :4:1 respectively discloses profit of ₹ 80,525 for accounting year ending 31st March 2022.

Debits	₹	Credits	₹
Donation to National Defence Fund	11,000	Capital gain on sale of scrap machinery	5,000
Salary to Partners		Interest on debentures after deduction of tax at source ₹ 2,500	22,500
X ₹ 15,000		Interest on Securities (Gross)	3,500
Y ₹ 19,000			
Z ₹ 22,000	56,000		
Commission to X	6,000		
Office Rent (Paid to Y)	12,000		

Compute the total income of the firm for the assessment year 2022-23. The firm has submitted certified copy of instrument of partnership along with return and it provides for payment of salary, commission to working partners X, Y and Z as per above.

(Unit-I, Prob.3)

7. (a) Define Company. Explain the features of a company. (Unit-II, Q.No.1)

OR

- (b) What are the special provisions Relating to tax on Distributed Profits of Domestic Companies (Unit-II, Q.No.11)

8. (a) Gamson Ltd. is engaged in the manufacture and export of leather shoes. The Statement of Profit and Loss of the Company for Assessment Year 2022-23 showed a net profit of ₹ 10,00,000.

Items Charged	₹	Incomes	₹
Raw material consumed	14,75,000	Sales	
Wages and Salaries	10,25,000	Local	10,00,000
Administration expenses	7,70,000	Export	<u>35,17,500</u>
Depreciation	1,07,500		45,17,500
Other indirect expenses	5,00,000	Excise duty draw back	5,00,000
Provision for contingent liability	40,000	Cash subsidy	1,00,000
Proposed dividend	2,00,000		

Other Information :

- (i) Depreciation under Income Tax Act. amount to ₹ 1,20,000.
(ii) Payment against one bill of ₹ 50,000 was made to supplier in cash.
(iii) Indirect expenses include custom penalty of ₹ 12,000.
(iv) Convertible foreign exchange brought into India ₹ 34,50,000.

	As per Books	As per Tax Act
(v) Brought forward business loss	2,00,000	3,50,000
Brought forward unabsorbed depreciation	50,000	1,25,000

Calculate :

- (i) Total income tax liability of the Company as per normal provisions of Income tax Act.
(ii) Tax liability under MAT.
(iii) Tax liability for Assessment Year 2022-23. (Unit-III, Prob.3)

OR

- (b) Define Security Transaction Tax. Explain the scope, computation of STT. (Unit-III, Q.No.3)

9. (a) What are the advantages and disadvantages of co-operative society? (Unit-IV, Q.No.3)

OR

- (b) What are the features of Cooperative organizations. (Unit-IV, Q.No.2)

10. (a) What is Intra State Supply of Goods ? How do you enter in Tally ERP 9? (Unit-V, Q.No. 8)

OR

- (b) Explain the procedure for registration for GST. (Unit-V, Q.No. 4)

FACULTY OF COMMERCE
M.Com. II Year IV- Semester Examination
Model Paper - II

BUSINESS AND CORPORATE TAXATION

Time : 3 Hours]

[Max. Marks : 80

PART - A (5 × 4 = 20 Marks)

ANSWERS

Note : Answer all the questions in not more than one page each.

1. Define Partnership. (Unit-I, SQA.1)
2. Explain the features of a company. (Unit-II, SQA.2)
3. What is Tonnage tax? (Unit-III, SQA.4)
4. Define Cooperative Society. (Unit-IV, SQA.1)
5. Interstate Supply (Unit-V, SQA. 2)

PART - B (5 × 12 = 60 Marks)

Note : Answer all the questions by using internal choice in not exceeding 4 pages each.

6. (a) What are the provisions of income tax act regarding the Assessment of a partnership firm U/S 185? (Unit-I, Q.No.7)

OR

(b) The following is the P & L Account of an AOP of Mohan, Sohan and Ramesh :

Particulars	Rs.	Particulars	Rs.
To General Expenses	10,000	By Gross Profit	52,000
To Bad debts	1,000	By Interest on Securities (Gross)	6,000
To Establishment Expenses	6,000	By Rent from Property	9,000
To Municipal Taxes(for property let)250	By	Interest on drawings	
To Salary to Sohan	6,000	Mohan	1,000
To Commission to Ramesh	6,000	Sohan	1,500
To Interest on Capital Ramesh			<u>2,000</u>
Mohan	4,000		4,500
Sohan	4,500		
Ramesh	5,000		
To Depreciation	2,400		
To Bad Debts Reserve	1,000		
To Net Profit : Mohan	10,140		
Sohan	10,140		
Ramesh	5,070		
	<u>71,500</u>		<u>71,500</u>

Partners are sharing the profit and loss in the ratio of 2 : 2 : 1 respectively.

Calculate the total income of the AOP and allocate it amongst its members. (Unit-I, Prob.10)

7. (a) Explain in detail about the different types of companies under income tax Act.

(Unit-II, Q.No.2)

OR

- (b) What are the provision relating to tax on unit holders?

(Unit-II, Q.No.12)

8. (a) What is meant by tonnage tax? Explain the provisions of tonnage tax scheme in detail.

(Unit-III, Q.No.7)

OR

- (b) Following is the Statement of Profit and Loss of YZ, an Indian company for the assessment year 2022-23 which showed a net profit of ₹ 8,10,000.

Items Debited	₹	Items Credited	₹
Material consumed	22,50,000	Sales	90,00,000
Salaries	37,50,000		
Advertisement	3,75,000		
Provision for doubtful debts	37,500		
Insurance	52,500		
Audit fees	1,20,000		
Depreciation	1,05,000		
Provision for Income Tax	75,000		
Provision for contingent liabilities	30,000		
Transfer to general Reserve	1,50,000		
Proposed dividend	3,00,000		
Office expenses	4,50,000		
Losses of subsidiary Co.	3,00,000		
Legal fees	1,12,500		
Repair to Plant and Machinery	82,500		

Additional Informations :

- Provision for doubtful debts includes Bad debt ₹ 20,000.
- The company has various depreciable assets. During the year, a block of plant and machinery (15%) was revalued at the start of current previous year from 2 lacs to 3 lacs. However, depreciation as per sec 32 of Income Tax Act is ₹ 1,00,000.
- Provision for Income tax includes advance Income tax for Assessment Year 2022-23 ₹ 25,000.
- B/F losses and unabsorbed depreciation.

	As per Books	As per Income
B/F business	2,20,000	2,70,000
Unabsorbed dep.	62,500	2,00,000

Calculate for the Assessment Year 2022-23 :

- A. Total Income as per normal provisions of IT Act.
- B. Book profits under MAT.
- C. Final Tax liability.
- D. Tax credit allowable to Co. under Sec 115JAA.

(Unit-III, Prob.2)

9. (a) The Ludhiana Co-operative Marketing Society is a society registered under the Co-operative Societies Act, 1912 and is engaged in the business of purchase of agricultural implements and seeds for the purpose of supplying them to its members. From this business it earned an income of ₹ 50,000.

In May 1981 it opened a consumer's store for selling groceries and this venture netted a profit of ₹ 65,000 during the year 2021-22. Compute the total income of society and tax payable by it for the assessment year 2022-23. If –

- (A) it does not opt to be taxed u/s 115BAD.
- (B) it opts to be taxed u/s 115BAD.

(Unit-IV, Prob.2)

OR

- (b) Explain in detail about the eligibility for exemptions of a trust and explain the provisions related to taxation of trust.

(Unit-IV, Q.No.11)

10. (a) Briefly describe the provisions of Levy and Collection Taxes under CGST and IGST Act 2017.

(Unit-V, Q.No. 10)

OR

- (b) Explain the Provisions Regarding Claiming of Input tax Credit.

(Unit-V, Q.No. 15)

FACULTY OF COMMERCE
M.Com. II Year IV- Semester Examination
Model Paper - III

BUSINESS AND CORPORATE TAXATION

Time : 3 Hours]

[Max. Marks : 80

PART - A (5 × 4 = 20 Marks)

ANSWERS

Note : Answer all the questions in not more than one page each.

- | | |
|---|-------------------|
| 1. Disadvantages of a Partnership Firm. | (Unit-I, SQA.2) |
| 2. Carry-Forward Losses | (Unit-II, SQA.7) |
| 3. How do you determine the tonnage ? | (Unit-III, SQA.6) |
| 4. Types of Trusts | (Unit-IV, SQA.7) |
| 5. Exemptions from GST | (Unit-V, SQA. 5) |

PART - B (5 × 12 = 60 Marks)

Note : Answer all the questions by using internal choice in not exceeding 4 pages each.

- | | |
|--|-------------------|
| 6. (a) What are the steps regarding computation of total income of AOP? | (Unit-I, Q.No.13) |
| OR | |
| (b) What are the features of partnership firm? | (Unit-I, Q.No.2) |
| 7. (a) What are the Special Provisions for Payment of Income Tax by Certain Companies. | (Unit-II, Q.No.8) |

OR

- (b) From the following particulars, compute the gross total income of Mr. A for the previous year 2021-22.

Income from House Property (Computed)	36,000
Profit from business (before claiming following deductions)	2,80,000
Current year's expenditure on Scientific research —	
Amount given to a National Laboratory	40,000
Current year's depreciation allowance	50,000
B/F Unabsorbed business losses	
2009-10	40,000
2015-16	15,000
2019-20	20,000

B/F unabsorbed depreciation allowance

2009-10 24,000

2015-16 20,000

2019-20 60,000

Interest on securities 50,000

(Unit-II, Prob.7)

8. (a) An Indian company carries on business in Motor Transportation. Its Profits and Loss Account for the previous year 2021-22 shows a net profit of ₹ 5,61,300. Find out Total Income and tax liability of the company after taking into consideration the following particulars.

- (i) The Statement of Profit and Loss was charged with following expenses :

₹ 4,50,000 as depreciation.

₹ 56,250 as Bad Debt reserve.

₹ 15,000 spent to obtain a new licence and the company was able to get it.

The engine of a very old bus was replaced by a new one by spending ₹ 75,000.

Mr. X a retiring director, was paid ₹ 80,000 as gratuity in appreciation of his services. In the past, the company never paid such a gratuity to any of its retiring directors and even the service conditions did not provide for the payment of such gratuity.

- (ii) The Statement of Profit and Loss was found credited with following incomes.

Agricultural receipts of ₹ 75,000

₹ 12,000 as interest from an Indian Co. on its debentures. (Gross)

- (iii) Capital gain on sale of Motor Car ₹ 25,000 (Short Term).

- (iv) As per the rates applicable in the current year, the amount of depreciation comes to ₹ 3,00,000.

- (v) The book profit of the company under section 115JB ₹ 24,00,000. (Unit-III, Prob.4)

OR

- (b) What are the deductions out of gross total income U/S 80 applicable to a company?

(Unit-III, Q.No.1)

9. (a) How to compute the tax for trust ? Explain.

(Unit-IV, Q.No.15)

OR

- (b) The Government College Co-operative society Ltd. has the following incomes during the year :

(a) Income from College Canteen & Mess	20,000
(b) Income from College Book Shop	8,000
(c) Interest on Securities (Gross)	8,000
(d) Income from House Property (computed)	5,000
(e) Dividend on shares of another Co-operative Society	13,000

Compute the total income of society.

(Unit-IV, Prob.3)

10. (a) Briefly describe the provisions for place of supply of goods.

(Unit-V, Q.No. 12)

OR

- (b) What are the different types of custom duties?

(Unit-V, Q.No. 20)