

PAPER 4: TAXATION

SECTION A: INCOME TAX LAW

The Income-tax law, as amended by the Finance Act, 2021, including significant notifications/circulars and legislative amendments made upto 31st October, 2021, are applicable for May, 2022 examination. The relevant assessment year for May, 2022 examination is A.Y.2022-23. The June, 2021 edition of the Study Material is based on the provisions of Income-tax law as amended by the Finance Act, 2021 and significant notifications/circulars and legislative amendments made upto 15.6.2021, and hence, the same is relevant for May 2022 examination. The significant notifications/circulars issued upto 31.10.2021 which are relevant for May, 2022 examination but not covered in the June 2021 edition of the Study Material is webhosted at <https://resource.cdn.icai.org/68038bos54507.pdf>

QUESTIONS AND ANSWERS

Case Scenario

Mr. Subhash is a retailer of car spare parts. He started his business in May, 2020. His turnover for the P.Y. 2020-21 was ₹ 10.50 crores. He generally purchases goods from Car accessories & Co. only. Car accessories & Co. manufactures and sells spare parts directly to the customers as well as through an e-commerce platform – CarParts.com. Car accessories & Co.'s turnover from the business for the P.Y. 2020-21 was ₹ 15 crores.

The relevant information of purchases made by Mr. Subhash in P.Y. 2021-22 is given hereunder:

Date of credit to account of Car accessories & Co.	Date of Payment to Car accessories & Co.	Value of spare parts without GST (₹)	GST @18%	Total value of spare parts/ payment
15.05.2021	02.06.2021	40,00,000	7,20,000	47,20,000
18.06.2021	30.06.2021	15,00,000	2,70,000	17,70,000
28.08.2021	17.08.2021	21,50,000	3,87,000	25,37,000
14.02.2022	28.02.2022	10,50,000	1,89,000	12,39,000

In addition to the above, Mr. Subhash also purchased spare parts of Car accessories & Co. for ₹ 12,00,000 inclusive of GST@18% through CarParts.com on 31.12.2021. The payment was made directly to Car accessories & Co. on 15.1.2022. PAN is duly furnished by Mr. Subhash, Car accessories & Co. and CarParts.com. The GST portion is indicated separately in the invoice of Car accessories & Co. but it is not shown separately when the goods are purchased through CarParts.com.

Based on the above facts, choose the **most appropriate answer** to Q. NO. 1 to 5 -

1. Is Mr. Subhash required to deduct tax at source in respect of the purchase transactions made directly with Car accessories & Co. If yes, when and what is the amount of tax to be deducted?
 - (a) Yes; ₹ 2,150 on 17.08.2021 and ₹ 1,050 on 14.02.2022
 - (b) Yes; ₹ 2,537 on 17.08.2021 and ₹ 1,050 on 14.02.2022
 - (c) Yes; ₹ 500 on 18.06.2021, ₹ 2,150 on 17.08.2021 and ₹ 1,050 on 14.02.2022
 - (d) No, Mr. Subhash is not liable to deduct tax at source.
2. Is Car accessories & Co. required to collect tax at source in respect of the sale transactions with Mr. Subhash. If yes, when and what is the amount of tax to be collected?
 - (a) Yes; ₹ 500 on 30.06.2021, ₹ 2,150 on 17.08.2022 and ₹ 1,050 on 28.02.2022
 - (b) Yes; ₹ 1,490 on 30.06.2021, ₹ 2,537 on 17.08.2021 and ₹ 1,239 on 28.02.2022
 - (c) Yes; ₹ 1,490 on 30.06.2021
 - (d) No, Car accessories & Co. is not liable to collect tax at source.
3. Assume that Mr. Subhash has started the retail business of car spare parts in May, 2021. In such case, would the answer of MCQ 1 and 2 be different? If yes, what would be the answer of MCQ 1 and 2?
 - (a) No, the answer of MCQ 1 and 2 would be the same
 - (b) Yes, the answer of MCQ 1 would change to (d) but the answer of MCQ 2 would be the same
 - (c) Yes, the answer of MCQ 1 would change to (d) and the answer of MCQ 2 would change to (b)
 - (d) Yes, the answer of MCQ 1 would change to (d) and the answer of MCQ 2 would change to (a)
4. Are the provisions of tax deduction/ collection at source attracted in respect of the transactions with CarParts.com? If yes, who has to deduct/ collect at source and at what rate?
 - (a) Mr. Subhash is required to deduct tax at source on ₹ 12 lakhs @0.1%.
 - (b) Car accessories & Co. is required to collect tax at source on ₹ 12 lakhs @0.1%.
 - (c) CarParts.com is required to deduct tax at source on ₹ 12 lakhs @0.1%.
 - (d) CarParts.com is required to deduct tax at source on ₹ 12 lakhs @1%.

5. If Mr. Subhash has not furnished his PAN to Car accessories & Co. but has furnished his Aadhar number, what would be the rate of TCS for the purpose of MCQ 2.
- (a) 5%
 - (b) 1%
 - (c) 0.1%
 - (d) Car accessories & Co. is not liable to collect tax at source.
6. Ashiyana Developers has completed one of its housing projects in Gurugram in January, 2021 which comprises of 10 residential units. It has transferred 9 residential units in February, 2021 and remaining one residential unit in May, 2021 to Mr. Suraj. All the units were transferred by way of first time allotment. The consideration received from Suraj for the residential unit is ₹ 50 lakhs while the stamp duty value of the unit in May, 2021 is ₹ 57 lakhs. Due to some emergency in the family, Mr. Suraj was in urgent need of funds and he sold such residential unit to Mr. Prakash in December, 2021 for ₹ 53 lakhs. The stamp duty value of the unit was ₹ 61 lakhs in December, 2021. Determine the capital gain/ income which is chargeable to tax in the hands of Mr. Suraj and Mr. Prakash from the above transactions for A.Y. 2022-23.
- (a) In the hands of Mr. Suraj – STCG of ₹ 11 lakhs; In the hands of Mr. Prakash – ₹ 8 lakhs as income under the head “Other sources”
 - (b) In the hands of Mr. Suraj – ₹ 7 lakhs as income under the head “Other sources”, STCG of ₹ 4 lakhs; In the hands of Mr. Prakash – ₹ 8 lakhs as income under the head “Other sources”
 - (c) In the hands of Mr. Suraj – STCG of ₹ 11 lakhs; In the hands of Mr. Prakash – Nil
 - (d) In the hands of Mr. Suraj – ₹ 7 lakhs as income under the head “Other sources”, STCG of ₹ 11 lakhs; In the hands of Mr. Prakash – ₹ 8 lakhs as income under the head “Other sources”
7. Mr. Rajesh, aged 53 years, and his wife, Mrs. Sowmya, aged 50 years, are citizens of Country X. They are living in Country X since birth. They are not liable to tax in Country X. Both of them have keen interest in Indian Culture. Mr. Rajesh’s parents and grandparents were born in Country X. Mrs. Sowmya visits India along with Mr. Rajesh for four months every year to be with her parents, who were born in Delhi and have always lived in Delhi. During their stay in India, they organize Cultural Programme in Delhi-NCR. Income of Mr. Rajesh and Mrs. Sowmya from the Indian sources for the P.Y. 2021-22 is ₹ 18 lakhs and ₹ 16 lakhs, respectively.
- What is the residential status of Mr. Rajesh and Mrs. Sowmya for A.Y.2022-23?
- (a) Both are resident and ordinarily resident in India
 - (b) Both are non-resident in India

- (c) Mr. Rajesh is resident but not ordinarily resident in India and Mrs. Sowmya is non-resident
- (d) Mrs. Sowmya is resident but not ordinarily resident in India and Mr. Rajesh is resident and ordinarily resident in India.
8. Mr. A has taken two ULIPs. ULIP "X" is issued on 1.1.2021 and ULIP "Y" on 1.5.2021. The sum assured of ULIP "X" and ULIP "Y" is ₹ 30 lakhs and ₹ 40 lakhs, respectively. The annual premium paid by Mr. A during the P.Y. 2021-22 is ₹ 3 lakhs and ₹ 4 lakhs, respectively. What would be the taxability of the consideration received by Mr. A on maturity of both the ULIPs?
- (a) Consideration received on the maturity of ULIP "X" would be exempt u/s 10(10D) while the profits and gains from receipt of consideration on the maturity of ULIP "Y" would be taxable.
- (b) Consideration received on the maturity of ULIP "Y" would be exempt u/s 10(10D) while the profits and gains from receipt of consideration on the maturity of ULIP "X" would be taxable.
- (c) Consideration received on the maturity of both ULIP "X" and ULIP "Y" would be exempt u/s 10(10D)
- (d) The profits and gains from receipt of consideration on the maturity of both ULIP "X" and ULIP "Y" would be taxable.
9. From the following particulars of income furnished by Mr. Ashutosh, aged 65 years, pertaining to year ended 31.03.2022, compute the total income for the A.Y. 2022-23, if he is
- (a) Resident and ordinarily resident
- (b) Non-resident

	Particulars	Amount (₹)
(i)	Capital gain on sale of land in Jaipur to Mr. Ramesh, a non-resident, outside India. The consideration is also received outside India in foreign currency	1,50,000
(ii)	Rent from property in Delhi, let out to a branch of a foreign company. The rent agreement is entered outside India. Monthly rent is also received outside India	1,20,000
(iii)	Agricultural income from a land situated in Nepal, received in Nepal	55,000
(iv)	Interest on savings bank deposit in UCO Bank, Delhi	18,000
(v)	Income earned from business in London which is controlled from Delhi (₹ 35,000 is received in India)	60,000
(vi)	Gift received from his daughter on his birthday	55,000

(vii)	Past foreign taxed income brought to India	37,000
(viii)	Fees for technical services rendered to Shine, Ltd., a foreign company, for business outside India and received also outside India	12,000

10. Mr. Sunil is the CEO of Sheetal Textiles Ltd. His basic salary is ₹ 6,00,000 p.m. He is paid 8% as D.A. He contributes 10% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. The accumulated balance in recognized provident fund as on 1.4.2020, 31.3.2021 and 31.3.2022 is ₹ 50,35,000, ₹ 71,46,700 and ₹ 94,57,700, respectively. Compute the perquisite value chargeable to tax in the hands of Mr. Sunil u/s 17(2)(vii) and 17(2)(viii) for the A.Y. 2021-22 and A.Y. 2022-23.
11. Mr. Aditya is a proprietor of Star Stores having 2 units. On 1.4.2021, he has transferred Unit 2, which he started in 2004-05, by way of slump sale for a total consideration of ₹ 18 lakhs. The professional fees & brokerage paid for this transfer are ₹ 78,000. His Balance Sheet as on 31-03-2021 is as under :

Liabilities	₹	Assets	Unit 1 ₹	Unit 2 ₹	Total
Own Capital	20,50,000	Land	12,75,000	7,50,000	20,25,000
Revaluation reserve	2,50,000	Furniture	2,00,000	5,00,000	7,00,000
Bank Loan (70% for Unit 1)	8,50,000	Debtors	2,00,000	3,50,000	5,50,000
Trade Creditors (20% for Unit 2)	4,50,000	Patents	-	7,25,000	7,25,000
Unsecured Loan (30% for Unit 2)	4,00,000				
	40,00,000		16,75,000	23,25,000	40,00,000

Other Information:

- Land of Unit 2 was purchased at ₹ 5,00,000 in the year 2004 and revalued at ₹ 7,50,000 as on 31.3.2021.
- No individual value of any asset is considered in the transfer deed.
- Patents were acquired on 01-12-2019 on which no depreciation has been provided.
- Furniture of Unit 2 of ₹ 5,00,000 were purchased on 01-12-2020 on which no depreciation has been provided.
- Fair market value of capital asset transferred by way of slump sale of Unit 2 is ₹ 18,10,000.

Compute the capital gain for A.Y. 2022-23.

12. Mr. Samrat and his wife, Mrs. Komal, holds 12% voting power each in ABC (P) Ltd. Mr. Samrat and Mrs. Komal are working in ABC (P) Ltd. However, Mrs. Komal is not qualified for the job. From the following information given in respect of F.Y. 2021-22, you are required to compute the gross total income of Mr. Samrat and Mrs. Komal for the A.Y. 2022-23
- Dividend of ₹ 22,500 and ₹ 45,000 is received by Mr. Samrat and Mrs. Komal, respectively, from ABC (P) Ltd. Mr. Samrat has instructed the company to pay 50% of his dividend to Ms. Kajal, daughter of his deceased brother.
 - Salary earned by Mr. Samrat and Mrs. Komal from ABC (P) Ltd. is ₹ 8,50,000 and ₹ 5,50,000, respectively.
 - Business income earned by Mr. Samrat from his sole proprietary business is ₹ 15,60,000
 - Interest on fixed deposit earned by Mrs. Komal of ₹ 9,00,000.
 - Their son, Akash, aged 10 years having PAN, received interest of ₹ 54,000 from bank on a fixed deposit created by his grandfather in his name.
13. Mr. Rajesh, a resident individual, furnished the following information in respect of income and loss earned by him for the F.Y. 2021-22

Particulars	Amount (₹)
Income from Salary	3,40,000
Long term capital loss on sale of shares of Reliance Ltd. STT has been paid both at the time of acquisition and sale	(1,15,000)
Loss from let out property in Delhi	(75,000)
Interest on self-acquired property in Mumbai	(50,000)
Winnings from lottery tickets	40,000
Cost of acquisition of lottery tickets	10,000
Profit and gains from manufacturing business (after deducting normal depreciation of ₹ 10,000 and additional depreciation of ₹ 4,000)	96,000
Long term capital gains on sale of house property	1,40,000

The other details of brought forward losses and unabsorbed depreciation pertaining to A.Y. 2021-22 are as follow:

Brought forward business loss from manufacturing business	(35,000)
Unabsorbed normal depreciation	(10,000)
Brought forward loss from the activity of owning and maintaining the race horses	(50,000)

Compute the Gross total income of Mr. Rajesh for the Assessment Year 2022-23 and the amount of loss, if any, that can be carried forward if he wants to opt for the provisions of section 115BAC for the first time.

14. Mr. Rishabh, a resident individual, aged 54 years, is engaged in the business of manufacturing clothes. He earned profit of ₹ 82,45,000 as per profit and loss account after debiting and crediting the following items:

- (i) Depreciation ₹15,40,000
- (ii) Short term capital gains on transfer of listed equity shares in a company on which STT is paid ₹10,00,000
- (iii) He received income-tax refund of ₹15,550 which includes interest on refund of ₹ 4,550.
- (iv) Dividend income from Indian companies ₹15,00,000

Additional information –

- (i) Mr. Rishabh installed new plant and machinery for ₹ 65 lakhs on 1.10.2021 which was put to use on 1.1.2022. Depreciation (including additional depreciation) on this amount of ₹ 65 lakhs is included in the depreciation debited to profit and loss account which has been computed as per Income-tax Rules.
- (ii) Mr. Rishabh took a loan from SBI of ₹ 50 lakhs on 15.9.2021 @10.5% p.a. to purchase such plant and machinery. Total interest upto 31.3.2022 has been paid on 31.3.2022 and the same has been debited to profit and loss account.
- (iii) Advance tax paid during the year is ₹17,50,000
- (iv) Rishabh purchased goods for ₹ 40 lakhs from Mr. Ram, his brother. The market value of the goods is ₹ 35 lakhs.
- (v) He paid ₹ 40,000 as life insurance premium taken on the life of his married daughter who is not dependent on him. The sum assured is ₹ 5,00,000 and the policy was taken on 1.4.2016.
- (vi) He paid ₹ 45,000 by cheque towards health insurance policy covering himself, his spouse and his children.
- (vii) On 1.7.2021, Mr. Rishabh withdrew ₹ 1.5 crores in cash from three current accounts maintained by him with HSBC. There are no other withdrawals during the year. He regularly files his return of income.

You are required to compute the total income and tax payable by Mr. Rishabh for the A.Y. 2022-23, in the manner so that he can make maximum tax savings.

15. Mrs. Shivani is a US Citizen. She got married to Mr. Sriram, an Indian citizen and resident of India, in the year 2015. Since then, she has been staying in India. She has a Bank account in US. She sold a residential house in US and earned a long term capital gain of ₹ 2 lakhs. She invested the whole sales consideration in Capital Gain bonds under section 54EC so that no long term capital gain is taxable. She does not have any source of income in India during the P.Y. 2021-22. Is she required to furnish her return of income? If yes, can she furnish a belated return?

SUGGESTED ANSWERS

MCQ No.	Most Appropriate Answer	MCQ No.	Most Appropriate Answer
1.	(b)	5.	(c)
2.	(c)	6.	(a)
3.	(c)	7.	(d)
4.	(d)	8.	(a)

9. Computation of total income of Mr. Ashutosh for the A.Y. 2022-23

Particulars	Resident and ordinarily resident (₹)	Non-resident (₹)
Capital gain on sale of land in Jaipur to Mr. Ramesh, a non-resident, outside India and received outside India	1,50,000	1,50,000
Rent from property in Delhi, received outside India [₹ 1,20,000 – 30% of ₹ 1,20,000 under section 24(a)]	84,000	84,000
Agricultural income from a land situated in Nepal, received in Nepal	55,000	-
Interest on savings bank deposit in UCO Bank, Delhi	18,000	18,000
Income earned from business in London which is controlled from Delhi	60,000	35,000
Gift received from daughter (Not taxable, since daughter is a relative)	-	-
Past foreign taxed income brought to India (Not taxable)	-	-
Fees for technical services rendered to Shine, Ltd., a foreign company, for business outside India and received also outside India	12,000	-
Gross Total Income	3,79,000	2,87,000
Less: Deduction under section 80TTB/80TTA [Interest on savings bank account subject to a maximum of ₹ 50,000/₹ 10,000]	18,000	10,000
Total Income	3,61,000	2,77,000

Notes –

1. In case of a resident and ordinarily resident, global income is taxable as per section 5(1). However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax:

- (i) Income received or deemed to be received in India; and
- (ii) Income accruing or arising or deemed to accrue or arise in India.

Therefore, agricultural income from a land situated in Nepal, income earned from business in London which is controlled from Delhi, received outside India and fees for technical services from a non-resident for business outside India is not taxable in case of non-resident.

2. In case of a senior citizen, being a resident aged 60 years or more, interest upto ₹ 50,000 from saving account with, *inter alia*, a bank is allowable as deduction under section 80TTB while in case of a non-resident, interest upto ₹ 10,000 from saving account with, *inter alia*, a bank is allowable as deduction under section 80TTA.

10. Computation of perquisite value taxable u/s 17(2)(vii) and 17(2)(viii) for A.Y. 2021-22

1. Perquisite value taxable u/s 17(2)(vii) = ₹ 7,77,600, being employer's contribution to recognized provident fund during the P.Y. 2020-21 – ₹ 7,50,000 = ₹ 27,600
2. Perquisite value taxable u/s 17(2)(viii) = Annual accretion on perquisite taxable u/s 17(2)(vii) = $(PC/2)*R + (PC1 + TP1)*R$
 $= (27,600/2) \times 0.0914 + 0$
 $= ₹ 1,261$

PC Sheetal Textile Ltd.'s contribution in excess of ₹ 7.5 lakh to recognized provident fund during P.Y. 2020-21 = ₹ 27,600

PC1 Nil

TP1 Nil

R $I/F_{avg} = 5,56,500/60,90,850 = 0.0914$

I RPF balance as on 31.3.2021 – employee's and employer's contribution during the year – RPF balance as on 1.4.2020 = ₹ 5,56,500 (₹ 71,46,700 – ₹ 7,77,600 – ₹ 7,77,600 – ₹ 50,35,000)

Favg Balance to the credit of recognized provident fund as on 1st April, 2020 + Balance to the credit of recognized provident fund as on 31st March, 2021)/2 = $(₹ 50,35,000 + ₹ 71,46,700)/2 = ₹ 60,90,850$

Computation of perquisite value taxable u/s 17(2)(vii) and 17(2)(viii) for A.Y. 2022-23

1. Perquisite value taxable u/s 17(2)(vii) = ₹ 7,77,600, being employer's contribution to recognized provident fund during the P.Y. 2021-22 – ₹ 7,50,000 = ₹ 27,600
2. Perquisite value taxable u/s 17(2)(viii) = Annual accretion on perquisite taxable u/s 17(2)(vii) = (PC/2)*R + (PC1 + TP1)*R
 = (27,600/2) x 0.0910 + (27,600 + 1,261) x 0.0910
 = ₹ 1,256 + ₹ 2,626
 = ₹ 3,882

PC	Sheetal Textile Ltd.'s contribution in excess of ₹ 7.5 lakh to recognized provident fund during P.Y. 2021-22 = ₹ 27,600
PC1	Amount of employer's contribution in excess of ₹ 7,50,000 to RPF in P.Y. 2020-21 = ₹ 27,600
TP1	Taxable perquisite under section 17(2)(viii) for the P.Y. 2020-21 = ₹ 1,261
R	I/Favg = 7,55,800/83,02,200 = 0.0910
I	RPF balance as on 31.3.2022 – employee's and employer's contribution during the year – RPF balance as on 1.4.2021 = ₹ 7,55,800 (₹ 94,57,700 – ₹ 7,77,600 – ₹ 7,77,600 – ₹ 71,46,700)
Favg	Balance to the credit of recognized provident fund as on 1 st April, 2021 + Balance to the credit of recognized provident fund as on 31 st March, 2022)/2 = (₹ 71,46,700 + ₹ 94,57,700)/2 = ₹ 83,02,200

Note – Since the employee's contribution to RPF exceeds ₹ 2,50,000 in the P.Y. 2021-22, interest on ₹ 5,27,600 (i.e., ₹ 7,77,600 – ₹ 2,50,000) will also be chargeable to tax.

11. As per section 50B, any profits and gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of capital assets and shall be deemed to be the income of the previous year in which the transfer took place.

If the assessee owned and held the undertaking transferred under slump sale for more than 36 months before slump sale, the capital gain shall be deemed to be long-term capital gain. Indexation benefit is not available in case of slump sale as per section 50B(2).

Computation of capital gain on slump sale of Unit 2

Particulars	₹
Full value of consideration for slump sale of Unit 2 [Fair market value of capital asset transferred by way of slump sale (i.e., ₹ 18,10,000) or fair market value of the consideration received (value of the monetary consideration received i.e., ₹ 18,00,000) whichever is higher]	18,10,000

Less: Expenses on sale [professional fees & brokerage]	78,000
Net full value of consideration	17,32,000
Less: Cost of acquisition, being the net worth of Unit 2 (Note 1)	<u>13,35,781</u>
Long term capital gains arising on slump sale	<u>3,96,219</u>
(The capital gains is long-term as the Unit 2 is held for more than 36 months)	

Notes**1. Computation of net worth of Unit 2**

Particulars	₹
(1) Book value of non-depreciable assets	
(i) Land (Revaluation not to be considered)	5,00,000
(ii) Debtors	3,50,000
(2) Written down value of depreciable assets under section 43(6)	
(i) Furniture (See Note 2)	4,75,000
(ii) Patents (See Note 3)	<u>4,75,781</u>
Aggregate value of total assets	18,00,781
Less: Current liabilities of Unit 2	
Bank Loan [₹ 8,50,000 x 30%]	2,55,000
Trade Creditors [₹ 4,50,000 x 20%]	90,000
Unsecured Loan [₹ 4,00,000 x 30%]	1,20,000
Net worth of unit 2	<u>13,35,781</u>

2. Written down value of furniture as on 1.4.2021

Value of patents	₹
Cost as on 1.12.2020	5,00,000
Less: Depreciation @ 10% x 50% for Financial Year 2020-21	<u>25,000</u>
WDV as on 1.4.2021	<u>4,75,000</u>

3. Written down value of patents as on 1.4.2021

Value of patents	₹
Cost as on 1.12.2019	7,25,000
Less: Depreciation @ 25% x 50% for Financial Year 2019-20	<u>90,625</u>
WDV as on 1.4.2020	6,34,375
Less: Depreciation@25% for Financial Year 2020-21	<u>1,58,594</u>
WDV as on 1.4.2021	<u>4,75,781</u>

12. Computation of Gross Total Income of Mr. Samrat and Mrs. Komal for A.Y. 2022-23

Particulars	Mr. Samrat		Mrs. Komal	
	₹	₹	₹	₹
Salary of Samrat	8,50,000			-
Less: Standard deduction under section 16(ia)	<u>50,000</u>	8,00,000		-
Salary of Komal	5,50,000			-
Less: Standard deduction under section 16(ia)	<u>50,000</u>	5,00,000		-
[Salary earned by Mrs. Komal has to be included in the total income of Mr. Samrat, since he has substantial interest in the concern (i.e., having 24% voting power in ABC (P) Ltd., along with his wife) and Mrs. Komal does not have any professional qualification for the job.]				
Business Income		15,60,000		-
Dividend income from ABC (P) Ltd. [Taxable in the hands of Mr. Samrat as per section 60, since he transferred the income i.e., dividend without transferring the asset i.e., shares]	[22,500/90 x 100 x 2]	50,000	[45,000/90 x 100]	50,000
Interest on Fixed Deposit earned by Mrs. Komal		-		<u>9,00,000</u>
Total Income (before including minor's income)		<u>29,10,000</u>		<u>9,50,000</u>
Income of minor child to be included in Mr. Samrat's income, since his total income before including minor's income is higher than that of Mrs. Komal. [₹ 54,000 / 90 x 100]	60,000			
Less: Exemption of ₹ 1,500 u/s 10(32) in respect of the income of each child so included.	<u>1,500</u>	58,500		
Gross Total Income		29,68,500		9,50,000

13. Computation of gross total income of Mr. Rajesh for A.Y. 2022-23

Particulars	Amount (₹)	Amount (₹)
Income from Salary	3,40,000	
Less: Loss under the head "Income from house property" [Loss from house property is not allowed to be set off with any other head of income since Mr. Rajesh is opting for section 115BAC]	-	3,40,000
Income from house property		
Self-occupied property [Interest u/s 24(b) is not allowed in case of self-occupied property since Mr. Rajesh is opting for section 115BAC]	-	
Loss from let out property [Carried forward to A.Y. 2023-24]	<u>(75,000)</u>	-
Profit and gains from business or profession		
Profit and gains from manufacturing business	96,000	
Add: Additional depreciation not allowable in case of section 115BAC	<u>4,000</u>	
	1,00,000	
Less: Brought forward loss from manufacturing business	35,000	
Less: Unabsorbed normal depreciation	<u>10,000</u>	55,000
Capital Gains		
Long term capital gains on sale of house property	1,40,000	
Less: long term capital loss on sale of shares on which STT is paid can also be set-off as per section 74(1), since long-term capital gain arising on sale of such shares is taxable under section 112A	<u>(1,15,000)</u>	25,000
Income from Other Sources		
Winnings from lottery tickets		<u>40,000</u>
Gross Total Income		<u>4,60,000</u>

Losses to be carried forward to A.Y. 2023-24

Particulars	Amount (₹)
Loss from let out property in Delhi	75,000
Loss from the activity of owning and maintaining the race horses	50,000

Notes -

1. As per section 74A(3), loss from the activity of owning and maintaining the race horses cannot be set-off against income from any source other than the activity of owning and maintaining race horse.
2. As per section 58, no expenditure is allowed from the lottery winnings.

14. Computation of total income of Mr. Rishabh for A.Y. 2022-23 under the regular provisions of the Act

Particulars		₹	₹	₹
I	Income from business or profession			
	Net profit as per profit and loss account		82,45,000	
	Add: Items of expenditure not allowable while computing business income			
	(i) Interest on loan taken for purchase of plant & machinery [Interest from the date on which capital was borrowed till the date on which asset was first put to use, not allowable as deduction under section 36(1)(iii). Accordingly, interest of ₹ 1,53,125 [₹ 50,00,000 × 10.5% × 3.5/12] has to be added back, since the same is debited to the profit and loss account]	1,53,125		
	(ii) Purchase of goods at a price higher than the fair market value [The difference between the purchase price (₹ 40 lakhs) and the fair market value (₹ 35 lakhs) has to be added back as per section 40A(2) since the purchase is from a related party, i.e., his brother and at a price higher than the fair market value]	<u>5,00,000</u>		
			<u>6,53,125</u>	
			88,98,125	

	Less: Items of income to be treated separately under the respective head of income		
	(i) Income-tax refund including interest on refund of ₹ 4,550	15,550	
	(ii) Dividend from Indian companies	15,00,000	
	(iii) Short term capital gains on transfer of listed equity shares	<u>10,00,000</u>	<u>25,15,550</u>
			63,82,575
	Less: Depreciation on interest on loan capitalised to plant and machinery		
	₹ 1,53,125, being the amount of interest on loan taken for purchase of plant and machinery from the date on which capital was borrowed till the date on which asset was first put to use, shall be capitalized		
	Normal depreciation @15% x 50% on such interest	11,484	
	Additional depreciation @20% x 50% on such interest	<u>15,313</u>	<u>26,797</u>
	[Since plant & machinery was put to use for less than 180 days in P.Y. 2021-22, it is eligible for 50% of the rate of depreciation]		
			63,55,778
II	Capital Gains		
	Short term capital gains on transfer of listed equity shares		10,00,000
III	Income from Other Sources		
	Interest on income-tax refund		4,550
	Dividend from Indian companies		<u>15,00,000</u>
	Gross Total Income		<u>88,60,328</u>

Less: Deductions under Chapter VI-A			
- Deduction under section 80C Life insurance premium for married daughter [Allowable as deduction though she is not dependent, since child of an individual whether dependent or not falls within the meaning of term "Person". Accordingly, whole of the amount of ₹ 40,000 is allowable as it does not exceed 10% of the ₹ 5, 00,000, being the sum assured]		40,000	
- Deduction under section 80D Health insurance premium for self, spouse and children [Allowable as deduction, since it is paid otherwise than by way of cash. However, it is to be restricted to ₹ 25,000]		<u>25,000</u>	<u>65,000</u>
Total Income			<u>87,95,328</u>
Total Income (Rounded off)			87,95,330

Computation of tax payable by Mr. Rishabh for A.Y. 2022-23 under the regular provisions of the Act

Particulars	₹	₹
Tax on total income of ₹ 87,95,330		
Tax on short term capital gains on transfer of listed equity shares @15% u/s 111A [₹ 10,00,000 x 15%]		1,50,000
Tax on other Income of ₹ 77,95,330		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 [@5% of ₹ 2.50 lakh]	12,500	
₹ 5,00,001 – ₹ 10,00,000 [@20% of ₹ 5,00,000]	1,00,000	
₹ 10,00,001- ₹ 77,95,330 [@30% of ₹ 67,95,330]	<u>20,38,599</u>	<u>21,51,099</u>
		23,01,099
Add: Surcharge @10%, since total income exceeds ₹ 50,00,000 but does not exceed ₹ 1 crore		<u>2,30,110</u>
		25,31,209
Add: Health and education cess@4%		<u>1,01,248</u>

Total tax liability		26,32,457
Less: TDS u/s 194N @ 2% on ₹ 50 lakhs, being the cash withdrawals exceeding ₹ 1 crore	1,00,000	
Less: Advance tax paid	<u>17,50,000</u>	<u>18,50,000</u>
Tax payable		<u>7,82,457</u>
Tax payable (rounded off)		7,82,460

Computation of total income of Mr. Rishabh as per section 115BAC for A.Y. 2022-23

Particulars	₹	₹
Gross Total Income as per regular provisions of the Income-tax Act		88,60,328
Add: Additional depreciation on plant and machinery		
- On interest which is capitalised	15,313	
- On cost of plant and machinery [₹ 65 lakhs x 20% x 50%]	<u>6,50,000</u>	<u>6,65,313</u>
Gross Total Income/ Total Income as per section 115BAC		<u>95,25,641</u>
[No deduction under section 10AA or under Chapter VI-A allowable except u/s 80JJAA]		
Total Income as per section 115BAC (rounded off)		<u>95,25,640</u>

Computation of tax liability as per section 115BAC

Particulars	₹	₹
Tax on total income of ₹ 95,25,640		
Tax on STCG of ₹ 10,00,000 @ 15% u/s 111A		1,50,000
Tax on remaining total income of ₹ 85,25,640		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000 [@5% of ₹ 2.50 lakhs]	12,500	
₹ 5,00,001 – ₹ 7,50,000 [@10% of ₹ 2.50 lakhs]	25,000	
₹ 7,50,001 – ₹ 10,00,000 [@15% of ₹ 2.5 lakhs]	37,500	
₹ 10,00,001 – ₹ 12,50,000 [@20% of ₹ 2.5 lakhs]	50,000	
₹ 12,50,001 – ₹ 15,00,000 [@25% of ₹ 2.5 lakhs]	62,500	
₹ 15,00,001 – ₹ 85,25,640 [@30% of ₹ 70,25,640]	<u>21,07,692</u>	<u>22,95,192</u>
		24,45,192
Add: Surcharge @10%, since total income exceeds ₹ 50,00,000 but does not exceed ₹ 1 crore		<u>2,44,519</u>
		26,89,711

Add: Health and education cess@4%		<u>1,07,588</u>
Total tax liability		27,97,299
Less: TDS u/s 194N @ 2% on ₹ 50 lakhs, being the cash withdrawals exceeding ₹ 1 crore	1,00,000	
Less: Advance tax paid	<u>17,50,000</u>	<u>18,50,000</u>
Tax payable		<u>9,47,299</u>
Tax payable (rounded off)		9,47,300

Since tax liability as per section 115BAC is higher than the tax computed as per normal provisions of the Income-tax Act, 1961, it is beneficial for Mr. Rishabh not to exercise option under section 115BAC. In such case, the tax payable by him would be ₹ 7,82,460 as per the regular provisions of the Act.

15. An individual whose total income without giving effect to, *inter alia*, section 54EC exceeds the maximum amount not chargeable to tax i.e., ₹ 2,50,000, is required to file a return of income on or before the due date under section 139(1) i.e., 31st July, 2022.

Every person, being a resident other than not ordinarily resident in India, would be required to file a return of income or loss for the previous year, even if his total income does not exceed the basic exemption limit, if such person, at any time during the previous year, *inter alia*, holds any asset located outside India or has a signing authority in any account located outside India.

In this case, Mrs. Shivani is a resident and ordinarily resident in India for A.Y. 2022-23 since she has been staying in India since the year 2015. Total income of Mrs. Shivani without giving effect to, *inter alia*, section 54EC is ₹ 2 lakhs, which is below the basic exemption limit. However, since she has a bank account in US, she has to furnish her return of income for A.Y. 2022-23 on or before 31.07.2022.

Yes, she can furnish a belated return under section 139(4), if she has not furnished her return on or before 31.7.2022, at any time before the –

- (i) three months prior to the end of the relevant assessment year i.e., 31.12.2022; or
- (ii) completion of the assessment

whichever is earlier.

SECTION B: INDIRECT TAXES

QUESTIONS

- (1) All questions should be answered on the basis of the provisions of GST law as amended by the Finance Act, 2021, which have become effective till 31.10.2021, and significant notifications and circulars issued upto 31.10.2021.
- (2) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

- I. Vidhula Impex Ltd. is engaged in supplying sports goods. The company did not opt for registration under GST. The proper officer under GST, based on enquiry, finds that the concern is liable for registration and he registers the firm on temporary basis on 15th June, 2020.

After being granted the registration certificate, the company availed the following services for the purpose of its business-

- i. Renting of motor vehicles from Blue Taxi Pvt. Ltd. where GST was charged @ 12%.
- ii. Appointed Mr. Rajesh as Technical Director for advisory role in business and the payment was made based on the contract entered. However, he was not employee of the company.

During the course of its business, the company issued an invoice to a customer and erroneously charged higher value by ₹ 34,000. Such invoice was issued on 28th February, 2021.

Further, in the month of February 2021, the company also generated an e-way bill for inter-State transport of goods. However, immediately on generation of the e-way bill, the buyer cancelled the order before it is dispatched from the factory for delivery.

In the month of March 2021, since the company was incurring heavy losses, it applied for cancellation of GST registration on 15th March, 2021. The order for cancellation was made on 30th March, 2021 effecting cancelling the registration with effect from 15th March, 2021.

From the information provided above, choose the most appropriate answer for the following questions (1-5):

1. After the grant of temporary registration, Vidhula Impex Ltd. needs to apply for registration within _____ from the date of grant of temporary registration, if no extension of period is to be granted for such temporary registration.
 - (a) 30 days

- (b) 90 days
 - (c) 7 days
 - (d) 15 days
2. In case of which of the following services, the company is liable to pay tax under reverse charge?
- (a) Renting of Motor Vehicles
 - (b) Directorship services
 - (c) Both (a) and (b)
 - (d) Neither (a) nor (b)
3. Which document is required to be issued by the company in respect of the invoice issued on 28th February, 2021?
- (a) Debit note
 - (b) Credit note
 - (c) Bill of supply
 - (d) Revised Tax invoice
4. The Company needs to file its Final return by _____
- (a) 30th April, 2021
 - (b) 30th August, 2021
 - (c) 15th June, 2021
 - (d) 30th June, 2021
5. Which of the following statements is correct in respect of e-way bill generated for goods in the month of February for which order was cancelled?
- (a) Once generated, e-way bill cannot be cancelled.
 - (b) E-way bill can be cancelled within 24 hours of generation
 - (c) E-way bill can be cancelled within 48 hours of generation
 - (d) E-way bill can be cancelled within 72 hours of generation
6. Mr. Shambhu, a trader registered under GST in Delhi is engaged in wholesale business of toys for kids. Mr. Nandi registered under GST in Patiala, a regular return filer supplies toys in bulk to Mr. Shambhu for selling to end consumers. Mr. Shambhu paying tax in regular scheme in Delhi, has not filed GSTR-3B for last 2 months. Mr. Nandi wants to generate e-way bill for toys amounting to ₹ 5,00,000

to be supplied to Mr. Shambhu. Also Mr. Narayan from Jammu approached Mr. Shambhu for purchasing toys amounting to ₹ 75,000 for the purpose of return gift on his son's first birthday party. Shambhu wants to generate an e-way bill in respect of an outward supply of goods to Mr. Narayan.

Examine with reference to the provisions under GST law, whether Mr. Nandi and Mr. Shambhu can generate e-way bill?

7. (a) Mr. Ayushman, a registered person having intra-State aggregate turnover of ₹ 1.2 crores in the preceding financial year did not file GSTR-3B for the month of September, 2021 by 10th November, 2021. The amount of tax payable for the month of September, 2021 is ₹ 8 lakh. All his supplies are intra-State supplies. Is there any late fee payable for the same? If yes, what is the amount of late fee payable?
- (b) Will your answer be different in (a), if Mr. Ayushman has intra-State aggregate turnover of ₹ 5 crores in the preceding financial year?
- (c) Will your answer be different in (a), if total amount of tax payable in the GSTR-3B for the month of September is Nil?
8. Mr. X of Haryana intends to start business of supply of building material to various construction sites in Haryana. He has taken voluntary registration under GST in the month of April. However, he has not commenced the business till December due to lack of working capital. The proper officer *suo-motu* cancelled the registration of Mr. X. You are required to examine whether the action taken by proper officer is valid in law?

Mr. X has applied for revocation of cancellation of registration after 40 days from the date of service of the order of cancellation of registration. Department contends that application for revocation of cancellation of registration can only be made within 30 days from the date of service of the order of cancellation of registration. However, Mr. X contends that the period of submission of application may be extended on sufficient grounds being shown. You are required to comment upon the validity of contentions raised by Department and Mr. X.

9. Gita Services Limited, registered under GST, is engaged in providing various services to Government. The company provides the following information in respect of services provided during the month of April:

S. No.	Description of Services provided
(i)	Supply of manpower for cleanliness of roads not involving any supply of goods.
(ii)	Service provided by Fair Price Shops owned by Gita Services Limited by way of sale of sugar under Public Distribution System against

	consideration in the form of commission.
(iii)	Service of maintenance of street lights in a Municipal area involving replacement of defunct lights and other spares alongwith maintenance. Generally replacement of defunct lights and other spares constitutes 35% of the supply of service.
(iv)	Service of brochure distribution provided under a training programme for which 70% of the total expenditure is borne by the Government.

Comment on the taxability or otherwise of the above transactions under GST law. Also state the correct legal provisions for the same.

10. Restrictions have been imposed on the use of amount available in the electronic credit ledger vide rule 86B of the CGST Rules, 2017. Is there any exceptions to rule 86B? If yes, state the exceptions.

SUGGESTED ANSWERS

1. (b)
2. (b)
3. (b)
4. (d)
5. (b)
6. Rule 138E of the CGST Rules, 2017 contains provisions pertaining to blocking of e-way bill generation facility, i.e. disabling the generation of e-way bill.

A user will not be able to generate e-way bill for a GSTIN if the said GSTIN is not eligible for e-way bill generation as per rule 138E.

Rule 138E as amended vide *Notification No. 15/2021 CT dated 18.05.2021* provides that blocking of GSTIN for e-way bill generation would only be for the defaulting supplier GSTIN and not for the defaulting Recipient or Transporter GSTIN.

In terms of rule 138E, a person paying tax under regular scheme who has not furnished the returns for a consecutive period of 2 tax periods is considered as a defaulting person.

Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.

In other words, e-way bill generation facility is blocked only in respect of any outward movement of goods of the registered person who is not eligible for e-way bill generation as per rule 138E. E-way bills can be generated in respect of inward supplies of said registered person.

Thus, applying the above provisions, there will be no restriction in generating e-way Bill by Mr. Nandi as Mr. Nandi who is making outward movement of goods is a regular return filer.

E-way bill generation is blocked in case of movement of goods made by Mr. Shambhu to Mr. Narayan as it's an outward movement of goods of Mr. Shambhu who has not filed GSTR-3B for past 2 months.

7. (i) As per section 47 of the CGST Act, 2017 read with *Notification No 19/2021 CT dated 01.06.2021*, the registered persons whose aggregate turnover is \leq ₹ 1.5 crores in the preceding FY, and who fails to furnish the returns required under section 39 by the due date shall pay a late fee of ₹ 2,000 (₹ 1,000 each under CGST & SGST).

Thus, late fee is payable in the given case and the amount of late fee payable is ₹ 2,000 (₹ 1,000 each under CGST & SGST).

- (ii) As per section 47 of the CGST Act, 2017 read with *Notification No 19/2021 CT dated 01.06.2021*, the registered persons whose aggregate turnover is more than ₹ 1.5 crores but less than equal to ₹ 5 crores in the preceding FY, and who fails to furnish the returns required under section 39 by the due date shall pay a late fee of ₹ 5,000 (₹ 2,500 each under CGST & SGST).

Thus, late fee is payable in the given case and the amount of late fee payable is ₹ 5,000 (₹ 2,500 each under CGST & SGST).

- (iii) As per section 47 of the CGST Act, 2017 read with *Notification No 19/2021 CT dated 01.06.2021*, any registered person whose total amount of tax payable in the GSTR-3B is Nil and who fails to furnish the returns required under section 39 by the due date shall pay a late fee of ₹ 500 (₹ 250 each under CGST & SGST).

Thus, late fee is leviable even if total amount of tax payable in the GSTR-3B for the month of September is Nil. The amount of late fee would be ₹ 500 (₹ 250 each under CGST & SGST).

8. As per section 29 of the CGST Act, 2017, the proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-
- a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
 - a person paying tax under composition scheme has not furnished returns for three consecutive tax periods; or
 - any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or
 - any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or

- (e) registration has been obtained by means of fraud, wilful misstatement, or suppression of facts:

Thus, in view of the above-mentioned provisions, *suo-motu* cancellation of registration of Mr. X by proper officer is valid in law since Mr. X, a voluntarily registered person, has not commenced his business within 6 months from the date of registration.

Further, where the registration of a person is cancelled *suo-motu* by the proper officer, such registered person may apply for revocation of the cancellation to such proper officer, within 30 days from the date of service of the order of cancellation of registration.

However, the said period of 30 days may, on sufficient cause being shown and for reasons to be recorded in writing, be extended for a period not exceeding 30 days by Additional/Joint Commissioner and by further period not exceeding 30 days by Commissioner.

Thus, considering the above provisions, the contention of Department is not valid in law as extension can be sought in the prescribed time limit for revocation of cancellation of registration. The contention raised by Mr. X is valid in law as extension in time limit is allowed on sufficient cause being shown and for reasons to be recorded in writing.

9.

S. No.	Particulars	Taxability
(i)	Supply of manpower for cleanliness of roads not involving any supply of goods. [Pure services provided to Government are exempt.]	Exempt
(ii)	Service provided by Fair Price Shops by way of sale of sugar under Public Distribution System [Service provided by Fair Price Shops to Government by way of sale of sugar under Public Distribution System against consideration in the form of commission is exempt.]	Exempt
(iii)	Service of maintenance of street lights in a Municipal area involving replacement of defunct lights and other spares constituting 35% of the supply of service. [Composite supply of goods and services to Government in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply is exempt. Since, in this case value of supply of goods constitutes 35% of the supply of composite service, same is taxable.]	Taxable
(iv)	Service of brochure distribution provided under a training programme. [Services provided to the Government under any training programme for which 75% or more of the total expenditure is	Taxable

	borne by the Government is exempt. Since in the given case, 70% of the total expenditure is borne by the Government, it is taxable.]	
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10. Restrictions have been imposed on the use of amount available in electronic credit ledger vide rule 86B of the CGST Rules, 2017. Yes, there are exceptions to rule 86B. The exceptions to rule 86B are as under:-

(i) Payment of Income Tax more than ₹ 1 lakh

Rule 86B may not apply in cases whereby person mentioned below have deposited sum of more than ₹ 1 lakh as income tax under the Income-tax Act, 1961 in each of the last 2 financial years for which the time limit to file return of income under section 139(1) of the said Act has expired

- ❖ The registered person or
- ❖ The karta/proprietor/the managing director of the registered person;
- ❖ Any of the two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees of the registered person, as the case may be.

(ii) Receipt of refund of input tax credit of more than ₹ 1 lakh

Rule 86B may not apply whereby registered person has received a refund amount of more than ₹ 1 lakh on account of unutilized input tax credit under the following:

- ❖ zero-rated supplies made without payment of tax
- ❖ Inverted duty structure

It is pertinent to note that refund should have been received in the preceding financial year.

(iii) Payment of total output tax liability through electronic cash ledger in excess of 1% of total output tax liability

If the registered person has paid more than 1% of total output tax liability using electronic cash ledger upto the said month in the current financial year, the restrictions as specified in Rule 86B shall not apply.

It is pertinent to note that GST liability paid under reverse charge mechanism should not be taken into account while calculating the total output liability paid through electronic cash ledger.

(iv) Specified registered person:

Rule 86B would not be applicable in case of below-mentioned registered person:

- ❖ Government Department; or
- ❖ a public sector undertaking; or
- ❖ a local authority; or
- ❖ a statutory body.

However, Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.