

PAPER – 5 : INCOME TAX AND CENTRAL SALES TAX

QUESTIONS

1. Choose the correct answer having regard to the provisions of the Income-tax Act, 1961–
 - (a) Under section 44AE, presumptive taxation is applicable at a particular rate provided the assessee is the owner of a maximum of certain number of goods carriages. The rate per month or part of the month and maximum number specified under the section are -
 - (i) Rs.3,500 for a heavy goods carriage and Rs.3,150 for other goods carriages for an assessee owning not more than 10 goods carriages at any time during the year
 - (ii) Rs.3,500 per carriage for an assessee owning not more than 10 goods carriages at the end of the previous year
 - (iii) Rs.3,500 for a heavy goods carriage and Rs.3,150 for other goods carriages for an assessee owning not more than 12 goods carriages at the end of the previous year
 - (iv) Rs.2,150 per carriage for an assessee owning not more than 10 goods carriages at the end of the previous year.
 - (b) Income arising to a minor married daughter is
 - (i) to be assessed in the hands of the minor married daughter
 - (ii) to be clubbed with the income of that parent whose total income, before including minor's income, is higher
 - (iii) completely exempt from tax
 - (iv) to be clubbed with the income of her husband.
 - (c) Mr. B incurred short-term capital loss of Rs.10,000 on sale of shares through the National Stock Exchange. Such loss can be set-off -
 - (i) Only against short-term capital gains
 - (ii) Against both short-term capital gains and long-term capital gains
 - (iii) Against any head of income
 - (iv) None of the above.
 - (d) The time limit for passing an order of revision under section 263 by the Commissioner of income-tax, where the same is to give effect to a direction by the High Court is
 - (i) Two years from the date of direction
 - (ii) Three years from the date of direction
 - (iii) Two years from the end of the financial year in which the direction is given
 - (iv) There is no time limit

Residential Status and Scope of total income

2. Krish, a Malaysian citizen leaves India, after a period of 10 years stay on 1.6.2007. During the financial year 2008-09, he comes to India for a period of 46 days. Later he returns to India for good on 10.10.2009. Determine his residential status for the assessment year 2010-11. Will your answer be different if his date of departure was on 15.5.2007?

Incomes which do not form part of total income

3. Discuss the exemption limit for taxation of anonymous donations under section 115BBC as amended by the Finance Act (No.2), 2009.
4. Fill in the blanks, having regard to the provisions of Income-tax Act, 1961:
 - (a) A non-Indian company is treated as resident, only if the control and management of its affairs is situated _____ during the previous year.
 - (b) If the assessee lets out his house to his employer company, which in return, allots the same to him as rent free accommodation, the assessee(is / is not) entitled to the benefit of section 23(2)(a) regarding annual value to be taken as nil being self-occupied house property.
 - (c) A motor car is the only asset in a block. Cost Rs.2,00,000. Rate of depreciation is 15%. 20% is disallowed for estimated personal use. WDV of the block is Rs.....
 - (d) Expenditure incurred in making payment to the employee in connection with his voluntary retirement either in the year of retirement or in any subsequent year, will be entitled to deduction in _____ beginning from the year in which each payment is made to the employee.

Basic Concepts

5. Write short notes on:
 - (a) Assessee
 - (b) Person
 - (c) Marginal Relief

Salaries

6. Suresh, who was employed with ABC (P) Ltd. up to September 30, 2009, got the following salary and benefits:

Basic pay : Rs.85,000 per month, bonus and incentive: Rs.4,000 per month, free club facility (employer's expenditure: Rs.3,000 per month), free services of personnel attendant (salary paid by employer: Rs.2,000 per month), free services of watchman (salary paid by the employer : Rs.600 per month), free education facility to Suresh 's son at a school maintained by the employer (cost of education: Rs.960 per month),

employer's contribution towards recognised provident fund: Rs.11,000 per month (Suresh also makes a matching contribution).

On October 1, 2009, Suresh joins PQR (P) Ltd. on monthly salary of Rs.95,000. Besides, he gets conveyance facility for private use: Rs.35,000 being expenditure of the company; house rent allowance: Rs.10,000 per month, club facility (expenditure of employer: Rs.900 per month), and employer's contribution towards unrecognized provident fund: Rs.7,000 per month (Suresh also makes a matching contribution). On January 10, 2010, PQR Ltd. pays Rs.3,000, being accident insurance premium on the life of Suresh to cover its liabilities under labour laws.

On January 10, 2010, PQR Ltd. purchases a laptop computer for Rs.1,60,000 and the same is given to Suresh for office and private use. On March 1, 2010, the company purchases a fridge for Rs.18,000 for the kitchen of Suresh. In the two cases ownership of assets is not transferred to Suresh. Income of Suresh from other sources is Rs.2,20,000.

Determine the total income and tax liability of Suresh for the assessment year 2010-11 on the following assumptions:

- (i) Salary, in both cases, falls due on first of next month and paid on seventh of next month.
- (ii) He resides in Delhi and pays rent of Rs. 9,500 per month throughout the previous year.
- (iii) Conveyance provided by PQR (P) Ltd. can be used not only by Suresh but also by his family members.

Income from House property

7. Ram owns a big house (construction completed on March 31, 2005). The house has three independent units. Unit 1 (50 per cent of the floor area) is let out for residential purpose on monthly rent of Rs. 8,500. Unit 1 remains vacant for 1 month when it is not put to any use. A sum of Rs.800 could not be collected from the tenant. Unit 2 (25 per cent of the floor area) is used by Ram for the purpose of his profession, while Unit 3 (the remaining 25 per cent) is utilized for the purpose of his residence. Other particulars of the house are as follows:

Municipal valuation: Rs.65,000, fair rent: Rs.80,000, standard rent under the Rent Control Act: Rs.95,000, municipal taxes: Rs.16,000, repairs: Rs.8,000, interest on capital borrowed for renewal of the property: Rs.40,000, ground rent: Rs.6,500, annual charge created under the will by father in favor of Mrs. Ram : Rs.9,500 and fire insurance premium paid: Rs.16,000. Income of Ram from profession is Rs.8,00,000 (without debiting house rent and other incidental expenditure including admissible depreciation on the portion of house used for profession: Rs.8,500). Determine the total income of Ram for the assessment year 2010-11.

Profits and gains of business or profession

8. Following is the Profit and Loss account of Arun for the year ended 31.3.2010:

	Rs.		Rs.
To Repairs on building	1,50,000	By Gross profit	6,20,000
To Advertisement	55,000	By I.T Refund	5,000
To Amount paid to Scientific Research Association approved u/s 35	1,10,000	By Interest from company deposits	7,000
To Interest	1,20,000	By Dividends	4,000
To Traveling	1,35,000		
To Banking cash transaction tax	600		
To Net Profit	65,400		
	<u>6,36,000</u>		<u>6,36,000</u>

Following additional information is furnished:

- (1) Repairs on building includes Rs.97,000 being cost of raising a compound wall for the own business premises.
- (2) Interest payments include interest of Rs.15,000 payable outside India to a resident Indian on which tax has not been deducted and penalty of Rs.25,000 for contravention of Central Sales Tax Act.

Compute the income chargeable under the head 'Profits and gains of business or profession' of Arun for the year ended 31.3.2010 ignoring depreciation.

Set off and carry forward of losses

9. Discuss about set off and carry forward of losses under the head Capital Gains.

Limited liability partnerships

10. Explain the tax treatment for Limited liability partnerships.
11. State with reasons whether the following statements are true or false [A.Y. 2010-11] –
 - (a) If two or persons jointly own a property and if their shares are definite and ascertainable, then the income from such property can be taxed as income of an association of persons.
 - (b) Where the total income of an assessee includes any income, arising from the transfer of long term capital asset, which is chargeable under the head "capital gains", such long term capital gain shall be charged to tax at 10% rate.

- (c) Where the Commissioner of Income-tax is satisfied that the activities of the charitable trust, which has been accorded registration is not genuine, he can cancel the registration by passing an order in writing.
- (d) Where an urban agricultural land owned by an individual, continuously used by him for agricultural purposes for a period of two years prior to the date of transfer, is compulsorily acquired under law and the compensation is fixed by the State Government, resultant capital gain is exempt.

Capital Gains

12. The house property of Charu is compulsorily acquired by the government for Rs.15,00,000 vide Notification issued on 12-3-2006. Charu had purchased the house in 1986-87 for Rs.3,00,000. The compensation is received on 15-4-2009. The compensation is further enhanced by an order of the court on 15-5-2010 and a sum of Rs.4,00,000 is received as enhanced compensation on 21-10-2010. A wants to claim full exemption of the capital gains. Advise Charu in this respect. Compute the capital gain and determine the year in which it is taxable. Also specify the period upto which the investment in the new house should be made by the assessee. (Cost Inflation Index (CII): 2009-10 : 632, 2005-06 : 497, 1986-87 : 140).

Income from other sources

13. Mr. Ketan acquired a land at Mumbai from Mr. Agarwal for a purchase consideration of Rs. 1 crore on 01.01.2010. The assessable value of the property for stamp duty purposes is Rs. 1.30 crore. Subsequently, in a different transaction he was gifted with a land near Indore by his friend, the assessable value of which for stamp duty purpose is Rs. 49,000. Advise on the taxability of these transactions.

Clubbing of Income

14. The following details are furnished in respect of Mr. Amit and his family members. Determine the gross total income:

Particulars	Mr. Amit	Mrs. Amit	Minor Child
	Rs.	Rs.	Rs.
Income as a child artist in films	---	--	65,000
Business Income (Own)	(45,000)	--	--
Salary income from Amit Ltd. in which Mr. Amit holds 25% voting power @3,000 p.m.	--	50,000	--
Share of profit from Firm AB & Co.	(40%) 80,000	--	(10%) 20,000
Commission from AB & Co.	--	25,000	--
Interest income	9,000	6,000	5,000

Note:

- (1) Mrs. Amit possesses B. Com degree and works as accountant of Amit Ltd.
- (2) Mrs. Amit does not render any services to M/s. AB & Co.
- (3) Interest income received by Mrs. Amit is from an investment of Rs.45,000 gifted by Mr. Amit and Rs.40,000 invested from her own resource.

Computation of total income and tax liability of an individual

15. Rajat is a Chartered Accountant in practice. He maintains his accounts on cash basis. He is a Resident and ordinarily resident in India. His profit and loss account for the year ended March 31, 2010 reads as follows:

Expenditure	Rs.	Income	Rs.
Salary to staff	5,25,000	Fees earned:	
Stipend to articled assistants	18,000	Audit	6,65,800
Incentive to articled assistants	5,000	Taxation services	4,68,600
Office rent	24,000	Consultancy	<u>3,82,000</u>
Printing and stationery	6,600	Dividend on shares of Indian companies (gross)	15,16,400
Meeting, seminar and conference	38,600	Income from Unit Trust of India	9,635
Repairs, maintenance and petrol of car	22,400	Profit on sale of shares	6,600
Subscription and periodicals	15,000	Honorarium received from various institutions for valuation of answer papers	15,620
Postage, telegram and fax	32,500	Rent received from residential flat let out	16,350
Depreciation	29,500		84,000
Traveling expenses	55,000		
Municipal tax paid in respect of house property	1,000		
Net profit	8,76,005		
	<u>16,48,605</u>		<u>16,48,605</u>

Other information:

- (i) The total traveling expenses incurred on foreign tour was Rs.20,000 which was within the RBI norms.
- (ii) Incentive to articled assistants represent amount paid to two articled assistants for passing PE-II Examination at first attempt.
- (iii) Repairs and maintenance of car includes Rs.1,600 for the period from 1.10.2009 to 30.09.2010.
- (iv) Salary include Rs.30,000 to a computer specialist in cash for assisting Mr. Rajat in one professional assignment.
- (v) Rs.1,500, interest on loan paid to LIC on the security of his Life Insurance Policy and utilised for repair of computer, has been debited to the drawing account of Mr. Rajat.
- (vi) Birthday gifts received by his minor son include cash Rs.30,000, which was deposited with a nationalised bank. Interest accrued upto 31.3.2010 amounted to Rs.1,500.
- (vii) Medical Insurance Premium on the health of:

	Amount	Mode of payment
Self	10,000	By Cheque
Dependent brother	5,000	By Cheque
Major son dependent on him	3,000	By Cash
Minor married daughter	2,000	By Cheque
Wife dependent on assessee	6,000	By Cheque

- (viii) Shares sold were held for 10 months before sale.
- (ix) Rajat paid life membership subscription of Rs.1,000 to Chartered Accountants Benevolent Fund. The amount was debited to his drawings account. The Chartered Accountants Benevolent Fund is an approved fund under section 80G of Income-tax, 1961.

Compute the total income and tax payable of Rajat for the Assessment year 2010-11.

Deductions from Gross Total Income

16. Discuss the allowability of the following:
- (i) Rajan has to pay to a hospital for treatment Rs.42,000 and spent nothing for life insurance or for maintenance of handicapped dependent.
 - (ii) Rajan has incurred for treatment Rs. Nil in the previous year and deposited Rs.25,000 with LIC for maintenance of handicapped dependant.
 - (iii) Rajan has incurred Rs.20,000 for treatment and Rs.25,000 was deposited with LIC for maintenance of handicapped dependant.

Deductions from Gross Total Income

17. From the following information find out the net income and tax liability of Arjun, a resident individual, for the assessment year 2010- 11-

	Rs.
Salary	15,00,000
Business income	(-) 1,50,000
Capital gain	
Long-term	1,60,000
Short-term (not covered by section 111 A)	1,20,000
Winning from horse races	1,40,000
Total	17,70,000
Mediclaime insurance on his own health	20,000
Contribution towards pension fund of LIC	45,000
Expenditure on medical treatment of a dependent relative (being a person with disability)	15,000
Deposit for maintenance of a handicapped dependent relative	30,000
Donation to the Government of India for family planning	1,80,000
Donation to the Central Welfare Fund of Indian army	45,000
Life insurance premium on the life of Mrs. Arjun.	25,000

Profits and gains of business or profession

18. Write short notes on deduction to be allowed on actual payment basis (Section 43B).

Assessment Procedure

19. In computing income under certain heads of income, method of accounting is irrelevant, while in some it is relevant. Comment.

Income tax Authorities

20. Write short notes on power to transfer cases under section 127.

Appeals and Revision

21. Discuss revision of orders under section 264 of the Income-tax Act.

The Central Sales-tax Act, 1956

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

- (a) A penultimate sale is considered to be in the course of export, only if the dealer selling the goods furnishes a declaration in
 - (i) Form C
 - (ii) Form D
 - (iii) Form F
 - (iv) Form H.
 - (b) Amendment of certificate of registration can be made
 - (i) only upon an application made by the assessee
 - (ii) by the Assessing authority suo motu
 - (iii) on a application from assessee, or by the assessing authority suo motu on information received from any other source
 - (iv) None of the above
 - (c) Which of the following is not declared goods?
 - (i) Imported cotton
 - (ii) Cotton yarn waste
 - (iii) Raw unginned cotton
 - (iv) Ginned cotton
 - (d) The burden of proving that transfer of goods is otherwise than by way of sale, lies on -
 - (i) dealer who claims exemption
 - (ii) assessing authority who alleges that it is a taxable sale
 - (iii) the carrier who moves the goods
 - (iv) None of the above.
23. Fill in the blanks in the light of the provisions of the CST Act:
- (a) The dealer's turnover is thereceived and receivable by him in respect of sale of any goods in the course of inter-State trade.
 - (b) Sales or purchases of ascertained goods shall be deemed to be a State, if the goods were within that State at the time theof sale was made.
 - (c) Sales, subsequent to the first one, made to the registered dealer or Governmentshall not be liable to tax.
 - (d) The rate of CST applicable to goods exempt from State Sales Tax is
 - (e) The State from which commences shall be theState empowered to assess, collect and enforce payment of CST.

Definitions

24. What are the different declaration forms used in Central Sales Tax? State, when and for what purpose they are to be used? (Briefly in two/three sentences for each form).

Determination of Turnover

25. Mr. D, a first stage dealer in packing machinery in the State of Gujarat furnishes the following data:

Rs.

(i)	Total inter state sales during F.Y. 2009-10 CST not shown separately	92,50,000
(ii)	Above sales include:	
	Excise duty	9,00,000
	Freight (of this Rs.50,000 is not shown separately in invoices)	1,50,000
	Insurance charges incurred prior to deliver of goods	32,000
	Installation and commissioning charges shown separately	15,000
	Incentive on sales received from manufacturer	30,000

Determine the turnover and CST payable, assuming that all transactions were covered by valid 'C' Forms.

SUGGESTED ANSWERS/HINTS

1. (a) (i) (b) (ii) (c) (ii) (d) (iv)
2. During the financial year 2009-10, Krish stays in India from 10.10.2009 onwards amounting to 173 days. Therefore, he does not fulfill the first basic condition, but he fulfills the second basic condition as he has stayed for more than 60 days during the financial year 2009-10 and he has stayed for more than 365 days during the preceding four financial years. Hence, he is a resident. He was resident in 9 out of 10 preceding previous years and was staying for more than 729 days during the 7 preceding previous years. Therefore, he does not satisfy any of the additional conditions. By fulfilling the second basic condition and not fulfilling any of the additional conditions, Krish is a resident and ordinarily resident for the assessment year 2010-11.

If the date of departure during 2007-08 happens to be 15.05.2007, Krish fails to fulfill either of the basic conditions (since he had stayed only for 45 days in the previous year 2007-08) making him a non-resident. Besides he does not fulfill any of the basic conditions for the previous year 2008-09 (he has stayed for 46 days in that year).

Therefore, Krish was a non-resident in only 2 out of the 10 preceding previous years. He was resident in 8 out of 10 preceding previous years and he stayed for a period of more than 729 days in seven preceding previous years. Being a resident and by not fulfilling any of the additional conditions, he becomes resident and ordinarily resident for the assessment year 2010-2011. Hence, answer remains the same even if he departs from India on 15.05.2007 instead of 01.06.2007.

3. Exemption limit for taxation of anonymous donations under section 115BBC

- (i) Anonymous donations received by wholly charitable trusts and institutions are subject to tax at a flat rate of 30% under section 115BBC. Further, anonymous donations received by partly charitable and partly religious trusts and institutions would be taxed @ 30%, only if such anonymous donation is made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.
- (ii) In order to provide relief to these trusts and institutions and to reduce their compliance burden, an exemption limit has been introduced, and only the anonymous donations in excess of this limit would be subject to tax @30% under section 115BBC.
- (iii) The exemption limit is the higher of the following –
 - (1) 5% of the total donations received by the assessee; or
 - (2) Rs.1 lakh.
- (iv) The total tax payable by such institutions would be –
 - (1) tax @30% on anonymous donations exceeding the exemption limit as calculated above; and
 - (2) tax on the balance income i.e. total income as reduced by the aggregate of anonymous donations received.
- (v) The following table illustrates the calculation of anonymous donations liable to tax @30% under section 115BBC –

Situation	Total donations during the year (Rs.)	Anonymous donations received during the year (Rs.)	Exemption (Rs.)	Anonymous donations taxable@30% (Rs.)
1	15,00,000	4,00,000	1,00,000	3,00,000
2	30,00,000	7,00,000	1,50,000	5,50,000
3	40,00,000	10,00,000	2,00,000	8,00,000

- 4. (a) wholly in India
- (b) is not
- (c) Rs. 1,76,000
- (d) 5 equal annual installments

5. (a) **Assessee [Section 2(7)]** - Assessee means a person by whom any tax or any other sum of money is payable under this Act. It includes every person in respect of whom any proceeding has been taken for the assessment of his income or assessment of fringe benefits. Sometimes, a person becomes assessable in respect of the income of some other persons. In such a case also, he may be considered as an assessee. This term also includes every person who is deemed to be an assessee or an assessee in default under any provision of this Act.
- (b) **Person [Section 2(31)]** - The definition of 'assessee' leads us to the definition of 'person' as the former is closely connected with the latter. The term 'person' is important from another point of view also viz., the charge of income-tax is on every 'person'.

The definition is inclusive i.e. a person includes,

- (i) an individual,
- (ii) a Hindu Undivided Family (HUF),
- (iii) a company,
- (iv) a firm,
- (v) an AOP or a BOI, whether incorporated or not,
- (vi) a local authority, and
- (vii) every artificial juridical person e.g., an idol or deity.

(c) **Marginal Relief**

This concept of marginal relief is applicable only in the case of companies w.e.f. A.Y.2010-11. Marginal relief is available in case of companies having a total income exceeding Rs.1 crore i.e. the additional amount of income-tax payable (together with surcharge) on the excess of income over Rs.1 crore should not be more than the amount of income exceeding Rs.1 crore.

6. For the assessment year 2010-11, financial year 2009- 10 is the previous year. During previous year 2009-10, Suresh is employed with ABC (P) Ltd. up to September 30, 2009 and with PQR (P) Ltd. from October 1, 2009. As salary falls due on first of next month, 7 months' salary of ABC (P) Ltd. (i.e., salary due on April 1, 2009, May 1,2009, June 1,2009, July 1, 2009, August 1, 2009, September 1, 2009, and October 1, 2009) and 5 months' salary of PQR (P) Ltd. (i.e., salary due on November 1, 2009, December 1, 2009, January 1, 2010, February 1, 2010 and March 1, 2010) is chargeable to tax for the assessment year 2010-11.

Computation of total income and tax liability of Suresh for the A.Y. 2010-11

	Amount (Rs.)
Salary from ABC (P) Ltd.	
Basic salary (Rs.85,000 x 7)	5,95,000
Bonus (Rs.4,000 x 7)	28,000
Club facility (Rs.3,000 x 7)	21,000
Personal attendant (Rs.2,000 x 7)	14,000
Watchman (Rs.600 x 7)	4,200
Education facility (as the amount does not exceed Rs. 1,000 per month, it is not chargeable to tax)	Nil
Employer's contribution towards recognized provident fund in excess of 12% of salary (i.e. Rs.11,000 x 7 -12 % of Rs. 5,95,000)	5,600
Salary from PQR (P) Ltd.	
Basic salary (Rs.95,000 x 5)	4,75,000
Conveyance facility	35,000
House rent allowance (Note 1)	50,000
Club facility (Rs.900 x 5)	4,500
Employer's contribution towards unrecognized provident fund (exempt from tax even if it is more than 12% of salary)	Nil
Computer (use of computer is not taxable)	Nil
Fridge (10% of Rs.18,000 x 1/12)	150
Gross salary	12,32,450
Less : Deduction	--
Income from salary	12,32,450
Income from other sources	2,20,000
Gross total income	14,52,450
Less : Deduction under section 80C in respect of Suresh's contribution towards recognized provident fund	70,000
Net Income	13,82,450
Tax	3,18,735
Add : Surcharge (not applicable in the case of individual for the assessment year 2010-11)	Nil
Total	3,18,735
Add: Education cess (2% of tax and surcharge)	6,375
Add : Secondary and higher education cess (1% of tax and surcharge)	3,187
Tax payable	3,28,297
Tax payable (rounded off)	3,28,300

Note:

1. House rent allowance is exempt from tax to the extent of the least of the following:
 - (a) Rs.47,500 per month (being 50% of salary, i.e., Rs.95,000)
 - (b) Rs.10,000 per month (being the amount of house rent allowance); or
 - (c) NIL (being the excess of rent paid over 10% of salary, i.e. Rs.9,500 -10% of Rs.95,000)

Nil (being the least) is exempt from tax. Amount chargeable to tax is, therefore, Rs.50,000 i.e. (Rs.10,000 x 5).
2. As PQR(P) Ltd. has paid insurance premium to safe guards its own interest to cover the risk of paying compensation to Suresh in the event of an accident, it is not a perquisite chargeable to Suresh.

7. Computation of total income of Ram for the A.Y. 2010-11

Particulars	Amount (Rs.)	Amount (Rs.)
Unit 1 (let out)		
Municipal valuation (50% of Rs.65,000) (MV)		32,500
Fair rent (50% of Rs.80,000) (FR)		40,000
Standard rent (50% of Rs.95,000) (SR)		47,500
Annual rent (Rs.8,500 x 12)		1,02,000
Unrealised rent		800
Loss of rent because of vacancy		8,500
Gross annual value		
Step 1- Reasonable expected rent of the property [MV or FR, whichever is higher, but subject to maximum of SR]		40,000
Step II – Rent received/receivable after deducting unrealized rent but before adjusting loss due to vacancy (Rs.1,02,000 – Rs. 8,500)		1,01,200
Step III – Amount computed in Step I or Step II, which ever is higher		1,01,200
Step IV – Loss due to vacancy		8,500
Step V – Gross annual value is Step - III minus Step - IV		92,700
Less : Municipal tax (50% of Rs.16,000)		8,000
Net annual value		84,700
Less : Deductions under section 24		
Standard deduction (30% of Rs.84,700)		25,410
Interest (50% of Rs.40,000)		20,000
Income of Unit 1		39,290

Unit 3 (self-occupied)

Net annual value		Nil
Less : Interest (25% of Rs.40,000)		10,000
Income of Unit 3		(-) 10,000

Computation of Professional Income

Income		8,00,000
Less :		
Municipal taxes (1/4 of Rs.16,000)	4,000	
Repairs (1/4 of Rs.8,000)	2,000	
Interest (1/4 of Rs.40,000)	10,000	
Ground rent (1/4 of Rs.6,500)	1,625	
Annual charge (personal expenditure not deductible)	Nil	
Fire Insurance Premium (1/4 of Rs.16,000)	4,000	
Depreciation	8,500	30,125
		<u>7,69,875</u>

Computation of Total Income

Income from house property		
Unit 1	39,290	
Unit 3	(-) 10,000	29,290
Income from profession		7,69,875
Gross total income		7,99,165
Less : Deduction under section 80C		Nil
Total income		7,99,165

Note:

Ground rent, annual charge and fire insurance premium are not deductible which calculating property income.

8. Computation of Profits and gains of business or profession of Arun for the year ended 31.3.2010

Particulars	Rs.	Rs.
Net profit as per Profit and Loss Account		65,400
<i>Add:</i> Expenses not allowable		
(i) Expenses on raising compound wall - capital expenditure, hence disallowed	97,000	
(ii) Interest payable outside India to a resident, as tax has not been deducted at source [Section 40(a)]	15,000	
(iii) Penalty for contravention of CST Act [Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1)]	25,000	

(iv) Contribution for scientific research (to be treated separately)	1,10,000	2,47,000
		3,12,400
<i>Less:</i> Income not forming part of business income		
Interest from company deposits	7,000	
Dividend	4,000	
I.T. refund	5,000	16,000
		2,96,400
<i>Less:</i> Deduction under section 35 for scientific research [See Note 2 below]		1,23,750
Profit and gains of business or profession		1,72,650

Note:

- (1) Banking cash transaction tax is allowable as deduction under section 36(1)(xiii) from business income.
 - (2) Contribution to approved scientific research association qualifies for deduction @125% under section 35(1)(ii).
- 9.** Where in respect of any assessment year, the net result of the computation under the head "Capital Gains" is a loss, whether short term/long term, then such loss shall be carried forward to the following assessment year to be set off in the following manner
- (i) Where the loss is a short term capital loss, it shall be set off against any capital gains, short term or long term arising in that year.
 - (ii) Where the loss is a long term capital loss, it shall be set off only against long term capital gain arising in that year.
 - (iii) Whether the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.

Both long-term capital loss and short-term capital loss can be carried forward under this section for a maximum up to 8 assessment years immediately succeeding the assessment year for which the loss was first computed.

10. Tax Treatment for Limited Liability Partnerships [Sections 2(23) & 140]

- (i) The Finance (No.2) Act, 2009 has incorporated the taxation scheme of LLPs in the Income-tax Act on the same lines as applicable for general partnerships, i.e. tax liability would be attracted in the hands of the LLP and tax exemption would be available to the partners. Therefore, the same tax treatment would be applicable for both general partnerships and LLPs.
- (ii) Consequently, the following definitions in section 2(23) have been amended -
 - (1) The definition of 'partner' to include within its meaning, a partner of a limited liability partnership;

- (2) The definition of 'firm' to include within its meaning, a limited liability partnership; and
- (3) The definition of 'partnership' to include within its meaning, a limited liability partnership.

The definition of these terms under the Income-tax Act would, in effect, also include the terms as they have been defined in the Limited Liability Partnership Act, 2008. Section 2(q) of the LLP Act, 2008 defines a 'partner' as any person who becomes a partner in the LLP in accordance with the LLP agreement. An LLP agreement has been defined under section 2(o) to mean any written agreement between the partners of the LLP or between the LLP and its partners which determines the mutual rights and duties of the partners and their rights and duties in relation to the LLP.

- (iii) The LLP Act provides for nomination of "designated partners" who have been given greater responsibility. Therefore, clause (cd) has been inserted in section 140, which lays down the "Authorised signatories to the return of income", to provide that the designated partner shall sign the return of income an LLP. However, where, for any unavoidable reason such designated partner is not able to sign and verify the return or where there is no designated partner as such, any partner can sign the return.
 - (iv) Since the tax treatment accorded to a LLP and a general partnership is the same, the conversion from a general partnership firm to an LLP will have no tax implications if the rights and obligations of the partners remain the same after conversion and if there is no transfer of any asset or liability after conversion. However, if there is a change in rights and obligations of partners or there is a transfer of asset or liability after conversion, then the provisions of section 45 would get attracted.
 - (v) The LLP shall be entitled to deduction of remuneration paid to working partners, if the same is authorized by the partnership deed, subject to the limits specified in section 40(b)(v), i.e., -
 - (a) On the first Rs.3,00,000 of book profit or in case of a loss Rs.1,50,000 or 90% of book profit, whichever is higher
 - (b) On balance book profit 60% of book profit
 - (vi) The LLP shall be entitled to deduction of interest paid to partners if such payment is authorized by the partnership deed and the rate of interest does not exceed 12% simple interest per annum.
 - (vii) The LLPs cannot avail the presumptive taxation scheme under section 44AD w.e.f. A.Y.2011-12. However, section 44AE does not debar a LLP from availing the scheme thereunder.
11. (a) **False** - If two or persons jointly own a property and if their shares are definite and ascertainable, then the income from such property cannot be taxed as income of an association of persons. In such case the property owned by co-owners are assessable individually.

- (b) **False** - Where the total income of an assessee includes any income, arising from the transfer of long term capital asset, which is chargeable under the head "capital gains", such long term capital gain shall be charged to tax at 20% rate.
- (c) **True** - As per section 12AA(3), the Commissioner has power to cancel the registration of the trust, by passing a written order, where he is satisfied, inter alia, that the activities of the trust are not genuine. However, the trust should be given a reasonable opportunity of being heard.
- (d) **False** - In this case, the compensation has been fixed by the State Government and hence the exemption will not be available. As per section 10(37), where an individual owns urban agricultural land which has been used for agricultural purposes for a period of two years immediately preceding the date of transfer, and the same is compulsorily acquired under any law and the compensation is determined or approved by the Central Government or the Reserve Bank of India, resultant capital gain will be exempt.
12. Although the house property is compulsorily acquired on 12-3-2006 the capital gain will arise in the previous year in which full or part of the compensation is first received i.e. previous year 2009-10. However, indexation will be done till the year of compulsory acquisition.

Computation of Capital Gains for the Assessment year 2010 -11

	Rs.
Full value of consideration	15,00,000
Less : Indexed cost of acquisition – Rs.3,00,000 x $\frac{497}{140}$	10,65,000
Long term capital gain	4,35,000

The assessee should either invest at least Rs. 4,35,000 for the purchase/construction of a residential house property on or before 31-7-2010 (relevant due date) and/or deposit the amount under the capital gain scheme on or before 31-7-2010, to be utilised for purchase of house property by 14-4-2011 and/or construction of the house property by 14-4-2012.

Computation of Capital Gains for the Assessment year 2011-12

	Rs.
Enhanced compensation	4,00,000
Less : Cost/Indexd cost of acquisition	Nil
Long-term Capital Gain	4,00,000

The assessee should either invest at least Rs.4,00,000 for the additional construction of the residential house property already acquired for claiming under section 54 on or before 31-7-2011 (relevant due date) and/ or deposit the amount under the capital gain

scheme on or before 31-7-2011 to be utilised for additional construction of the house property by 20-10-2013. Alternatively, he may Invest Rs. 2,00,000 in the bonds specified under section 54EC.

13. Where an immovable property is acquired for a consideration which is less than the assessable value, the difference between the amount of assessable and the consideration shall be deemed as income and accordingly chargeable under the head Income from other sources. However, where such difference is less than Rs. 50,000, incidence of taxability does not arise by virtue of Section 56(2)(vii). In the given case, in the first transaction the difference between the assessable value and the purchase consideration is Rs. 30 Lakhs and the same shall be subjected to tax in the hands of Mr. Ketan as there is an inadequate consideration. It needs mention that as a seller, Mr. Agarwal shall be subject to the provisions of Section 50C in order to determine the full value of sale consideration for the purpose of computation or taxable capital gains.

Whereas in the second transaction, the taxability does not arise as the assessable value of land is less than Rs. 50,000 though the land is received without consideration.

14. **Computation of gross total income**

Particulars	Mr. Amit Rs.	Mrs. Amit Rs.	Minor child Rs.
I. Salaries :			
Salary from Amit Ltd. @ 3,000 p.m	-	50,000	-
II. Profits and gains from business/profession:			
Income /Loss	(45,000)	-	65,000
III. Income from other sources :			
Interest income own (Amit)	9,000		
Add:spouse –Sec. 64(1)	<u>3,000</u>	12,000	-
Interest income own (Mrs. Amit)	3,000		
Interest income of minor child	5,000	-	6,500
Less : Exempt u/s. 10(32)	<u>(1,500)</u>	-	-
Commission income of spouse u/s. 64 (1)	20,000	-	-
	(13,000)	56,500	65,000

Note: Share of profit from firm is exempt from tax u/s.10(2A). It is assumed that the expenditure attributable to exempt income have not been claimed as deduction.

15. **Computation of Total Income of Mr. Rajat for Assessment Year 2010-11.**

Particulars	Working Note Nos.	Amount in Rs.
Income from House Property	1	58,100
Profit and gains of Business or Profession	2	7,73,300

Short-term capital gains	3	15,620
Income from other sources	4	16,350
Gross Total Income		8,63,370
Less: Deduction under Chapter VI-A	5	15,500
Total Income		8,47,870
Tax on total income		
Total Income		8,47,870
Less: Short-term capital gains (See Note 10 below)		15,620
Normal Income		8,32,250
Tax on normal income		1,53,675
Tax on short-term capital gains @15%		2,343
		1,56,018
Add: Education cess @ 3%		4,680
Total tax liability		1,60,698
Total tax liability (rounded off)		1,60,700

Notes -

(1) Income from House Property

Gross annual value	84,000	
Less: Municipal taxes paid by owner	1,000	
Net Annual Value (NAV)	83,000	
Less: Deduction under section 24 @ 30% of NAV	24,900	58,100

Rent received has been taken as the Gross Annual Value in the absence of other information relating to Municipal Value, Fair Rent and Standard Rent.

(2) Income under the head "Profits & Gains of Business or Profession"

Net profit as per Profit & Loss Account		8,76,005
Add: Expenses debited to the Profit & Loss Account but not allowable		
(i) Salary paid to computer specialist in cash disallowed under section 40A(3), since such cash payment exceeds Rs.20,000	30,000	
(ii) Municipal Taxes paid in respect of residential flat let out	1,000	31,000
		9,07,005

Less: Expenses allowable but not debited to profit and loss account		
Interest paid on loan taken from LIC used for repair of computer		1,500
		9,05,505

Less: Income credited to Profit & Loss Account butnot taxable under this head:		
(i) Dividend on shares of Indian companies	9,635	
(ii) Income from UTI	6,600	
(iii) Profit on sale of shares	15,620	
(iv) Honorarium for valuation of answer papers	16,350	
(v) Rent received from letting out of residential flat	84,000	1,32,205
		7,73,300

(3) Capital gains:	
Short term capital gain on sale of shares	15,620

(4) Income from other sources:		
Dividend on shares of Indian companies	9,635	
Less: Exempt under section 10(34)	<u>9,635</u>	Nil
Income from UTI	6,600	
Less: Exempt under section 10(35)	<u>6,600</u>	Nil
Honorarium for valuation of answer papers	16,350	16,350
		16,350

(5) Deduction under Chapter VI-A:		
Deduction under section 80D (Medical Insurance Premium)		
Policy holder	Amount of Premium (Rs.)	Amt. eligible for deduction (Rs.)
Self	10,000	10,000
Dependent brother	5,000	Nil
Major son dependent on him	3,000	Nil
Minor married daughter	2,000	Nil
Wife dependent on assessee	6,000	6,000
		16,000

Amount of deduction is restricted to Rs.15,000	15,000
Deduction under section 80G (Donation)	
Donation to CA Benevolent Fund (50% of Rs.1,000)	500
Total deduction under Chapter VI-A	15,500

Note – Premium paid to insure the health of brother is not eligible for deduction under section 80D. Premium paid to insure the health of son is not eligible for deduction since payment is made in cash. Premium paid to insure the health of minor married daughter is not eligible for deduction she is not dependent on Mr.Rajat.

(6) Income of minor child:

Interest accrued on bank deposit	1,500	
Less: Exempt under section 10(32) @ Rs.1,500 per child	1,500	Nil
	<hr/>	

Since the value of birthday gifts received by the minor son does not exceed Rs.50,000, the same is not taxable under section 56(2)(vi).

- (7) Rs.20,000 expended on foreign tour is allowable as deduction assuming that it was incurred in connection with his professional work. Therefore, it requires no further treatment.
 - (8) Incentive to articled assistants passing PE-II examination in their first attempt is deductible under section 37(1).
 - (9) Repairs and maintenance paid in advance for the period 1.4.2010 to 30.9.2010 i.e. for 6 months amounting to Rs.800 will be allowed since Mr. Rajat is following the cash system of accounting.
 - (10) It is assumed that the transaction of sale of shares has been entered into in a recognized stock exchange and that securities transaction tax has been paid on such sale. Since the period of holding of these shares is less than 12 months, the profit arising therefrom is a short-term capital gain chargeable to tax at 15% under section 111A.
- 16.** (i) The deduction of Rs.50,000 under section 80DD is allowed in full irrespective of whether the expenditure was actually incurred or paid by the assessee. If the expenditure is incurred in respect of a dependant with severe disability, the deduction allowable is Rs.75,000. [Rs.1,00,000 for the assessment year 2010-11 onwards]
- (ii) The assessee Rajan (assumed to be resident in India) has deposited Rs.25,000 for maintenance of handicapped dependent. The assessee is, however, eligible to claim Rs.50,000 since the deduction of Rs.50,000 is allowed in full irrespective of the amount deposited with LIC. In the case of dependant with severe disability, the

deduction allowable is Rs.75,000. [Rs.1,00,000 for the assessment year 2010-11 onwards]

- (iii) Section 80DD allows a deduction of Rs.50,000 irrespective of the actual amount spent on maintenance of handicapped dependent and/or actual amount deposited with LIC. Therefore, the deduction will be Rs.50,000 even though the total amount incurred/deposited is Rs.45,000. If the dependant is a person with severe disability the quantum of deduction is Rs.75,000. [Rs.1,00,000 for the assessment year 2010-11 onwards]

17. In this case, taxable income exceeds Rs.5,00,000. The maximum marginal rate of tax is 30% which is more than tax incidence on long-term capital gain. Therefore, it is better to set off business loss of Rs.1,50,000 first against short-term capital gain of Rs.1,20,000 and balance loss of Rs.30,000 against long-term capital gain of Rs.1,60,000. Consequently, long-term capital gain is reduced to Rs.1,30,000.

Computation of Tax liability for the A.Y. 2010-11

	Rs.
Gross total income (which includes long-term capital gain of Rs.1,30,000 and winnings from races of Rs. 1,40,000)	17,70,000
<i>Less:</i> Deductions under sections 80C to 80U	
Under section 80C	25,000
Under section 80CCC	45,000
Under section 80D	15,000
Under section 80DD (see Note 1)	50,000
Under section 80G (see Note 2)	1,95,500
Net income	14,39,500
Tax	
Tax on winnings from races [30% of Rs. 1,40,000]	42,000
Tax on long-term capital gains [20% of Rs. 1,30,000]	26,000
Tax on the balance of Rs. 11,69,500	2,54,850
Total tax	3,22,850
<i>Add:</i> Surcharge	Nil
Tax and surcharge	3,22,850
<i>Add:</i> Education cess @ 2%	6,457
<i>Add :</i> Secondary and higher education cess @1%	3,229
Tax liability	3,32,536
Tax liability (rounded off)	3,32,530

Notes :

1. The amount of deduction under section 80DD is Rs. 50,000 irrespective of the expenditure incurred or deposited.

2. Deduction under section 80G - First one has to compute adjusted gross total income which is as follows:-

	Rs.
Gross total income	17,70,000
Less :	
Long term capital gain	(-) 1,30,000
Amount of deduction under sections 80C to 80U (but not section 80G) i.e, Rs. 25,000 + Rs. 45,000 + Rs. 15,000 + Rs. 50,000)	(-) 1,35,000
Adjusted gross total income	15,05,000
Amount of deduction – it is determined as follows-	
Donation for family planning [i.e. maximum : Rs. 1,50,500, being 10% of adjusted gross total income ; rate of deduction : 100%]	1,50,500
Donation to Central Welfare Fund of India army (no maximum ceiling, rate of deduction: 100%)	45,000
Total	1,95,500

18. Section 43B provides that the following expenses shall not be allowed as deduction unless the payments are actually made within the due date for furnishing the return of income under section 139(1):

- (i) Any tax, duty, cess or fees under any law in force.
- (ii) Employer's contribution to provident fund or superannuation fund or gratuity fund or any other fund for the welfare of the employees;
- (iii) Any bonus or commission paid to employees;
- (iv) Any interest on any loan borrowings from any public financial institution or State financial corporation or State industrial investment corporation.
- (v) Interest on loans and advances from a scheduled bank;
- (vi) Any sum paid as an employer in lieu of earned leave at the credit of his employee.

In case the payment is made after the due date prescribed for filing return of income, deduction can be claimed only in the year of actual payment.

19. Section 145(1) of the Income-tax Act, 1961 states that income chargeable under the head "Profit and gains of business or profession" or "Income from other sources" shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.

This implies that the income under the remaining heads of income, namely Salaries. Income from house property and Capital gains, should be computed as per the relevant provisions contained in the Income-tax Act. In such cases, the income has to be

computed as laid down by the provisions of the Act, irrespective of the method of accounting employed by the assessee.

The Central Government, under section 145(2), is empowered to notify accounting standards to be followed by any class of assesses or in respect of any class of income. So far, the CBDT has notified two accounting standards which are required to be followed by all assesses following the mercantile system of accounting.

Hence, it could be said that the method of accounting is irrelevant while computing income under certain heads of income, whereas in some others it is relevant.

20. Power to transfer cases under section 127

- (i) The power to transfer a case from one Assessing Officer to another subordinate Assessing Officer is vested with the Director General or Chief Commissioner or Commissioner of income-tax. However, this power can be exercised only after giving the assessee a reasonable opportunity of being heard, wherever possible and after recording reasons for doing so.
- (ii) There may be situations where the Assessing Officer from whom the case is transferred and the Assessing Officer to whom the case is transferred do not fall under the control of the same Director General or Chief Commissioner or Commissioner of Income-tax. In such cases, the Director General or Chief Commissioner or Commissioner of Income-tax from whose jurisdiction the case is transferred shall pass an order, if such concerned higher authorities mutually agree for such transfer.
- (iii) If the higher authorities are not in agreement about the transfer, then, the Board or any such authority authorized by the Board may pass the order.
- (iv) If the case is transferred between Assessing Officers within the same city or locality or place, then, it is not necessary to give the assessee an opportunity of being heard.
- (v) The transfer of a case may be made at any stage of the proceedings and it is not necessary to reissue any notice already issued.

- 21.**
- (i) In the case of any order other than an order referred to in section 263 passed by a subordinate authority, the Commissioner may, either on his motion or on an application by the assessee for revision, call for the record of any proceedings under the Income-tax Act in which any such order has been passed and may pass such order thereon as he deems fit.
 - (ii) Any order prejudicial to the interest of assessee cannot be passed under this provision. However, the Commissioner declining to interfere will not amount to passing of an order prejudicial to the assessee.
 - (iii) The Commissioner shall not on his motion revise any order if the order has been made more than one year previously.
 - (iv) Every application for revision shall be accompanied by a fee of Rs.500/-.

- (v) Application for revision by the assessee must be made within one year from the date on which the order was communicated to him or the date on which he otherwise came to know of it whichever is earlier.
 - (vi) On every application by an assessee for revision, an order shall be passed within one year from the end of the financial year in which such application was made by the assessee for revision. In computing this time limit, the time lost under section 129 or due to stay order by Court shall be excluded. Besides, there is no time limit for the Commissioner to pass an order of revision in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, High Court or Supreme Court.
 - (vii) The Commissioner has the power to condone the delay, if he is satisfied that the assessee was prevented by sufficient cause from making the application within the specified time.
 - (viii) If the order is an appealable order, the application can be made only if the appeal is not filed or where the time limit for filing the appeal has not lapsed, only if the right of appeal is waived.
- 22. (a)** (iv) Form H.
- (b)** (iii) on a application from assessee, or by the assessing authority suo motu on information received from any other source
- (c)** (ii) Cotton yarn waste
- (d)** (i) dealer who claims exemption
- 23. (a)** (i) aggregate of the sale prices.
- (b)** (ii) inside, contract.
- (c)** (iii) during the same movement and effected by transfer of documents of title to such goods.
- (d)** (iv) Nil / 0%
- (e)** (v) the movement of goods, Appropriate

24. Forms and declarations used by dealers for availing concessional rate of tax or exemption from tax

Form C: This is furnished by purchasing registered dealer to the selling dealer. Furnishing this form would entitle a concessional rate of tax on inter-State sale of goods.

Forms E-I and E-II: As per section 6(2) of the Central Sales Tax Act, the first inter-State sale is taxable. Subsequent sale by transfer of documents of title during the movement of goods from one State to another is exempt from tax, if the purchasing dealer obtains a declaration from the selling dealer i.e. registered dealer from whom goods were purchased. The selling dealer has to give a declaration to the purchasing dealer in Form E-I if it is a first sale and Form E-II if it is a second or subsequent sale.

Form F: It is a declaration issued by the dealer for transfer of goods to the branch or consignment agent. The principal need not pay tax on such movement of goods though the physical movement is between two States.

Form H: This is issued by exporter to the dealer. The dealer can get benefit of exemption as per section 5(3).

Form I: This form is obtained by the selling dealer from his customer in SEZ for getting tax benefit under section 8(6).

Form J: This is a form of declaration obtained by the selling dealer from embassies for availing the benefit of exemption under section 6(3).

25. Computation of Mr.D's turnover and central sales tax payable

	Rs.	Rs.
Total inter-state sales		92,50,000
Less:Freight shown separately in the invoices	1,00,000	
Installation and commissioning charges shown separately	15,000	
		1,15,000
Turnover including CST (A)		91,35,000
CST payable (91,35,000 X 2/102) (B)		1,79,118
Turnover excluding CST (A- B)		89,55,882
Central Sales tax payable		1,79,118

Note –

1. Excise duty forms part of the sale price and is not deductible.
2. Freight not shown separately in the invoices and insurance charges incurred prior to delivery of goods are not deductible in calculating the turnover.
3. Sale price includes incentive on sales received from manufacturer.
4. The CST on transactions covered by valid 'C' forms is 2% or the State tax rate, whichever is lower. It has been assumed that in this case, the State vat rate is higher than 2%. Therefore, the rate of CST is taken as 2%.

IMPORTANT CIRCULARS/NOTIFICATIONS ISSUED BETWEEN 1.5.2009 AND 31.10.2009

I CIRCULARS

1. Circular No. 4/2009, dated 29.6.2009

Section 195 mandates deduction of income tax from payments made or credit given to non-residents at the rates in force. The Reserve Bank of India has also mandated that except in the case of certain personal remittances which have been specifically exempted, no remittance shall be made to a non-resident unless a no objection certificate

has been obtained from the Income Tax Department. This was modified to allow such remittances without insisting on a no objection certificate from the Income Tax Department, if the person making the remittance furnishes an undertaking (addressed to the Assessing Officer) accompanied by a certificate from an Accountant in a specified format. The certificate and undertaking are to be submitted (in duplicate) to the Reserve Bank of India / authorised dealers who in turn are required to forward a copy to the Assessing Officer concerned. The purpose of the undertaking and the certificate is to collect taxes at the stage when the remittance is made as it may not be possible to recover the tax at a later stage from non-residents.

There has been a substantial increase in foreign remittances, making the manual handling and tracking of certificates difficult. To monitor and track transactions in a timely manner, section 195 was amended vide Finance Act, 2008 to allow CBDT to prescribe rules for electronic filing of the undertaking. The format of the undertaking (Form 15CA) which is to be filed electronically and the format of the certificate of the Accountant (Form 15CB) have been notified vide Rule 37BB of the Income-tax Rules, 1962.

The revised procedure for furnishing information regarding remittances being made to non-residents w.e.f. 1st July, 2009 is as follows:-

- (i) The person making the payment (remitter) will obtain a certificate from an accountant (other than employee) as defined in the Explanation to section 288 in Form 15CB.
- (ii) The remitter will then access the website to electronically upload the remittance details to the Department in Form 15CA (undertaking). The information to be furnished in Form 15CA is to be filled using the information contained in Form 15CB (certificate).
- (iii) The remitter will then take a print out of this filled up Form 15CA (which will bear an acknowledgement number generated by the system) and sign it. Form 15CA (undertaking) can be signed by the person authorised to sign the return of income of the remitter or a person so authorised by him in writing.
- (iv) The duly signed Form 15CA (undertaking) and Form 15CB (certificate), will be submitted in duplicate to the Reserve Bank of India / authorized dealer. The Reserve Bank of India / authorized dealer will in turn forward a copy of the certificate and undertaking to the Assessing Officer concerned.
- (v) A remitter who has obtained a certificate from the Assessing Officer regarding the rate at or amount on which the tax is to be deducted is not required to obtain a certificate from the Accountant in Form 15CB. However, he is required to furnish information in Form 15CA (undertaking) and submit it along with a copy of the certificate from the Assessing Officer as per the procedure mentioned from Sl.No.(i) to (iv) above.

2. Circular No. 7/2009 dated 22.10.2009

The CBDT has, through this circular, withdrawn the following circulars:

- a) Circular No. 23 issued on 23rd July 1969 regarding taxability of income accruing or arising through, or from, business connection in India to a non-resident, under section 9 of the Income-tax Act, 1961.
- b) Circulars No. 163 dated 29th May, 1975 and No.786 dated 7th February, 2000 which provided clarification in respect of certain provisions of Circular No 23 dated 23rd July, 1969.

II NOTIFICATIONS

1. Notification No. 67/2009 dated 9.9.2009

The Central Government has, vide notification no.67/2009 dated 9.9.2009, specified the cost inflation index (CII) for the financial year 2009-10. The CII for F.Y. 2009-10 is 632.

S. No.	Financial Year	Cost Inflation Index
1.	1981-82	100
2.	1982-83	109
3.	1983-84	116
4.	1984-85	125
5.	1985-86	133
6.	1986-87	140
7.	1987-88	150
8.	1988-89	161
9.	1989-90	172
10.	1990-91	182
11.	1991-92	199
12.	1992-93	223
13.	1993-94	244
14.	1994-95	259
15.	1995-96	281
16.	1996-97	305
17.	1997-98	331
18.	1998-99	351
19.	1999-2000	389
20.	2000-01	406
21.	2001-02	426

22.	2002-03	447
23.	2003-04	463
24.	2004-05	480
25.	2005-06	497
26.	2006-07	519
27.	2007-08	551
28.	2008-09	582
29.	2009-10	632

2. Notification No. 70/2009, dated 22.9.2009

The CBDT has, in exercise of the powers conferred by section 139(1B), made an amendment in the notification of the Government of India relating to qualifications of an e-Return intermediary. The qualifications of an e-Return Intermediary, as amended, are detailed hereunder -

- (1) An e-Return Intermediary shall have the following qualifications, namely:-
 - (a) it must be a public sector company as defined in section 2(36A) of the Act or any other company in which public are substantially interested within the meaning of section 2(18) of the Act and any subsidiary of those companies; or
 - (b) a company incorporated in India, including a bank, having a net worth of rupees one crore or more; or
 - (c) a firm of Chartered Accountants or Company Secretaries or Advocates, if it has been allotted a permanent account number; or
 - (d) a Chartered Accountants or Company Secretaries or Advocates or Tax Return Preparers, if he has been allotted a permanent account number; or
 - (e) a Drawing or Disbursing Officer (DDO) of a Government Department.
- (2) The e-intermediary shall have at least class II digital signature certificate from any of the Certifying authorities authorized to issue such certificates by the Controller of Certifying authorities appointed under section 17 of the Information Technology Act, 2002.
- (3) The e-intermediary shall have in place security procedure to the satisfaction of e-Return Administrator to ensure that confidentiality of the assessee's information is properly secured.
- (4) The e-intermediary shall have necessary archival, retrieval and, security policy for the e>Returns which will be filed through him, as decided by e-Return Administrator from time to time.
- (5) The e-intermediary or its Principal Officer must not have been convicted for any professional misconduct, fraud, embezzlement or any criminal offence.